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County Hall
Rhadyr
Usk
NP15 1GA

Monday, 28 June 2021

Notice of meeting:

Planning Committee

Tuesday, 6th July, 2021 at 2.00 pm
County Hall, Usk with Remote Attendance

AGENDA

Item No	Item	Pages
1.	Apologies for Absence.	
2.	Declarations of Interest.	
3.	To confirm for accuracy the minutes of the previous meeting.	1 - 12
4.	To consider the following Planning Application reports from the Chief Officer - Enterprise (copies attached):	
4.1.	Application DC/2010/00670 - Residential Development of 8 Units Comprising of a 1 Bed Flat, a 2 Bed Flat above Four Car Ports and 6no. Three Bedroom Houses and all Associated Works. Land to the Rear of 34 to 39 Cross Street, off Beili Priory, Abergavenny.	13 - 24
4.2.	Application DM/2020/00762 - Full planning application for the change of use of the visitor centre at Llandegfedd, to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442. Llandegfedd Visitor Centre, Croes-gweddyn Road, Coed-y-Paen, Monmouthshire.	25 - 44
4.3.	Application DM/2020/00763 - Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317. Llandegfedd Water Sports Centre, Croes-gweddyn Road, Coed-y-Paen.	45 - 66
4.4.	Application DM/2020/01076 - Use of existing agricultural Dutch barn for the storage of cars. Clawdd-y-Parc Farm, Parc Road, Llanybi, Usk.	67 - 74
4.5.	Application DM/2020/01766 - Retrospective application for amendment to previously approved planning application: DM/2020/00669. Beaulieu Barn, 25 Kymin Road, The Kymin, Monmouth, NP25 3SD.	75 - 82

5.	FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received.	
5.1.	Appeal decision - Lingfield, Five Lanes, Caerwent, Caldicot.	83 - 86
5.2.	Appeal Decision - Land adjacent St. Teilo's Church, Llantilio Pertholey.	87 - 96
5.3.	Cost Decision - Land adjacent St. Teilo's Church, Llantilio Pertholey.	97 - 100

**Paul Matthews
Chief Executive**

MONMOUTHSHIRE COUNTY COUNCIL

THE CONSTITUTION OF THE PLANNING COMMITTEE IS AS FOLLOWS:

County Councillor Ruth Edwards	Llantilio Crossenny;	Welsh Conservative Party
County Councillor Peter Clarke	Llangybi Fawr;	Welsh Conservative Party
County Councillor Jeremy Becker	St. Mary's;	Liberal Democrats
County Councillor Louise Brown	Shirenewton;	Welsh Conservative Party
County Councillor Alan Davies	Green Lane;	Independent
County Councillor Tony Easson	Dewstow;	Welsh Labour/Llafur Cymru
County Councillor David Evans	West End;	Welsh Labour/Llafur Cymru
County Councillor Mat Feakins	Drybridge;	Welsh Conservative Party
County Councillor Roger Harris	Croesonen;	Welsh Labour/Llafur Cymru
County Councillor Jim Higginson	Severn;	Welsh Labour/Llafur Cymru
County Councillor Giles Howard	Llanfoist Fawr;	Welsh Conservative Party
County Councillor Paul Jordan	Cantref;	Welsh Conservative Party
County Councillor Phil Murphy	Caerwent;	Welsh Conservative Party
County Councillor Maureen Powell	Castle;	Welsh Conservative Party
County Councillor Ann Webb	St Arvans;	Welsh Conservative Party
County Councillor Sheila Woodhouse	Grofield;	Welsh Conservative Party

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Public Information

Any person wishing to speak at Planning Committee must do so by registering with Democratic Services by no later than 12 noon two working days before the meeting. Details regarding public speaking can be found within this agenda

Access to paper copies of agendas and reports

A copy of this agenda and relevant reports can be made available to members of the public attending a meeting by requesting a copy from Democratic Services on 01633 644219. Please note that we must receive 24 hours notice prior to the meeting in order to provide you with a hard copy of this agenda.

Watch this meeting online

This meeting may be viewed online by visiting the link below.

<https://democracy.monmouthshire.gov.uk/ie/ListMeetings.aspx?Committeeld=141>

This will take you to the page relating to all Planning Committee meetings. Please click on the relevant Planning Committee meeting. You will then find the link to view the meeting on this page. Please click the link to view the meeting.

Welsh Language

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with 5 days notice prior to the meeting should you wish to speak in Welsh so we can accommodate your needs.

Aims and Values of Monmouthshire County Council

Our purpose

Building Sustainable and Resilient Communities

Objectives we are working towards

- Giving people the best possible start in life
- A thriving and connected county
- Maximise the Potential of the natural and built environment
- Lifelong well-being
- A future focused council

Our Values

Openness. We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

Fairness. We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

Flexibility. We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

Teamwork. We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

Purpose

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 Planning Committee has delegated powers to make decisions on 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 appropriate), or refused (with suggested reasons for refusal).

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the Monmouthshire Local Development Plan 2011-2021 (adopted February 2014), unless material planning considerations indicate otherwise.

Section 2(2) of the Planning (Wales) Act 2015 states that the planning function must be exercised, as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales.

The decisions made are expected to benefit the County and our communities by allowing good quality development in the right locations, and resisting development that is inappropriate, poor quality or in the wrong location. There is a direct link to the Council's objective of building sustainable, resilient communities.

Decision-making

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

- Necessary to make the proposed development acceptable;
- 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, or against the failure of the Council to determine an application within the statutory time period. There is no third party right of appeal against a decision.

The Planning Committee may make decisions that are contrary to the officer recommendation. However, reasons must be provided for such decisions, and the decision must be based on the Local Development Plan (LDP) and/or material planning considerations. Should such a decision be challenged at appeal, Committee Members will be required to defend their decision throughout the appeal process.

Planning policy context

Future Wales – the national plan 2040 is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales – the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Monmouthshire’s Local Development Plan (LDP) sets out the Council’s vision and objectives for the development and use of land in Monmouthshire, together with the policies and proposals to implement them over a 10 year period to 2021. The plan area excludes that part of the County contained within the Brecon Beacons National Park. It has a fundamental role in delivering sustainable development. In seeking to achieve this it sets out a framework for the development and use of land and for the protection of the environment. It also guides and facilitates investment decisions as well as the delivery of services and infrastructure. It determines the level of provision and location of new housing, employment and other uses and sets the framework for considering all land use proposals during the plan period. The LDP contains over-arching policies on development and design. Rather than repeat these for each application, the full text is set out below for Members’ assistance.

Policy EP1 - Amenity and Environmental Protection

Development, including proposals for new buildings, extensions to existing buildings and advertisements, should have regard to the privacy, amenity and health of occupiers of neighbouring properties. Development proposals that would cause or result in an unacceptable risk /harm to local amenity, health, the character /quality of the countryside or interests of nature conservation, landscape or built heritage importance due to the following will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk:

- Air pollution;
- Light or noise pollution;
- Water pollution;
- Contamination;
- Land instability;
- Or any identified risk to public health or safety.

Policy DES1 – General Design Considerations

All development should be of a high quality sustainable design and respect the local character and distinctiveness of Monmouthshire’s built, historic and natural environment. Development proposals will be required to:

- a) Ensure a safe, secure, pleasant and convenient environment that is accessible to all members of the community, supports the principles of community safety and encourages walking and cycling;
- b) Contribute towards sense of place whilst ensuring that the amount of development and its intensity is compatible with existing uses;
- c) Respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings;
- d) Maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties, where applicable;
- e) Respect built and natural views and panoramas where they include historical features and/or attractive or distinctive built environment or landscape;

- f) Use building techniques, decoration, styles and lighting to enhance the appearance of the proposal having regard to texture, colour, pattern, durability and craftsmanship in the use of materials;
- g) Incorporate and, where possible enhance existing features that are of historical, visual or nature conservation value and use the vernacular tradition where appropriate;
- h) Include landscape proposals for new buildings and land uses in order that they integrate into their surroundings, taking into account the appearance of the existing landscape and its intrinsic character, as defined through the LANDMAP process. Landscaping should take into account, and where appropriate retain, existing trees and hedgerows;
- i) Make the most efficient use of land compatible with the above criteria, including that the minimum net density of residential development should be 30 dwellings per hectare, subject to criterion l) below;
- j) Achieve a climate responsive and resource efficient design. Consideration should be given to location, orientation, density, layout, built form and landscaping and to energy efficiency and the use of renewable energy, including materials and technology;
- k) Foster inclusive design;
- l) Ensure that existing residential areas characterised by high standards of privacy and spaciousness are protected from overdevelopment and insensitive or inappropriate infilling.

Other key relevant LDP policies will be referred to in the officer report.

Supplementary Planning Guidance (SPG):

The following Supplementary Planning Guidance may also be of relevance to decision-making as a material planning consideration:

- Green Infrastructure (adopted April 2015)
- Conversion of Agricultural Buildings Design Guide (adopted April 2015)
- LDP Policy H4(g) Conversion/Rehabilitation of Buildings in the Open Countryside to Residential Use- Assessment of Re-use for Business Purposes (adopted April 2015)
- LDP Policies H5 & H6 Replacement Dwellings and Extension of Rural Dwellings in the Open Countryside (adopted April 2015)
- Abergavenny Conservation Area Appraisal (adopted March 2016)
- Caerwent Conservation Area Appraisal (adopted March 2016)
- Chepstow Conservation Area Appraisal (adopted March 2016)
- Grosmont Conservation Area Appraisal (adopted March 2016)
- Llanarth Conservation Area Appraisal (adopted March 2016)
- Llandenny Conservation Area Appraisal (adopted March 2016)
- Llandogo Conservation Area Appraisal (adopted March 2016)
- Llanover Conservation Area Appraisal (adopted March 2016)
- Llantilio Crossenny Conservation Area Appraisal (adopted March 2016)
- Magor Conservation Area Appraisal (adopted March 2016)
- Mathern Conservation Area Appraisal (adopted March 2016)
- Monmouth Conservation Area Appraisal (adopted March 2016)
- Raglan Conservation Area Appraisal (adopted March 2016)
- Shirenewton Conservation Area Appraisal (adopted March 2016)
- St Arvans Conservation Area Appraisal (adopted March 2016)
- Tintern Conservation Area Appraisal (adopted March 2016)
- Trellech Conservation Area Appraisal (adopted April 2012)
- Usk Conservation Area Appraisal (adopted March 2016)
- Whitebrook Conservation Area Appraisal (adopted March 2016)
- Domestic Garages (adopted January 2013)
- Monmouthshire Parking Standards (adopted January 2013)
- Approach to Planning Obligations (March 2013)
- Affordable Housing (revised version) (adopted July 2019)

- Renewable Energy and Energy Efficiency (adopted March 2016)
- Planning Advice Note on Wind Turbine Development Landscape and Visual Impact Assessment Requirements (adopted March 2016)
- Primary Shopping Frontages (adopted April 2016)
- Rural Conversions to a Residential or Tourism Use (Policies H4 and T2) Supplementary Planning Guidance November 2017
- Sustainable Tourism Accommodation Supplementary Guidance November 2017
- Affordable Housing Supplementary Guidance July 2019
- Infill Development Supplementary Guidance November 2019

National Planning Policy

The following national planning policy may also be of relevance to decision-making as a material planning consideration:

- Future Wales: the national plan 2040
- Planning Policy Wales (PPW) edition10 (at time of publication)
- 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 Town Centres (1996)
 - 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 9: Enforcement of Planning Control (1997)
 - 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: The Welsh Language (2013)
 - 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

Other matters

The following other legislation may be of relevance to decision-making.

Planning (Wales) Act 2015

As of January 2016, Sections 11 and 31 of the Planning Act come into effect meaning the Welsh language is a material planning consideration.

Section 31 of the Planning Act clarifies that considerations relating to the use of the Welsh language can be taken into account by planning authorities when making decisions on applications for planning permission, so far as material to the application. The provisions do

not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the local planning authority, and the decision whether or not to take Welsh language issues into account should be informed by the consideration given to the Welsh language as part of the LDP preparation process. Section 11 requires the sustainability appraisal, undertaken as part of LDP preparation, to include an assessment of the likely effects of the plan on the use of Welsh language in the community. Where the authority's current single integrated plan has identified the Welsh language as a priority, the assessment should be able to demonstrate the linkage between consideration for the Welsh language and the overarching Sustainability Appraisal for the LDP, as set out in TAN 20.

The adopted Monmouthshire Local Development Plan (LDP) 2014 was subject to a sustainability appraisal, taking account of the full range of social, environmental and economic considerations, including the Welsh language. Monmouthshire has a relatively low proportion of population that speak, read or write Welsh compared with other local authorities in Wales and it was not considered necessary for the LDP to contain a specific policy to address the Welsh language. The conclusion of the assessment of the likely effects of the plan on the use of the Welsh language in the community was minimal.

Environmental Impact Assessment Regulations 2016

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are relevant to the recommendations made. The officer report will highlight when an Environmental Statement has been submitted with an application.

Conservation of Species & Habitat Regulations 2010

Where an application site has been assessed as being a breeding site or resting place for European Protected Species, it will usually be necessary for the developer to apply for 'derogation' (a development licence) from Natural Resources Wales. Examples of EPS are all bat species, dormice and great crested newts. When considering planning applications Monmouthshire County Council as Local Planning Authority is required to have regard to the Conservation of Species & Habitat Regulations 2010 (the Habitat Regulations) and to the fact that derogations are only allowed where the three tests set out in Article 16 of the Habitats Directive are met. The three tests are set out below.

- (i) The derogation is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- (ii) There is no satisfactory alternative
- (iii) The derogation is not detrimental to the maintenance of the population of the species concerned as a favourable conservation status in their natural range.

Well-being of Future Generations (Wales) Act 2015

This Act is about improving the social, economic, environmental and cultural well-being of Wales. The Act sets out a number of well-being goals:

- **A prosperous Wales:** efficient use of resources, skilled, educated people, generates wealth, provides jobs;
- **A resilient Wales:** maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change);
- **A healthier Wales:** people's physical and mental wellbeing is maximised and health impacts are understood;
- **A Wales of cohesive communities:** communities are attractive, viable, safe and well connected;
- **A globally responsible Wales:** taking account of impact on global well-being when considering local social, economic and environmental wellbeing;

- **A Wales of vibrant culture and thriving Welsh language:** culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation;
- **A more equal Wales:** people can fulfil their potential no matter what their background or circumstances.

A number of sustainable development principles are also set out:

- **Long term:** balancing short term need with long term and planning for the future;
- **Collaboration:** working together with other partners to deliver objectives;
- **Involvement:** involving those with an interest and seeking their views;
- **Prevention:** putting resources into preventing problems occurring or getting worse;
- **Integration:** positively impacting on people, economy and environment and trying to benefit all three.

The work undertaken by Local Planning Authority directly relates to promoting and ensuring sustainable development and seeks to strike a balance between the three areas: environment, economy and society.

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. Crime and fear of crime can be a material planning consideration. This topic will be highlighted in the officer report where it forms a significant consideration for a proposal.

Equality Act 2010

The Equality Act 2010 contains a public sector equality duty to integrate consideration of equality and good relations into the regular business of public authorities. The Act identifies a number of 'protected characteristics': age; disability; gender reassignment; marriage and civil partnership; race; religion or belief; sex; and sexual orientation. Compliance 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. 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 needs 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

Consultation on planning applications is open to all of our citizens regardless of their age: no targeted consultation takes place specifically aimed at children and young people. 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.

Climate Emergency

In May 2019 Monmouthshire County Council declared a Climate Emergency with unanimous support from Councillors. The Cabinet Member for Infrastructure and Neighbourhood Services has been appointed as the member responsible for climate change and decarbonisation.

Tackling climate change is very important, because if the planet's temperature rises by 2°C there are risks of drought, flood and poverty, impacting on hundreds of millions of people. In Monmouthshire impacts that could happen include more extreme weather events (such as storms), water shortages, droughts, species loss and risk of flooding. Planning has a key role in addressing climate change through the promotion of sustainable development.

The Council has formulated a draft action plan which will be subject to Member approval and will form the Council's response to tackling this issue. Council decisions will need to take into account the agreed action plan.

Protocol on Public Speaking at Planning Committee

Public speaking at Planning Committee will be allowed strictly in accordance with this protocol. You cannot demand to speak at the Committee as of right. The invitation to speak and the conduct of the meeting is at the discretion of the Chair of the Planning Committee and subject to the points set out below. **The conventional protocol has been modified to allow public speaking via pre-recorded videos.**

Who Can Speak

Community and Town Councils

Community and town councils can address Planning Committee via a pre-recorded video. Only elected members of community and town councils may speak. Representatives will be expected to uphold the following principles: -

- (i) To observe the National Code of Local Government Conduct. (ii)

Not to introduce information that is not:

- consistent with the written representations of their council, or
- part of an application, or
- contained in the planning report or file.

When a town or community councillor has registered to speak in opposition to an application, the applicant or agent will be allowed the right of reply.

Members of the Public

Speaking will be limited to one member of the public opposing a development and one member of the public supporting a development. Where there is more than one person in opposition or support, the individuals or groups should work together to establish a spokesperson. The Chair of the Committee may exercise discretion to allow a second speaker, but only in exceptional cases where a major application generates divergent views within one 'side' of the argument (e.g. a superstore application where one spokesperson represents residents and another local retailers). Members of the public may appoint representatives to speak on their behalf.

Where no agreement is reached, the right to speak shall fall to the first person/organisation to register their request. When an objector has registered to speak the applicant or agent will be allowed the right of reply.

Speaking will be limited to applications where, by the deadline, letters of objection/support or signatures on a petition have been submitted to the Council from 5 or more separate households/organisations (in this context organisations would not include community or town councils or statutory consultees which have their own method of ensuring an appropriate application is considered at Committee) The deadline referred to above is 5pm on the day six clear working days prior to the Committee meeting. This will normally be 5pm on the Friday six clear working days before the Tuesday Planning Committee meeting. However, the deadline may be earlier, for example if there is a Bank Holiday Monday.

The number of objectors and/or supporters will be clearly stated in the officer's report for the application contained in the published agenda.

The Chair may exercise discretion to allow speaking by members of the public where an application may significantly affect a sparse rural area but less than 5 letters of objection/support have been received.

Applicants

Applicants or their appointed agents will have a right of response where members of the public or a community/town council, have registered to address committee in opposition to an application. This will also be via a pre-recorded video.

When is speaking permitted?

Public speaking will normally only be permitted on one occasion where applications are considered by Planning Committee. When applications are deferred and particularly when re-presented following a committee resolution to determine an application contrary to officer advice, public speaking will not normally be permitted. Regard will however be had to special circumstances on applications that may justify an exception. The final decision lies with the Chair.

Registering Requests to Speak

Speakers must register their request to speak as soon as possible, between 12 noon on the Tuesday and 12 noon on the Friday before the Committee. To register a request to speak, objectors/supporters must first have made written representations on the application.

Anyone wishing to speak must notify the Council's Democratic Services Officers of their request by calling 01633 644219 or by email to registertospeak@monmouthshire.gov.uk. Please leave a daytime telephone number. Any requests to speak that are emailed through will be acknowledged prior to the deadline for registering to speak. If you do not receive an acknowledgement before the deadline please contact Democratic Services on 01633 644219 to check that your registration has been received.

Parties are welcome to address the Planning Committee in English or Welsh, however if speakers wish to use the Welsh language they are requested to make this clear when registering to speak, and are asked to give at least 5 working days' notice to allow the Council the time to procure a simultaneous translator.

Applicants/agents and objectors/supporters are advised to stay in contact with the case officer regarding progress on the application. It is the responsibility of those wishing to speak to check when the application is to be considered by Planning Committee by contacting the Planning Office, which will be able to provide details of the likely date on which the application will be heard. The procedure for registering the request to speak is set out above.

The Council will maintain a list of persons wishing to speak at Planning Committee.

Once the request to speak has been registered by the Council the speaker must submit their pre-recorded video by midday on Monday before the Committee meeting. The video content must comply with the terms below and be no more than 4 minutes in duration. If the third party does not wish to record a video they will need to submit a script to the Council by the deadline above, that will be read out by an officer to the Committee Members at the meeting. The script shall contain no more than 500 words and shall also comply with the terms below.

Content of the Speeches

Comments by the representative of the town/community council or objector, supporter or applicant/agent should be limited to matters raised in their original representations and be relevant planning issues. These include:

- Relevant national and local planning policies
- Appearance and character of the development, layout and density
- Traffic generation, highway safety and parking/servicing;
- Overshadowing, overlooking, noise disturbance, odours or other loss of amenity.

Speakers should avoid referring to matters outside the remit of the Planning Committee, such as;

- Boundary disputes, covenants and other property rights
- Personal remarks (e.g. Applicant's motives or actions to date or about members or officers)
- Rights to views or devaluation of property.

Procedure at the Planning Committee Meeting

The procedure for dealing with public speaking is set out below:

- The Chair will identify the application to be considered.
- An officer will present a summary of the application and issues with the recommendation.
- The local member if not on Planning Committee will be invited to speak for a maximum of 6 minutes by the Chair.
- If applicable, the video recording of the representative of the community or town council will then be played to Members (this shall be no more than 4 minutes in duration). Alternatively, if the community or town council has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- If applicable, the objector's video recording will then be played to the Members (this shall be no more than 4 minutes in duration) Alternatively, if a third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- If applicable, the supporter's video recording will then be played to Members (this shall be no more than 4 minutes in duration) Alternatively, if the third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- If applicable, the applicant's (or appointed agent's) video recording will then be played to Members (this shall be no more than 4 minutes in duration). Alternatively, if the third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- Where more than one person or organisation speaks against an application, the applicant or appointed agent, shall, at the discretion of the Chair, be entitled to submit a video of their response of up to 5 minutes in duration.
 - Time limits will normally be strictly adhered to, however the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking.
 - Speakers may speak only once.
 - Committee Members may then raise technical questions with officers.
 -
- Planning Committee members will then debate the application, commencing with the local member if a Member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.
- Where an objector or supporter or applicant/agent community or town council has spoken on an application no further speaking by or on behalf of that group will be permitted in the event that the application is considered again at a future meeting of the Committee unless there has been a material change in the application.
- The Chair's decision regarding a procedural matter is final.
- When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly.
- When the motion has been seconded the Chair shall identify the Members who

proposed and seconded the motion and repeat the motion proposed (including any additional conditions or other matters raised). The names of the proposer and seconder shall be recorded.

- Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that particular application.
- Any Member who abstains from voting shall consider whether to give a reason for their abstention.
- The Legal Officer shall count the votes and announce the decision.
-
- When the motion has been seconded, the Chair shall identify the members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded.
- A member shall decline to vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application.
- Any member who abstains from voting shall consider whether to give a reason for his/her abstention.
- An officer shall count the votes and announce the decision.

Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

PRESENT: County Councillor R. Edwards (Chairman)
County Councillor P. Clarke (Vice Chairman)

County Councillors: J.Becker, L.Brown, A.Davies, A. Easson,
D. Evans, M.Feakins, R. Harris, J. Higginson, G. Howard, P. Jordan,
P. Murphy, M. Powell, A. Webb and S. Woodhouse

OFFICERS IN ATTENDANCE:

Craig O'Connor	Head of Planning
Philip Thomas	Development Services Manager
Andrew Jones	Development Management Area Team Manager
Amy Longford	Development Management Area Team Manager
Denzil – John Turbevill	Commercial Solicitor
Richard Williams	Democratic Services Officer

APOLOGIES:

None received.

1. Election of Chair

We elected County Councillor R. Edwards as Chair.

2. Appointment of Vice-Chair

We appointed County Councillor P. Clarke as Vice-Chair.

3. Declarations of Interest

None received.

4. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 13th April 2021 were confirmed and signed by the Chair subject to the following amendments:

Application DM/2020/01258 – Three bullet points on page 8 of the minutes be amended to read as follows:

‘To ensure the approved outbuilding is ancillary but is not used for accommodation or as a separate residential use.’

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

5. Application DM/2019/01495 - Construction of two dwellings together with formation of car parking (Amended description 14/01/2020). The Tan House Inn, Shirenewton

We considered the report of the application and late correspondence which was recommended for approval subject to the 12 conditions outlined in the report.

Shirenewton Community Council, had submitted a written statement outlining the community council's objections to the application which was read to the Planning Committee by the Head of Planning, as follows:

'Shirenewton Community Council has the following objections to this application.

- The proposed houses are large four bedroomed dwellings commanding a price unaffordable by local inhabitants. Our community cannot thrive without its younger members and families and the proposed dwellings work against this. Whilst we appreciate the s106 payment towards affordable housing, the sums involved are way too small to permit any significant affordable housing provision.
- Whilst we accept that The Tan House site (still not trading as a pub) is an eyesore it lies in the historic centre of the village and any partial redevelopment impacts on both the conservation area and the amenity offered by the pub. There would be no outside seating nor children's play area at the pub, and the two large executive houses standing prominently next to the highway will be wholly out of character.
- The existing hedge on the boundary with the highway should be retained in the present appearance and size to maintain the rural outlook.
- Many of our residents live outside the village itself and travel in by car. The highways around the pub are narrow and offer no on street parking. Curtailing the available parking will result in obstruction for the immediate neighbours.
- The parking spaces for the two dwellings are accessed through the pub car park. Insufficient consideration has been given for the dwelling occupiers and visitors to turn to exit their parking and the layout is such that they are prone to being blocked in.'

The applicant's agent, Richard Ball, Architect, had submitted a written statement in support of the application which was read to the Planning Committee by the Head of Planning, as follows:

'I note the planner in her report has gone through the many issues raised by this application and considered them all to have been resolved to her satisfaction. I have discussed this with my client and he has resolved to take the application to appeal should it be refused.

This application does not take any farmland. It uses secondary land and is therefore in line with current government thinking on housing supply and should be supported.'

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

The local Member for Shirenewton, also a Planning Committee Member, outlined the following points:

- The main planning policy for the loss of the community facility is LDP Policy CRF1.
- The pub occupies an important historical site in the village.
- Policy CRF1 states in the report of the application that it could reasonably become financially viable and particularly attractive is the outdoor play area, making it a facility as a family pub.
- Policy CRF1 also states – to change part of the facility will not be permitted if it will prejudice the long term retention of the remainder. It will take away both the outdoor area of the pub and also take away parking spaces.
- There is currently no pub open in Shirenewton Village. However, it has an outside area with a separate car park with 20 spaces. This development will result in only 15 spaces for the car park, as six spaces will be allocated to the houses. The spaces for the houses could be blocked and difficult to access if it became a pub again.
- The surrounding highways area is not suitable for parking provision, namely, Spout Hill and Tan House Court.
- No marketing exercise has been undertaken as expected for Policy CRF1 to advertise as a pub with an outdoor space, neither has it been marketed as a viable commercial option.
- The local Member considered that it would be more suitable to have the planning application for the site, as a whole.
- It is disingenuous to subdivide the site to avoid policy CRF1.
- The report of the application refers to the affordable housing policy. Policy S4 states that the development site with a capacity for three or more dwellings will make provision for at least 60% of the total number of dwellings on sites to be affordable. Affordable housing should be provided on an on-site basis unless there are exceptional circumstances. The policy also refers to main villages in S1 – for main villages there is a specific issue of affordable housing in rural areas due to limited abilities of existing residents in the countryside, particularly young people to afford housing which restricts their ability to remain with existing communities.
- In terms of infill sites, the policy states that 35% of the housing should be affordable. If the site has the capacity for two large four bedroomed houses then it should have the capacity to accommodate three smaller houses or bungalows, one of which could be affordable under this policy.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

- A £17,000 financial contribution is small in comparison to the £200,000 to £250,000 required for the market value of one on site property.
- The local Member asked the Planning Committee to consider refusal of the application on the grounds of being contrary to Policies S1, SAH 11 of the Local Development Plan (LDP) and supplementary affordable housing policy provision and contrary to policy CRF1.
- However, if the Planning Committee approves the application, the local Member requested that there be a variation of the conditions. The exterior of the buildings to have soft render and be painted yellow to be more in keeping with the bungalow next door and with the property opposite. Also, a request was made that there be a restriction on permitted development rights due to the potential for unsightly outbuildings being located near to an historical building. Concern was also expressed regarding the height being 8.2 metres. The height of the land is higher than that height opposite. The scale of the buildings was considered to be too great and would not conform to Policy DES 1. As the properties will be higher than the surrounding buildings the Juliet balcony will result in overlooking.

Having considered the report of the application and the views expressed, the following points were noted:

- The proposed dwellings are in keeping with nearby properties. However, the colour of the proposed dwellings need to be in keeping with these properties to maintain consistency.
- If the pub were to re-open then there would be far more vehicle movements compared to an additional two private houses.
- With regard to the density of the dwellings in front of the former public house, the proposed dwellings do not look out of place.
- The proposed properties would look better with window headers over the windows which would match the properties opposite.

The local Member summed up as follows:

- Soft render should be considered instead of rough render.
- Permitted development rights should be removed to prevent additional outbuildings being built, as the proposed dwellings would be located next to an historical building.
- The local Member expressed disappointment that the affordable housing policy was not being considered as it was considered that there was room within the site for three smaller dwellings with one of these dwellings being an affordable property.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

- The eastern side of the village has had some affordable housing so the additional affordable housing provision could be managed by a housing association.
- The local Member recommended that the application be refused on the grounds that the affordable housing policy has not been considered.
- If the application is approved, the local Member requested that conditions be added to provide soft render, window headers be placed over the windows to match the properties opposite and that permitted development rights be removed.

Following the local Member's summing up it was suggested that the render specification should be considered by the Delegation Panel if the application were approved.

The Development Management Area Team Manager provided the Committee with the following information:

- The application is for two dwellings on this area of land that is part of the curtilage of the Tan House and not for the conversion of the Tan House.
- Whilst the loss of the play area is not great it does not preclude the use of the pub to operate as a pub restaurant facility.
- The pub has been closed for a considerable period of time, in the region of 10 years. This needs to be considered when looking at the viability of the pub.
- There are other pubs in the area with facilities. Therefore, there is not a requirement to look at marketing this facility.
- With regard to parking provision and the protection of the residential parking places, condition 9 within the report of the application addresses this matter.
- In relation to affordable housing provision and the capacity of the site, the application is for two dwellings and it is considered that the site is able to accommodate two dwellings which are of a size, scale, mass and design that are appropriate within that context. The proposed dwellings are similar to those properties close by which sit appropriately within their scale and format.
- The proposed two dwellings are under the threshold and the commuted sum is in line with the affordable policy. There is no deviation from the policies.
- With regard to the colour, condition 3 requests samples of all of the proposed external finishes. This condition could be amended to specifically include colour. As the proposed properties would be located within the conservation area, it was suggested that Heritage Officers be consulted specifically on discharging that condition. This would allow officers to provide advice on the render type and colour that would be appropriate in the conservation area.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

- Window headers to be placed over the windows to match the properties opposite were noted.
- With regard to the pub, any change of use or proposals for the pub to not operate as a pub would have to be presented to Planning Committee as a separate planning application.
- Permitted development rights could be removed for the change of external materials. In relation to outbuildings there are limitations on what the permitted development rights would be available on the property as it is located within the conservation area.

It was proposed by County Councillor A. Davies and seconded by County Councillor D. Evans that application DM/2019/01495 be approved subject to the 12 conditions outlined in the report and subject to the following:

- Include window headers front and rear on the two new dwellings via amended elevation drawings before issuing permission.
- Amend condition 3 to include details of the type and colour of the external render.
- Agree the render specification via consultation with Heritage and the Delegation Panel.
- Remove Permitted Development Rights to change external materials.

Upon being put to the vote, the following votes were recorded:

In favour of the proposal	-	12
Against the proposal	-	1
Abstentions	-	1

The proposition was carried.

We resolved that application DM/2019/01495 be approved subject to the 12 conditions outlined in the report and subject to the following:

- Include window headers front and rear on the two new dwellings via amended elevation drawings before issuing permission.
- Amend condition 3 to include details of the type and colour of the external render.
- Agree the render specification via consultation with Heritage and the Delegation Panel.
- Remove Permitted Development Rights to change external materials.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

6. Application DM/2020/00390 - Change of use of existing agricultural building to B1 use. Gaerllwyd Farm, Gaerllwyd Farm To Gethley Road Newchurch, Devauden Chepstow

We considered the report of the application and late correspondence which was recommended for approval subject to the nine conditions outlined in the report with condition 9 being amended to ensure the parking layout includes a minimum of two electric vehicle charging points to be operational before the B1 use commences.

Shirenewton Community Council, had submitted a written statement outlining the community council's objections to the application which was read to the Planning Committee by the Head of Planning, as follows:

'Shirenewton Community Council strongly objects to this application.

Our responses dated 8th June 2020 and 14th April 2021 are summarised in the Planning Officer's Report so we won't restate them here.

PPW11, Monmouthshire County Council's comments in the LDP on policy RE2 and RE2 itself all acknowledge that development is not at any cost to the environment. Developments must be carefully controlled and a balance is required to protect the character and appearance of the surrounding area. Whilst the shell of the building is largely retained, this application would be the first B1 site in this deeply rural countryside, industrialising a nature driven farming area. Tourists and residents alike highly value our landscape and environment.

Gaerllwyd Farmhouse (now a private residence) is close by, Chapel Cottage is across the B4235, the barn conversion directly opposite the site is currently being rebuilt for residential occupation, the adjacent milking parlour has consent for conversion to a dwelling, and Glenmore, another residence, is barely 100m from the site, all of which would be directly affected by any increase in activity.

There are 19 parking spaces suggesting around 38 vehicle movements daily, plus deliveries and collections, all impacting on our residents. Access past the building is unsatisfactory as the marked loading bays will inevitably obstruct access to the car park with consequential difficulties for emergency vehicles.

Whilst the Planning Report envisages unobtrusive offices, the Environmental Officer reminds us that the definition of class B1 includes research and development of products or processes, and any industrial process being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. We are further concerned that Wales may follow England in combining B1 in a new use class E with retail goods, financial and professional services.

We note this is a speculative development with no specific end user in mind. The internal layout of the building is unsuitable for offices, lacking heating and insulation, with a ceiling height to the roof ridge of 6.46m. The shutter doors are 2.95m high permitting the movement of large plant and machinery.

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Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

Were Councillors minded to grant consent we would request stricter limits on the operating hours particularly to exclude use at weekends and bank / public holidays and the operation of any plant, process or machinery outside working times, and an Article 4 direction confining use B1(a) as three offices.

If a farmer applied under RE3 a business case would have to be submitted showing the viability of the proposed use. Given the Covid-19 consequence for home working particularly for office workers, the need for offices and local workers is greatly reduced. We do not accept B1 use would bring any advantage in local prosperity, only detriment for our residents and the rural characteristic.

Were Councillors minded to grant consent we would request a limit of three years to demonstrate, or otherwise, the viability of the proposal and benefit to the community.'

The applicant's agent, Mr. Stephen Williams, had prepared a video recording which was presented to Planning Committee and the following points were outlined:

- The existing use of the farm is mainly agricultural and there are a number of large agricultural buildings which are coming to the end of their usable life in terms of agricultural use.
- The applicant has considered there is an opportunity to change the use of these buildings for a different purpose, namely, light industrial use.
- The buildings at Gaerllwyd are part of an existing range of agricultural buildings which include the car parking area to the rear.
- The existing agricultural building will be kept in its current form. The only changes will be that the south facing aspect of the building will have roller shutter doors attached to them in order to secure the units.
- The car parking area is existing hard standing at the rear of the buildings. This will be retained with no plans to change the material.
- The proposal brings benefits to the local environment. A new hedgerow will be planted along the bank at the north and eastern side of the development and will be integrated into the existing hedge providing increased biodiversity. Bat and sparrow boxes will be attached to the side of the agricultural building, further enhancing the biodiversity.
- The application will provide employment for local people.
- The scheme is well thought out. It adds environmental and biodiversity enhancement to the local area whilst making use of an existing agricultural building without fundamentally changing the fabric of the building. It provides employment opportunities in the local area.

The local Member for Shirenewton, also a Planning Committee Member, outlined the following points:

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Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

- Concern was expressed that the application is not ready to be received by the Planning Committee. There is no full site plan covering the development despite the Planning Officer requesting the applicant to improve the plan.
- Planning permission is granted on the basis of approved plans and once planning permission is obtained the site may be developed by anyone, not just the applicant.
- Policy RE2 on conversion of buildings states that these should be checked to ensure they are suitable for conversion before consent is granted.
- There is no structural risk report despite the comment by Monmouthshire County Council's Ecology Officer regarding the poor state of the building.
- It is a speculative application as there is no end user in mind.
- Monmouthshire's Highways Department has commented that the proposal is located in an unsustainable location in Monmouthshire.
- Shirenewton Community Council describes the area as deeply rural and is a remote location away from any settlements.
- The Highways Department has also stated that the level of detail submitted in support of the application is not considered adequate to provide constructive Highway comments.
- The first time the local Member found out that a car park was being dug out at the rear of the site was when she received the photographs for the Planning Committee meeting. Concern was expressed that this will become a pond as there are no details of the surface used, slope or drainage under SuDS. Underground pipework will not cover this new area.
- There are three agricultural buildings on the site. A milking parlour with permission to be converted to residential use. The application was granted on the basis that the same site was unsuitable for business use due to poor broadband and better location of offices in Chepstow. The situation was considered to be no different for this application. It is unclear what the derelict agricultural building opposite will be used for and how that will integrate into the rest of the site.
- In view of the concerns raised, the local Member requested that the Planning Committee consider deferral of the application at this stage.
- If the Planning Committee was minded to approve the application, the local Member referred to page 34 of the officer report and requested that the application should be for B1(a) use only as it is three metres from the milking parlour that has residential consent.

MONMOUTHSHIRE COUNTY COUNCIL

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- The condition referring to the operation of any plant or machinery should be amended to include no work being undertaken on weekends or bank holidays and that there be a three year consent to test its viability.
- There is a need for a structural report.
- The car park should have a hard surface and drainage provision.
- There is a need for an approved layout plan.

The Development Services Manager outlined the following points:

- The plans that have been submitted are sufficient for the application to be validly made and determined.
- Condition 9 needs to be amended to ensure the parking layout includes a minimum of two electric vehicle charging points to be operational before the B1 use commences.
- The broadband issues can be addressed via the new technologies that are emerging. Monmouthshire County Council is promoting this.
- B1 developments are not noisy and it was considered that the application was an acceptable form of use within the range of B1 use. A condition has been put in place to limit the hours of opening which is considered to be acceptable in protecting the amenity of those living near the site.
- A three year temporary consent would be a deterrent for anyone investing in this proposal in terms of economic development. It was considered that the application was acceptable in its own right and should be given the opportunity to establish itself permanently.

In response to questions raised by the local Member the Development Services Manager outlined the following points:

- With regard to drainage, the proposal will need consent from the Sustainable Drainage Authority.
- The car park will have a hard surface and will have SuDS approval to ensure that it drains properly.
- B1 uses are capable of being carried out without detriment to noise in terms of amenity.

Having received the report and the views expressed, the following points were noted:

- There is a need to support rural enterprise. Diversity in rural enterprise is essential.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 1st June, 2021 at 2.00 pm

- The proposal will be better under B1.
- The proposal would not be disruptive in the countryside.

The local Member summed up as follows:

- She would be unable to support the application as it is a speculative development.
- The broadband provision for the area is poor making it difficult to attract businesses of B1 use to the area.
- There has been no consideration to add the conditions suggested by the local Member.

It was proposed by County Councillor P. Murphy and seconded by County Councillor A. Davies that application DM/2020/00390 be approved subject to the nine conditions outlined in the report with condition 9 being amended to ensure the parking layout includes a minimum of two electric vehicle charging points to be operational before the B1 use commences.

Upon being put to the vote, the following votes were recorded:

In favour of the proposal	-	12
Against the proposal	-	1
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2020/00390 be approved subject to the nine conditions outlined in the report with condition 9 being amended to ensure the parking layout includes a minimum of two electric vehicle charging points to be operational before the B1 use commences.

7. FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received:

7.1. Appeal Decision - Cwmgyst, Pentre Lane, Abergavenny

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at Cwmgyst, Pentre Lane, Abergavenny on 30th April 2021.

We noted that the appeal had been allowed and attached to the decision was a certificate of lawful use or development describing the proposed use of Cwmgyst, Pentre Lane, Abergavenny, NP7 7HE as a dwelling house without any occupancy restriction.

The meeting ended at 4.05 pm.

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DC/2010/00670

RESIDENTIAL DEVELOPMENT OF 8 UNITS COMPRISING OF A 1 BED FLAT, A 2 BED FLAT ABOVE FOUR CAR PORTS AND 6NO. THREE BEDROOM HOUSES AND ALL ASSOCIATED WORKS.

LAND TO THE REAR OF 34 TO 39 CROSS STREET, OFF BEILI PRIORY, ABERGAVENNY

RECOMMENDATION: REFUSE

Case Officer: Kate Bingham
Date Registered: 05/10/2010

1.0 APPLICATION DETAILS

This application was presented to Planning Committee on 6th October 2015 where the proposal was resolved to be approved subject to conditions and the signing of a Section 106 legal agreement in relation to the provision of affordable housing. This agreement was never signed and exchanged and thus the decision was not completed.

In the intervening period national planning policy has been updated in relation to development within flood plains and phosphate levels in the River Usk Special Area for Conservation (SAC) which mean that the proposed development is no longer acceptable and it is therefore recommended that the application now be refused.

1.1 Flood Risk

The main issue is whether the proposed development accords with Technical Advice Note 15: Development and Flood Risk (TAN 15) and, if not, whether there are material considerations which are sufficient to outweigh any identified conflict.

At the time that the application was presented to Committee in 2015, it was considered that the development could be favourably considered. NRW advised that at worst case scenario, flooding would be at a depth of 380mm for both the 1 in 100 and 1 in 1000 flood events. The lowest floor level proposed is 150mm above this level. As such the proposed residential dwellings would be flood free in a flood event. The remainder of the development i.e. shared access and car parking areas, is predicted to flood at levels of generally 300mm or less and at low velocities. TAN15 requires all development to be flood free during the 1 in 100 flood event. Therefore, this aspect of the proposed development is not in line with TAN15. However, in this instance, in view of the shallow depths of flooding predicted and the fact that existing overland flow routes are to be maintained following the development it was concluded that it would be unreasonable to refuse the application on this basis. NRW also advised that it would not be likely to be able to substantiate an objection to the proposed development on flooding grounds.

However, since this time, further advice has been received from Welsh Government in the form of a 'Dear Chief Planning Officer' letter and subsequent 'call ins' by WG under Section 77 of the Town and Country Planning Act 1990 ("the 1990 Act"). This more recent advice and policy clarification has concluded that such a balancing exercise, applying the justification tests in paragraph 6.2 of TAN 15, is not required when it is clear that the proposed development is in conflict with TAN 15.

In the WG decision on an application for a proposed hotel at Hadnock Road, Monmouth DC/2015/01431 dated 6th October 2017, the Minister acknowledged that TAN 15 advises "some flexibility is necessary to enable the risks of flooding to be addressed whilst recognising the negative economic and social consequences if policy were to preclude investment in existing urban areas and the benefits of reusing previously developed land", but he considered that such general statements do not remove the need to have due regard to the more detailed requirements in TAN 15 i.e. the justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2. The same conclusion was reached by the Minister in her decision dated 6th June 2019 on Troy House (DC/2008/00723) where it was proposed to convert a listed building into residential apartments within a Zone C2 floodplain.

The development proposed in this application also comprises highly vulnerable development as defined by TAN 15 and is located in Zone C2 on the Development Advice Map which supplements TAN 15. Therefore, in accordance with PPW Edition 11, TAN 15 and LDP Policies S12 and SD3, the development should not be permitted.

1.2 Foul Drainage/ Phosphates

The application site lies within the Phosphate Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC). Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site previously (designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a Habitats Regulations Assessment (HRA) to determine whether they are likely to have a significant effect on the SAC condition.

This application proposes to connect to the main sewer which connects to the Llanfoist Waste Water Treatment Plant. This facility does not yet have phosphate stripping technology and therefore the possibility that additional waste water flows from the proposed development could lead to additional damaging effects to the River Usk SAC cannot be ruled out. The site may be large enough to provide a private treatment plant with a flow of less than 2m³ per day draining to a field designed to British Standards but this option has not been explored. Alternatively the development could utilise phosphate stripping technology on site before connecting to the mains. Again, this option has not yet been explored and no information on any alternatives has been provided. Therefore, increases in phosphate inputs in the River Usk SAC cannot be ruled out as a result of this development proposal.

Reasons for Refusal:

1. The proposed location of a highly vulnerable development in flood zone C2 would be contrary to Planning Policy Wales 11, Technical Advice Note 15 and policies S12 and SD3 of the Adopted Monmouthshire Council Local Development Plan (LDP).
2. The application site is within the phosphorus sensitive River Usk Special Area of Conservation (SAC) catchment. Any proposed development that might increase the amount of phosphorus within a river SAC catchment could lead to damaging effects to the SAC. There is potential for this development to increase the amount of phosphorus being discharged from the site. Insufficient information has been provided to determine whether there is a likely significant effect on the SAC.

The previous report is provided below.

1.0 APPLICATION DETAILS

This is a full application for eight new residential units on land to the rear (west) of 34 - 39 Cross Street. The proposed units will comprise of 1 x one bedroom flat, 1x two bedroom flat and 6 x two/three bedroom houses. The buildings are proposed to be a mix of two and two and a half stories with varying ridge levels.

The site is currently a private car park used by the staff of the shops on Cross Street and residents of the flats above. It is bounded to the north and east by a public car park. To the south is the Swan Hotel car park. It is proposed that the dwellings will utilise the existing access off Beili Priory which is itself accessed off Monk Street with only a pedestrian link to the adjacent public car park.

The site is within a Conservation Area and is also adjacent to the Grade II* listed Gunter Mansions. The site is also within a zone C2 flood plain.

2.0 RELEVANT PLANNING HISTORY

None

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S1 – Spatial Distribution of New Housing Provision
S4 – Affordable Housing Provision
S12 - Efficient Resource Use and Flood Risk
S13 – Landscape, Green Infrastructure and the Natural Environment
S16 - Transport
S17 – Place Making and Design

Development Management Policies

H1 – Residential Development in Main Towns
HE1 – Development in Conservation Areas
EP1 – Amenity and Environmental Protection
DES1 – General Design Considerations
MV1 – Development and Highway Considerations
NE1 – Nature Conservation and Development
SD3 – Flood Risk

4.0 REPRESENTATIONS

4.1 Consultations Replies

Abergavenny Town Council – recommend refusal.

Acknowledged that the scale of the development had been reduced but concerns were still expressed about the traffic issues at the Monk Street entrance to the lane. It was also felt that with several historic buildings adjacent to the site, the development would not enhance the area.

Natural resources Wales – have commented that it is ‘unlikely to maintain objection’.

Note that during the 1% (1 in 100 year) plus climate change (CC) event, flood depths within the site are predicted to be up to 220mm (with an average of 70mm across the site) for the defended scenario. For the 1% plus CC and 0.1% (1 in 1000 year) events, flood depths are predicted up to 380 mm (average 160mm across the site) for the undefended scenario, which for this site is considered the worst case scenario. This has been reflected in the Flood Risk/Drainage Statement. TAN15 requires development to be flood free in the 1% plus CC flood event and we note that the proposed floor levels will be set to at least 400mm above the existing ground levels local to each individual plot as indicated in Appendix B, Drawing Number 014032-02 Revision A. As such the proposed residential dwellings will be flood free in the 1% plus CC flood event. However, we note that the remainder of the development i.e. shared access and car parking areas, is predicted to flood during the 1% plus CC event albeit to shallow depths (generally 300mm or less) and at low velocities. TAN15 requires all development to be flood free during the 1% plus CC flood event. Therefore, this aspect of the proposed development is not in line with TAN15. However, in this instance, in view of the shallow depths of flooding predicted and the fact that existing overland flow routes are to be maintained following the development we are unlikely to maintain our objection.

During the 0.1% (1 in 1000 year) event the site will flood up to a maximum depth of 380mm with low velocities. This depth of 380mm is within the indicative tolerable conditions set out in A1.15 of TAN15.

Should it be necessary to evacuate the site during a flood it is considered that egress on foot and by vehicle will be achievable due to the low flood hazard rating.

Minor revisions to FCA also requested on 18/9/14.

Dwr Cymru - Welsh Water – recommended that no buildings were brought into beneficial use prior to the upgrading of the Waste Water Treatment Plant and suggest three standard conditions.

Glamorgan Gwent Archaeological Trust – has no objection to the positive determination of the application subject to a condition.

We have received further details of this application, including the report on the archaeological evaluation. The results of this show that further archaeological mitigation is necessary, but can be achieved with the attachment of a condition.

The evaluation was undertaken by GGAT Projects, and the report (reference 2015/030, April 2015), noted that five evaluation trenches were opened within the proposed development area, two of which were archaeologically sterile and three of which encountered a variety of complex archaeological remains. Roman deposits which are identified as a well preserved road, with associated finds, were located in the north west of the site. Medieval deposits which may relate to fishponds and included organic remains were identified in the south east of the site; stratified post-Medieval deposits at a shallow depth overlay Medieval remains, the later probably relating to buildings shown on historic mapping.

Clearly the proposed development will impact upon the archaeological resource and will encounter further Medieval and post-Medieval remains, as well as Roman. The provision of the report on the evaluation means that there is sufficient information to provide your Members with advice in regard to the importance of the archaeological resource in the application area and the impact of the proposed development on it.

Consequently, we have no objection to the positive determination of the current application but recommend that a condition is attached to any planning consent that is granted ensuring that any archaeological features that are disturbed by the works are identified, fully investigated and recorded. The detail of this will need to be worked out in relation to locations of buildings and foundations, services and landscaping to balance the depth of the archaeological remains with the depth of the proposed works. This will then provide the detail needed to mitigate the impact of the proposal; this may entail the full excavation and recording of some features, as well as ensuring that groundworks are undertaken under archaeological supervision in other areas. Given the nature of some of the features identified, there should be provision for sampling, particularly of organic material and anaerobic deposits; which given the findings so far are likely to be encountered; together with suitable contingency arrangements to ensure the provision of sufficient time and resources to ensure that archaeological features and finds located are excavated and recorded, and that the post-excavation work is undertaken.

We recommend that the condition should be worded in a manner similar to the model given in Welsh Office Circular 60/96, Section 23:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

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

All archaeological work must meet the Standard and follow the Guidance of the Chartered Institute for Archaeologists (CIfA) and it is our policy to recommend that it is undertaken by a Registered Organisation or a MCIfA level Member with CIfA (www.archaeologists.net/ro and www.archaeologists.net/codes/ifa).

MCC Housing Officer - Confirm that we will accept the offer of one 4 person 2 bed house as low cost homeownership at 50/50. This means that the developer will be paid either 50% of ACG Band 4 or 50% of market value, whichever is the lesser, by the RSL.

MCC Highways – is uncomfortable about supporting the application without confirmation of a satisfactory safety audit.

The site is a rear car park area for the shops fronting onto Cross Street. It is accessed over a very narrow public highway that currently offers no turning facility. Passing provision within the public highway is not provided. This highway serves a number of dwellings as well as rear access to Cross Street. A private car park leased to the authority as a car park forms the boundary to the highway opposite the site.

The proposal is for 8 dwellings within the service yard to the rear of the shops. No alternative servicing facility has been provided or parking provision for the shops or rooms above. Swept paths for small refuse vehicles have been shown but the turning area is over private land and extremely tight. It would be impossible to turn a service vehicle such as a commercial delivery, gas, electric and other general service vehicles wholly within the highway. The site will not be accessible for delivering of building materials without using the internal area off the site for turning. There is no provision for passing of two vehicles along the length of Beili Priory. I consider that the site

cannot offer a safe egress/access for the number of dwellings proposed. A safety audit must be provided should you be minded to support the proposal to prove that safety is sustainable in this location.

MCC Tree Officer – no objections.

The trees within the proposed development consist of one Goat Willow and nine self-seeded Sycamore. They are shown numbered 1 to 10 on the plan within the tree report submitted with the application. In my opinion, none of the trees merit protection with a Tree Preservation Order for the following reasons;

- With the exception of tree 1 which is growing on MCC land outside the site all of the other trees appear to be self-seeded.
- Trees 2 to 6 are growing out of the top of a crumbling stone wall.
- Trees 7, 8 and 9 are adjacent to a single block wall which divides the application site from the car park of the Swan Hotel. In particular, trees 8 and 9 are tight up against the wall and a significant crack has appeared in the wall as a result.
- Tree 10 is a Goat Willow pollard with little or no landscape value.

The main views into the site are from the main A40 road to the south; the bus station car park to the east and the Priory church car park to the north east. From each of these view-points the trees on the application site are obscured to varying degrees due to the presence of mature MCC owned trees on the perimeter of the site.

Due to a combination of the above factors it is not considered appropriate to protect any of the trees within the application site. However, any trees intended for retention must be fenced off in accordance with British Standard 5837 *Trees in Relation to Construction Recommendations 2005*.

SEWBREC Search Results – Various species of bat recorded foraging/commuting within the vicinity of the site.

4.2 Neighbour Notification

No formal objections received to date.

4.3 Other Representations

Abergavenny and District Civic Society - Recent press coverage regarding this planning application has prompted us to review the 2010 planning application that has never been determined. At that time the Society was dormant and not commenting on applications.

The site in question was part of the curtilage of listed buildings 34, 36, 37-39 (consec) Cross Street when listed Grade II and II*. A change of ownership may have more recently separated the application site from these buildings but it appears to have no effect on structures that would require Listed Building Consent. Clearly consideration of this proposal requires special regard to be paid to the setting of these important listed buildings, which have notable historic value as well as architectural interest. It is particularly relevant that the Grade II* buildings, commonly known as the 'Gunter Mansion', originally faced east on to the application site. Early maps show no buildings fronting the lane. In our view the proposals for eight dwellings on this site will detract from the setting of these listed buildings; a lesser number might be arranged so as not

to do so, and offer the potential to enhance the setting, consistent with LDP policy HE1 on development in conservation areas.

Other matters that appear not to be fully resolved are:

- archaeological considerations, where recent investigations appear to justify further explorations and possibly some protection of finds, especially the Roman road;
- the adequacy of off-highway access arrangements for larger vehicles needing to visit the site (and we understand that at least one Cross Street business is serviced via Beili Priory);
- the need to safeguard access from Beili Priory to carry out very necessary works on the listed buildings;
- the adequacy of flood protection, though this may be within levels of acceptable risk;
- uncertainties regarding the location of the Cibi Brook culvert which may affect the feasibility of the proposals.

We are unsure about the amended elevations that have raised floor levels to avoid flood risk and lowered the ridge line, but replaced the 19thC style vertical sliding sash windows that dominate the Conservation Area (see the Conservation Area Appraisal para 7.7.4) with earlier squarer casements and the dormers with Velux-type windows. Historically this simple, more cottagey, style with square windows in a slightly arched opening, probably set flush with the rendered wall, is probably now absent at Abergavenny and a shallower roof pitch might be typical. Attention to details will be important; plain doors and a minimal canopy would be necessary.

We object to the proposals primarily because of their detrimental effect on the setting of important listed buildings. Our objection might be overcome if the rear of the site could be arranged differently and a substantial landscaped buffer could be provided between the development and the listed buildings. This would require the two bedroom units over car ports to be omitted along with the visitor parking (unnecessary with a public car park very close). These revisions would also allow the location of the Roman road and the Cibi culvert to be established, with the former protected from building.

As you know, the 'Gunter Mansion' is one of the town's most historically significant buildings and we believe that this application is an opportunity for creative development management that would assist the fulfilment of its tourism potential as well as enhancing the Conservation Area.

4.4 Local Member Representations

Cllr Prosser – requests that the application is considered by the full planning committee in the light of the discovery of a Roman Road in the vicinity.

5.0 **EVALUATION**

5.1 Principle of Development

The application site is within the development boundary of Abergavenny where new residential development is acceptable in principle under Local Development Plan Strategic Policy S1 subject to detailed planning considerations.

5.2 Visual Amenity and Impact on the Conservation Area

The proposed scheme has been designed to replicate a traditional form of development rather than take a modern approach. A terrace of 6 two and a half storey three-bedroom dwellings is proposed to front Beili Priory. The terrace will be linked by a first floor one bed flat with access beneath. The access will lead to a parking and turning area and a two storey building that will house a two bed flat at first floor with garaging below.

There is a mix of architectural styles within the vicinity of the site including the Victorian Swan Hotel and the much older Gunter Mansions together with more modern flats further north west on the opposite side of Beili Priory. The Abergavenny Conservation Area Appraisal describes the area encompassing Beili Priory as the historic core of the town characterised by varied storey heights and stepped roof lines reflecting the gradient of the roads.

It is considered that the proposed new development should not compete visually with the buildings on Cross Street and therefore effort has been made to keep the ridge height of the proposed new dwellings to a reasonable height while also ensuring the scheme is financially viable in terms of the number and size of the units. As a result, the character of the proposed development is more akin to the smaller properties along Beili Priory rather than the buildings on Cross Street. External materials are proposed to be traditional: rendered walls, brick detailing and natural slate roofs. The scale, design and layout of the proposed development are considered to be appropriate in this setting but the detailing of the buildings will be critical to the overall success of the scheme. As such it is suggested that the window details and materials are conditioned.

5.3 Impact on Listed Building/ Conservation Area

The application site is immediately adjacent to the grade II* listed Gunter Mansions with the rear elevation of this building forming the boundary with the site. Gunter Mansions form part of the street frontage of Cross Street but the building is grade II* listed for its interior which contains rare and historically important 17th Century decorative plaster ceilings. However, externally the original part of the building is also distinctive with the elevation facing the application site being stone with two projecting gables.

As existing, the parking area for the shops and flats on Cross Street abut an unfortunate modern rendered single storey flat roofed extension running along the length of the building. On the proposed plans, this area is to be retained for parking for Cross Street with the only change being to the surface, together with some tree planting. Whilst a landscaped buffer between the listed building and the application site would be preferable, given that there is no change of use of this area proposed, it would be unreasonable to insist upon this or refuse the application on this basis. In the longer term it is hoped that the modern extension will be removed from the listed building which would result in the creation of additional space around the building, separate from the application site. The proposal, while adding a modern development in relatively close proximity to the rear of Gunter Mansions, would leave a reasonable space to leave the ability to 'read' the rear of the historic building (particularly to its northern end), would enhance the area visually by replacement of the unkempt parking area and would sit as an attractive feature in its own right – especially provided high quality, traditional materials and detailing such as reveals and robust sub-cills are employed. As such, the proposal is not considered to harm the setting of the listed building and indeed, would enhance the character and appearance of the Conservation Area.

5.4 Residential Amenity

The nearest neighbouring residential properties are on the upper floors of the properties on Cross Street, including a long gable projection to the west of the site. As a result, no habitable room windows are proposed in the side elevations of the proposed flat at the rear of the site. Similarly, no windows are proposed in the northern elevation of this building as this would lead to a lack of privacy for the proposed terrace element of the development. The upper floors of Gunter Mansions to the rear of the application site are currently vacant and have been for some time. It is not therefore considered that the proposed development would harm local residential amenity. Even if occupied subsequently, it is not unusual in dense, urban areas for privacy distances to be reduced, and this could be reasonably reduced to around 13-15m as proposed here between the rear of the first floor of Gunter Mansions and the front elevation of plot 8.

5.5 Access and Parking

Contrary to the comments from the Highway Officer, the site is not a service area or formal parking area for the shops fronting onto Cross Street. It is private vacant land over which tenants of the buildings on Cross Street have a right to pass over to get to ad hoc parking spaces behind the shops. The rest of the site is currently uncontrolled and used (unlawfully) by others to park. As a result, the properties on Cross Street are serviced from the front. Formalised parking is proposed in this application for use by tenants of the shops of Cross Street which would be an improvement.

As the site is uncontrolled and used informally, there is currently a relatively high turnover of vehicles accessing the site (as shown in the Transport Statement accompanying the application). Use of the site for 8 units with 14 car parking spaces is unlikely to lead to a significant change in vehicle numbers using Beili Priory. Given the current use of the site, it is not therefore considered that it would be reasonable to insist upon the submission of a safety audit to prove that safety is sustainable in this location as suggested by the Highways.

While the number of parking spaces falls below the required amount as stated in the Parking Guidelines, given the proximity of the site to a large public car park and town centre location, it is considered that the parking provision is adequate. There would also be an additional eight visitor spaces for use by tenants of Cross Street that may not always be fully utilised and would be likely to be vacant outside normal business hours.

The construction of the development, including the delivery of building materials can be controlled via a Construction Method Statement or Management Plan that can be a condition of any consent.

In their comments the highway officer was concerned that the turning area for larger vehicles is over private land and extremely tight. The applicant maintains that vehicles of varying sizes can turn within the site and do not have to use the highway to turn as there will be no gates preventing public access.

5.6 Flooding

The site is within a zone C2 flood plain and therefore new residential development (vulnerable) is in conflict with Policy SD2 of the Local Development Plan. However, it is often necessary to undertake individual site studies to assess the existence, or not, and height of floodwaters. In the case of this site, NRW have undertaken recent studies that reveal that at worst case scenario flooding would be at a depth of 380mm for both

the 1 in 100 and 1 in 1000 flood events. The lowest floor level proposed is 150mm above this level. As such the proposed residential dwellings will be flood free in a flood event.

The remainder of the development i.e. shared access and car parking areas, is predicted to flood at levels of generally 300mm or less and at low velocities. TAN15 requires all development to be flood free during the 1 in 100 flood event. Therefore, this aspect of the proposed development is not in line with TAN15. However, in this instance, in view of the shallow depths of flooding predicted and the fact that existing overland flow routes are to be maintained following the development it is concluded that it would be unreasonable to refuse the application on this basis.

It should be noted that NRW has advised that it would not be likely to be able to substantiate an objection to the proposed development on flooding grounds.

Additionally the Cibi Brook is indicated on NRW plans as passing through the application site via a culvert. The layout of the proposed development has been arranged in such a way as to provide clearance between the culverted Cibi Brook and the nearest dwelling (plot 8). However, it will also be necessary to verify the exact location of the culvert prior to construction work commencing.

5.7 Archaeology

During the application process, the Council's archaeological advisors, GGAT recommended that the application be deferred pending an archaeological site investigation. This was undertaken earlier this year and uncovered a well preserved Roman Road and also some medieval and post medieval artefacts. Although this is an important find, following the investigative work already undertaken, GGAT have no objection to the positive determination of the application but recommend that a condition is attached to any planning consent that is granted ensuring that any archaeological features that are disturbed by the works are identified, fully investigated and recorded. This will then provide the detail needed to mitigate the impact of the proposal which may entail the full excavation and recording of some features, as well as ensuring that groundworks are undertaken under archaeological supervision in other areas.

5.8 Affordable Housing/ Section 106 Heads of Terms

In line with Local Development Plan Strategic Policy S4, provision should be made within the proposed development for 35% of the dwellings to be affordable subject to an appropriate viability assessment. This calculates as 2.8 (rounded up to 3) dwellings. In the case of this site, financial figures provided by the applicant and tested by the housing officer and external independent consultant, evidence that the site has exceptional build costs. 'Normal' build costs allow for the construction of a basic dwelling including some external works to a standard specification on a serviced greenfield site. In this case it is acknowledged that abnormal foundations are required and as the site is brownfield and used as a car park remediation and remodelling will also be required to facilitate the development thereof, along with some infrastructure improvements. On this basis, when the figures are run through the Development Appraisal Toolkit (DAT) the Residual Value (RV) of the site shows that the scheme is not viable with 3 affordable houses. When the exercise was repeated with 2 affordable units the results showed that the scheme remained very borderline and other Section 106 obligations would have to be lost. Therefore, after much discussion between the applicant and the Council's housing officer, it was agreed to accept one 2 bed house for low cost homeownership at 50/50 (50% of ACG). The other Section 106

contributions agreed are £31,360 towards public open space provision and £5,984 for children's play.

5.9 Response to Town Council representations

The objections relating to access and effect on the setting of the adjacent historic buildings are considered under pars. 5.3 and 5.5 above.

6.0 **RECOMMENDATION: APPROVE SUBJECT TO SECTION 106 AGREEMENT**

Conditions:

1	This development shall be begun within 5 years from the date of this permission.
2	The development shall be carried out in accordance with the list of approved plans set out in the table below.
3	Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
4	No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system.
5	Foul water and surface water discharges shall be drained separately from the site.
6	Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995, as amended (or any order revoking and re-enacting that Order with or without modification) no development within Parts 1 and 2 of Schedule 2 to the Order, shall be carried out on land to which this permission relates, without express planning permission having first been obtained from the Local Planning Authority.
7	No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
8	Details of the proposed windows, doors, reveals, headers and cills to a minimum scale of 1:20 including elevations, vertical and horizontal sections with larger scale details to sufficiently describe the proposed units shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development.
9	No development shall take place until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the [walls [and roof(s)]] of the development hereby permitted and no materials other than those approved shall be used unless otherwise agreed in writing by the Local Planning Authority. Where samples are to be agreed, these shall be presented on site for the agreement of the Local Planning Authority and those approved shall be retained on site for the duration of the construction works
10	All rainwater goods shall be of cast metal and matt painted and remain as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Informatives - Please note that this application is subject to a Section 106 Legal Agreement

Application Number: DM/2020/00762

Proposal: Full planning application for the change of use of the visitor centre at Llandegfedd, to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442

Address: Llandegfedd Visitor Centre, Croes-gweddyn Road, Coed-y-Paen, Monmouthshire

Applicant: Mr Mark Davies

Plans: Bat Survey Ecological Impact Assessment - Version 5, Other Otter Report - , Location Plan Site Location Plan - ,

RECOMMENDATION: APPROVE

Case Officer: Ms Kate Bingham
Date Valid: 13.07.2020

1.0 APPLICATION DETAILS

1.1 Site Description

1.1.1 This application has been submitted on behalf of Dwr Cymru Welsh Water (DCWW) in respect of the change of use of the visitor centre at the Llandegfedd Reservoir to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442. The application is submitted in order to grow the water and land-based activities at the site for all users under Dwr Cymru Welsh Water's strategy for health and wellbeing in conjunction with Welsh Government.

1.1.2 The site is situated on the eastern side of the Llandegfedd Reservoir. The reservoir sits at an approximate elevation of 80m and comprises approximately 174ha of standing open water. The facility serves a variety of recreational interests, including water sports, in addition to nature conservation responsibilities and its primary function as a public water supply reservoir. The reservoir itself is a SSSI of importance for its wintering bird population.

1.1.3 Due to the building's use as a visitor centre, the site is positioned adjacent to the reservoir, to the south of the water sports facility, with the internal access road and an area of hardstanding providing access down towards the reservoir situated along the building's western elevation.

1.1.4 The reservoir, built in the 1960s, straddles the boundary between Monmouthshire and Torfaen and is accessible from the main road network serving Usk/Pontypool/Caerleon via a network of minor roads.

1.1.5 The site is currently occupied by the two-storey visitor centre and associated landscaping. The building itself measures 550m² and sits within the wider site which benefits from a number of full planning permissions for various reservoir-related uses. The topography slopes gradually from east-to-west down towards the reservoir.

1.2 Value Added

1.2.1 Various additional ecological and noise surveys were requested and supplied in order to enable NRW, Environmental Health and the Council's Biodiversity Officer to accurately assess the proposal.

1.3 Proposal Description

1.3.1 The visitor centre currently benefits from planning permission under ref no. DC/2012/00442 for a 'Proposed visitor centre incorporating café and exhibition space, ranger offices and facilities for anglers'. Condition 7 of the approved permission reads 'The premises shall not be used for the approved purposes outside the times of 7:30am to 9:00pm.'

1.3.2 It is proposed under this application to increase the use of the visitor centre so it can be used by DCWW for a wider array of uses as well as extending the operational hours of the site from 06:00 to 00:00.

1.3.3 Currently the Visitor Centre operates as a first point of information for visitors to site - offering a Grab and Go coffee shop facility which also acts as a point for enquiries, bookings and issue of permits for fishing, hire of boats etc. In addition, the building houses the Waterside Café facility with over 100 covers both inside and outside on the wrap around balcony. The café offers a large and changing seasonal menu of hot and cold food and drinks. In addition, management and administrative staff are housed in the building as well as storage and welfare facilities. The Café facilities are open to the public at the same times as the current site opening hours. These uses are all listed under approved permission DC/2012/00442.

1.3.4 In addition to maintaining and growing the activities described above, it would be intended that the change of use, as applied for, would allow for the exclusive hire of the Café and Grab and Go areas outside the normal hours of operation of the site (Currently 9am - 6pm). This would allow for the hire of these spaces for a range of meetings, functions and similar activities such as the below:

Meetings; DCWW employee meetings ranging from team meetings, management and project meetings to Board of Directors meetings.

External groups - the spaces could be used as a hireable space for meetings and events held by a range of groups.

Sporting Groups - as part of pre or post activity socialising.

General public; functions for local organisations and family occasions.

Community engagement.

Wildlife / environmental rambles and other specialist groups.

Organised events and displays.

The balcony of the Visitor Centre could be used as an overspill area in conjunction with the use of meeting room. The terrace would not be accessible for functions after 11pm.

The above uses would not require any alteration to the building itself, only an extension to the use of the building. Any functions would be catered for by existing facilities i.e. on-site catering facilities, toilets and car parking areas.

The intention of the applicant is to make better, more efficient use of DCWW's facility for meetings and gatherings and to allow local people and businesses to visit, improving the facility as an asset to DCWW and expanding the services on offer at Llandegfedd Reservoir.

There is a concurrent application to also extend the use of the Watersports Centre submitted under planning application no. DM/2020/00763. The visitor centre and water sports facilities will be used independently throughout the year and for the majority of events, although they could be used concurrently should a larger event be required to use the entire reservoir site. However, this is likely to be infrequent.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
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DM/2018/01199	Variation of condition No. 6 and No. 7 of planning permission DC/2012/00317.	Withdrawn	03.06.2019
DM/2020/00035	Removal of condition 6 and to vary condition 7 (to extend opening hours to 6:00am to 00:00am) relating to planning application DC/2012/00317.	Withdrawn	18.06.2020
DM/2020/00036	Modification of condition no. 7 of planning permission DC/2012/00442 (hours of operation).	Withdrawn	18.06.2020
DM/2020/00763	Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317	Pending Determination	
DC/2016/01355	Addition of external steel stair to the north west elevation of the building. (Relating to previous planning application DC/2012/00317).	Approved	28.11.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016
DC/2013/00996	Discharge of condition 3, 6 and 9 of application DC/2012/00442	Split Decision	26.01.2015
DC/2012/00442	Proposed visitor centre incorporating cafe and exhibition space, ranger offices and facilities for anglers.	Approved	03.10.2012
DM/2018/00718	DCWW wish to provide a shed for use by the Angling Club to store equipment and to act as a weighing station during competitions.	Approved	25.06.2018

DC/2015/01039	A new boat store and ranger maintenance buildings are required to support a recently completed Water Sports and Visitor Centre for Welsh Water at Llandegfedd Reservoir. These will be two detached buildings located adjacent to the existing buildings. A new play area is also proposed that will enhance the facilities available to children. This will be located within existing amenity grassland and will be broken in to two small 'play spots'.	Approved	21.12.2015
DC/2016/00742	Discharge of condition 7 (details of play equipment) from previous application DC/2015/01039 for new boat store and ranger maintenance buildings	Approved	19.07.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S8 LDP Enterprise and Economy
S10 LDP Rural Enterprise
S11 LDP Visitor Economy
S13 LDP Landscape, Green Infrastructure and the Natural Environment
S16 LDP Transport
S17 LDP Place Making and Design

Development Management Policies

EP1 LDP Amenity and Environmental Protection
EP3 LDP Lighting
MV1 LDP Proposed Developments and Highway Considerations
DES1 LDP General Design Considerations
GI1 LDP Green Infrastructure
NE1 LDP Nature Conservation and Development

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Torfaen County Borough Council - The following is Torfaen County Borough Council's response to the consultation. The response relates to both applications:

The Council's Highway Officer does not object to the proposed scheme and has stated that the highway network within Torfaen County Borough Council that serves the site is satisfactory to accommodate the use.

The Council's Public Health Team have stated there is the potential for events to create noise nuisances which could have a detrimental effect on the amenity of Torfaen residents. The Officer has recommended that a Noise Impact assessment is carried out in line with TAN 11 and BS4142 2014 (2) and, if necessary, should include proposals for mitigating excessive noise. Alternatively, they have recommended that a condition could be set by the LPA to limit event noise levels at residential homes to not exceed the current L90.

The Ward Councillor has raised concerns in regard to the increased levels of traffic, noise disturbance, the over-development of the reservoir as an SSSI site and the potential safety issue of an entertainment venue with an alcohol license within proximity to the body of water. They state that the country lane is used by cyclists and pedestrians, with no available footpaths the increase in traffic would increase the risk for all users.

The Council's Ecologist wishes to register a holding objection and has requested that the applicant submits further information. The Council's Ecologist has requested further ecological survey work to appropriately assess the impact of the proposals upon the designated features of both the Llandegfedd Reservoir (SSSI) and the Severn Estuary Special Protection Area (SPA)/Ramsar Site. They have advised that the Ecology Report (Ricardo Energy and Environment 2020) does not provide sufficient detail by which to assess the impact of the proposals upon a site of national importance and another of international importance, and therefore fails to satisfy the requirements of national planning policy. Full details are included in the consultations section below.

An objection is raised to the development due the lack of information in relation to the ecological survey as per the comments from the Council's Ecology Officer.

In summary, it is considered that the Ecological assessment carried out does not provide sufficient detail to assess the impact of the proposals upon the sites of national and international importance. There is also concern that no formal noise assessment has been carried out in accordance with TAN 11 and BS4142 2014 (2). Alternatively, we would request a condition to limit event noise levels at residential homes to not exceed the current L90.

Llanbadoc Community Council - The application was discussed at the extraordinary meeting of the council on 15th July 2020. No objections were raised to the application and therefore the Community Council recommends that the application be approved.

Llangybi Fawr Community Council - Object. The Community Council has grave concerns regarding these applications as have been outlined several times before when similar applications have been submitted. This application to vary the use and opening times of the Visitor Centre from that granted in earlier application DC/2012/00442, and seeks to achieve the same -effect as the earlier withdrawn application DM/2020/00036. This application mirrors application DM/2020/00763, which seeks to achieve the same variation in use and hours of opening for the adjacent Water Sports Centre, and our objections to this application are the same as those we are raising with regard to that application. Therefore we attach copies of our earlier objections to the Water Sports Centre applications which apply equally to the present application:

Llandegfedd Reservoir is a unique site of special scientific interest (SSSI) in the counties of Monmouthshire and Torfaen, and to propose to use the centre for large public events with accompanying loud music during long hours of darkness is to have scant regard for its special status as a tranquil refuge for a variety of wildlife.

The applicants seek to justify their proposals for events with loud musical accompaniment by submitting a supposedly independent noise impact assessment that suggests a very limited impact on wildlife. This assessment appears too us to be deficient in a number of aspects. For example, it only considers noise generated inside the centre, whereas the applicants state that their intention is to erect a marquee nearer the water for larger events. It is very probable that this will be a significant source of noise, especially if the music is relocated or relayed to it. Moreover, their assumption regarding the attenuation of noise generated inside the centre is not valid if, as might be expected, the doors and windows will be open. We suspect that the noise (and other intrusions from light and movement of people) will have a greater impact on the wildlife than is implied. Better qualified representatives than us, from Natural Resources Wales, Gwent Wildlife Trust and Gwent Ornithological Society will no doubt express their views on this.

We are particularly concerned about the safety aspects of this proposal. Locating alcohol-fuelled events in close proximity to a large and deep expanse of water seems to be inviting disaster, especially during the hours of darkness. Personal experience suggests that staff at the reservoir are not able to keep dogs and even people out of the water in daylight hours, so it isn't clear how they would manage it in darkness with a large and noisy event taking place.

The reservoir and the watersports centre provide a unique facility in the area for a variety of water-based activities. On the other hand, there is no shortage of venues locally for the kind of event that Welsh Water is now contemplating for the centre, and in far safer locations. They should be using the centre to build on its primary use of water-based activities.

For these reasons we oppose the application to vary the conditions. We also request that the application be considered by the full Planning Committee and that the Community Council be afforded the opportunity to speak at that meeting.

Natural Resources Wales (NRW) - We agree with the conclusion of the Test of Likely Significant Effect that there is no evidence that there shall be a significant effect on Interest Features of the River Usk Special Area of Conservation (SAC) either alone or in combination with other plans and/or projects.

We note the Appropriate Assessment (AA) for the Severn Estuary European Marine Site (SPA and Ramsar) has concluded that adverse effects can be avoided or overcome by implementation of the planning conditions referenced in Section 5.2.

Although we did not request the condition under section 5.2.2 commencing "No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme", we recommend that wording of bullet point (d) of this condition is amended to "Mechanisms to secure remedial actions and a commitment to suspend events if necessary (or similar).

We also advise that the conditions' 'reason' should include "to avoid impacts on the Severn Estuary European Marine Site/features", in order to highlight which measures/conditions are being used to secure "no adverse impacts".

In summary, we agree with the conclusions of the AA that the proposal is not likely to adversely affect the integrity of the Severn Estuary European Marine Site.

We note mitigation under 5.1.1 proposes planting adjacent to the north elevation of the visitor centre. Subject to the implementation of these measures, we do not consider the proposed development will result in a detriment to the maintenance of favourable conservation status of the bat species concerned. Therefore, should planning permission be granted, the following submitted document should be included within the scope of the condition, identifying the approved plans and documents on the decision notice:

Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 11 June 2020 section 5.1.1 (Bats)

In this case, the proposed development is unlikely to give rise to the need for a European Protected Species Licence application from us. We advise recipients of planning consent who are unsure about the need for a licence to submit a licence application to us.

Glamorgan Gwent Archaeological Trust (GGAT) - No objections. The proposed development would not have a significant impact on any buried archaeological resource and therefore we have no objection to the positive determination of this application.

MCC Highways - No objection. The highway authority does not consider that the proposed amendments to the hours of opening will be detrimental to highway safety or capacity on the immediate local highway network.

Llandegfedd Water Sports Centre is located in what can be considered a sustainable travel location and access to and from the reservoir is generally by motor vehicle. Extending the hours of opening is likely to increase vehicle traffic overall with more vehicles using the local highways for an extended period of time rather than increasing vehicle numbers at peak periods.

MCC Biodiversity - Previous objections were made against the DM/2020/00035 and 00036 section 73 applications (applications now withdrawn). Comment was made (objection) in December 2020 relating to the planning applications DM/2020/00762 and 00763 following the submission of further information. Additional information was provided in March 2021 and has been reviewed. No objections subject to a condition preventing any outdoor events over the winter months to safeguard overwintering birds and the SSSI. Other conditions also suggested (see section 6.3 below).

MCC Environmental Health - I have reviewed the above application and the additional information supplied. I can see that the applicant has now submitted two separate Noise Impact Assessments for both the Watersports Centre and the Visitors Centre. They have also included separate site management plans for both sites. These amended documents have addressed all my previous comments.

I also note that the applicant has added a fourth receptor as discussed and has increased the monitoring time later into the evening. I also note that reference to construction noise has been removed from the documents as there is no longer any construction planned at the site.

Based on the new information supplied I have no objections to this application. Although as agreed by the applicant and detailed in both their noise impact assessments and site management plans, I would suggest that if planning permission is granted, the following conditions be included;

1. Outdoor events are limited to 12 per year and must finish, including the use of amplified recorded music and PA systems no later than 5pm.
2. All outdoor events be subject to a noise management plan submitted by the applicant to be approved by the Local Planning Authority.
3. All indoor events at both the visitors centre and the water sports centre, including any amplified recorded/live music should finish no later than 11pm.

Please also note that the applicant will need to apply for a Premises License if planning permission is approved.

SEWBRc Search Results - Various protected species identified within the vicinity of the site - bats, otters, badgers.

5.2 Neighbour Notification

Twenty Two representations received, objecting on the following grounds:

Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise;
Future management of site from environmental perspective;
Increase traffic and insufficient parking provision;
Noise pollution and general increased public nuisance (opening hours etc.) from an environmental health perspective;
Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;
Public safety concerns - danger of licensed venue next to open water;
Security concerns (i.e. managing events on site);
Negative impact on rural economy (i.e. other venues in close proximity); and
Negative impact on wellbeing of local residents.
Lack of public transport and increase in traffic
Any limits on hours of operation and noise-levels are in practice unenforceable.

A petition has also been received signed by 180 individuals. Signatures were collected at approx. 2-3 hour sessions over 8 days in summer 2020.

One representation in support of the application:

Upon reading there seems to be a lot of mention of 'we'. I can assure you that not all Coed-y-Paen residents are against the application. I, along with others, are in favour of the application.

5.3 Other Representations

Gwent Wildlife Trust - GWT objects to these applications on the following grounds:

Environmental Impact Assessment (EIA).
Survey deficiencies.
Noise- and light-related disturbance to wildlife arising from the proposals.
Human-related disturbance to wildlife arising from the proposals.
Permitted Development Rights.
Lack of detail over proposed planning conditions, including the establishment of a steering group or similar to oversee their implementation.
The development plan context.
Welsh planning policy context.
Legislative context

Conclusion: We urge the local planning authority to :-

- refuse the applications, at a minimum, until such time as a fit for purpose, two year bird survey to approved methodologies has been carried out by the developer, and
- screen in the applications for the need for a statutory EIA.

Notwithstanding the above, we further urge the developer to comply with its statutory duties, and withdraw the applications.

Gwent Ornithological Society - Object. Conclusion:

We believe that the change of use to an all-purpose function venue with internal and external music would be incompatible with the SSSI. The resultant increase in noise and activity would obviously cause a high level of disturbance. The site is designated due to its importance for over-wintering wildfowl generally, but particularly for Wigeon, Pochard and Mallard, with Goosander,

Teal and Goldeneye also listed as being 'notable'. The surrounding area, particularly the grassland is noted as being important for feeding and roosting wildfowl. All of these species require quiet for feeding and roosting and the changes applied for will negate this.

In conclusion, we object to the application because we believe it would result in significant disturbance of wildfowl, and put the SSSI status of the site at risk. We ask Monmouthshire County Council to please reject this application by applying paragraph 6.4.17 of Planning Policy Wales (Dec 2018).

Torfaen Friends of the Earth - Objects to the above planning applications on the following grounds:

1 Further to my submissions in relation to previous applications, the latter being DM/2020/0035 in relation to extending opening hours at this location and the use of music and alcohol, we see no further evidence in the Noise Impact Report to support the current applications. The report gives no evidence of a vibration impact being undertaken, and only references noise levels, and in this respect pays no attention to night time music pollution when most birds sleep.

2 The Welsh Government Policy document "Building Better Places: The Planning System Delivering Resilient and Brighter Futures, refers to the Green Infrastructure and the drive towards building resilient ecological networks. It also highlights the importance of improved soundscapes in the built up environment, acknowledging the need for noise reduction in our lives as an important element in healthy living, not least our mental as well as physical health.

3 The building, in which these planning applications seek to allow music, was not designed or constructed with the intention of it being used for late night music and therefore, does not incorporate the necessary requirement of sound reducing design or materials.

3a It follows, therefore, that to introduce late night loud music and disturbance into a naturally peaceful soundscape, valued as such by many people, is in contravention of this Welsh Government policy.

4 The Ecological Impact Assessment for this application is not currently available on the website, so it is not possible to comment further. However, the Planning Statement refers to the EIA dated June 2019, therefore, our comments submitted earlier for DM/2020/00035 should be read as for this objection, namely that the Ricardo Energy and Environment admits to the lack of useful recorded data on the variety of species which may exist at this site, and has to resort to desk studies supplemented by such studies as they have been able to undertake, and state, therefore, that they have applied the precautionary principle.

5 In respect of otters, for instance, the EIA report states that the Ranger had not found any evidence of otter activity in the southern end of the site. This is not to say that otters do not move within this area, particularly at night when they are most active, but that no evidence could prove that they did. However, absence of evidence is not evidence of absence. Therefore, it cannot be stated that lack of evidence is proof that otters do not utilise this area. The same can be said of badgers. Both these species are protected under legislation, of course. To ignore this point is not an acceptable position if a precautionary principle approach is claimed to have been taken.

6 Environmental impact studies can only provide evidence so far, and that a habitat can have the potential to support a species, even though the evidence of that species existence cannot be proved one way or the other. This is the limitation of our abilities, and often it is only in hindsight that we can understand the impact of human activity on the environment when we see it start to deteriorate in ways unforeseen. In an area as obviously environmentally beneficial to humans and wildlife, further human intervention of noise, lighting and vibratory activity can only ever have a negative impact.

6a What cannot be proved, therefore, is the EIA conclusion that the wildlife will only be minimally impacted.

7 Until EIAs recognise the impact of vibration on wildlife by human activity such as this planning application will introduce, it cannot be stated that impact will be minimal. It is the total package of everything combining which will have its worse effect. The only sensible outcome for the use of the precautionary principle in this instance, is not to allow these planning applications to succeed.

8 Llandegfedd Reservoir is recognised as a Special Landscape Area and given the designation of an SSSI. It should remain as a place of peaceful enjoyment for the benefit of its many current users. Additional uses, such as meetings by other organisations during normal daylight hours, could be explored with the agreement of existing users, such as the sailing club, because these would not impact negatively on wildlife or the neighbourhood. It could provide the

supplementary income Dwr Cymru require, without the loss of the peaceful, quiet enjoyment by families, especially children who are encouraged to explore the beautiful surrounding area, learning to discover and value its wildlife.

9 Wildlife is very nervous and shy. Disturbance leads to loss of species, and ultimately to the spoiling of the enjoyment of the site. Learning how to be careful around wildlife is something people need to understand and commit to. The introduction of alcohol and night time music could not guarantee such respect.

9a To extend hours to midnight for use by hirers using music and alcohol will destroy all that people love about this place and ruin it for the majority of its visitors. It will be out of keeping with the character of the area and lose its peaceful nature.

10 In recent months, people have recognised more the healing power of the natural environment since the impact of the Covid 19 pandemic. They want further measures taken to protect the environment for future generations. This is the message countless people have been sending to all levels of government to urge them to make policy decisions to future proof our environment. The Welsh Government in releasing its "Building Better Places" policy document is recognising this need. It is now up to local authorities to implement this policy in their planning decisions.

11 Highway safety is a considerable concern of people especially those living locally. The dark, country roads which surround the reservoir require careful driving. Approval of this planning application would not be a sensible decision.

Conclusion: The applications before you for determination could not be considered as essential for human need to justify the impact on the ecosystems of this site of special scientific interest, which would trigger a downward trajectory of sustainability.

Usk Civic Society - Usk Civic Society objects to both these applications to alter the hours and conditions of use of these premises at Llandegfedd Reservoir. It agrees with many of the objections made by local residents, amenity groups and even MCC's own environmental health team about the effects of these proposals.

First, the main function of the reservoir, apart from storing water, is to provide a suitable environment for wildfowl, particularly passage migrants and winter visitors. Its designation as an SSSI reflects this role. Unpredictable and intermittent noise such as would result from the venues' use for functions late at night cannot be consonant with this role, as the birds must suffer disruption and disturbance.

The Society notes that MCC's own environmental health team has in relation to previous applications considered the noise pollution data supplied by the applicant to be defective in that it fails to properly reflect the effect of noise from parties and functions on the residential sites around the reservoir. It also fails to take into account the effects of opening doors and windows and of using a marquee for some functions. The noise assessments now provided for both venues are somewhat disingenuous in that they assume a noise level of 80 decibels. Various other objectors have pointed out that this is a substantial underestimate of likely noise levels from a social function with music these days. It also looks at the noise levels from each of the two venues in isolation, and therefore fails to consider the cumulative effect of simultaneous or overlapping functions. And it must be remembered that any increase in decibel levels is logarithmic.

The suitability of an application for these changes from an entity which is a public body and a public authority under the terms of the Well Being of Future Generations (Wales) Act 2016 and the Environment (Wales) Act 2016 appears to be at odds with its statutory duties under these Acts. The use intended to be made of the facilities at Llandegfedd appears to be solely for the purpose of making a commercial profit. The Environmental Impact Assessment now provided appears complacent about the effects of the additional noise and disturbance on both human and animal residents and visitors to Llandegfedd reservoir and the neighbouring village of Coed-y-Paen. The conditions imposed on usage and operating hours for the two centres as conditions to the original planning applications for their construction were imposed for good reason. No reason has been given why the inhabitants' peace and quiet enjoyment of a rural location should now be set aside, perhaps because there is no valid one.

Although MCC Highways appears to consider that the narrow lanes providing access to the site will be capable of coping with the extra traffic, including large service vehicles, which will be generated by the use of these facilities for functions, often at night, it must be questionable whether this is really sustainable without creating additional hazards for residents. The narrow lanes to the east of the reservoir are seen as a particular problem. The testimony of those residents is that a problem already exists; traffic associated with late evening functions can only make things worse.

Coed y Paen Residents Association - Object.

The proposals put forward by DCWW would fundamentally change the nature of this SSSI / SLA and have the potential for serious harm to its wildlife and fragile ecology, already under threat from increased and inappropriate human activity.

In its SSSI citation, CCW recognised the threat of damage to the features of interest from 'Recreational activities', seeking to 'balance people's enjoyment of the reservoir with the needs of wintering birds'. The 'Site Event Management Plans' submitted by DCWW make clear that many of its proposed 'recreational activities' pay scant regard to the needs of the reservoir or its bird population:

'Dog shows/Christmas Fayre/classic car rally/Santa visits/Mother's Day events/ Family Fun events. DCWW 'also envisage a programme of larger events/displays...' The admission that this 'list is neither exhaustive nor exclusive' is worryingly open ended. The plan for live and amplified music, indoors and outside is alarming.

Such activities would dramatically upset the 'balance' between people and nature. By failing to "conserve the tranquillity, unspoiled character and recreational function" recommended in your LANDMAP (2007) assessment, Llandegfedd Reservoir becomes an Entertainment Venue. Provision of alcohol at late night social gatherings near to water is dangerous; together with outdoor music it is likely to attract & promote behaviour inappropriate in this environmentally sensitive area. Local residents already experience huge amounts of litter; large gatherings of people results in anti-social behaviour with evidence of alcohol and drug abuse. Traffic can become intolerable.

The need to promote a sense of physical and mental well-being has been highlighted by the intense period of the Corona Virus pandemic.

Lesley Griffiths (then Minister for Environment) said "we have seen a greater appreciation of nature during the pandemic and the way in which it underpins our health, our economy and our wider wellbeing ... The Welsh Government is committed to halting and reversing the decline in nature and making sure everyone in Wales can enjoy nature from their doorstep..." The Nature Recovery Action Plan for Wales 'refreshed' for a 'post covid world' aims "to deliver the benefits for biodiversity, species and habitats, avoid negative impacts and maximise our well-being" . We request that our LPA ensures avoidance of 'negative impacts' that these DCWW proposals would inevitably deliver, as access to quiet enjoyment and appreciation of nature will be denied to visitors during organised events.

The plethora of confusing conditions being suggested will be impossible to enforce and the valuable qualities of this SSSI put in jeopardy.

In April 2018, the United Nations called for 'at least half the world to be more nature friendly to ensure the wellbeing of humanity '; in June 2019 our Welsh Government declared a climate emergency; in April 2021 Wildlife Trusts Wales called for new laws as 'Nature and wildlife is undergoing a mass extinction event'. DCWW's applications seem contrary to the much-stated International, National and local objectives for the future of our planet, in which the preservation of environment and natural habitat is central to our future.

At an EGM in December 2019, Glas Cymru Holdings passed a Special Resolution under Article 2A: The purpose of the company is to provide high quality and better value drinking water and environmental services so as to enhance the well-being of its customers and the communities it serves, both now and for generations to come. Dwr Cymru are in prime position to set standards of excellence, becoming an exemplar in the pursuit and promotion of environmental objectives in Wales.

The WAG Planning Policy Post Covid 19 Recovery (2020) states:

This is once in a generation opportunity for us to reset the clock and think again about the places we want to live, work and play. We need to build a cleaner, greener society ... which respects the environment.

As LPA, we suggest you are in a prime position to seize this opportunity and deliver the 'Nature Based Solutions' called for by our Government.

Your Planning Annual Performance Report (2019-20) section 3.3.7 WELL-BEING PLAN confirms its commitment to

Protect and enhance the resilience of our natural environment whilst mitigating and adapting the impact of climate change.

In considering these applications we suggest both Dwr Cymru Welsh Water and Monmouthshire LPA have opportunity to work together to champion urgent interests of the well-being of our wildlife and human communities, both now and for the future.

A statement by DCWW 's CEO says, "we are developing our visitor attractions as hubs for health and wellbeing..." (03/2021).The plans before you suggest otherwise.

In their Site Events Management Plans DCWW express their "inherent wish to ensure that this development takes place with the full consent and support of the local neighbours and stakeholders"

To be clear, the local neighbours neither consent nor support such plans.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

6.0 EVALUATION

6.1 Principle of Development

6.1.1 The application site benefits from planning permission under ref no. DC/2012/00442 and has already been built and is occupied by DCWW.

6.1.2 Condition 7 of the approved permission reads as follows:

The premises shall not be used for the approved purposes outside the times of 7:30am to 9:00pm.

6.1.3 In order to ensure the reservoir can become an asset for DCWW and the wider population, an application to amend a similar condition, restricting the opening hours of the adjacent water sports facility, was submitted under ref no. DM/2018/01199. Although the principle of the application was acceptable, a number of objections were received from organisations and individuals to the above application including NRW, Monmouthshire CC Ecologist, Gwent Wildlife Trust, Gwent Ornithological Society, Torfaen Friends of the Earth, the Sailing Club, the Golf Club, Llanybi Community Council, Llanbadoc Community Council, The Ramblers Association, the local Reverend, Torfaen FotE, The Carpenter's Arms, the Coed Y Paen Residents' Association and local councillors, as well as numerous individual residents. Consequently, the application was withdrawn by DCWW to ensure that all of the above concerns were fully addressed prior to the variation of the conditions. Since this application was withdrawn, DCWW have undertaken further surveys in relation to ecology and noise to mitigate the above objections to the application.

6.2 Sustainability

6.2.1 Good Design

6.2.1.1 The application does not include any physical changes to the any of the buildings or the wider site. As such, there will be no additional impact on the character and appearance on the surrounding area as a result of this application.

6.2.2 Green Infrastructure/Place Making

6.2.2.2 The area, under DCWW's ownership, comprises a Visitor Centre and water sports centre, as well as other disused buildings and areas of woodland and grassland. The site is open to the public for recreational use, predominantly for walking and water sports. It is itself therefore considered to be a Green Infrastructure Asset that should be open to the public to enjoy. This ties into the aspirations of PPW11 in relation to Place Making. Places can promote social, economic, environmental and cultural well-being by providing well-connected cohesive communities. Places

which are active and social also contribute to the seven goals of the Well-being of Future Generations Act (see 6.11).

6.3 Biodiversity

The proposals are intended to extend the water and land based activities which will by their nature include more people, a wider range of activities and longer duration of activities throughout the day and the year. Land only activities being permitted during the winter months 1st Nov - 28th Feb. The 'closed season' for the SSSI is Oct 1st-February 28th.

The impacts of the proposals are considered to remain the same as previously identified for an earlier s73 application and are predicted to arise from disturbance (noise, visual and lighting) that could impact on the SSSI (overwintering birds), other birds, bats, badgers and otter. Increased noise from vehicles, people and PA systems including music are a particular concern for the key species noted above. The movement of people and vehicles is also a concern with the latter being an issue for road mortality of species such as otter but also badger. Movement of people into restricted areas during the sensitive season is a concern as is the proposal to manage this via the DCWW management plan.

The Council has received enough information to undertake the Habitats Regulations Assessment. This assessment is required by Regulation 63 of Conservation of Habitats and Species Regulations 2017, before the Council as the 'Competent Authority' under the Regulations can give permission for the project. A Test of Likely Significant Effect (TOLSE) has been undertaken in relation to the River Usk and no significant effect on the Interest Features of the River Usk has been identified.

Severn Estuary European Marine site (SPA, SAC, Ramsar):

Regulation 33 advice for the European Marine Site (EMS) states that some species will use areas of land and coastal waters outside the boundaries of the EMS. The MCC Review of Consents study (JBA, 2013) acknowledges the Zone of Influence to include this location due to use by Bewick's Swan. All species that are listed as reasons for designation of the SPA have been recorded at the reservoir and 8 out of 10 of the water bird assemblage have also been recorded. The submitted screening document has now been updated to include the Severn Estuary (the EclA has not) however, the conclusion is not considered to be precautionary enough in the absence of targeted survey information. The Council has undertaken a Habitats Regulations Assessment TOLSE and concluded that it is 'uncertain' whether there could be a Significant Effect on Interest Features of the EMS. A full Appropriate Assessment (AA) considering winter bird Interest Features has therefore been undertaken. Additional Measures considered necessary to protect the Integrity of the Severn Estuary EMS include planning conditions recommended by NRW in relation to implementation of:

- o Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- o DCWW - Llandegfedd Visitor Centre - Site Event Management Plan [submitted 16 March 2021]
- or
- o DCWW - Llandegfedd Water Sports Centre - Site Event Management Plan [submitted 16 March 2021]
- o Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

A detailed condition is also required in relation to the monitoring that is referenced in the above documents (see detail below).

It is concluded that the project will not adversely affect the Integrity of the Severn Estuary EMS alone or in combination with any other projects subject to the agreement of the detail of the planning conditions.

Llandegfedd Reservoir SSSI:

SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. This is reflected in Planning Policy Wales 10 ... There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision.

The site is designated for the overwintering wildfowl that use the water and banks of the reservoir for roosting and feeding. The potentially damaging operations identified in the site citation for the SSSI include recreational activities.

The Council typically refer to NRW advice on proposals in relation to the SSSI, however during the consideration of this application a number of issues need to be addressed before the LPA, can be satisfied that there will not be an impact that will prevent the council from complying with policy and legislation.

It was unclear from the submission which activities would be undertaken during the closed season, their frequency and the cumulative nature of the activities. The updated EclA clarifies in section 1.1: In line with the current agreement, no water sport activities are to take place on the reservoir, between 1st November and 28th February (except for Sunday during November when sailing in the southern part of the reservoir is permitted). This does not amend the current agreement where no outdoor events will occur between 1st November and 28th February. However, the DCWW management plan for the water sports centre only refers to seasonal control of outdoor events with 'external music', possibly suggesting that other types of outdoor events could proceed during this time. As such, it is important that any consent is carefully conditioned to preclude such activities. This approach has also been suggested by NRW.

In terms of the impact of noise on ecological habitats and protected species, noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that has been expressed about the potential effects of noise arising from the extended hours of use of the Visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents.

It is acknowledged that there are a lot of bird records for the site however, meaningful survey has not been undertaken to inform the assessment. As such it is considered that there is insufficient information to make an assumption about the use of the reservoir by the key species based on the areas where water-based activities are restricted. There is evidence from noise modelling that disturbance can occur within the SSSI boundary; in the absence of meaningful bird survey work, the assessment on potential impacts and resulting mitigation proposals should be extremely precautionary with the control of outdoor activities in the winter and monitoring of the impacts of indoor events during the winter secured.

Data and evidence that has been used to inform the application still falls below the minimum that we would expect for a site (for reasons outlined in May and December 2020), particularly a site of national importance i.e. a SSSI. However, the latest submission details a mechanism to allow a form of monitoring in relation to the scheme and the SSSI status. The mitigation (section 5) of the EclA states:

No outdoor events will occur within the close season (1st November and 28th February) when the SSSI wintering bird population is present. A five-year wintering bird monitoring programme is recommended to monitor the location and behaviour of wintering birds during indoor events between 1st November and 28th February. As part of the planning application a site event management plan has been produced which entails decibel level restrictions along with event management practises. A regular review of the wintering bird monitoring should take place alongside the event management plan.

Should Members be minded to approve the application, a planning condition would be required to control this. No events between 1st November and 28th February would be permitted to take place before this monitoring plan has been agreed in writing by the LPA (in consultation with NRW). It is

critical that the results of monitoring are linked to curtailment of operations at the site e.g. reducing the dB trigger for noise limiting devices, reducing the frequency / type of events.

Legally Protected Species:

Badger - a survey has now been provided. Impacts on this species have been screened out on the basis of their ecological importance in legislation. The management plans incorporate triggers to consider mitigation for badger should road fatalities be recorded.

Otter - Reference is made to the likely use of the north of the reservoir by this protected species following otter survey around the water sports and visitor centres. In the absence of an update following my earlier comments (dated December 2020), and the council's Biodiversity Officer has reviewed otter habitat in the catchment and in the vicinity of the application sites. There are opportunities for otter to maintain north-south movement in the wider catchment, however, there is some potential for increased otter road mortality associated with an increase in vehicle movements. It is noted that the site event management plans refer to monitoring of road mortality in relation to events. This needs to be linked to action if road mortality becomes an issue. A separate planning condition is recommended for this.

Bat Roost - The extended operating hours from 9pm to midnight also has the potential to increase the lighting internally from each building for an extra 3 hours per night. The latest EclA considers the potential impact of three hours of additional artificial lighting specifically for bats and otter. The assessment concludes for bats that there are additional areas of foraging/commuting habitat available and due to the nature of the site, and alternative foraging commuting areas in this high value landscape. It is also worth noting that NRW have not objected to the potential loss of the night roost in the visitor centre as the result of further lighting. It is noted that a new hedgerow has been planted, which is welcomed. An alternative lesser horseshoe location should be offered to ensure there is no net loss of biodiversity, although this is unlikely to be a licensing requirement.

Environment Wales Act 2016 - net benefit for biodiversity:

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. To this end, planning conditions are recommended to control the proposals particularly limiting winter activities to indoor events only should Members be minded to approve the application.

Net benefit for biodiversity has only been referenced in relation to an unspecified number of bat boxes to go in unspecified location(s). This is not acceptable for the scale of proposal and potential for net benefit that this scheme could offer. A planning condition will therefore be needed to secure enhancements.

Marquee:

It is understood that DCWW have a certain level of PD rights however, it is essential that the use of this outside space is properly assessed and controlled. The EclA now indicates that the location of the marquee will be 'to the right' i.e. south east of the water sports centre. This area is considered to be less ecologically damaging i.e. to priority habitats such as grassland than the area that it was previously assumed i.e. north-west of the water sports centre.

On balance therefore and only subject to conditions, it is considered that the proposed additional use of the Visitor Centre will not adversely affect the SSSI or Protected Species and meets the requirements of LDP Policy NE1.

6.4 Impact on Amenity

Policy EP1 of the LDP relates to Amenity and Environmental Protection advising that proposals that would cause or result in an unacceptable harm to local amenity, health, the character of the countryside or interests of nature conservation, landscape or built heritage due to noise pollution will not be permitted, unless it can be demonstrated that measures can be taken to overcome any

significant risk. There are no residential properties within close proximity to the development, with the nearest property being located on the opposite side of the reservoir.

Noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that has been expressed about the potential effects of noise arising from the extended hours of use of the visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents. As the nearest residential property is located over 400m from the facility any noise generated from the facility will have a negligible effect on the amenity of any residents. The development is therefore considered to meet the requirements of LDP Policy EP1.

6.5 Highways

6.5.1 Sustainable Transport Hierarchy

Due to the rural location of the reservoir, there are no public transport links to the site. However, given that the site is mainly for recreational purposes this is not unusual and it has to be accepted that most visitors will access the site using a private motor vehicle.

6.5.2 Access / Highway Safety

Vehicular access into the site is from the south via the private road which runs along the periphery of the reservoir. The access road leads past a manned gatehouse and then follows the reservoir edge to the water sports area where there are slipways, mooring and storage facilities and parking areas. The access road is gated and connects with the adopted highway to the south, providing access to Wellfield Close and the identified parking area associated with the reservoir to the east and Sluvad Road to the west. The latter is accessed via the road which runs along the reservoir's dam wall. No changes to the existing access arrangements are proposed as part of this planning application.

This application has the potential to increase vehicular traffic to and from the reservoir, however, this will be negligible when considering the number of vehicular movements associated with the current use of the facilities. MCC Highways did not raise any objections to the previously submitted S73 application and it was agreed that the later opening hours would not cause any detrimental highway impacts. The site gates will continue to be locked at night and site secured with overnight security. On this basis, the application is considered to be compatible with relevant chapters of Planning Policy Wales and LDP Policies S16 and MV1.

6.5.3 Parking

A large car parking facility is provided on a plateau, to the south-east of the visitor facility. There is no direct vehicular or pedestrian access to the water's edge from the car park although the public are able to access the grassed and wooded areas above the reservoir. An additional parking area is provided adjacent to the visitor facility's southern elevation. It is considered that this level of parking is adequate for the increased use of the visitor centre.

6.6 Drainage

6.6.1 Foul Drainage

No changes to the existing foul drainage are proposed as part of this development.

6.6.2 Surface Water Drainage

There will be no changes to surface water drainage as a result of this application.

6.7 Response to the Representations of Third Parties and/or Community/Town Council

6.7.1 In reviewing the above objections, it is clear the principal concerns to the application include the following:

Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise;
Future management of site from environmental perspective;
Increase traffic and insufficient parking provision;
Noise pollution and general increased public nuisance (opening hours etc.) from an environmental health perspective;
Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;
Public safety concerns - danger of licensed venue next to open water;
Security concerns (i.e. managing events on site);
Negative impact on rural economy (i.e. other venues in close proximity); and
Negative impact on wellbeing of local residents.

The potential for 'general increased public nuisance', as was also referred to in the objections to the previous application, is considered to be of low relevance to the determination of this application as the impact of development will be negligible and it is not considered to have any impact from an environmental health perspective. The facility is located within an area which is open to members of the public within the defined opening hours and the building can already be occupied until 9pm. The majority of the additional meetings and activities taking place will be within these defined hours, however, on the few occasions where the centre will need to be occupied for a longer period of time, the impact of development is considered to be very low.

A condition preventing any outdoor events over the winter months will ensure that a precautionary approach has been taken in relation to the population of overwintering birds. Furthermore, restrictions on the number of outdoor events per year and time restrictions on music for both indoor and outdoor events will prevent noise pollution. It is considered that conditions to this effect can be effectively monitored and enforced by the Council's Enforcement Team and Environmental Health Team. The SSSI also affords its own protection under separate legislation.

Concerns have also been made with regard to the impact on the rural economy and in particular other venues in close proximity. The nearest venue that offers space that could be used for meetings, functions and events is the Carpenter's Arms in Coed-Y-Paen. Whilst there are therefore overlapping services that each would offer, the two venues are not directly comparable, and both would offer various other services and functions that the other does not. Planning Policy Wales (Edition 11) also makes it clear that it is not the role of the planning system to restrict competition.

It is recognised that the Carpenter's Arms, as well as other such facilities in the wider rural area, provide an essential element in promoting the quality of life in, and sustainability of, local communities.

The proposal does not sit neatly within a specific policy within the adopted LDP, with community facilities policies (e.g. CRF1) seeking to retain existing facilities for communities rather than other sites providing some comparable services. Notwithstanding this having regard to the limits on events, particularly those outdoors, that would be secured through the conditions set out in Section 7 below it is not considered that the proposal would adversely impact upon the rural economy or existing community facilities – most of which would not have such restrictions on events as proposed in this instance.

In terms of safety of people under the influence of alcohol and during the hours of darkness being near the water, this would be a Health and Safety issue that would be managed by the operator. It may also be considered in a licence application.

It is unlikely that the increased use would have an impact on water sports users as the two activities would not overlap. For example, the equipment stores and changing areas would not be used for corporate events or weddings.

6.9 Well-Being of Future Generations (Wales) Act 2015

6.9.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.10 Conclusion

6.10.1 Subject to the conditions listed below, it is considered that the proposal to increase the use of the visitor centre is in accordance with national and local planning policies and will not harm local residents or the SSSI.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 There shall be no outdoor events between 1st November and 28th February in the succeeding year.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest.

4 No indoor events between 1st November and 28th February in the succeeding year will be permitted until a wintering bird monitoring programme has been submitted and agreed in writing by the LPA. The monitoring programme shall detail an implementation timetable, methodology to monitor the location and behaviour of wintering birds during indoor events and must include the following:

- a) Methodologies for undertaking the bird monitoring over a five year period
- b) Noise monitoring methodologies
- c) Identification of early warning triggers for remedial actions if detrimental impacts are identified
- d) Mechanisms to secure remedial actions and a commitment to suspend events if necessary
- e) Persons responsible and lines of communication
- f) Reporting arrangements to the LPA and NRW including a timetable capable of being rolled over for the duration of the monitoring
- g) Review periods for monitoring methods and programme duration

The monitoring must be undertaken by an appropriately experienced ecologist that is not directly employed by DCWW. The approved monitoring programme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest.

5 Within 3 months of the approval of this application, a scheme for the monitoring of Sluvad Road within 800m of the site entrance gate for evidence of Otter or Badger mortality shall be submitted to the LPA. The scheme shall include methods including recording and reporting

mechanisms. In the event that any mortality is discovered it will be recorded and reported to Monmouthshire County Council Ecology Officer. The scheme shall include details of thresholds for when remedial measures shall be agreed with the LPA and shall also include an implementation timetable. The approved scheme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard species of conservation concern.

6 Within 3 months of the approval of this application, a plan of Ecological Enhancement shall be submitted which provides biodiversity net benefit at the site shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall include future management and an implementation timetable. The enhancements shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To provide ecological net benefit on the site as required in Planning Policy Wales Edition 11.

7 The use of the Visitor Centre shall be in strict accordance with the avoidance & mitigation measures detailed in the following documents:

1 Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021

2 DCWW - Llandegfedd Visitor Centre - Site Event Management Plan [submitted 16 March 2021]

3 Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest.

8 Outdoor events are limited to 12 in any calendar year and shall finish, including the use of amplified recorded music and PA systems, no later than 17.00. Any such events shall not begin before 07.30.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and local residential amenity in accordance with LPD Policy EP1.

9 All indoor events, including any amplified recorded/live music shall finish no later than 23.00. Any such events shall not begin before 07.30

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and local residential amenity in accordance with LPD Policy EP1.

10. The extended hours, permitted by this planning permission, shall not be commenced until a scheme for external lighting has been submitted to and agreed in writing by the Local Planning Authority. Internal and external lighting shall be designed to minimise light spill and ensure that no light spills onto the water of the reservoir or into existing trees adjacent to the proposed site. The external lighting of the development and measures to avoid light spill from the building itself shall be carried out and maintained in accordance with the approved scheme which shall include provision for the lighting scheme to be monitored during the first 12 months of its use and for such modification as may be required to be submitted for the prior written approval of the Local Planning Authority and thereafter implemented and maintained in perpetuity.

REASON: To protect the interests of ecology including protected species and in the interest of safeguarding the features of Llandegfedd Reservoir SSSI.

INFORMATIVES

1 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 Number: DM/2020/00763

Proposal: Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317

Address: Llandegfedd Water Sports Centre, Croes-gweddyn Road, Coed-y-Paen

Applicant: Mr Mark Davies

Plans: Other Ecological Impact Assessment - version 5, Other Otter Report - , Location Plan Location Plan - ,

RECOMMENDATION: APPROVE

Case Officer: Ms Kate Bingham

Date Valid: 13.07.2020

1.0 APPLICATION DETAILS

1.1 Site Description

1.1.1 This application has been submitted on behalf of Dwr Cymru Welsh Water (DCWW) in respect of the change of use of the visitor centre at Llandegfedd Visitor Centre to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442. The application is submitted in order to grow the water and land-based activities at the site for all users under Dwr Cymru Welsh Water's strategy for health and well-being in conjunction with Welsh Government.

1.1.2 The site is situated on the eastern side of the Llandegfedd Reservoir. The reservoir sits at an approximate elevation of 80m and comprises approximately 174ha of standing open water. The facility serves a variety of recreational interests, including water sports, in addition to nature conservation responsibilities and its primary function as a public water supply reservoir. The reservoir itself is a SSSI of importance for its wintering bird population.

1.1.3 Due to the building's use as a water sports facility, the site is positioned adjacent to the reservoir, to the south of the existing visitor centre, with an area of hardstanding providing access down towards the reservoir along the building's western elevation.

1.1.4 The reservoir, built in the 1960s, straddles the boundary between Monmouthshire and Torfaen and is accessible from the main road network serving Usk/Pontypool/Caerleon via a network of minor roads.

1.1.5 The site is currently occupied by the two-storey water sports facility and associated landscaping. The building itself measures 320m² and sits within the wider site which was approved under outline permission. The topography slopes gradually from east-to-west down towards the reservoir.

1.1.6 The current building replaced the previous inadequate modular accommodation that served a long-established water sports school and sailing club and has been a successful addition to the area providing a number of land and water-based activities including team-building, windsurfing, dinghy sailing, stand-up paddle-boarding, canoeing, kayaking, raft building. The ground floor of the building comprises of rescue craft, equipment storage and changing room facilities while a large multifunction clubhouse room on the first floor spills out on to a generous balcony which runs along

the northern and western elevation in order to capture views out towards the reservoir. This multi-functional room is of a sufficient size and construction to allow meetings and functional gatherings to take place, however, this is not currently possible due to the planning condition imposed on the previous planning permission.

1.2 Value Added

1.2.1 Various additional ecological and noise surveys were requested and supplied in order to enable NRW, Environmental Health and the Council's Biodiversity Officer to accurately assess the proposal.

1.3 Proposal Description

1.3.1 The water sports facility currently benefits from planning permission under ref no. DC/2012/00317, approved on the 11th December 2012, comprising of changing room facilities, equipment store, shop and multipurpose function room.

1.3.2 Condition 6 of the approved permission reads as follows:

The premises shall be used solely in association with the operation of the water sports facilities at the site. For the avoidance of doubt the building shall not be available as a licensed premises for use by the general public.

1.3.3 Condition 7 of the approved permission reads as follows:

The premises shall not be used for the approved purposes outside the times of 9:00am to 9:00pm.

The above conditions were imposed on the planning decision to ensure that no alternative use is made of the premises which is likely to be a nuisance to local residents and in the interest of nature conservation and residential amenity. However, there are many days in the water sports season (1st March to 31st October) when the multi-functional room, referred to in the description of development, is not in use. During the off season (1st November to 28th February) the existing planning conditions mean the building should not be used at all. The intention of this application, therefore, is to promote flexible use of the building to reduce the periods when the building is unoccupied and to make the facility an ongoing asset to DCWW and to expand the services on offer at Llandegfedd reservoir. It is proposed under this application to increase the use of the facility so it can be used by DCWW for a wider array of uses as well as extending the operational hours of the site from 06:00 to 00:00.

1.3.3 Currently the Water Sports centre operates as a base for a number of water sports activities run directly by DCWW site teams or under license to DCWW by a number of clubs and license holders. These activities include:

Sailing - run through RYA approved courses and activities by DCWW.

Paddle boarding - available for groups, individual hire or seasonal permits.

Kayaking/Canoeing - available for individual hire and also carried out as activities by user groups such as Torfaen Cadets and Newport Sea Scouts.

Activity Sessions - DCWW organises tuition and activities for school and organised groups to sample a range of the water-based activities.

Holiday Activities - DCWW runs a season long programme of activities for children during school holidays.

Birthday Parties - a range of activities are available for private hire options with tuition in water sports activities or raft building activities. Use of the upstairs function room is often included with this option for party food etc.

Corporate team building events - including a mix of all the above-named activities as well as utilising some land-based activities. (For example: Orienteering)

1.3.4 There is a portable pontoon and a number of slipways located in the "Sailing bay" area at the front of the Water Sports Centre and vessels are all launched from this location. DCWW

enforces a strict health and safety regime and all users are supervised by the Water Sports centre team who also provide sufficient safety cover on the water in conjunction with the Ranger team based out of the Visitor Centre. Changing and toilet facilities are all available in conjunction with the above uses.

1.3.5 The building also contains a multi-use room on the ground floor which is used for training and courses and is made available via a booking system for use by license holders such as the Sailing Club, Cadets etc. Currently the well-equipped function room located on the first floor of the building with its panoramic balcony is precluded from regular use due to the current planning conditions and is effectively precluded from any use at all during the winter. This is an unsustainable position for the ongoing operations of DCWW.

1.3.6 In addition to maintaining and growing all of the above specified uses in partnership with the key local stakeholders DCWW has further ambition to add additional water and land-based activities to the mix of uses on the entire site. These will include:

Open water swimming - DCWW has approved Llandegfedd as a pilot site to trial managed Open Water Swimming sessions in conjunction with local community swimming and triathlon clubs.

Further child-based activities such as "zorbing"

Laser Clay pigeon shooting - available to hire as part of a group or corporate activity

Segways

In addition to the above uses, this change of use application would also allow DCWW to use the Water Sports facility for a range of meetings, functions and similar activities such as the below; Meetings; DCWW employee meetings ranging from team meetings, management and project meetings to Board of Directors meetings

External groups - the spaces could be used as a hireable space for meetings and events held by a range of groups

Sporting Groups - as part of pre or post activity socialising.

General public; functions for local organisations and family occasions

Community engagement

Wildlife / environmental rambles and other specialist groups

1.3.7 It would be intended that the first-floor room could be made available at programmed times year-round to maximise its potential use by the widest possible range of users and community groups.

1.3.8 The terrace on the Water Sports centre would be used as an overspill area in conjunction with the use of meeting room. The terrace will not be accessible during functions after 11pm. The numbers will be limited by the fire regulations to the building. It is also proposed under this application to extend the opening hours from 09:00am - 9:00pm to 06:00am - midnight in order to ensure further flexibility for DCWW. The outdoor terrace area would only be used as an overspill area in conjunction with the use of the meeting room.

1.3.9 The above uses would not require any alteration to the building itself, only an extension to the use of the building. Any functions would be catered for by existing facilities i.e. on-site catering facilities, toilets and car parking areas.

1.3.10 The intention of the applicant to make better, more efficient use of DCWW's facility for meetings and gatherings and to allow local people and businesses to visit to make the facility a better asset to DCWW and to expand the services on offer at Llandegfedd reservoir.

1.3.11 There is a concurrent application to also extend the use of the visitor centre submitted under planning application no. DM/2020/00762. The visitor centre and water sports facilities will be used independently throughout the year and for the majority of events, but could be used concurrently should a larger event be required to use the entire reservoir site. However, this is likely to be infrequent.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DC/2012/00317	Proposed Watersports Centre comprising changing room facilities, equipment store, shop & multipurpose function room	Approved	11.12.2012
DM/2018/00718	DCWW wish to provide a shed for use by the Angling Club to store equipment and to act as a weighing station during competitions.	Approved	25.06.2018
DM/2020/00035	Removal of condition 6 and to vary condition 7 (to extend opening hours to 6:00am to 00:00am) relating to planning application DC/2012/00317.	Withdrawn	18.06.2020
DM/2020/00036	Modification of condition no. 7 of planning permission DC/2012/00442 (hours of operation).	Withdrawn	18.06.2020
DM/2020/00762	Full planning application for the change of use of the visitor centre at Llandegfedd, to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442.	Pending Determination	
DM/2020/00763	Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317	Pending Determination	
DC/2015/01039	A new boat store and ranger maintenance buildings are required to support a recently completed Water Sports and Visitor Centre for Welsh Water at Llandegfedd Reservoir. These will be two detached buildings located adjacent to the existing buildings. A new play area is also proposed that will enhance the facilities available to children. This will be located within existing amenity grassland and will be broken in to two small 'play spots'.	Approved	21.12.2015

DC/2016/00742	Discharge of condition 7 (details of play equipment) from previous application DC/2015/01039 for new boat store and ranger maintenance buildings	Approved	19.07.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016
DM/2018/01199	Variation of condition No. 6 and No. 7 of planning permission DC/2012/00317.	Withdrawn	03.06.2019
DC/2016/01355	Addition of external steel stair to the north west elevation of the building. (Relating to previous planning application DC/2012/00317).	Approved	28.11.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S8 LDP Enterprise and Economy
S10 LDP Rural Enterprise
S11 LDP Visitor Economy
S13 LDP Landscape, Green Infrastructure and the Natural Environment
S16 LDP Transport
S17 LDP Place Making and Design

Development Management Policies

EP1 LDP Amenity and Environmental Protection
EP3 LDP Lighting
DES1 LDP General Design Considerations
MV1 LDP Proposed Developments and Highway Considerations
GI1 LDP Green Infrastructure
NE1 LDP Nature Conservation and Development

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Torfaen County Borough Council - The following is Torfaen County Borough Council's response to the consultation. The response relates to both applications:

The Council's Highway Officer does not object to the proposed scheme and has stated that the highway network within Torfaen County Borough Council that serves the site is satisfactory to accommodate the use.

The Council's Public Health Team have stated there is the potential for events to create noise nuisances which could have a detrimental effect on the amenity of Torfaen residents. The Officer has recommended that a Noise Impact assessment is carried out in line with TAN 11 and BS4142 2014 (2) and, if necessary, should include proposals for mitigating excessive noise. Alternatively, they have recommended that a condition could be set by the LPA to limit event noise levels at residential homes to not exceed the current L90.

The Ward Councillor has raised concerns in regard to the increased levels of traffic, noise disturbance, the over-development of the reservoir as an SSSI site and the potential safety issue of an entertainment venue with an alcohol license within proximity to the body of water. They state that the country lane is used by cyclists and pedestrians, with no available footpaths the increase in traffic would increase the risk for all users.

The Council's Ecologist wishes to register a holding objection and has requested that the applicant submits further information. The Council's Ecologist has requested further ecological survey work to appropriately assess the impact of the proposals upon the designated features of both the Llandegfedd Reservoir (SSSI) and the Severn Estuary Special Protection Area (SPA)/Ramsar Site. They have advised that the Ecology Report (Ricardo Energy and Environment 2020) does not provide sufficient detail by which to assess the impact of the proposals upon a site of national importance and another of international importance, and therefore fails to satisfy the requirements of national planning policy. Full details are included in the consultations section below.

An objection is raised to the development due the lack of information in relation to the ecological survey as per the comments from the Council's Ecology Officer.

In summary, it is considered that the Ecological assessment carried out does not provide sufficient detail to assess the impact of the proposals upon the sites of national and international importance. There is also concern that no formal noise assessment has been carried out in accordance with TAN 11 and BS4142 2014 (2). Alternatively, we would request a condition to limit event noise levels at residential homes to not exceed the current L90.

Llanbadoc Community Council - The application was discussed at the extraordinary meeting of the council on 15th July 2020. No objections were raised to the application and therefore the Community Council recommends that the application be approved.

Llangybi Fawr Community Council - Objects. The Community Council has grave concerns regarding these applications as have been outlined several times before when similar applications have been submitted. This application to vary the use and opening times of the Visitor Centre from that granted in earlier application DC/2012/00442, and seeks to achieve the same effect as the earlier withdrawn application DM/2020/00036. This application mirrors application DM/2020/00763, which seeks to achieve the same variation in use and hours of opening for the adjacent Water Sports Centre, and our objections to this application are the same as those we are raising with regard to that application. Therefore we attach copies of our earlier objections to the Water Sports Centre applications which apply equally to the present application:

Llandegfedd Reservoir is a unique site of special scientific interest (SSSI) in the counties of Monmouthshire and Torfaen, and to propose to use the centre for large public events with accompanying loud music during long hours of darkness is to have scant regard for its special status as a tranquil refuge for a variety of wildlife.

The applicants seek to justify their proposals for events with loud musical accompaniment by submitting a supposedly independent noise impact assessment that suggests a very limited impact on wildlife. This assessment appears to us to be deficient in a number of aspects. For example, it only considers noise generated inside the centre, whereas the applicants state that their intention is to erect a marquee nearer the water for larger events. It is very probable that this will be a significant source of noise, especially if the music is relocated or relayed to it. Moreover, their assumption regarding the attenuation of noise generated inside the centre is not valid if, as might be expected, the doors and windows will be open. We suspect that the noise (and other intrusions from light and movement of people) will have a greater impact on the wildlife than is implied. Better qualified representatives than us, from Natural Resources Wales, Gwent Wildlife Trust and Gwent Ornithological Society will no doubt express their views on this.

We are particularly concerned about the safety aspects of this proposal. Locating alcohol-fuelled events in close proximity to a large and deep expanse of water seems to be inviting disaster, especially during the hours of darkness. Personal experience suggests that staff at the reservoir are not able to keep dogs and even people out of the water in daylight hours, so it isn't clear how they would manage it in darkness with a large and noisy event taking place.

The reservoir and the watersports centre provide a unique facility in the area for a variety of water-based activities. On the other hand, there is no shortage of venues locally for the kind of event that Welsh Water is now contemplating for the centre, and in far safer locations. They should be using the centre to build on its primary use of water-based activities.

For these reasons we oppose the application to vary the conditions. We also request that the application be considered by the full Planning Committee and that the Community Council be afforded the opportunity to speak at that meeting.

Natural Resources Wales (NRW) - 9/9/20

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met and you attach the following condition to the permission. Otherwise, we would object to this planning application. Requirement: Further information to demonstrate potential adverse impacts on designated features of the Llandegfedd Reservoir Site of Special Scientific Interest (SSSI) can be avoided or mitigated.

Condition: Secure implementation of mitigation measures for bats under 5.1.1 of the submitted Ecological Impact Assessment.

Impacts on Llandegfedd Reservoir Site of Special Scientific Interest (SSSI)

The Llandegfedd Reservoir SSSI is designated for overwintering wildfowl, particularly wigeon, pochard and mallard. The area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

The application seeks additional uses of the visitor centre to allow for meetings, functions and events; as well as extending the opening hours from 6:00am to midnight. It proposes the change of use will allow for exclusive hire of the current waterside café outside of its normal hours (9:00am - 6:00pm). The application details also state the balcony of the visitor centre could be used as an overspill area in conjunction with the new uses; however, this will not be accessible after 11pm.

We have concerns that these changes could have the potential to increase noise levels and disturbances to the bird population in the area. This could adversely affect the designated bird population during the closed season, especially when considered alongside application DM/2020/00763.

On this basis, we require further information similar to what we have advised for DM/2020/00763. This should focus on providing information/justification which demonstrates the noise assessment uses the worst-case scenario in terms noise impacts to assess outdoor event noise. Further explanation of how noise from multiple events being held at the same time around the reservoir should also be provided. We can then advise whether the noise assessment and its methodology are appropriate to demonstrate the potential impacts on the designated bird population. If further information addresses our outstanding concerns, we are likely to request avoidance/mitigation measures are controlled and secured through the planning permission, if granted.

European Protected Species (Bats)

We note from the EclA that bats are present at the application site. The results of the bat surveys show an effect on a night roost for lesser horseshoe under the roof of the utility room door of the visitor centre. The EclA states the increase in lighting for an extra 3 hours (in the evening) at the visitor centre has the potential to disturb bats and reduce suitability of a night roost.

We note mitigation under 5.1.1 proposes planting adjacent to the north elevation of the visitor centre. Subject to the implementation of these measures, we do not consider the proposed development will result in a detriment to the maintenance of favourable conservation status of the bat species concerned. Therefore, should planning permission be granted, the following submitted document should be included within the scope of the condition, identifying the approved plans and documents on the decision notice:

Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 11 June 2020 section 5.1.1 (Bats)

In this case, the proposed development is unlikely to give rise to the need for a European Protected Species Licence application from us. We advise recipients of planning consent who are unsure about the need for a licence to submit a licence application to us.

Glamorgan Gwent Archaeological Trust (GGAT) - No objections. The proposed development would not have a significant impact on any buried archaeological resource and therefore we have no objection to the positive determination of this application.

MCC Highways - No objection. The highway authority does not consider that the proposed amendments to the hours of opening will be detrimental to highway safety or capacity of the immediate local highway network.

Llandegfedd Water Sports Centre is located in what can be considered a sustainable travel location and access to and from the reservoir is generally by motor vehicle. Extending the hours of opening is likely to increase vehicle traffic overall with more vehicles using the local highways for an extended period of time rather than increasing vehicle numbers at peak periods.

MCC Biodiversity - 18/12/20 The Biodiversity & Ecology objection is based upon the unmitigated potential for disturbance on birds in the SSSI, insufficient survey and assessment and the lack of information relating to protected and priority species.

Planning Policy Wales 10, par. 6.4.17 states: SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision

We do not have enough evidence to be certain that the proposals will not damage the SSSI and therefore, we should not approve the applications.

MCC Environmental Health - I have reviewed the above application and the additional information supplied. I can see that the applicant has now submitted two separate Noise Impact Assessments for both the Watersports Centre and the Visitors Centre. They have also included

separate site management plans for both sites. These amended documents have addressed all my previous comments.

I also note that the applicant has added a fourth receptor as discussed and has increased the monitoring time later into the evening. I also note that reference to construction noise has been removed from the documents as there is no longer any construction planned at the site.

Based on the new information supplied I have no objections to this application. Although as agreed by the applicant and detailed in both their noise impact assessments and site management plans, I would suggest that if planning permission is granted, the following conditions be included:

1. Outdoor events are limited to 12 per year and must finish, including the use of amplified recorded music and PA systems no later than 5pm.
2. All outdoor events be subject to a noise management plan submitted by the applicant to be approved by the Local Planning Authority.
3. All indoor events at both the visitors centre and the watersports centre, including any amplified recorded/live music should finish no later than 11pm.

Please also note that the applicant will need to apply for a Premises License if planning permission is approved.

SEWBRc Search Results - Various protected species identified within the vicinity of the site - bats, otters, badgers.

5.2 Neighbour Notification

Twenty-two representations received, objecting on the following grounds:

Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise;
Future management of site from environmental perspective;
Increase traffic and insufficient parking provision;
Noise pollution and general increased public nuisance (opening hours etc.) from an environmental health perspective;
Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;
Public safety concerns - danger of licensed venue next to open water;
Security concerns (i.e. managing events on site);
Negative impact on rural economy (i.e. other venues in close proximity); and
Negative impact on well-being of local residents.
Lack of public transport and increase in traffic
Any limits on hours of operation and noise-levels are in practice unenforceable.

A petition has also been received signed by 180 individuals. Signatures were collected at approx. 2-3 hour sessions over 8 days in summer 2020.

One representation in support of the application:

Upon reading there seems to be a lot of mention of 'we'. I can assure you that not all Coed-y-Paen residents are against the application. I, along with others, are in favour of the application.

5.3 Other Representations

Gwent Wildlife Trust - GWT objects to these applications on the following grounds:

Environmental Impact Assessment (EIA).
Survey deficiencies.
Noise and light-related disturbance to wildlife arising from the proposals.
Human-related disturbance to wildlife arising from the proposals.

Permitted Development Rights.

Lack of detail over proposed planning conditions, including the establishment of a steering group or similar to oversee their implementation.

The development plan context.

Welsh planning policy context.

Legislative context

Conclusion: We urge the local planning authority to:

- refuse the applications until such time as a fit for purpose, two year bird survey to approved methodologies has been carried out by the developer, and,

- screen in the applications for the need for a statutory EIA.

Notwithstanding the above, we further urge the developer to comply with its statutory duties, and withdraw the applications.

Gwent Ornithological Society - Object. Conclusion:

We believe that the change of use to an all-purpose function venue with internal and external music would be incompatible with the SSSI. The resultant increase in noise and activity would obviously cause a high level of disturbance. The site is designated due to its importance for over-wintering wildfowl generally, but particularly for Wigeon, Pochard and Mallard, with Goosander, Teal and Goldeneye also listed as being 'notable'. The surrounding area, particularly the grassland is noted as being important for feeding and roosting wildfowl. All of these species require quiet for feeding and roosting and the changes applied for will negate this.

In conclusion, we object to the application because we believe it would result in significant disturbance of wildfowl, and put the SSSI status of the site at risk. We ask Monmouthshire County Council to please reject this application by applying paragraph 6.4.17 of Planning Policy Wales (Dec 2018).

Torfaen Friends of the Earth - Objects to the above planning applications on the following grounds:

1 Further to my submissions in relation to previous applications, the latter being DM/2020/0035 in relation to extending opening hours at this location and the use of music and alcohol, we see no further evidence in the Noise Impact Report to support the current applications. The report gives no evidence of a vibration impact being undertaken, and only references noise levels, and in this respect pays no attention to night time music pollution when most birds sleep.

2 The Welsh Government Policy document "Building Better Places: The Planning System Delivering Resilient and Brighter Futures, refers to the Green Infrastructure and the drive towards building resilient ecological networks. It also highlights the importance of improved soundscapes in the built up environment, acknowledging the need for noise reduction in our lives as an important element in healthy living, not least our mental as well as physical health.

3 The building, in which these planning applications seek to allow music, was not designed or constructed with the intention of it being used for late night music and therefore, does not incorporate the necessary requirement of sound reducing design or materials.

3a It follows, therefore, that to introduce late night loud music and disturbance into a naturally peaceful soundscape, valued as such by many people, is in contravention of this Welsh Government policy.

4 The Ecological Impact Assessment for this application is not currently available on the website, so it is not possible to comment further. However, the Planning Statement refers to the EIA dated June 2019, therefore, our comments submitted earlier for DM/2020/00035 should be read as for this objection, namely that the Ricardo Energy and Environment admits to the lack of useful recorded data on the variety of species which may exist at this site, and has to resort to desk studies supplemented by such studies as they have been able to undertake, and state, therefore, that they have applied the precautionary principle.

5 In respect of otters, for instance, the EIA report states that the Ranger had not found any evidence of otter activity in the southern end of the site. This is not to say that otters do not move within this area, particularly at night when they are most active, but that no evidence could prove that they did. However, absence of evidence is not evidence of absence. Therefore, it cannot be stated that lack of evidence is proof that otters do not utilise this area. The same can be said of

badgers. Both these species are protected under legislation, of course. To ignore this point is not an acceptable position if a precautionary principle approach is claimed to have been taken.

6 Environmental impact studies can only provide evidence so far, and that a habitat can have the potential to support a species, even though the evidence of that species existence cannot be proved one way or the other. This is the limitation of our abilities, and often it is only in hindsight that we can understand the impact of human activity on the environment when we see it start to deteriorate in ways unforeseen. In an area as obviously environmentally beneficial to humans and wildlife, further human intervention of noise, lighting and vibratory activity can only ever have a negative impact.

6a What cannot be proved, therefore, is the EIA conclusion that the wildlife will only be minimally impacted.

7 Until EIAs recognise the impact of vibration on wildlife by human activity such as this planning application will introduce, it cannot be stated that impact will be minimal. It is the total package of everything combining which will have its worse effect. The only sensible outcome for the use of the precautionary principle in this instance, is not to allow these planning applications to succeed.

8 Llandegfedd Reservoir is recognised as a Special Landscape Area and given the designation of an SSSI. It should remain as a place of peaceful enjoyment for the benefit of its many current users. Additional uses, such as meetings by other organisations during normal daylight hours, could be explored with the agreement of existing users, such as the sailing club, because these would not impact negatively on wildlife or the neighbourhood. It could provide the supplementary income Dwr Cymru require, without the loss of the peaceful, quiet enjoyment by families, especially children who are encouraged to explore the beautiful surrounding area, learning to discover and value its wildlife.

9 Wildlife is very nervous and shy. Disturbance leads to loss of species, and ultimately to the spoiling of the enjoyment of the site. Learning how to be careful around wildlife is something people need to understand and commit to. The introduction of alcohol and night time music could not guarantee such respect.

9a To extend hours to midnight for use by hirers using music and alcohol will destroy all that people love about this place and ruin it for the majority of its visitors. It will be out of keeping with the character of the area and lose its peaceful nature.

10 In recent months, people have recognised more the healing power of the natural environment since the impact of the Covid 19 pandemic. They want further measures taken to protect the environment for future generations. This is the message countless people have been sending to all levels of government to urge them to make policy decisions to future proof our environment. The Welsh Government in releasing its "Building Better Places" policy document is recognising this need. It is now up to local authorities to implement this policy in their planning decisions.

11 Highway safety is a considerable concern of people especially those living locally. The dark, country roads which surround the reservoir require careful driving. Approval of this planning application would not be a sensible decision.

Conclusion: The applications before you for determination could not be considered as essential for human need to justify the impact on the ecosystems of this site of special scientific interest, which would trigger a downward trajectory of sustainability.

Usk Civic Society - Usk Civic Society objects to both these applications to alter the hours and conditions of use of these premises at Llandegfedd Reservoir. It agrees with many of the objections made by local residents, amenity groups and even MCC's own environmental health team about the effects of these proposals.

First, the main function of the reservoir, apart from storing water, is to provide a suitable environment for wildfowl, particularly passage migrants and winter visitors. Its designation as an SSSI reflects this role. Unpredictable and intermittent noise such as would result from the venues' use for functions late at night cannot be consonant with this role, as the birds must suffer disruption and disturbance.

The Society notes that MCC's own environmental health team has in relation to previous applications considered the noise pollution data supplied by the applicant to be defective in that it fails to properly reflect the effect of noise from parties and functions on the residential sites around the reservoir. It also fails to take into account the effects of opening doors and windows and of

using a marquee for some functions. The noise assessments now provided for both venues are somewhat disingenuous in that they assume a noise level of 80 decibels. Various other objectors have pointed out that this is a substantial underestimate of likely noise levels from a social function with music these days. It also looks at the noise levels from each of the two venues in isolation, and therefore fails to consider the cumulative effect of simultaneous or overlapping functions. And it must be remembered that any increase in decibel levels is logarithmic.

The suitability of an application for these changes from an entity which is a public body and a public authority under the terms of the Well Being of Future Generations (Wales) Act 2016 and the Environment (Wales) Act 2016 appears to be at odds with its statutory duties under these Acts. The use intended to be made of the facilities at Llandegfedd appears to be solely for the purpose of making a commercial profit. The Environmental Impact Assessment now provided appears complacent about the effects of the additional noise and disturbance on both human and animal residents and visitors to Llandegfedd reservoir and the neighbouring village of Coed-y-Paen. The conditions imposed on usage and operating hours for the two centres as conditions to the original planning applications for their construction were imposed for good reason. No reason has been given why the inhabitants' peace and quiet enjoyment of a rural location should now be set aside, perhaps because there is no valid one.

Although MCC Highways appears to consider that the narrow lanes providing access to the site will be capable of coping with the extra traffic, including large service vehicles, which will be generated by the use of these facilities for functions, often at night, it must be questionable whether this is really sustainable without creating additional hazards for residents. The narrow lanes to the east of the reservoir are seen as a particular problem. The testimony of those residents is that a problem already exists; traffic associated with late evening functions can only make things worse.

Coed-y-Paen Residents Association - Objects.

The proposals put forward by DCWW would fundamentally change the nature of this SSSI / SLA and have the potential for serious harm to its wildlife and fragile ecology, already under threat from increased and inappropriate human activity.

In its SSSI citation, CCW recognised the threat of damage to the features of interest from 'Recreational activities', seeking to 'balance people's enjoyment of the reservoir with the needs of wintering birds'. The 'Site Event Management Plans' submitted by DCWW make clear that many of its proposed 'recreational activities' pay scant regard to the needs of the reservoir or its bird population:

'dog shows/Christmas Fayre/classic car rally/Santa visits/Mother's Day events/ Family Fun events. DCWW 'also envisage a programme of larger events/displays...' The admission that this 'list is neither exhaustive nor exclusive' is worryingly open ended. The plan for live and amplified music, indoors and outside is alarming.

Such activities would dramatically upset the 'balance' between people and nature. By failing to "conserve the tranquillity, unspoiled character and recreational function" recommended in your LANDMAP (2007) assessment, Llandegfedd Reservoir becomes an Entertainment Venue. Provision of alcohol at late night social gatherings near to water is dangerous; together with outdoor music it is likely to attract & promote behaviour inappropriate in this environmentally sensitive area. Local residents already experience huge amounts of litter; large gatherings of people results in anti-social behaviour with evidence of alcohol and drug abuse. Traffic can become intolerable.

The need to promote a sense of physical and mental well-being has been highlighted by the intense period of the Corona Virus pandemic.

Lesley Griffiths (then Minister for Environment) said "we have seen a greater appreciation of nature during the pandemic and the way in which it underpins our health, our economy and our wider wellbeing ... The Welsh Government is committed to halting and reversing the decline in nature and making sure everyone in Wales can enjoy nature from their doorstep..." The Nature Recovery Action Plan for Wales 'refreshed' for a 'post covid world' aims "to deliver the benefits for biodiversity, species and habitats, avoid negative impacts and maximise our well-being" . We request that our LPA ensures avoidance of 'negative impacts' that these DCWW proposals would

inevitably deliver, as access to quiet enjoyment and appreciation of nature will be denied to visitors during organised events.

The plethora of confusing conditions being suggested will be impossible to enforce and the valuable qualities of this SSSI put in jeopardy.

In April 2018, the United Nations called for 'at least half the world to be more nature friendly to ensure the wellbeing of humanity'; in June 2019 our Welsh Government declared a climate emergency; in April 2021 Wildlife Trusts Wales called for new laws as 'Nature and wildlife is undergoing a mass extinction event'. DCWW's applications seem contrary to the much-stated International, National and local objectives for the future of our planet, in which the preservation of environment and natural habitat is central to our future.

At an EGM in December 2019, Glas Cymru Holdings passed a Special Resolution under Article 2A: The purpose of the company is to provide high quality and better value drinking water and environmental services so as to enhance the well-being of its customers and the communities it serves, both now and for generations to come. Dwr Cymru are in prime position to set standards of excellence, becoming an exemplar in the pursuit and promotion of environmental objectives in Wales.

The WAG Planning Policy Post Covid 19 Recovery (2020) states:

This is once in a generation opportunity for us to reset the clock and think again about the places we want to live, work and play. We need to build a cleaner, greener society ... which respects the environment.

As LPA, we suggest you are in a prime position to seize this opportunity and deliver the 'Nature Based Solutions' called for by our Government.

Your Planning Annual Performance Report (2019-20) section 3.3.7 WELL-BEING PLAN confirms its commitment to

Protect and enhance the resilience of our natural environment whilst mitigating and adapting the impact of climate change.

In considering these applications we suggest both Dwr Cymru Welsh Water and Monmouthshire LPA have opportunity to work together to champion urgent interests of the well-being of our wildlife and human communities, both now and for the future.

A statement by DCWW 's CEO says, "we are developing our visitor attractions as hubs for health and wellbeing..." (03/2021).The plans before you suggest otherwise.

In their Site Events Management Plans DCWW express their "inherent wish to ensure that this development takes place with the full consent and support of the local neighbours and stakeholders"

To be clear the local neighbours neither consent nor support such plans.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

6.0 EVALUATION

6.1 Principle of Development

6.1.1 The application site benefits from planning permission under ref no. DC/2012/00317 and has already been built and is occupied by DCWW.

6.1.2 Condition 7 of the approved permission reads as follows:

The premises shall not be used for the approved purposes outside the times of 9am to 9pm.

6.1.3 In order to ensure the reservoir can become an asset for DCWW and the wider population, an application to amend a similar condition, restricting the opening hours of the adjacent water sports facility, was submitted under ref no. DM/2018/01199. Although the principle of the application was acceptable, a number of objections were received from organisations and individuals to the above application including NRW, Monmouthshire CC Ecologist, Gwent Wildlife Trust, Gwent Ornithological Society, Torfaen Friends of the Earth, the Sailing Club, the Golf Club, Llanybi Community Council, Llanbadoc Community Council, The Ramblers Association, the local Reverend, Torfaen FotE, The Carpenter's Arms, the Coed-y-Paen Residents' Association and local councillors, as well as numerous individual residents. Consequently, the application was

withdrawn by DCWW to ensure that all of the above concerns were fully addressed prior to any variation of the conditions. Since this application was withdrawn, DCWW have undertaken further surveys in relation to ecology and noise to mitigate the above objections to the application.

6.2 Sustainability

6.2.1 Good Design

6.2.1.1 The application does not include any physical changes to the any of the buildings or the wider site. As such, there will be no additional impact on the character and appearance on the surrounding area as a result of this application.

6.2.2 Green Infrastructure/Place Making

6.2.2.2 The area, under DCWW's ownership, comprises a visitor centre and water sports centre, as well as other disused buildings and areas of woodland and grassland. The site is open to the public for recreational use, predominantly for walking and water sports. It is itself considered to be a Green Infrastructure Asset that should be open to the public to enjoy. This ties into the aspirations of PPW11 in relation to Place Making. Places can promote social, economic, environmental and cultural well-being by providing well-connected cohesive communities. Places which are active and social also contribute to the seven goals of the Well-being of Future Generations Act (see 6.11).

6.3 Biodiversity

The proposals are intended to extend the water and land based activities which will by their nature include more people, a wider range of activities and longer duration of activities throughout the day and the year. Land only activities are permitted during the winter months 1st Nov - 28th Feb. The 'closed season' for the SSSI is Oct 1st-February 28th.

The impacts of the proposals are considered to remain the same as previously identified for the s73 application and are predicted to arise from disturbance (noise, visual and lighting) that could impact on the SSSI (overwintering birds), other birds, bats, badgers and otter. Increased noise from vehicles, people and PA systems including music are a particular concern for the key species noted above. The movement of people and vehicles is also a concern with the latter being an issue for road mortality of species such as otter but also badger. Movement of people into restricted areas during the sensitive season is a concern as is the proposal to manage this via the DCWW management plan.

The County Council has received enough information to undertake the Habitats Regulations Assessment. This assessment is required by Regulation 63 of Conservation of Habitats and Species Regulations 2017, before the Council as the 'Competent Authority' under the Regulations can give permission for the project. A Test of Likely Significant Effect (TOLSE) has been undertaken in relation to the River Usk and no significant effect on the Interest Features of the River Usk has been identified.

Severn Estuary European Marine site (SPA, SAC, Ramsar):

Regulation 33 advice for the European Marine Site (EMS) states that some species will use areas of land and coastal waters outside the boundaries of the EMS. The MCC Review of Consents study (JBA, 2013) acknowledges the Zone of Influence to include this location due to use by Bewick's Swan. All species that are listed as reasons for designation of the SPA have been recorded at the reservoir and 8 out of 10 of the water bird assemblage have also been recorded. The submitted screening document has now been updated to include the Severn Estuary (the EclA has not) however, the conclusion is not considered to be precautionary enough in the absence of targeted survey information. Monmouthshire CC has undertaken a Habitats Regulations Assessment TOLSE and concluded that it is 'uncertain' whether there could be a Significant Effect on Interest Features of the EMS. A full Appropriate Assessment (AA) considering winter bird Interest Features has therefore been undertaken. Additional Measures are considered

necessary to protect the Integrity of the Severn Estuary EMS including planning conditions recommended by NRW in relation to implementation of:

- o Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021

- o DCWW - Llandegfedd Visitor Centre - Site Event Management Plan [submitted 16 March 2021] or

- o DCWW - Llandegfedd Water Sports Centre - Site Event Management Plan [submitted 16 March 2021]

- o Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

A detailed condition is also required in relation to the monitoring that is referenced in the above documents (see detail below).

It is concluded that the project will not adversely affect the Integrity of the Severn Estuary EMS alone or in combination with any other projects subject to the agreement of the detail of the planning conditions.

Llandegfedd Reservoir SSSI:

SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. This is reflected in Planning Policy Wales 10 ... There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision.

The site is designated for the overwintering wildfowl that use the water and banks of the reservoir for roosting and feeding. The potentially damaging operations identified in the site citation for the SSSI include recreational activities.

The Council typically refer to NRW advice on proposals in relation to the SSSI, however during the consideration of this application a number of issues need to be addressed before the LPA, can be satisfied that there will not be an impact that will prevent the Council from complying with policy and legislation.

It was unclear from the submission which activities would be undertaken during the closed season, their frequency and the cumulative nature of the activities. The updated EclA clarifies in section 1.1: In line with the current agreement, no water sport activities are to take place on the reservoir, between 1st November and 28th February (except for Sunday during November when sailing in the southern part of the reservoir is permitted). This does not amend the current agreement where no outdoor events will occur between 1st November and 28th February. However, the DCWW management plan for the water sports centre only refers to seasonal control of outdoor events with 'external music', possibly suggesting that other types of outdoor events could proceed during this time. As such, it is important that any consent is carefully conditioned to preclude such activities. This approach has also been suggested by NRW.

In terms of the impact of noise on ecological habitats and protected species, noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that has been expressed about the potential effects of noise arising from the extended hours of use of the visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents.

It is acknowledged that there are a lot of bird records for the site however, meaningful survey has not been undertaken to inform the assessment. As such it is considered that there is insufficient information to make an assumption about the use of the reservoir by the key species based on the areas where water-based activities are restricted. There is evidence from noise modelling that disturbance can occur within the SSSI boundary; in the absence of meaningful bird survey work, the assessment on potential impacts and resulting mitigation proposals should be extremely

precautionary with the control of outdoor activities in the winter and monitoring of the impacts of indoor events during the winter secured.

Data and evidence that has been used to inform the application still falls below the minimum that we would expect for a site (for reasons outlined in May and December 2020), particularly a site of national importance i.e. a SSSI. However, the latest submission details a mechanism to allow a form of monitoring in relation to the scheme and the SSSI status. The mitigation (section 5) of the EclA states:

No outdoor events will occur within the closed season (1st November and 28th February) when the SSSI wintering bird population is present. A five-year wintering bird monitoring programme is recommended to monitor the location and behaviour of wintering birds during indoor events between 1st November and 28th February. As part of the planning application a site event management plan has been produced which entails decibel level restrictions along with event management practises. A regular review of the wintering bird monitoring should take place alongside the event management plan.

Should Members be minded to approve the application, a planning condition would be required to control this. No events between 1st November and 28th February should be permitted to take place before this monitoring plan has been agreed in writing by the LPA (in consultation with NRW). It is critical that the results of monitoring are linked to curtailment of operations at the site e.g. reducing the dB trigger for noise limiting devices, reducing the frequency / type of events.

Legally Protected Species:

Badger - a survey has now been provided. Impacts on this species have been screened out on the basis of their ecological importance in legislation. The management plans incorporate triggers to consider mitigation for badger should road fatalities be recorded.

Otter - Reference is made to the likely use of the north of the reservoir by this protected species following otter survey around the water sports and visitor centres. In the absence of an update, the Council's Biodiversity Officer has reviewed otter habitat in the catchment and in the vicinity of the application sites. There are opportunities for otter to maintain north-south movement in the wider catchment, however, there is some potential for increased otter road mortality associated with an increase in vehicle movements. It is noted that the site event management plans refer to monitoring of road mortality in relation to events. This needs to be linked to action if road mortality becomes an issue. A separate planning condition is recommended for this.

Bat Roost - The extended operating hours from 9pm to midnight also has the potential to increase the lighting internally from each building for an extra 3 hours per night. The latest EclA considers the potential impact of three hours of additional artificial lighting specifically for bats and otter. The assessment concludes for bats that there are additional areas of foraging/commuting habitat available and due to the nature of the site, and alternative foraging commuting areas in this high value landscape. It is also worth noting that NRW have not objected to the potential loss of the night roost in the visitor centre as the result of further lighting. It is noted that a new hedgerow has been planted, which is welcomed. An alternative lesser horseshoe location should be offered to ensure there is no net loss of biodiversity, although this is unlikely to be a licensing requirement.

Environment Wales Act 2016 - net benefit for biodiversity:

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. To this end, planning conditions are recommended to control the proposals - particularly limiting winter activities to indoor events only should Members be minded to approve the application.

Net benefit for biodiversity has only been referenced in relation to an unspecified number of bat boxes to go in unspecified location(s). This is not acceptable for the scale of proposal and potential for net benefit that this scheme could offer. A planning condition will therefore be needed to secure enhancements.

Marquee:

It is understood that DCWW have a certain level of permitted development rights, although it is essential that the use of this outside space is properly assessed and controlled. The EclA now indicates that the location of the marquee will be 'to the right' i.e. south-east of the water sports centre. This area is considered to be less ecologically damaging i.e. to priority habitats such as grassland than the area that it was previously assumed i.e. north-west of the water sports centre.

On balance therefore and only subject to conditions, it is considered that the proposed additional use of the Watersports Centre will not adversely affect the SSSI or Protected Species and meets the requirements of LDP Policy NE1.

6.4 Impact on Amenity

Policy EP1 of the LDP relates to Amenity and Environmental Protection advising that proposals that would cause or result in an unacceptable harm to local amenity, health, the character of the countryside or interests of nature conservation, landscape or built heritage due to noise pollution will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk. There are no residential properties within close proximity to the development, with the nearest property being located on the opposite side of the reservoir.

Noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that have been expressed about the potential effects of noise arising from the extended hours of use of the visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents. As the nearest residential property is located over 400m from the facility any noise generated from the facility will have a negligible effect on the amenity of any residents. The development is therefore considered to meet the requirements of LDP Policy EP1.

6.5 Highways

6.5.1 Sustainable Transport Hierarchy

Due to the rural location of the reservoir, there are no public transport links to the site. However, given that the site is mainly for recreational purposes this is not unusual and it has to be accepted that most visitors will access the site using a private motor vehicle.

6.5.2 Access / Highway Safety

Vehicular access into the site is from the south via the private road which runs along the periphery of the reservoir. The access road leads past a manned gatehouse and then follows the reservoir edge to the water sports area where there are slipways, mooring and storage facilities and parking areas. The access road is gated and connects with the adopted highway to the south, providing access to Wellfield Close and the identified parking area associated with the reservoir to the east and Sluvad Road to the west. The latter is accessed via the road which runs along the reservoir's dam wall. No changes to the existing access arrangement are proposed as part of this planning application.

This application has the potential to increase vehicular traffic to and from the reservoir, however, this will be negligible when considering the number of vehicular movements associated with the current use of the facilities. MCC Highways did not raise any objections to the previously submitted S73 application and it was agreed that the later opening hours would not cause any detrimental highway impacts. The site gates will continue to be locked at night and site secured with overnight security. On this basis, the application is considered to be compatible with relevant chapters of Planning Policy Wales and LDP Policies S16 and MV1.

6.5.3 Parking

A large car parking facility is provided on a plateau, to the south-east of the visitor facility. There is no direct vehicular or pedestrian access to the water's edge from the car park although the public are able to access the grassed and wooded areas above the reservoir. An additional parking area is provided adjacent to the visitor facility's southern elevation. It is considered that this level of parking is adequate for the increased use of the visitor centre.

6.6 Response to the Representations of Third Parties and Community/Town Council

6.6.1 In reviewing the above objections, it is clear the principal concerns to the application include the following:

- Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise;
- Future management of site from environmental perspective;
- Increased traffic and insufficient parking provision;
- Noise pollution and general increased public nuisance (opening hours etc) from an environmental health perspective;
- Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;
- Public safety concerns - danger of licensed venue next to open water;
- Security concerns (i.e. managing events on site);
- Negative impact on rural economy (i.e. other venues in close proximity); and
- Negative impact on well-being of local residents.

The potential for 'general increased public nuisance', as was also referred to in the objections to the previous application, is considered to be of low relevance to the determination of this application as the impact of development will be negligible and it is not considered to have any impact from an environmental health perspective. The facility is located within an area which is open to members of the public within the defined opening hours and the building can already be occupied until 9pm. The majority of the additional meetings and activities taking place will be within these defined hours, however, on the few occasions where the centre will need to be occupied for a longer period of time, the impact of development is considered to be very low.

A condition preventing any outdoor events over the winter months will ensure that a precautionary approach has been taken in relation to the population of overwintering birds. Furthermore, restrictions on the number of outdoor events per year and time restrictions on music for both indoor and outdoor events will prevent noise pollution. It is considered that conditions to this effect can be effectively monitored and enforced by the council's Enforcement Team and Environmental Health Team. The SSSI also affords its own protection under separate legislation.

Concerns have also been made with regard to the impact on the rural economy and in particular other venues in close proximity. The nearest venue that offers space that could be used for meetings, functions and events is the Carpenter's Arms in Coed-Y-Paen. Whilst there are therefore overlapping services that each could offer, the two venues are not directly comparable, and both would offer various other services and functions that the other does not. Planning Policy Wales (Edition 11) also makes it clear that it is not the role of the planning system to restrict competition.

It is recognised that the Carpenter's Arms, as well as other such facilities in the wider rural area, provide an essential element in promoting the quality of life in, and sustainability of, local communities.

The proposal does not sit neatly within a specific policy within the adopted LDP, with community facilities policies (e.g. CRF1) seeking to retain existing facilities for communities rather than other sites providing some comparable services. Notwithstanding this having regard to the limits on events, particularly those outdoors, that would be secured through the conditions set out in Section 7 below it is not considered that the proposal would adversely impact upon the rural economy or

existing community facilities – most of which would not have such restrictions on events as are proposed in this instance.

In terms of safety of people under the influence of alcohol and during the hours of darkness being near the water, this would be a Health and Safety issue that would be managed by the operator. It may also be considered in any licencing application.

It is unlikely that the increased use would have an impact on water sports users as the two activities would not overlap. For example, the equipment stores and changing areas would not be used for corporate events or weddings.

6.9 Well-Being of Future Generations (Wales) Act 2015

6.9.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.10 Conclusion

6.10.1 Subject to the conditions listed below, it is considered that the increase in use of the visitor centre is in accordance with national and local planning policies and will not harm local residents or the SSSI.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 There shall be no outdoor events between 1st November and 28th February in the succeeding year.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest.

4 No indoor events between 1st November and 28th February in the succeeding year will be permitted until a wintering bird monitoring programme has been submitted to and agreed in writing by the LPA. The monitoring programme shall detail an implementation timetable, methodology to monitor the location and behaviour of wintering birds during indoor events and must include the following:

- a) Methodologies for undertaking the bird monitoring over a five year period
- b) Noise monitoring methodologies
- c) Identification of early warning triggers for remedial actions if detrimental impacts are identified
- d) Mechanisms to secure remedial actions and a commitment to suspend events if necessary
- e) Persons responsible and lines of communication

- f) Reporting arrangements to the LPA and NRW including a timetable capable of being rolled over for the duration of the monitoring
- g) Review periods for monitoring methods and programme duration

The monitoring must be undertaken by an appropriately experienced ecologist that is not directly employed by DCWW. The approved monitoring programme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest.

5 Within 3 months of the approval of this application, a scheme for the monitoring of Sluvad Road within 800m of the site entrance gate for evidence of Otter or Badger mortality shall be submitted to the LPA. The scheme shall include methods including recording and reporting mechanisms. In the event that any mortality is discovered it will be recorded and reported to Monmouthshire County Council Ecology Officer. The scheme shall include details of thresholds for when remedial measures shall be agreed with the LPA and shall also include an implementation timetable. The approved scheme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard species of conservation concern.

6 Within 3 months of the approval of this application, a plan of Ecological Enhancement shall be submitted which provides biodiversity net benefit at the site shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall include future management and an implementation timetable. The enhancements shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To provide ecological net benefit on the site as required in Planning Policy Wales Edition 11.

7 The increased use of the Watersports Centre shall be in strict accordance with the avoidance & mitigation measures detailed in the following documents:

- i) Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- ii) DCWW - Llandegfedd Water Sports Centre - Site Event Management Plan [submitted 16 March 2021]
- iii) Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

Reason: to safeguard the overwintering bird interest of the Site of Special Scientific Interest

8 Outdoor events shall be limited to 12 in any calendar year and shall finish, including the use of amplified recorded music and PA systems no later than 17.00. Any such events shall not begin before 09.00.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and local residential amenity in accordance with LPD Policy EP1.

9 All indoor events, including any amplified recorded/live music shall finish no later than 23.00. Any such events shall not begin before 09.00

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and local residential amenity in accordance with LPD Policy EP1.

10 All parking associated with events to be held at the water sports centre shall be limited to existing designated parking areas only. No temporary parking areas shall be created.

REASON: To prevent encroachment of parking during events onto priority habitats and habitats used by wintering birds.

11 The extended hours, permitted by this planning permission, shall not be commenced until a scheme for external lighting has been submitted to and agreed in writing by the Local Planning Authority. Internal and external lighting shall be designed to minimise light spill and ensure that no light spills onto the water of the reservoir or into existing trees adjacent to the proposed site. The external lighting of the development and measures to avoid light spill from the building itself shall be carried out and maintained in accordance with the approved scheme which shall include provision for the lighting scheme to be monitored during the first 12 months of its use and for such modification as may be required to be submitted for the prior written approval of the Local Planning Authority and thereafter implemented and maintained in perpetuity.

REASON: To protect the interests of ecology including protected species and in the interest of safeguarding the features of Llandegfedd Reservoir SSSI.

INFORMATIVES

1 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 Number: DM/2020/01076

Proposal: Use of existing agricultural Dutch barn for the storage of cars

Address: Clawdd-y-Parc Farm, Parc Road, Llangybi, Usk

Applicant: Mr Arun Patel

Plans: Location Plan 278.P01 - , Block Plan 278.P02 - , Elevations - Existing 278.P03 - , All Drawings/Plans A16-010-001 - ,

RECOMMENDATION: APPROVE

Case Officer: Ms Kate Bingham

Date Valid: 07.08.2020

1.0 APPLICATION DETAILS

This application was presented to Planning Committee in April 2021 with a recommendation for approval. Members deferred the application to investigate whether or not the external works to the building required planning consent or were lawful.

The applicant has supplied evidence that the Dutch barn was in agricultural use from the time that he bought it on 9th May 2008. At the time the barn was in a poor state of repair. Planning permission was not in required for the upgrading works to the Dutch barn, provided that the works were for the purposes of agriculture as the filling in of the walls is Permitted Development under Schedule 2, Part 6, Class A (a) of the Town and Country Planning (General Permitted Development) Order. This is provided that they comply with the conditions in A.2 - i.e. that details are submitted (via an Agricultural Notification) to seek whether prior approval is required. No application was forthcoming. However, the applicant has now supplied photographic evidence of the Dutch barn in its completed state on 4th May 2017, i.e. a term in excess of the 4 years which therefore establishes the works as lawful development. It is noted that the applicant states that the barn was in reality completed in late March but no photographic evidence is available.

On this basis it is considered that the works to the Dutch barn are lawful and no further action is required. Accordingly as per the issue raised by Councillor Howard at the April Committee meeting, the external works to the building are considered to be lawful through the passage of time and would not have been required to be advertised as part of this current planning application.

The previous report and recommendation are included below.

Application Number: DM/2020/01076

Proposal: Use of existing agricultural Dutch barn for the storage of cars

Address: Clawdd-y-Parc Farm, Parc Road, Llangybi, Usk

Applicant: Mr Arun Patel

Plans: Location Plan 278.P01 - , Block Plan 278.P02 - , Elevations - Existing 278.P03 - , All Drawings/Plans A16-010-001 - ,

1.0 APPLICATION DETAILS

1.1 Site Description

This application relates to a group of agricultural buildings, a farm house and converted barns located near to the village of Llangybi.

1.2 Proposal Description

This is a retrospective application to use an existing dutch barn for the storage of cars. The barn is agricultural in character being finished with a curved corrugated metal roof and concrete panel walls with Yorkshire boarding above. The floor area of the barn is approximately 264 sq.m.

The barn is located to the south-west corner of the site, some 19m away from the nearest property known as Barn 3 which is currently undergoing works for conversion to a residential dwelling for the same applicant.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2018/00675	1. External wall finish to be traditional lime render finish. 2. Addition of window to bedroom 4 at first floor. 3. Removal of oak post to study area. 4. Change window/door finish from painted wood to natural wood.	Application Returned	25.04.2018
DM/2020/00072	Proposed conversion of cattle shed to form 2no 3 bedroom holiday rental units.	Withdrawn	29.01.2021
DM/2020/00074	Conversion of 3no storage containers to form two bedroom holiday accommodation.	Withdrawn	16.10.2020
DM/2020/01077	Static caravan for use as temporary residential accommodation (1 year) while barn conversion under construction at Clawdd y Parc Farm.	Pending Consideration	
DC/2009/00783	Proposed extension to farmhouse and residential conversion of 4 barns	Approved	30.04.2010
DC/2015/00764	Revisions to existing approved scheme for barn conversion to domestic accommodation	Approved	29.06.2017

DC/2012/00062	Change of use of existing agricultural building to form stabling for up to 30 horses with the additional formation of an exercise arena for equestrian purposes	Approved	28.06.2012
DC/2017/00485	Amendments agreed with Enforcement - retaining wall to rear terrace.	Approved	28.04.2017
DC/2017/00095	Agricultural stock housing shed.	Withdrawn	27.03.2017
DC/2017/01100	Non material amendment previous application DC/2017/00614 - change from coloured cladding walling to vertical timber boarding - Agricultural stock housing shed.	Approved	26.09.2017
DC/2011/00281	New Agricultural Building	Acceptable	21.04.2011
DC/2008/00828	Two storey and single storey extensions to farmhouse. Conversion of barns to 6 no. holiday lets. Addition of building to accommodate swimming pool. Conversion of barn to home office. Relocation of Dutch barn. Re-clad storage shed.	Withdrawn	21.02.2013
DC/2011/00498	New garaging and stores	Withdrawn	20.08.2014
DC/2011/00899	New access road to supply the barns and ancillary buildings at Clawdd y Parc	Withdrawn	20.08.2014
DC/2015/00524	Retrospective application for conversion of barn approved under previous applications (revised scheme).	Refused	19.06.2015
DC/2017/00614	Agricultural stock housing shed.	Approved	18.07.2017
DC/2015/00703	Retrospective application for 2 no. agricultural general stock sheds.	Withdrawn	16.11.2016

DC/2017/01358	The change of stone finish to lime render finish to the external walls on the areas stated on the drawing A14-04306 as the stone is of a poor quality and cannot within reasonable means be pointed and the introduction of a small window to the rear elevation to provide light to the approved bedroom.	Refused	04.12.2017
DC/2016/01117	Timber framed garage in association with Farmhouse. Similar construction to existing garage at the site.	Approved	03.01.2017

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S13 LDP Landscape, Green Infrastructure and the Natural Environment
S17 LDP Place Making and Design

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Planning Policy Wales (PPW) Edition 11

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Llangybi Community Council - It was agreed that a strong objection should be submitted given the numerous retrospective applications and the apparent constant flouting of planning requirements in relation to this site. It was considered that there may be too fine a line between a classic car collection and classic car trading in the light of past experience at this site. It was also noted that comments submitted to Mon CC in support of this application, appear to come from individuals who have no connection with the local area. The activities at Clawdd-y-Parc continue to cause the Community Council and indeed many local residents, great concern.

SEWBRc Search Results - No significant ecological record identified.

5.2 Neighbour Notification

Three objections received:

When the barn was refurbished three years ago it was built solely to store, trade or maintain cars. Nothing to do with its intended purpose for the storage of hay and straw or any form of agriculture. The structure of the building has been fully insulated with heating, wash room even double glazed sliding doors in the south side concealed in the Yorkshire boarding.

Obviously never intended as a 'manure store' as described on the plans.

Large transporter lorries are frequently seen negotiating the steep, narrow lane, delivering and collecting.

There is no justification for this change of use and it totally conflicts with planning policy as set out in the LDP.

It is wrong to even consider granting retrospective permission: the applicant clearly has no respect for the rules and this operation should be shut down immediately.

6.0 **EVALUATION**

6.1 **Strategic & Spatial Choices**

6.1.1 Principle of Development

The applicant has stated that they are an enthusiast, not a commercial trader. All the vehicles are the applicant's own and registered in their name. On this basis, the change of use of the building does not fall within any specific LDP policy but would be covered by general policies in relation to design (DES1), amenity and environmental protection (EP1) as well as other detailed planning considerations which will be considered below.

6.1.2 Good Design/ Place making

The former open-sided dutch barn has been enclosed with concrete panels with Yorkshire boarding above to provide a water tight environment. The materials are considered to be in keeping with the rural character of the original building and its setting within an agricultural holding. The external changes are therefore considered to be acceptable in terms of the impact on the appearance of the surrounding area and meet the requirements of LDP Policy DES1.

6.1.3 Impact on Amenity/ Promoting Healthier Places

The barn is approximately 40m away from the nearest neighbouring occupiers. Neighbours have reported large car transporters visiting the site and lots of vehicle movements. This may be necessary at times but is not considered likely to be a frequent occurrence based on the applicant's statement that the cars are a private collection and it is not a commercial operation. A condition limiting the use of the building to ancillary domestic use has been suggested, should Member be minded to approve the application. No more than 15 vehicles are currently kept in the building and this can also be conditioned should Members be minded to approve the application. On this basis, it is unlikely that the use of the barn to store cars will have a significantly adverse impact on any neighbouring occupiers and the application meets the requirements of LDP Policy EP1.

Should the use become commercial then further planning consent would be required.

6.2 Highways

6.2.1 Access / Highway Safety

No changes to the existing access or parking arrangements are proposed as part of this application.

6.3 Distinctive & Natural Places

6.3.7 Water (including foul drainage / SuDS), Air, Soundscape & Light

The site is outside the Phosphate Sensitive Catchment Area of the Rivers Usk and Wye SACs. Therefore no further information or action in relation to drainage is required. There will be no changes to existing foul or surface water drainage as a result of this development.

6.4 Response to the Representations of Third Parties and/or Community Council

6.4.1 The refurbishment of the dutch barn undertaken three years ago would not have required planning permission as it would be viewed as repair/maintenance works. The change of use from agriculture however would - hence this current application. The fact that this is a retrospective application is not a material planning consideration.

6.5 Well-Being of Future Generations (Wales) Act 2015

6.5.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.6 Conclusion

6.6.1 The proposed use of the existing building to store cars for private use will not adversely affect local residential amenity or the character or appearance of the site or surrounding area.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

2 No more than 15 vehicles shall be stored within the barn at any time and the building shall be used for private domestic use only.

REASON: In the interests of amenity and to ensure compliance with LDP Policy EP1.

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Application Number: DM/2020/01766

Proposal: Retrospective application for amendment to previously approved planning application: DM/2020/00669

Address: Beaulieu Barn, 25 Kymin Road, The Kymin, Monmouth, NP25 3SD

Applicant: Mr James Tuttle

Plans: Elevations - Proposed - , Floor Plans - Proposed Ground Floor - , Floor Plans - Proposed First Floor - , Location Plan

RECOMMENDATION: APPROVE

Case Officer: Mr Andrew Jones

Date Valid: 01.12.2020

This application is presented to Planning Committee at the request of the Council's Head of Planning

1.0 APPLICATION DETAILS

1.1 Site Description

This application relates to a detached two storey building that was originally approved for conversion to residential use in 2008. This application is situated within open countryside outside of any development boundary and was approved originally under Policy H7 of the UDP, but is now considered under Policy H4 of the adopted Local Development Plan.

The site is located at The Kymin, to the east of Monmouth and is within the Wye Valley Area of Outstanding Natural Beauty.

1.2 Proposal Description

Planning permission is sought retrospectively for extensions and alterations to the building which are now complete. Permission (DM/2020/00669) was granted in 2020 which sought to make changes to a previous approval (DC/2016/00287) which was for a two storey side extension. Works commenced in July 2020 to implement consent DM/2020/00669, however these were not carried out in accordance with the approved plans. Under section 73A of the Town and Country Planning Act 1990 the applicant is entitled to submit an application to regularise the works as completed.

The works as erected and for which permission is now sought include a second gable to the rear (north) elevation, a lean-to element linking to another rear two storey gable, whilst the rear elevation is also now entirely clad with timber. The overall height of the building now measures 6.6m. Other fenestration details also differ from those on the 2020 permission and can be viewed by comparison on the Council's website.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
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DM/2018/01196	The use of the building for purposes ancillary to residential dwelling known as Beaulieu Barn.	Withdrawn	27.02.2019
DM/2020/00658	Discharge of condition 3 of planning consent DC/2016/00287.	Approved	12.06.2020
DM/2020/00669	Minor amendments to previously approved planning application (planning reference: DC/2016/00287).	Approved	23.07.2020
DM/2020/01143	C3 (Dwelling house) Beaulieu Cottage 23 Kymin Road	Pending Determination	
DC/2016/00287	An extension to Beaulieu Barn to provide a suitable internal volume to provide for a modern standard of residential living accommodation.	Approved	20.01.2017
DC/2015/01178	Amendment to the roof height of the previously approved agricultural building previously approved in DC/2014/01291 (raise height of hay and storage barn).	Approved	17.11.2015
DC/2011/00024	Proposed storage building, pigsty and polytunnels at Beaulieu Meadow small holding, the Kymin, Monmouth	Approved	16.03.2011
DC/2009/00999	Proposed temporary compound to store building material and plant for local building works	Approved	12.01.2010
DC/2007/01144	Proposed conversion of redundant barn to provide new dwelling	Approved	08.02.2008
DC/2008/00587	Proposed agricultural store & workshop building for existing dwelling	Approved	03.07.2008
DC/2018/00091	The variation/removal of conditions 1, 2 and 3 relating to application DC/2007/01144.	Refused	29.03.2018
		Appeal allowed	07.09.2018

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S13 LDP Landscape, Green Infrastructure and the Natural Environment
S16 LDP Transport

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
H4 LDP Conversion/Rehabilitation of Buildings in the Open Countryside for Residential Use
LC4 LDP Wye Valley AONB
NE1 LDP Nature Conservation and Development

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Planning Policy Wales (PPW) Edition 11

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Monmouth Town Council - recommendation: refusal noting the following grounds:

- Overdevelopment
- Scale
- Not in keeping
- Impact on neighbours

MCC Ecology - In line with PPW 11 and the Dear CPO letter (23/10/19) this application must demonstrate a net benefit for biodiversity, this should be marked on the submitted plans, including location, specification and positioning.

Wye Valley AONB Office - The AONB Unit has several concerns regarding this development. The development is at notable variance from the originally approved plans, which we did not consider out of keeping with the area. However the scale and design of the current building, which this retrospective application is for, exhibits a cumulative increase in scale, volume and

incremental change in design that now makes the building out of keeping with its setting and the surrounding area.

While there may be arguments for the 'quality' of the build, this does not necessarily equate to it complementing, conserving or enhancing the local distinctiveness and landscape character including scale and setting, nor that it benefits or enhances the natural environment. It is unclear what the level of light pollution may be from the building, which appears to have clerestory across the gables in the building. Overall, the building is now of a scale that it creates a persistent and dominant feature out of keeping with the landscape and impacts particularly on the Offa's Dyke Path [SQ23]. We therefore conclude that this retrospective application should be refused.

5.2 Neighbour Notification

10 Letters of objection have been received raising the following areas of concern:

- Does not fit in with immediate area.
- Far too much glazing.
- The structure is clearly visible from the busy Offa's Dyke Footpath and is not a good advertisement for the Wye Valley AONB.
- The building is highly visible from the Offa's Dyke National Trail and within the Wye Valley Area of Outstanding Natural Beauty.
- Property has already been extended a number of times through a number of applications.
- It is the only building on The Kymin of its type and appearance.
- The bulky gables are out of proportion with the narrow body of the house, and this is compounded by the linking balcony that destroys the true concept of twin gables.
- The house's layout would seem to have been optimised for hosting B&B guests. The steep and tortuous access lane is already overloaded. Recent emergencies have demonstrated that the lane is impassable by fire appliances and ambulances.
- The building's scale is wrong for the position that it is in and its appearance is at odds with the existing dwellings in its near vicinity.
- Typically the immediate neighbouring cottages are of white painted brick or stone construction and have an appropriate amount of glazing.

37 Letters of Support have been received making the following observations:

- In keeping with surroundings.
- Second dormer balances property.
- There is an eclectic collection of buildings all in that small community.
- It does not block anyone's light or affect any other property around.

2 neutral comments were also received.

6.0 EVALUATION

6.1 Good Design/ Place making

6.1.1 As noted in the introduction to this report the building is located within the Wye Valley Area of Outstanding Natural Beauty (AONB). This policy seeks to protect the Wye Valley AONB from inappropriate development in order to maintain its unique character, special landscape qualities and local distinctiveness.

The building itself was originally converted to a dwelling under Policy H7 of the former Unitary Development Plan; the equivalent Policy in the current LDP, H4, is clear that the criteria detailed within it will also be applied to proposals to extend buildings that have already been converted.

6.1.2 Turning first to the building itself, a sizeable two storey side extension to the building was approved by Planning Committee in January 2017 under application DC/2016/00287. At the time this represented approximately an 84% increase in floor space. This permission also included a full glazed side (west) gable end as well as a full-height, glazed, single-storey projection to the rear.

Planning permission DM/2020/00669 sought permission to make design changes to this consent which included, raising the overall ridge height and increasing the single storey rear gable to a two storey addition (also fully glazed).

It is also relevant to note that in August 2018 the applicant successfully appealed against the conditions imposed on the original conversion of the building (Ref: DC/2007/01144) that saw Part 1 Permitted Development rights afforded to the property. In this decision the Inspector noted that "a two storey extension to the barn conversion has recently been granted planning permission by the Council (Ref: DC/2016/00287). The submitted drawings indicate that the extension would substantially increase the scale of the dwelling. Nonetheless, due to the immediate context and the permitted scheme's design, following implementation I am of the view that the appeal dwelling would appear as a working farmhouse, albeit an extended and modified one, rather than a domestic building or a new-build country residence". The Inspector also concludes that "any extension constructed under permitted development rights would be of more modest scale and unlikely to be any more visually prominent than that already permitted". Finally he also asserts that "the permitted extension represents a material change to the site's circumstances. Whilst it has not yet been constructed I afford substantial weight to it as a fall-back position. I consider that, in the context of the extended dwelling, any changes to the original barn undertaken under permitted development rights would be perceived as relatively minor".

Therefore whilst the works now undertaken do not qualify as Permitted Development within Part 1, one can take a number of points from the Inspector's decision being a) the still extant consent DC/2016/00287 materially changes the site's circumstances and b) that the Inspector clearly felt that the extended building would be capable of further extension by the virtue of restoring Permitted Development rights.

As noted previously in this report, Policy H4 of the LDP is still the correct policy to be applied when considering the current application, and which does state under criterion f) that "only very modest extensions will be allowed and normal permitted development rights to extend further or to construct ancillary buildings will be withdrawn". However, it must be acknowledged that the building has extant planning permission for a larger two storey extension and also, as discussed, it now benefits from permitted development rights to be extended further.

6.1.3 Therefore, having regard to the lengthy and complex planning history of the building, these must be afforded appropriate weight when considering the extension and alterations for which permission is now sought. Whilst the height of the original building is now 850mm higher, it is not considered that this particular change results in the building itself becoming significantly more visually prominent or intrusive within the wider AONB. Such has been the cumulative change approved to the building, officers are not of the view that the increase of 850mm can be argued to be unacceptably harmful to the rural character of the building. The changes to the rear elevation perhaps differ most from the previous approval; this elevation is now almost entirely finished with timber cladding whilst a second two storey gable is now in situ.

Officers have carefully considered the additional visual impact in terms of scale and mass of the provision of an additional two storey gable. Having regard to the planning history of the building, it is considered, on balance, that the second gable now constructed does not create such additional harm to the building so as to warrant refusal.

Timber cladding has been included in the previous two permissions to the side extension and officers are of the view that such a finish is not only traditional but is a secondary material that distinguishes the works from the original stone elements. The extent of glazing, particularly at first floor level to the rear, is also less than that allowed on the previous application.

New openings at ground floor level to the front elevation are now entirely omitted, whilst a single roof light is positioned to the front and two to the rear.

Considering the extent of glazing featured within the building when compared to existing, extant planning permissions at the site, officers are not of the view that what has been built would cause unacceptable harm to the character of the building.

Therefore with regard to design considerations and in particular consideration of LDP Policy H4, officers are of the view that on balance, the works implemented do not cause additional harm to the rural character of the building and therefore are not contrary to the aspirations of Policy H4.

6.1.4 Having regard to the wider context, as noted the site is located within the Wye Valley AONB. In addition the building is already readily visible from Offa's Dyke Path. A number of third

party objections have been received in respect of the impact on the AONB. In addition to this an objection has also been received from the AONB Office.

Concerns relate to the scale of the building and that it would create a persistent and dominant feature out of keeping with the landscape. However, as noted in the preceding paragraph of this report, one must look back at the extant permissions in place on this site and consider what harm is being caused by the difference between what was approved and what now seeks consent. Officers are of the view that the original permission to extend the property (DC/2016/00287), as acknowledged by the Planning Inspector, materially changed the circumstances at the site and permitted a considerable extension as well as large glazed elements. When considering the potential light spill from the building, officers are not of the view that the building in situ would create such additional spillage when compared to the extant consents so as to warrant refusal of permission. The main area of glazing is located in the western side gable, however when considering wider views of the site the western boundary of the site is characterised by mature woodland, Garth Wood. As such it is not considered that the spillage of light now proposed would result in the building becoming overly prominent within the wider AONB so as to fail to conserve and enhance the natural beauty of the area. Notwithstanding this, permitted development rights, in respect of external lighting are to be removed which would prevent any additional lighting being placed outside of the building.

Whilst the existing garden area is enclosed by mature vegetation, particularly to the eastern boundary it is acknowledged that there are some gaps within this and that by filling these gaps as well as being supplemented by additional soft landscaping would further help the works to the rear assimilate into the rural landscape. A condition is therefore recommended to allow a detailed soft landscaping scheme to be agreed and implemented. Officers are of the view that whilst views of Beaulieu Barn from Offa's Dyke Path have always existed, that appropriate additional soft landscaping will further soften views of the building from this well used footpath.

6.1.5 When having regard to place making, design and crucially the wider impact of the proposal on the sensitive Wye Valley AONB, there are evidently a number of critical material planning considerations and policies to balance. Having regard to all of the issues, when considering the visual impact of the extended building itself and by association its wider contribution to the AONB, officers are satisfied that any additional, demonstrable harm caused by the works now under consideration is not such that refusal of the application can be recommended.

6.2 Impact on Residential Amenity

6.2.1 Criterion (d) of LDP Policy DES1 sets out that all development should "maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties". In this instance having regard to distance to neighbouring buildings, Beaulieu Barn is located approximately 80m to No 22 and 75m to No 27 as nearest neighbouring dwellings. Firstly it is noted that the elevation that faces towards these properties, the south, would feature less ground floor windows than the previous permission and the only opening above ground floor level is a single roof light. With regard to new first floor openings these are contained to the side (west) and rear (north) elevations. Accordingly, owing to the position of the new first floor openings as well as the significant distances to neighbouring properties, it is not concluded that the development would give rise to an unacceptable loss of third party privacy.

Whilst the original building ridge height has now been increased by 850mm, having regard to the distances to the nearest neighbouring dwellings as well as intervening vegetation it is also not concluded that the building as built gives rise to a harmful overbearing impact on third party residential amenity.

In light of the above it is considered that the development accords with the requirements of policies DES1 (d) and EP1 of the adopted LDP.

6.3 Access / Highway Safety

6.3.1 Concerns have been raised by third parties via the consultation process with regard to the potential for future use of the building for B&B accommodation and whether the local highway infrastructure is suitable. However, the application is made on the basis of this being a single household used for residential purposes. It is not considered that the works for which permission is now sought, would create significant and unacceptable additional traffic growth in relation to the

capacity of the existing road network and / or fail to provide a safe and easy access for road users. The application site is of good size and provides appropriate space for domestic parking and turning on site. The proposed development is therefore considered to be in accordance with Policy MV1 of the LDP.

6.4 Biodiversity

6.4.1 A bat survey was last undertaken at the site in 2016; it was concluded at that time that there was negligible potential for the building to have implications for bats. During the time of the 2020 planning application it was concluded that the building had not changed or deteriorated so as to warrant a fresh survey and the conclusion of 2016 remained the same.

The works that now seek planning permission as part of this application have, as noted at the outset of this report, already been carried out. Accordingly it is not considered necessary at this stage to request further formal survey work as the works have taken place, as well as having regard to previous findings.

However, having regard to PPW 11 and the Dear CPO letter (23/10/19) this application must demonstrate a net benefit for biodiversity. No measures (for example bat or bird boxes) have been illustrated on the submitted plans and therefore it is considered appropriate to condition that these details are submitted, agreed and the implemented within a specified time frame.

Previous planning permissions at the site to extend the property have via condition removed Permitted Development Rights in respect of external lighting and it is again necessary and reasonable to add this element of management to the current application.

It is therefore considered on balance that the proposal accords with Policy NE1 of the adopted LDP.

6.5 Response to the Representations of Third Parties and Town Council

6.5.1 Whilst a number of important and relevant concerns have been raised by third parties, these issues have already been addressed in the preceding sections of this report and therefore there are no further points to address.

6.6 Well-Being of Future Generations (Wales) Act 2015

6.6.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.7 Conclusion

6.7.1 This application site presents a unique and complex planning history. Officers have reviewed this history in detail to make a balanced assessment of the works that are the subject of this planning application. The requirements of Policy H4 are still relevant and in addition the character and setting of the Wye Valley AONB are evidently important material considerations.

However, so too is the previous Committee decision (DC/2016/00287) which is still extant as well the Planning Inspector's assessment of the building and their decision to restore permitted development rights (DC/2018/00091).

In reaching a recommendation, officers are of the view that appropriate weight should be given to which extant permissions could be implemented as well as to the extent of works that could be undertaken via Permitted Development rights. Crucially when considering and weighing up the additional harm caused by the current works above what has extant permission, officers do not believe that this is such as to recommend refusal of permission. Upon detailed review, and subject to the conditions set out in section 7.0 below, the development is considered to be acceptable.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

2 Within two months of the date this permission there shall be submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development.

REASON: To safeguard the landscape amenities of the area and to ensure compliance with LDP Policy G11.

3 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To safeguard the landscape amenities of the area and to ensure compliance with LDP Policy G11.

4 Within two months of the date of this permission details of bat and bird enhancement (to include location, position and specification) to be provided as part of the development or within the boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The enhancement shall be provided within two months of the date of the details being approved and shall be maintained as such thereafter.

REASON: In the interests of the ecological and biodiversity value of the site and to ensure compliance with PPW 11, the Environment Act 2016 and LDP policies S13 and NE1.

5 Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no lighting or lighting fixtures shall be attached to or be positioned in the curtilage so as to illuminate the elevations of the building.

REASON: To ensure retention of roosting/foraging opportunities for Species of Conservation Concern and to ensure compliance with LDP Policy NE1.

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 01/06/21

gan Paul Selby, BEng (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/6/21

Appeal Decision

Site visit made on 01/06/21

by Paul Selby, BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11/6/21

Appeal Ref: APP/E6840/D/21/3271742

Site address: Lingfield, Five Lanes, Caerwent, Caldicot, NP26 5PQ

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Stewart Eaves against the decision of Monmouthshire County Council.
- The application Ref: DM/2020/01858 dated 14 December 2020, was refused by notice dated 13 April 2021.
- The development proposed is front and rear extensions with detached garage.

Decision

1. The appeal is allowed and planning permission is granted for front and rear extensions with detached garage at Lingfield, Five Lanes, Caerwent, Caldicot, NP26 5PQ, in accordance with the terms of the application, Ref: DM/2020/01858 dated 14 December 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan No. 1 Rev B (Location Plan); Plan No. 2 Rev A (Site Location Plan); Plan No. 3 Rev A (Site Plan); Plan No. 4 Rev A (Block Plan); Plan No. 5 (Existing West Elevations); Plan No. 6 (Existing South Elevation); Plan No. 7 (Existing East Elevation); Plan No. 8 (Existing North Elevation); Plan No. 9 (Existing Ground Floor); Plan No. 10 (Existing First Floor); Plan No. 11 Rev A (Proposed West Elevations); Plan No. 12 Rev A (Proposed South Elevations); Plan No. 13 Rev A (Proposed East Elevations); Plan No. 14 Rev A (Proposed North Elevations); Plan No. 15 (Proposed Front Ground Floor); Plan No. 16 Rev A (Proposed Front First Floor); Plan No. 17 (Proposed Rear Ground Floor); Plan No. 18 (Proposed Rear First Floor); Plan No. 19 (Proposed Garage).
Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.
 - 3) The materials to be used in the construction of the external surfaces of the front and rear extensions shall match those used in the existing building.

Reason: In the interests of the area's character and appearance, in accordance with policies H6, DES1 and LC5 of the Monmouthshire Local Development Plan 2011-2021.

- 4) The first-floor bathroom window shown on the north elevation shall be obscure glazed to a level equivalent to Pilkington scale of obscurity level 3 and any part of the window that is less than 1.7m above the floor of the room shall be non-opening. The window shall be permanently retained in that condition thereafter.

Reason: In the interests of local residential amenity, in accordance with policy EP1 of the Monmouthshire Local Development Plan 2011-2021.

Procedural Matter

2. Although the appeal was originally made against non-determination of the planning application, the Council has subsequently refused planning permission during the dual jurisdiction period. I have therefore made my decision as one against the refusal of planning permission.

Main Issues

3. The main issues in this case are the effect of the proposal on: a) the character and appearance of the area; and: b) the living conditions of occupants of 'The Woodlands', having particular regard to privacy, outlook and sunlight.

Reasons

4. The appeal site accommodates a modest cottage of traditional rural character located in the open countryside. The dwelling has been extended and modified in various ways, particularly to its rear. The plot, which is irregular in shape, is bounded by residential properties and a rural lane, from which the site is accessed. The front elevation of the cottage faces across a lawned front garden and its north-facing side elevation is sited close to the boundary of The Woodlands.

Character and appearance

5. From the lane, the dwelling's front, south facing and rear elevations are visible beyond the hedgerows and gate which mark the site's southern boundary. From these viewpoints, the modest form and traditional rural appearance of the appeal dwelling, and associated outbuildings can be appreciated. Sited within its irregular plot, the appearance of the property contributes positively to the predominant rural character of the immediate area.
6. Policy H6 of the Monmouthshire Local Development Plan (LDP) states that in order to protect the character of the countryside, extensions to dwellings outside village boundaries should be modest and respect or enhance the appearance of the existing dwelling. Specifically, it requires extensions to be subordinate to the existing building; and where the building is of a traditional nature, to respect its existing form, including the pattern and shape of openings, and materials.
7. The appeal scheme, in part, proposes a two-storey gabled extension to the dwelling's front elevation and a two-storey rear annex. The footprint of both extensions relative to the existing building would be modest and clearly subordinate to it. Having regard to the extent of the existing accommodation, the additional living space would also be comparatively limited in volumetric terms.

8. The extensions would result in the dwelling, at its northern extent, being deeper than it would be wide. This would represent a marked departure from the likely linear form of the original cottage. Nonetheless, the dwelling has undergone progressive modifications over the years, to the extent that it is now difficult to discern its original form and extent. In this regard, the proposed extensions would appear merely as further alterations to an already heavily modified rural building.
9. The design of the rear extension would mimic the rural vernacular found in other parts of the dwelling, whether original or later additions. Whilst it would project notably beyond the existing rear elevation, its position north of the rear garden would moderate its visual prominence from nearby public viewpoints.
10. The gabled extension would project from the dwelling's simple, pitched roofed front elevation, and it would be perceived as a more obvious addition, including in views from the lane. Nonetheless, its depth would be modest, and its gabled roof form would moderate its mass. Whilst its siting at the northern extent of the building would introduce asymmetry to the front elevation, this would not appear incongruous in the context of the irregular ground floor fenestration and placement of chimneys. Moreover, as with the rear extension, the siting of the front extension away from the lane would lessen its prominence in views from the south.
11. I acknowledge that a gabled front annex may not be typical of an original Monmouthshire cottage, but whilst recognising the attractive rural charm of the existing front elevation, the dwelling is of no more than local significance. The design of the proposed extensions would respect the form of the existing dwelling, including its fenestration and materials, and the extended dwelling would continue to be perceived as a building of modest, traditional character, complementary to its rural surroundings. Well contained within its plot and partly screened from the adjacent lane by mature hedgerows, the effect of the extensions on the wider area's rural landscape character would be negligible.
12. A garage sited to the west of the existing driveway is also proposed. Although this garage would be located close to the lane and clearly visible beyond the boundary hedgerow, its scale would be modest and clearly subsidiary to the main dwelling, and its simple design and external materials would afford it a rustic appearance appropriate to the rural setting.
13. I saw on my site visit that the garage would lie close to two mature or semi-mature trees located in the garden of the appeal dwelling. It is likely that the construction of the garage would necessitate works to both trees, and possibly their removal. Whilst the loss of these trees would have a visual impact, both appear to be ornamental species and, in my view, neither make a specific positive contribution to the traditional rural character of the appeal site or the immediate area. Their loss would consequently not result in visual harm.
14. For the above reasons I conclude that the proposal would accord with the objective of LDP policies H6, DES1 and LC5 to protect the character of the countryside, respect local character and distinctiveness, and avoid unacceptable adverse landscape effects.

Living conditions

15. The proposed two-storey rear extension would be sited close to the shared boundary with the neighbouring residential property of The Woodlands. A line of mature fir trees, planted within the curtilage of The Woodlands, would largely screen the rear extension from the adjacent property. However, even were they to be removed, the proposed rear extension would be adequately separated and sited obliquely from the

adjacent property's western and southern elevations, such that it would not harmfully overbear on the dwelling.

16. I saw on my site visit that the appeal property's existing gabled flank wall already affects the outlook available from adjacent areas of The Woodlands' garden. In this context I do not consider that the extension, the mass of which would be alleviated by its modest eaves height, would appear harmfully overbearing from the neighbouring property. Furthermore, overshadowing caused by the extension would be restricted to a limited area of the adjacent garden, which I noted did not appear to have a primary recreational function.
17. The rear extension would necessitate the installation of a north-facing window in an existing first floor bathroom. Whilst this window would face directly towards The Woodlands' garden at close range, the installation of fixed and obscured glazing, secured by condition, would prevent direct views from the bathroom into the neighbouring property, thereby avoiding any harmful impacts on privacy. As the window would be modest in scale, any perception of overlooking would be limited.
18. For the above reasons, subject to the imposition of an appropriate condition, I conclude that the proposal would accord with the objective of LDP policy EP1 to avoid unacceptable harm to amenity.

Conclusion

19. I have considered the other matters raised but none alter my conclusion. For the reasons given above I conclude that the appeal should be allowed.
20. In reaching my decision, I have taken account of the requirements of the Well-Being of Future Generations (Wales) Act 2015 and consider that this decision contributes towards the well-being objective of building healthier communities and better environments.

Paul Selby

INSPECTOR

Penderfyniad ar yr Apêl

Ymweliadau â safle a wnaed ar 05/05/21 & 01/06/21

gan Paul Selby, BEng (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 4/6/21

Appeal Decision

Site visits made on 05/05/21 & 01/06/21

by Paul Selby, BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers
Date: 4/6/21

Appeal Ref: APP/E6840/A/21/3267848

Site address: Land adjacent St. Teilo's Church, Llantilio Pertholey (Grid Ref Easting: 331094; Northing: 216404)

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Bryan Nicholls against Monmouthshire County Council.
- The application Ref: DM/2018/01858 dated 7 November 2018, was refused by notice dated 28 January 2021.
- The development proposed is a residential development of 11 units.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Whilst the appeal was lodged against non-determination of the planning application, during the dual jurisdiction period the Council has subsequently refused planning permission. I have therefore made my decision as one against a refusal of planning permission.
3. The original application was described as a 'residential development of 14 units'. During the course of the application, amendments were proposed to the scheme reducing the number of units to 11. Whilst I note that a parallel planning application was originally made for a larger scheme incorporating land within the Brecon Beacons National Park Authority immediately to the north, I am informed that it was later withdrawn. For the avoidance of doubt, this appeal relates to the amended scheme for 11 units for which Monmouthshire County Council has refused planning permission.
4. The appellant has submitted a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act (TCPA) 1990. A copy of the final executed version of this document was submitted on 14 April 2021. In coming to my decision, I have had regard to it.

5. On 26 May 2021 Natural Resources Wales (NRW) updated its guidance¹ relating to the impact of developments on phosphorous levels within the catchment areas of riverine Special Areas of Conservation (SACs). As those parts of the guidance relevant to this appeal remain essentially unchanged, I am satisfied that no party would be prejudiced by my determining the appeal with regard to the updated guidance. Consequently, I have proceeded to determine the appeal without further recourse to the parties on this matter.
6. I am informed that the Council has resolved to grant permission for a housing development similar in scale to the appeal proposal, to the site's south, which is currently subject to a Ministerial holding direction ('the Glebe site'). Whilst not all details of that proposal are before me, in my determination I have taken account of the potential implications of the development of that site on the appeal scheme.

Application for costs

7. An application for costs was made by Mr Bryan Nicholls against Monmouthshire County Council. This application is the subject of a separate Decision.

Main Issues

8. The Council refused the planning application for three reasons. Since the appeal was lodged, NRW has raised concerns about the potential for the proposal to increase the volume or concentration of wastewater and associated phosphate levels discharged within the catchment of the River Usk Special Area of Conservation (SAC). I have considered this matter in my assessment of the proposal's impacts on ecological interests.
9. The Development Advice Map (DAM) which accompanies Technical Advice Note (TAN) 15 'Development and Flood Risk' (TAN 15) indicates that the appeal site lies partly within the undefended floodplain ('zone C2'). Whilst neither the Council nor NRW have objected to the proposal on the basis of potential flood risks and consequences, as the proposal is for a form of 'highly vulnerable development' on a site lying partially within the zone C2 floodplain I have considered this matter as a main issue.
10. Consequently, the main issues in this case are:
 - whether the proposal complies with local and national policies to direct housing towards settlements and to protect the countryside;
 - the effect of the proposal on the area's character and appearance, including the Brecon Beacons National Park;
 - the effect of the proposal on the setting of the Grade I listed Church of St. Teilo²;
 - the effect of the proposal on ecological interests, including the River Usk SAC;
 - whether the proposal would comply with planning policy which seeks to steer housing development away from areas at the highest risk of flooding; and
 - whether the benefits of the proposal would outweigh any identified harm.

¹ 'Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation'

² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving buildings or their settings or any features of special architectural or historic interest which they possess. Paragraph 6.1.10 of Planning Policy Wales Edition 11 (PPW) states that there should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, with the primary material consideration the statutory requirement set out in section 66(1).

Reasons

Location of development

11. The appeal relates to a greenfield site located outside the development boundary as designated by the Monmouthshire Local Development Plan (LDP). Therefore, whilst the site lies close to the settlement edge of Abergavenny, in policy terms it lies within the open countryside.
12. Policy S1 of the LDP states that the main focus for new housing development is within or adjoining the Main Towns of Abergavenny, Chepstow and Monmouth. LDP policy LC1 states, amongst other things, that there is a presumption against new built development in the open countryside, unless justified under national planning policy and/or LDP policies. Whilst pre-dating Planning Policy Wales Edition 11 (PPW), I consider these policies to accord with national policy, including PPW paragraph 3.60, which states that infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity; and with PPW paragraph 4.2.23, which states that proposals for housing on infill and windfall sites within settlements should be supported where they accord with the national sustainable placemaking outcomes.
13. There is no dispute that the proposal, due to its location outside the development boundary on greenfield land, departs from the LDP. It would patently conflict with policy LC1, which does not include market-led housing development in the list of potentially justified new built development within the open countryside. The appellant contends, however, that the LDP is out-of-date and the County's housing needs are not being met, and that the scheme's benefits justify the departure from the development plan.
14. The LDP covers the period 2011 to 2021. Although its exact end date is not specified, paragraph 7.4 of the Welsh Government's Development Plans Manual states that "where the period for which a plan is to have effect is not specified, the expiry of the period is to be treated as the 31st December of the calendar year specified on the plan". I also note that the Council's latest Annual Monitoring Report (AMR) for the period 2019/2020 records the phasing of housing sites up to December 2021. Consequently, I am of the view that the plan period has not yet ended.
15. In any case, whilst Section 62(9) of the Planning and Compulsory Purchase Act 2004 provides that an LDP ceases to be an LDP on the expiry of the period specified, the (then) Minister for Housing and Local Government confirmed in a letter circulated to Local Planning Authorities on 24 September 2020 that this does not apply to LDPs adopted prior to 4 January 2016, which is when that provision of the Act commenced. The Council's LDP therefore remains the adopted development plan until it is replaced, which the latest Delivery Agreement (DA) anticipates occurring in late 2023. Consequently, there is little basis, including in national policy, for concluding that its policies relating to the supply and location of housing are 'out-of-date'.
16. Notwithstanding this, the latest AMR confirms that, to date during the plan period, there have been 1,469 fewer housing completions than anticipated by the LDP. This represents a significant shortfall, around 36%, against the total housing requirement. Although the AMR points to a more recent acceleration in the delivery of units from several strategic sites, including the Deri Farm (now Willow Court) allocation a short distance west of the appeal site, given the limited plan period remaining there is little likelihood that the LDP's housing requirement will be fully met during the plan period.

There is also little evidence that the Covid-19 pandemic has materially altered this position.

17. The appellant has drawn my attention to a report from 2020, produced by the Office for National Statistics, which indicates that Monmouthshire is one of the least affordable authorities in Wales. The AMR records that there were 152 fewer affordable homes completed between 2014 and 2020 than anticipated. The appellant contends that in Abergavenny there have been 103 affordable housing completions since 2011, a figure which I have no reason to dispute. On the LDP's own terms, the supply of affordable and market housing locally, and across the County generally, is not meeting the identified need.
18. The DA indicates that work on a replacement LDP, whilst delayed by the Covid-19 pandemic, is underway, with an expectation that a replacement plan will be placed on deposit in 2022. Although the LDP will remain the statutory development plan after December 2021, the County will evidently lack an up-to-date strategy for meeting housing needs after that date, up until the replacement LDP is adopted. There is, however, little evidence to support the appellant's contention that greenfield sites outside of settlements represent the only available source of housing supply in Monmouthshire in the intervening period. In any case, PPW clearly advocates a planned approach to delivering sustainable places, securing national sustainable placemaking outcomes, and embedding the goals and ways of working set out in the Well-Being of Future Generations (Wales) Act 2015. In this regard, I note that the appellant has submitted the appeal site to be considered for inclusion within the replacement LDP.
19. Notwithstanding this, the appeal proposal would contribute 11 additional units to the housing supply. Having regard to the completed UU, 4 of these would be provided in an affordable tenure. Although these are modest figures, these units would make a material contribution to the housing supply and would meet an identified local need for affordable housing. Commensurate with its scale, I accord moderate weight to these benefits of the appeal scheme.
20. Although the appeal site lies within the open countryside, the development boundary for Abergavenny lies a short distance away. The LDP identifies Abergavenny as one of three main foci for new housing development in the County. These factors materially distinguish this proposal from one considered in decision ref: APP/E6840/V/18/3218503, where the Inspector found that the scale of that development in relation to the host settlement, and its location away from the growth centres, meant that the scheme did not align well with the LDP's strategy. I note that the (then) Minister for Housing and Local Government agreed with her Inspector's findings in this regard.
21. Whether or not the appeal site could be regarded as 'adjoining' the town of Abergavenny in the terms of LDP policy S1, or as a 'minor extension' to an existing settlement as indicated at para 3.60 of PPW, is a matter of judgement which I shall come onto next.

Character and appearance

22. The site is bisected by the Gavenny River and comprises former grazing land, tracts of woodland and scrub. The site's southern boundary lies adjacent to a rural lane ('Llantilio School Road'), the St. Teilo's church carpark, and the side and rear gardens of The Old Mitre. The eastern and western boundaries adjoin a railway and Hereford Road respectively. To the north, within the Brecon Beacons National Park (BBNP), is an area of open land of similar appearance to much of the appeal site.

23. The site, along with St. Teilo's church, occupies a depression within the landform and to the west of a railway embankment. Whilst this limits its visual connectivity to surrounding areas, dwellings associated with the nearby Willow Court housing development, which sits on higher land to the west, are visible from parts of the appeal site; as are houses on Coed Y Brenin to the northwest.
24. Despite these nearby housing developments, the experience of descending Llantilio School Road from Hereford Road is one of leaving the outskirts of a town and entering a hamlet. In addition to the bridge over the Gavenny, the presence of stone walls, hedgerows and extensive tree or scrub cover within or near to the appeal site, and the appearance and irregular siting of historic built form (namely St. Teilo's church, The Old Mitre and Mitre Cottages), instil the immediate vicinity with a rural character and appearance. In my view, this rural character is more marked east of the stone bridge, from where the grassed slope of the railway embankment appears as an established part of the landscape and largely screens the A465 to the east.
25. A Landscape and Visual Impact Assessment (LVIA) undertaken for the appellant concludes that the landscape quality of the area is of moderate visual and sensory value. Whilst the recent Willow Court development will have altered the area's landscape character since then, and the development of the Glebe site would further influence the setting of the appeal site, I consider that the 'moderate' assessment would remain an appropriate description of the wider area's landscape value.
26. The appeal scheme would comprise 8 detached dwellings or duplexes of 2.5 storeys of up to around 8 metres in height, clad in timber and stone, with curved grass roofs and single storey annexes. Viewed from Hereford Road, the units' tapered profile and green roofs would assist in lessening their visual prominence. Their narrow form would also facilitate their partial recession into the slopes to either side of the valley floor. However, although the built density of the site overall would not be high, the similar form and largely regular positioning of the units relative to the access road would appear overtly suburban in character, irrespective of the external materials. The rectilinear form of the units' front elevations would appear prominent in views from the lane, glimpsed or otherwise. The massing oriented towards the front elevation would also amplify the units' height relative to the valley floor, jarring with the landform and severing visual connections with rural features to the northwest and northeast.
27. Other features of suburban character, including the access road and junction, footways, bridge, railings, and car park near to the riparian margin, would also be visible from several public viewpoints. Whilst the proposed landscaping would assist in screening such features, people traversing Llantilio School Road, or the proposed realigned public right of way would nonetheless palpably experience the full extent of the proposal. Given the underlying topography, any profiling required to accommodate the curve of the access road northeast of the church carpark would appear particularly prominent. Whilst the belt between the two tracts of woodland would remain largely undeveloped, the awkward alignment and proximity of the proposed bridge and access road relative to Llantilio School Road and The Old Mitre would draw the eye, severing the existing visual connection between the lane and land to the north.
28. I do not dispute the veracity of much of the LVIA and appellant's landscape evidence, and I recognise that the LVIA relates to the original scheme of 31 units which extended further to the north. I concur with the conclusions of the appellant's landscape evidence that, due to the local topography, the site's location near to the edge of Abergavenny, the screening provided by existing vegetation and the scale of the appeal scheme, adverse visual impacts would not arise in long-range views from

within the BBNP, or from views into the BBNP from the south. In short-range views from the north, the visual impact of the units near to the site's eastern boundary would be mitigated by their limited number and partial recession into the slope. Landscaping, secured via condition, would further soften the abrupt termination of infrastructure at the site's northern boundary east of the river, resulting in negligible visual impacts from public viewpoints within the BBNP to the north. Whilst I have considered the substance of NRW's objections in this regard, subject to appropriate conditions I consider that the proposal would accord with the objectives of LDP policy LC3 to protect the setting of the BBNP from inappropriate development.

29. Nonetheless, even when fully established, the proposed landscaping and belt of open space east of the river would not sufficiently mitigate the adverse visual impacts of the proposal in short range views from the south, in which the proposal would be experienced as a suburban residential development of a scale and design which would not respect the rural character of the immediate vicinity. I note that residual visual effects assessed in the LVIA exclude certain viewpoints, for example 1 and 4, from which the proposal's adverse visual effects would be keenly experienced. In any case, other short-range views of the development would be possible, including kinetic views.
30. I acknowledge that the westernmost units would, to some degree, reflect the linear, suburban character of Hereford Road near to the appeal site which has been reinforced by the Willow Court development. Irrespective of any justification as a rural exception site, the development of the Glebe site would likely emphasise this linear character and would erode the existing break in built form between the settlement and the appeal site. Nonetheless, even were the Glebe site to be developed, the Gavenny's riparian margin would prevail as a defensible boundary which would differentiate the Hereford Road corridor from land of strongly rural character east of the river. As the appeal scheme would develop land east of the Gavenny, it would be perceived as a substantially harmful incursion into the open countryside in views from the south.
31. Consequently, whilst some of the proposal's residual landscape and visual effects would be of moderate adverse significance, in other respects they would be substantially adverse over the long term and would result in tangible and sustained visual harm. Whilst I recognise that such impacts would be localised in nature and that the appellant has sought to provide a high-quality scheme which embraces innovative design ideas and techniques, I conclude that the proposal would fail to harmonise with or enhance the landform and landscape, contrary to criterion (e) of LDP policy LC5 and the part of paragraph 3.60 of PPW which states that new development should be of a scale and design that respects the character of the surrounding area. Owing to the predominant rural character of the site, particularly east of the river, I also conclude that the proposal would not 'adjoin' the town of Abergavenny, thereby conflicting with LDP policy S1, and would not meet the definition of an extension to an existing settlement as specified in paragraph 3.60 of PPW.

Historic assets

32. The Church of St. Teilo, a local landmark, is listed at Grade I as an especially fine medieval church with many features of interest and quality. As indicated in Technical Advice Note 24 'The Historic Environment' (TAN 24) and Cadw's 'Setting of Historic Assets in Wales', the setting of an historic asset includes the surroundings in which it is understood, experienced, and appreciated, with an extent which is not fixed but may change over time. In this regard, although St. Teilo's church has a tangible historic and visual association with a minor settlement of rural origins, the Heritage Impact Assessment and appellant's further heritage statement describe the location as 'semi-rural'. I concur with this assessment insofar as it relates to the wider area, albeit

for reasons already given I consider that, particularly east of the bridge, the character of the immediate vicinity is markedly rural.

33. Patently the setting of the church has changed over time, with the railway and parallel A465 severing the church from the fields and hills to the east. Whilst the modest form and materials of the building south of the churchyard moderates its prominence, the Coed Y Brenin and Willow Court developments have established suburban development in visual range of the church. Despite being visually separated from the church by woodland bounding the Gavenny, the development of the Glebe site would further introduce built form in proximity to the listed building.
34. Nonetheless, as the appellant's heritage statement indicates, the church's original rural setting remains perceptible to its north, northwest and northeast. This setting embraces historic built form associated with the village, including the nearby stone bridge and walls, The Old Mitre, Mitre Cottages, and structures within the churchyard, including two Grade II listed tombs/memorials. The group value of these structures, in addition to the trees, rural boundaries, shrubs and open fields to the north, contributes positively to the significance of the church.
35. Trees and shrubs bounding the Gavenny limit intervisibility between the churchyard and land to the west, including the Grade II listed St Teilo's House and the Glebe site. Consequently, the part of the appeal site which lies to the west of the riparian margin makes a limited positive contribution to the significance of the church. East of the bridge, however, key views are obtained of the church and historic structures of group value. It is from this vicinity that the church is principally experienced, being the location of its lych gate and approach.
36. The church's car park on the northern side of the lane also exhibits an influence on the church's setting, tangibly connecting it with land of rural character which lies north of the lane and within the appeal site. Although the railway embankment is visible from the lane and churchyard, its profiled form moderates its prominence, with views of Ysgryd Fawr discernible beyond it to the northeast. Noise from, or glimpsed views of, passing trains or vehicles on the adjacent A465 have a limited bearing in this regard, being not atypical of a rural setting. Consequently, I consider that the eastern part of the appeal site forms a key component of the surroundings in which the church is experienced and appreciated as a local landmark, with a rural character which makes a substantially positive contribution to the church's significance.
37. I have already concluded that from certain viewpoints the proposal would be perceived as a suburban residential development of a scale and design which would not respect the rural character of the lane. Irrespective of landscaping, long-term adverse visual impacts arising from the residential units and supporting infrastructure would be perceptible in views from the churchyard, the church car park and the adjacent lane. This applies in particular to the access road/bridge/railings and the two units located on raised ground within the eastern part of the site. By substantially interrupting and altering important views between the church with land of overtly rural character to the north, the proposal would materially harm the significance of the church.
38. In its representation, Cadw has objected to the scheme on the basis that it would have a detrimental impact on the character and setting of St Teilo's Church and the unaltered historic environment in which it is located. I do not agree that the location has an 'unaltered' historic character or that Llantilio Pertholey is an 'isolated' rural hamlet. Nonetheless, irrespective of the magnitude of the harm, for the reasons given above, having regard to the duty imposed by Section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the

proposal would not preserve the setting of the Grade I listed building, contrary to the aims of PPW paragraph 6.1.10 and TAN 24.

Ecological interests

39. The appeal site supports semi-improved and species-poor marshy grassland, riverine habitat and hedgerows, some of which fall within the River Gavenny Site of Importance for Nature Conservation (SINC). Areas to either side of the river support ruderal species, with evidence of invasion by Himalayan Balsam. Ecological surveys and phase II protected species reports have been prepared for the appellant which evaluate the presence of, and potential impacts on, habitats and several species, including bats, dormice, Great Crested Newts (GCNs) and otters, with the most recent surveys taking place in the second half of 2020.
40. The proposal would result in the loss of around 0.12 hectares of priority grassland habitat from the western field. However, this would be satisfactorily mitigated by the appropriate management of grassland habitat within the area of proposed open space east of the river, which is evidently invaded by Himalayan balsam, and within an area of compensation land in the appellant's ownership immediately to the north. Having regard to the provision in the UU for the Open Space Land to be owned and managed by a company or transferred to the Council, and subject to a planning condition requiring the approval and implementation of a long-term Ecological Management Plan, I consider that the proposal would result in moderately beneficial impacts in this regard.
41. Past surveys indicate that otter use the River Gavenny for feeding and marking territory. The proposed bridge would necessitate the removal of woodland and riparian habitat which may support this species. However, the extent of habitat loss would be limited, and the design of the bridge would avoid fragmenting the wildlife corridor. The loss of riparian habitat within the River Gavenny SINC would be adequately mitigated by additional tree and understorey planting, secured via a condition, and via its long-term management as per the provisions of the UU.
42. NRW has raised significant concerns relating to the effect of the proposal on GCNs, a small population of which have been recorded to the north of the site. Although the appellant contends that the mitigation proposed via the Ecological Impact Assessment (EcIA), including a new pond for breeding, would sufficiently avoid adverse impacts on the low population of GCNs recorded, NRW and the Council's ecologist have raised concerns that the proposed hedgerows shown on the Proposed Site Plan would not be sufficient to perform as incidental GCN habitat, as is sought by the EcIA.
43. A condition to require the management of the proposed open space for nature conservation would ensure that appropriate habitat, including ponds and wet hollows, would be secured for GCNs within the central field. There would also be sufficient space to the rear of residential units to secure wider hedges via a condition. However, the hedgerow marking the northern boundary of the western field lies outside the appeal site and is not included within the proposed area of 'compensation land'. Little space is available within the red line boundary to secure an alternative hedgerow to mitigate the loss of foraging and connectivity for GCNs in the western field. Irrespective of whether the Council has taken a consistent approach to other development sites, given the proposed site layout I do not consider that it would be feasible to secure the network of 'incidental GCN habitat' identified in the appellant's GCN Survey. Consequently, I cannot conclude with any certainty that the proposal would not harm local populations of GCNs, a European Protected Species.

44. Shortly before the appeal was lodged, NRW issued a Planning Position Statement and Interim Planning Advice³ relating to the impact of developments on phosphate levels within the catchment areas of riverine Special Areas of Conservation (SACs). As the appeal proposal would connect to the mains sewerage system it would contribute to phosphate loads discharged within the catchment of the River Usk SAC. Whilst Dŵr Cymru Welsh Water has confirmed that foul flows from the proposal could be accommodated by existing infrastructure, no information has been provided of permitted or current phosphate levels processed by the relevant wastewater treatment works. I am therefore unable to conclude that phosphate levels attributable to the appeal scheme would not have a likely significant effect on the River Usk SAC. This is a matter to which I return in my eventual conclusions.
45. Other ecological issues have been raised by the Council and others, including in relation to bats, but I am satisfied that conditions could be used to mitigate adverse impacts in this regard. Thus, in summary, having regard to the UU and subject to appropriate conditions and proposed compensatory measures, I find that the proposal would have a neutral or moderately beneficial impact on grassland and riparian habitats and species associated with or present within the River Gavenny SINC, including otter. This would not, however, outweigh the potential harm to GCN populations. Mindful of the Section 6 duty of The Environment (Wales) Act 2016⁴, I conclude that the proposal would conflict with the objectives of LDP policy NE1 to avoid significant adverse effects on the continued viability of priority habitats and species.

Flood risks and consequences

46. The appellant has prepared a Flood Consequence Assessment (FCA). This records that hydraulic modelling indicates that the proposed properties, gardens and bridge are predicted to be flood free during the 1% (1 in 100 year) event, allowing for climate change, and the 0.1% (1 in 1000 year) fluvial flood event, with no increase in flood risk predicted elsewhere.
47. NRW has not raised objections in relation to flood risks or consequences and the Council is of the view that the proposal accords with section 6 of TAN 15. However, the DAM, which supports TAN 15, identifies that part of the appeal site lies within the zone C2 (undefended) floodplain. Paragraph 6.2 of TAN 15 states, amongst other things, that highly vulnerable development in zone C2 should not be permitted. This is reinforced by the Welsh Government's 'Dear CPO' letter of 9 January 2014. Whilst I acknowledge that the site features two distinct areas of housing located to either side of the C2 zone, with open space and an access road located within the designation itself, the proposal is nonetheless in direct conflict with national policy on flood risk.
48. Furthermore, I note that the FCA indicates that the eastern access road lies marginally within the 0.1% flood event extent. Despite seeking further information on this point, few details have been provided of flood-free access/egress arrangements for the two units in the eastern part of the site. Although the FCA indicates that the access road could offer flood protection to Mitre Cottages, those properties are not located within the C2 zone.
49. In any case, however, the conclusions of the FCA do not outweigh the direct conflict with national policy. I conclude that the proposal would site inappropriate

³ Since 26 May 2021 superseded by 'Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation'

⁴ This imposes an enhanced biodiversity and resilience of ecosystems duty. Paras 6.4.5-6.4.9 of PPW expand on what is required.

development in an area at risk of flooding, and would not prioritise the protection of the undeveloped or unobstructed floodplain from development, thereby conflicting with the objectives of LDP policy S12, paragraph 6.6.25 of PPW and paragraph 6.2 of TAN 15.

Conclusion and planning balance

50. I have found that the appeal scheme would harm the area's character and appearance and its location within the open countryside would conflict with LDP policy S1. The proposal would also harm the setting of a Grade I listed building and would conflict with national policy on flood risk. In addition, it would result in harm to habitat capable of supporting GCNs, which would not be outweighed by any ecological benefits secured via compensatory mitigation. This cumulative harm weighs significantly against the proposal.
51. In terms of benefits, I attach moderate weight to the proposal's contribution to housing supply. I also accord moderate weight to the contribution that the proposal would make towards meeting affordable housing needs. Other material factors that weigh moderately in favour of the proposal include economic and training benefits resulting from temporary construction jobs and increased spend from local residents, and the provision of dwellings featuring passive design and various energy efficiency measures, which would limit environmental impacts and fuel poverty.
52. My overall conclusion, however, is that the proposal's benefits are clearly outweighed by the identified harm.
53. Where there is a likely significant effect on a failing riverine SAC, an Inspector determining a planning appeal is required to carry out an Appropriate Assessment. In this instance, I have not sought the further views of NRW to inform a screening under the Conservation and Habitats and Species Regulations 2017 (as amended) as it is evident that there is insufficient information before me with which to do so in respect of the levels of phosphate produced from the appeal scheme and its effects on the River Usk SAC. This leads me to conclude that the proposal would conflict with the objectives of LDP policy NE1 to avoid significant adverse effects on the continued viability of priority habitats and species. However, even were the proposal to be acceptable with regard to its effect on the SAC, this would not outweigh my conclusions on other grounds.
54. Several other concerns have been raised and the proposal has attracted support from many. I also note the financial contribution included in the UU towards the provision of recreation facilities locally. However, whilst I have considered these other matters, I have found nothing to alter my overall conclusion. I shall therefore dismiss the appeal.
55. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable growth and combatting climate change and building healthier communities and better environments.

Paul Selby

INSPECTOR

Penderfyniad ar gostau

Ymweliadau â safle a wnaed ar 05/05/21 & 01/06/21

gan Paul Selby, BEng (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 4/6/21

Costs Decision

Site visits made on 05/05/21 & 01/06/21

by Paul Selby, BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 4/6/21

Costs application in relation to Appeal Ref: APP/E6840/A/21/3267848

Site address: Land adjacent St. Teilo's Church, Llantilio Pertholey (Grid Ref Easting: 331094; Northing: 216404)

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6.
- The application is made by Mr Bryan Nicholls for a full or partial award of costs against Monmouthshire County Council.
- The appeal was against the refusal of planning permission for a residential development of 11 units.

Decision

1. The application for a full award of costs is refused. The application for a partial award of costs is allowed in the terms set out below.

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The costs application is made on both procedural and substantive grounds. In addition to the matters raised in the costs application, dated 1 April 2021, other substantive inconsistencies have been alleged in the applicant's further appeal statements and its costs rebuttal, dated 19 May 2021. I have had regard to these.
4. On 21 January 2021 Natural Resources Wales (NRW) published an 'evidence pack' identifying issues with phosphate levels in river SACs, alongside a 'Planning Position Statement' and 'Interim Planning Advice'. The appeal, which was originally made against the non-determination of the planning application, was lodged on 28 January; the same date that the Council issued its decision notice refusing planning permission.
5. The appeal scheme's effects on the SAC were not identified as a reason for refusing planning permission. This accords with advice provided to the Council by NRW on 11 August 2020 that the proposal would not be likely to have a significant effect on the River Usk SAC, subject to the imposition of appropriate conditions.

6. I note that the Council's delegated report records that the planning application was validated on 7 December 2018. Had the Council refused the application in accordance with the statutory timescale, it is possible that NRW's advice relating to SACs would have remained consistent during any resulting appeal procedure. However, whilst the reason for the protracted application process has not been fully explained, it is apparent that it relates, at least in part, to cooperation taking place between the applicant and Council aimed at securing an acceptable scheme.
7. Patently, NRW's actions are beyond the control of the Council, the party against which the costs application has been made. The Council's position on this matter has remained consistent throughout. Whilst the timings are unfortunate, it was not unreasonable of the Council not to identify this matter as a reason for refusal or update its Habitat Regulations Assessment. It was also not the Council's responsibility to draw the applicant's attention to the documents published by NRW in January.
8. The Council's second reason for refusal contends, amongst other things, that the appeal scheme would impose a significant adverse visual impact on the character and setting of the Grade I listed Church of St. Teilo. The Council's delegated report provides little explanation of the specific nature of these impacts in relation to the church's significance and does not record any objection from a Conservation Officer. Nonetheless, the Council's appeal statement provides further, albeit limited, explanation of its stance on this matter which is consistent with earlier advice provided by the Council's Senior Landscape and Urban Design Officer during the application process. The applicant has also been provided with an opportunity to rebut both the Council's case and a representation submitted by Cadw, and to submit further written evidence on this matter. In any case, in the substantive decision I have found that the proposal would not preserve the setting of the Grade I listed building and would conflict with relevant national policy. It follows that the Council's second reason for refusal was not unreasonable in this regard.
9. Notwithstanding this, some of the observations made by the Council's Senior Landscape and Urban Design Officer during the application process were only submitted at a late stage in the appeal proceedings. Whilst some of these responses do not raise new matters or are adequately summarised in other appeal documentation submitted by the Council, others contain otherwise unsubmitted information ('additional comments') which align with the Council's second reason for refusal.
10. The applicant contends that had he had sight of these additional comments prior to the appeal being made, amendments to the scheme may have been considered during the application process. However, by the applicant's own admission the additional comments do not introduce substantial new evidence. I am not persuaded that these additional comments, either individually or in combination with other consultation responses, would have prompted a substantive redesign to the scheme. Nonetheless, the lateness of the submission of these additional comments to the appeal, and the need to ensure fairness to appeal parties, led to me having to seek further comments from the applicant in relation to both the costs application and the substantive appeal. There is little to explain why the Council did not submit copies of these consultation responses earlier in the appeal process. In this respect it is apparent that the Council's actions in introducing relevant information late in the appeal proceedings has introduced unnecessary complexity which has led to the applicant incurring otherwise avoidable expense.
11. The applicant alleges that the Council has not determined or provided a position on the appeal proposal in a consistent manner to a recent planning application to the

appeal site's south ('the Glebe site'). Whilst the full circumstances of that other case are not before me, in my substantive decision I have found that the two sites differ in several respects, including in relation to their visual and physical relationship with the Church of St. Teilo. The appeal site is also more proximate to the recorded population of Great Crested Newts to the north of the site and it extends east of the River Gavenny. Further, the Glebe site is described as a 100% affordable housing exception site rather than a market-led housing scheme. For these reasons I find limited evidence of inconsistency on the Council's part.

12. The applicant contends that, during the appeal process, the Council did not respond to requests for information in a timely manner, which delayed the completion of the Unilateral Undertaking. Whilst I have no reason to dispute this, there is little evidence that the Council's behaviour in this regard has caused the applicant unnecessary or wasted expense.
13. In conclusion, I find that on most grounds an award of costs against the Council is unwarranted. However, in relation to the additional expense incurred by the applicant in providing two rebuttals (dated 19 May 2021 and 28 May 2021) to previously unsubmitted consultation responses made by the Council's Senior Landscape and Urban Design Officer, I conclude that a partial award of costs against the Council is justified.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Monmouthshire County Council shall pay to Mr Bryan Nicholls the costs of the appeal proceedings described in the heading of this decision.
15. The applicant is now invited to submit to Monmouthshire County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Paul Selby

INSPECTOR

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