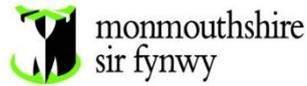


# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Monday, 29 November 2021

Notice of meeting:

## Planning Committee

Tuesday, 7th December, 2021 at 2.00 pm  
County Hall, Usk - Remote Attendance

### AGENDA

Item No	Item	Pages
1.	To elect a Chair for today's meeting.	
2.	To appoint a Vice-Chair for today's meeting.	
3.	Apologies for Absence.	
4.	Declarations of Interest.	
5.	To confirm for accuracy the minutes of the previous meeting.	1 - 8
6.	To consider the following Planning Application report from the Chief Officer - Enterprise (copies attached):	
6.1.	Proposed Revocation of Planning Permission DM/2020/00817. Land at Severn Tunnel Junction, Station Road, Caldicot for Station Car Park on Land South of Severn Tunnel Junction.	9 - 14
7.	FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received.	
7.1.	73 Park Road, Caldicot.	15 - 18

**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

:

### 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 15: Development, flooding and coastal erosion (2021)
  - 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 by 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](mailto: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.



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# Public Document Pack Agenda Item 5

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th October, 2021 at 2.00 pm

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

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

County Councillors V. Smith and L. Dymock attended the meeting by invitation of the Chair.

#### **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 Turbervill	Commercial Solicitor
Mark Davies	Highway Development Manager
Jim Keech	Tree Officer
Richard Williams	Democratic Services Officer

#### **APOLOGIES:**

County Councillor G. Howard

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

None received.

#### **2. Confirmation of Minutes**

The minutes of the Planning Committee meeting dated 7<sup>th</sup> September 2021 were confirmed and signed by the Chair.

#### **3. Application DM/2020/00636 - Sheep housing / general purpose agricultural building. Henrhiw Farm, Monkswood, Usk**

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

Planning Committee, at its meeting on 7<sup>th</sup> September 2021, had been minded to defer consideration of the application to a future meeting to enable a site inspection to be held.

The local Member for Llanbadoc attended the meeting by invitation of the Chair and outlined the following points:

## **MONMOUTHSHIRE COUNTY COUNCIL**

### **Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th October, 2021 at 2.00 pm**

- The proposal is not a very good business plan and would not be viable with sheep alone.
- The holding is detached from the existing farmhouse and is a stand-alone planning application.
- The applicant owns 40 acres and has a 10-year lease for 94 acres.
- There are two large sheds on the site via permitted development rights. The local Member expressed concern regarding this decision.
- There have been issues regarding noise and there is still agricultural equipment and machinery located on the site.
- The local Member questioned the legality of the application when there is a retrospective planning application for the hardstanding area on which a portion of the application will stand.
- If approved, the site will house three very large sheds creating an industrial area within the countryside.
- Llanbadoc Community Council does not support approval of the application.
- Sheep do not require long periods indoors. They tend to be brought indoors only when lambing.

The Development Services Manager stated that the application is for an agricultural building to expand the flock of sheep. Consideration of what it might be used for in the future might become an enforcement matter or the applicant might need to submit a planning application for change of use of the building.

It was noted that there is sporadic development alongside the A472, putting the application in the landscape context of where it sits.

The large hardstanding has received planning permission. However, there is an area immediately in front of the building which is subject to a separate planning application but is not before the Committee for consideration today.

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

- Some Members expressed the view that the application should be approved in line with the officer's recommendation as it was considered that an additional building would not be detrimental to the surrounding area. The applicant requires the additional building as outlined in his business plan with a view to growing the business.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th October, 2021 at 2.00 pm

- Other Members expressed the view that we should be minded to refuse the application as it was considered that an additional building of this size was not required as sheep are only required to be indoors for a limited period of time during lambing. Not all ewes lamb at the same time resulting in only a limited number of sheep likely to be in the building at any given time.
- A management plan has been agreed by Natural Resources Wales (NRW). A Habitats Regulation Assessment has been undertaken by Monmouthshire County Council's Ecologist in terms of phosphate issues which has been agreed by Natural Resources Wales (NRW).

The local Member summed up by expressing concern that the building is too large and the whole development is considered to be inappropriate on this site.

It was proposed by County Councillor P. Murphy and seconded by County Councillor M. Feakins that application DM/2020/00636 be approved subject to the eight conditions outlined in the report.

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

For approval	-	8
Against approval	-	5
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2020/00636 be approved subject to the eight conditions outlined in the report.

#### **4. Application DM/2021/00724 - Proposed new build detached dwelling to side of No. 2 Ifton Road, Ty Newydd, 2 Ifton Road, Rogiet, NP26 3SS**

We considered the report of the application which was presented to Committee for refusal with two reasons. An additional reason for refusal was considered, namely:

- The applicant has failed to enter into a Section 106 agreement that is necessary to secure the affordable housing requirement, and therefore the proposal is contrary to Policy S4 (Affordable Housing Provision) of the Monmouthshire County Council Local Development Plan 2011-2021.

This application had been presented to Planning Committee on the 7th September 2021 with a recommendation to approve the proposed development. However, The Planning Committee had been minded to refuse the application on the grounds that the proposed dwelling would result in over development of the plot and that it would be detrimental to the amenity of neighbouring properties and that the application be re-presented to a future meeting of Planning Committee with reasons for refusal.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th October, 2021 at 2.00 pm

In noting the detail of the application, it was proposed by County Councillor P. Murphy and seconded by County Councillor A. Easson that application DM/2021/00724 be refused for the two reasons outlined in the report and that an additional reason for refusal be added, namely:

- The applicant has failed to enter into a Section 106 agreement that is necessary to secure the affordable housing requirement, and therefore the proposal is contrary to Policy S4 (Affordable Housing Provision) of the Monmouthshire County Council Local Development Plan 2011-2021.

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

For refusal	-	11
Against refusal	-	1
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2021/00724 be refused for the two reasons outlined in the report and that an additional reason for refusal be added, namely:

- The applicant has failed to enter into a Section 106 agreement that is necessary to secure the affordable housing requirement, and therefore the proposal is contrary to Policy S4 (Affordable Housing Provision) of the Monmouthshire County Council Local Development Plan 2011-2021.

#### **5. Application DM/2021/01000 - Discharge of condition 4, 5, 9, 11, 12, 14 and 15 relating to application DM/2020/00234. Pathways, Vinegar Hill, Undy**

We considered the report of the application which was recommended for approval to discharge planning conditions 4, 5, 9, 11, 12, 14 and 15. In September 2020 planning permission had been granted for two detached dwellings on the site under application DM/2020/00234, subject to a Section 106 agreement for a financial contribution towards affordable housing as well as 16 technical conditions.

The local Member for The Elms attended the meeting by invitation of the Chair and outlined the following points:

- The Construction Traffic Management Plan (CTMP) acknowledges that the site is unsuitable for heavy vehicles.
- Section 7 of the CTMP states that an unloading area should be provided on the site to enable all delivery and construction vehicles to turn and leave in a forward direction. This might be possible for smaller vehicles but it was considered that it would not be possible for larger articulated vehicles.
- Section 10 of the CTMP suggests that farm equipment be used for transportation. Risks to local residents need to be addressed.

## **MONMOUTHSHIRE COUNTY COUNCIL**

### **Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th October, 2021 at 2.00 pm**

- Regarding the emergency access, the local Member was informed that a fire emergency vehicle could not access the site.
- The local Member enquired whether the Highways officer had walked the site.
- The latest Green Infrastructure (GI) Management Plan has relocated the orchard from the south east of the site to the areas around the site.
- There is no single plan showing the Sustainable Drainage System (SuDS) and the GI assets. The GI ecology department has no objection to the discharge of the conditions as it appears that it is unaware of the swales and the foul sewerage pump.
- The local Member supports Magor with Undy Community Council regarding its recommendation for refusal.
- Representatives from Monmouthshire County Council's Waste Department visited the site and met with the owner of Gwyn Royson and had agreed to a location for the waste of the proposed properties. The local Member would like to see this upheld.

The Development Management Area Manager responded to the local Member's comments, as follows:

- The original plan had shown more Green Infrastructure (GI) mitigation in the southern area of the site. However, after negotiations with the GI Officer and the Biodiversity Officer different ways of providing the mitigation were looked at. The solution put forward now is different to the original solution but is equally appropriate.
- The SuDS application is considered independently from this planning application to discharge the conditions. If there are differences between these plans then amendments will be sought to clarify the situation. However, Officers consider that the application meets the requirements of the conditions.

The Highway Development Manager informed the Committee that Highways Officers had not visited the site. However, having known the site very well he stated that he supported the discharge of condition 5 being the implementation of a Construction Traffic Management Plan.

All deliveries to the site will be managed. There are no traffic conditions on Vinegar Hill restricting its use by any motor vehicle and is open to all uses of the highway by public and commercial vehicles. Construction vehicles should be able to access and egress the site.

The Highways Department has no objection to the discharge of the conditions, in particular Condition 5.

## **MONMOUTHSHIRE COUNTY COUNCIL**

### **Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th October, 2021 at 2.00 pm**

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

- Some Members expressed the view that the application should be approved in line with the officer's recommendation as the applicant has complied with the requirements requested to discharge the conditions. It was considered that the CTMP needed to be adhered to.
- Other Members expressed concern regarding conditions 4 and 5, namely highway safety and the CTMP. Problems have occurred in Caldicot previously whereby CTMPs have become problematic having not been adhered to by the developers. It was considered that conditions 4 and 5 needed to be firmer.
- In response to questions raised regarding the fire service vehicle access, whether the wording of the CTMP is sufficient to ensure the access is adequate for these vehicles, GI, SuDS and foul sewage disposal, the Development Management Area Manager informed the Committee that Building Regulations did raise concerns regarding fire service vehicular access. This matter was checked with the South Wales Fire Services and it had been confirmed that the emergency vehicles did have access to the properties. The properties will be fitted with fire suppression sprinkler systems. Fire related issues will be dealt with via Building Regulations. It was considered that the conditions relating to highways safety and the CTMP did not require re-wording and were considered to be sufficient. There are no conditions for foul sewerage to be submitted and is not part of the Committee's consideration today.
- The temporary bund will be removed in due course and the land and levels returned to an appropriate standard in line with the approved plans.
- Foul sewerage is identified as public sewerage. There is no foul water condition on the decision notice. This would be a matter for Building Regulations to address under separate legislation.

The local Member summed up as follows:

- Local knowledge is important.
- Photographs have been shared with officers over the previous 18 months indicating damage to properties by delivery vehicles.
- It was considered that the delivery methods have not been clearly defined.

It was proposed by County Councillor P. Murphy and seconded by County Councillor R. Harris that application DM/2021/01000 be approved to discharge planning conditions 4, 5, 9, 11, 12, 14 and 15.

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

**MONMOUTHSHIRE COUNTY COUNCIL**

**Minutes of the meeting of Planning Committee  
County Hall, Usk - Remote Attendance  
Tuesday, 5th October, 2021 at 2.00 pm**

For approval	-	10
Against approval	-	2
Abstentions	-	0

The proposal was carried.

We resolved that application DM/2021/01000 be approved to discharge planning conditions 4, 5, 9, 11, 12, 14 and 15.

**6. Confirmation Report: Tree Preservation Order (TPO) MCC289 (2021) - Land at Well Farm Grosmont**

We considered the confirmation with modification of Provisional Tree Preservation Order number MCC289 (2021) – Land at Well Farm, Grosmont.

We resolved to confirm with modification (by omitting T1 Oak) Provisional Tree Preservation Order No. MCC289 (2021) – Land at Well Farm Grosmont.

**7. New Appeals Received - 1st June 2021 to 22nd September 2021**

We noted the new appeals received by the Planning Department for the period 1st June 2021 to 22nd September 2021.

**The meeting ended at 3.37 pm.**

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## **PROPOSED REVOCATION OF PLANNING PERMISSION DM/2020/00817 LAND AT SEVERN TUNNEL JUNCTION, STATION ROAD, CALDICOT FOR STATION CAR PARK ON LAND SOUTH OF SEVERN TUNNEL JUNCTION**

**Application Number:** DM/2020/00817

**Proposed Development:** A new car park on land to the south of Severn Tunnel Junction station.

**Address:** Station Road Rogiet Caldicot Monmouthshire NP26 3WF

**Applicant:** Monmouthshire County Council

### **RECOMMENDATION: TO REVOKE PLANNING PERMISSION DM/2020/00187**

**Purpose of Report:** To seek approval from committee to enable the Council, as the relevant Planning Authority to make an order to revoke planning permission DM/2020/00817 for Station Car Park at Land South of Severn Tunnel Junction.

#### **1.0 Summary**

The above application was submitted to the Local Planning Authority on 24<sup>th</sup> June 2020 and made valid on the 3<sup>rd</sup> July 2020. The application was subsequently registered and the appropriate consultation exercise was carried out. The application was presented to Delegated Panel for consideration on the 27<sup>th</sup> October 2021 with an officer recommendation for approval. Delegated Panel subsequently agreed with the officer recommendation and the application was approved on the 28<sup>th</sup> October 2021 subject to conditions.

Following the issuing of the decision it has become apparent that the application was incorrectly presented to the Delegated Panel. In line with the Council's Constitution the application was required to be presented to Planning Committee for resolution given the council was the applicant and there were material planning objections to the proposals.

This report now seeks Committee's approval to serve a Revocation Order to legally revoke the decision.

If the decision is revoked the application will be presented and fully considered at a future Planning Committee meeting for committee to determine the application in the normal way.

As the Council is the landowner and applicant, it is unlikely that there will be an objection to this revocation order which will lead to a referral to the Welsh Ministers for determination. In addition there will not be any compensation payable for the same reasons.

#### **2.0 Constitution**

We have consulted with members of the legal department to confirm the correct process for issuing a revocation order. Having examined the scheme of delegation within the constitution they have confirmed that although this was a decision made by officers, there is no power conferred to officers by the constitution to issue a revocation order.

Furthermore, if the decision had been made by the Committee then the decision to revoke or amend that decision would also have been referred to the Committee. As such the legal department has

advised that the correct process under the Council's Constitution would be to refer this decision to revoke the planning permission to the Planning Committee.

### 3.0 Procedure for Revocation

As it is unusual for a revocation order to be made, we have set out below the statutory procedure for members to consider, in order to ensure that members are fully aware of the relevant legislation and process which we must follow.

The process for revoking a Planning Permission is set out within the Town and Country Planning Act 1990 ("the Act"). Section 97(1) of the Act allows a Local Authority by order to revoke or modify a permission to such extent as they consider it expedient.

**97 Power to revoke or modify planning permission [F1 or permission in principle].**

- (1) If it appears to the local planning authority that it is expedient to revoke or [F2 modify—
- (a) any permission (including permission in principle) to develop land granted on an application made under this Part, or
  - (b) any permission in principle granted by a development order,
- the authority] may by order revoke or modify the permission to such extent as they consider expedient.

When making this decision the authority must have regard to the development plan and to any other material considerations. Such an order cannot be made once the operations authorised by the permission have been completed, or in the case of a change of the use of any land once that change of use has taken place. Neither of these circumstances are applicable in this case.

- (2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.
- (3) The power conferred by this section may be exercised—
- (a) [F3 in the case of planning permission that] relates to the carrying out of building or other operations, at any time before those operations have been completed;
  - (b) [F3 in the case of planning permission that] relates to a change of the use of any land, at any time before the change has taken place.

The building operations have not yet been completed and as such we are within the time limit allowed by the Act.

Section 99 of the Act states that where the order is unopposed, it will come into effect on the expiration of the relevant notice period. The authority must serve a notice on the owner, occupier and all persons who in the authority's opinion will be affected by the order.

**99 Procedure for s. 97 orders: unopposed cases.**

- (1) This section applies where—
- (a) the local planning authority have made an order under section 97; and
  - (b) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to it.
- (2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement must specify—
- (a) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
  - (b) the period at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by the Secretary of State.

In order to comply with this provision, we will need the authorisation of this Committee to ensure that we have the permission of the landowner and applicant. We will also write to Rogiet Community Council and ask that they confirm that they do not wish to oppose the order. Rogiet Community

Council have indicated they may issue proceedings in relation to this permission and as such, officers consider that they are an interested party.

The Act also requires us to serve a notice on the persons mentioned in subsection 1(b), which we have set out above. That notice must not be less than 28 days from the date the advertisement first appears. In order to comply with this requirement, as well as writing to the Community Council, officers propose putting a notice on site for a period of 28 days to publicise the order to residents and wider community to provide them with the opportunity to object if they are so minded.

Where an order is opposed the decision must be referred to the Welsh Ministers for confirmation. In the case of an opposed order, where the authority has served a notice and the order is opposed by an interested party, Welsh Ministers must give an opportunity for both the objector and the authority to appear before them before making a determination in relation to the order.

**98 Procedure for s. 97 orders: opposed cases.**

- (1) Except as provided in section 99, an order under section 97 shall not take effect unless it is confirmed by the Secretary of State.
- (2) Where a local planning authority submit such an order to the Secretary of State for confirmation, they shall serve notice on—
  - (a) the owner of the land affected,
  - (b) the occupier of the land affected, and
  - (c) any other person who in their opinion will be affected by the order.
- (3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) If within that period such a person so requires, before the Secretary of State confirms the order he shall give such an opportunity both to him and to the local planning authority.
- (5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.
- (6) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

As Monmouthshire County Council is the landowner and applicant, and the Community Council have written to us to request that we revoke the order, officers are of the opinion that the order is likely to be unopposed. If that is correct, following the making of the order and publishing of the relevant notices, the order will come into effect on the expiration of the notice periods set out above.

#### **4.0 Expediency to Revoke and Material Considerations.**

The Council received a pre-action protocol letter from Rogiet Community Council in relation to this permission on 12th November 2021. This is a material consideration in making this decision.

While the scheme of delegation was not one of the grounds raised as part of the Judicial Review proceedings, a Judicial Review considers the lawfulness of a decision or action made by a public body. It exams the way in which a decision has been made and considers whether it has been made lawfully, rather than assessing the merits of the decision. Having identified this procedural incorrectness during the review it is considered expedient in light of the potential legal action to remedy it at this stage.

It is not often expedient for the Council to revoke a planning permission once granted. As has been identified above, it cannot be done unilaterally. The consent of the land owner, applicant, Council and any other interested parties are required. If any of these were to object then the revocation order must be referred to the Welsh Ministers for determination. As such it is not always within our power to do so and is not always an expedient option. In this instance Monmouthshire County Council are the landowner and developer and it is therefore possible for us to make this decision without reference to a third party.

Where a Local Planning Authority makes an order to amend or revoke a planning permission there can follow an obligation to pay compensation to the landowner or developer for any costs incurred before the point at which the revocation order is made. These costs can be quite substantial. Again, as the Council is the landowner and developer there are no compensation implications to this

decision. This is a material factor in considering the expediency of the proposed course of action to revoke the planning permission.

As such, officers consider that as the order is unlikely to be opposed, that there will be no adverse financial implications for making this order, alongside the potential need to defend this decision following a possible Judicial Review, officers consider it expedient to revoke the permission to allow it to be re-presented to a future full meeting of the Committee for determination.

## **5.0 Officer Report DM/2020/00817**

In accordance with Sec 97 of the Town and Country Planning Act 1990, 'In exercising their [Local Planning Authority] functions under subsection (1) the Authority shall have regard to the development plan and to any other material considerations'.

It is not considered necessary to repeat the policy and material considerations of the application in this report. The full consideration of the application can be found in the officer's report here:

[https://planningonline.monmouthshire.gov.uk/online-applications/files/2C2028A10E99677A5D0CFBA2C4F6B621/pdf/DM\\_2020\\_00817-OFFICER\\_REPORT-945656.pdf](https://planningonline.monmouthshire.gov.uk/online-applications/files/2C2028A10E99677A5D0CFBA2C4F6B621/pdf/DM_2020_00817-OFFICER_REPORT-945656.pdf)

The relevant Local Development Plan policies can be found at Appendix A to this report.

## **6.0 Well-Being of Future Generations (Wales) Act 2015**

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.

## **7.0 Recommendation**

That Committee resolves to authorise:

- (a) The making of a revocation order under Section 97 of the Town and Country Planning Act 1990 to revoke planning application DM/2020/00817.
- (b) Confirmation of the order in the event of no objections being received from any interested party.

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S14 LDP Waste  
S12 LDP Efficient Resource Use and Flood Risk  
S16 LDP Transport  
S17 LDP Place Making and Design

#### **Development Management Policies**

SD3 LDP Flood Risk  
SD4 LDP Sustainable Drainage  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development  
EP1 LDP Amenity and Environmental Protection  
EP2 LDP Protection of Water Sources and the Water Environment  
EP3 LDP Lighting  
EP5 LDP Foul Sewage Disposal  
MV1 LDP Proposed Developments and Highway Considerations  
MV2 LDP Sustainable Transport Access  
MV5 LDP Improvements to Public Transport Interchanges and Facilities  
DES1 LDP General Design Considerations  
DES2 LDP Areas of Amenity Importance

### **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.

Technical advice note (TAN) 5: nature conservation and planning  
Technical advice note (TAN) 15: development and flood risk (2004)  
Technical advice note (TAN) 18: transport





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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 07/09/21

gan **J Burston BSc MA MRTPI AIPROW**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 25.11.2021**

## Appeal Decision

Site visit made on 07/09/21

by **J Burston BSc MA MRTPI AIPROW**

**an Inspector appointed by the Welsh Ministers**

**Date: 25.11.2021**

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**Appeal Ref: APP/E6840/A/21/3274953**

**Site address: 73 Park Road, Caldicot NP26 4EL**

**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 outline planning permission.
  - The appeal is made by Mrs J Carter against the decision of Monmouthshire County Council.
  - The application Ref DM/2020/01328, dated 17 September 2020, was refused by notice dated 4 December 2020.
  - The development proposed is the construction of 2 semi-detached 2-bedroom houses in the garden of no.73 Park Road, Caldicot.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The original planning application was made in the name of Mr M Williams. Whereas the appeal was made in the name of Mrs J Carter. The appellant has confirmed that the name on the planning application was actually the agent's, and the applicant was Mrs J Carter.
3. I acknowledge that the application was made in outline form with all matters reserved. Therefore, I am conscious that other than the location plan all other plans are purely for illustrative purposes only. However, I have considered them on the basis of a promoted design approach and whilst they may not be determinative, they have informed my reasoning.
4. 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 making our cities, towns and villages even better places in which to live and work.

### Main Issues

5. The main issues in this case are the effect of the proposed development on
    - The character and appearance of the surrounding area; and
-

- the living conditions of neighbouring occupiers, with particular regard to visual impact.

## Reasons

### *Character and Appearance*

6. The appeal site forms part of the curtilage of a semi-detached dwelling located within a residential area of Caldicot. The surrounding area generally comprises 2-storey semi-detached and terraced properties set back from the road. The layout of the housing here provides a distinct and open character to the area, where breaks between the housing enable the depth and space between the houses to be viewed from the public highway.
7. The appeal site has a long, rectangular garden to the side of the existing property, and the proposal is for the construction of two semi-detached dwellings within this space. The host property would retain a rear garden, with the front garden used for parking. Similarly, the proposed dwellings would have a rear garden with parking to the front.
8. The proposed dwellings would be in close proximity to the host property on the site. Given the site's shape, the proposal would appear shoehorned into the plot, with very small separation distances between the existing dwelling and the site boundaries. Consequently, the proposed houses would not be well related to existing dwellings or the pattern of development hereabouts. In this respect, the existing side garden provides a pleasant open space, which breaks up the built form of the street. The introduction of a pair of dwelling in this space would be to the visual detriment to the street scene.
9. Accordingly, I find that the proposal would not be in keeping with the character and appearance of the existing street scene. These concerns are also reflected in the Monmouthshire County Council Supplementary Planning Guidance Infill Development, November 2019 (SPG) which states at paragraph 6.1 that "*In most cases, there is an expectation that the massing of the proposal should be in proportion to the main property and the existing neighbouring buildings, as appropriate.*"
10. The appellant has made reference to other developments nearby said to be similar to the appeal proposal. I have not been provided with the full details of these schemes and so cannot be certain that direct parallels can be drawn with the current proposal. In any case I have considered the appeal proposal on its own merits.
11. Consequently, I find that the proposal would unacceptably harm the character and appearance of the area. As such, it would conflict with Monmouthshire Local Development Plan (LDP) Policy DES1 that seeks, amongst other things, that development is of a high-quality design, that respects the character and distinctiveness of the area and contributes to the sense of place.

### *Living Conditions*

12. The SPG establishes that<sup>1</sup> "*New buildings near to plot boundaries can be intrusive when viewed from existing gardens or from within dwellings. To avoid over-dominant development and overshadowing of neighbouring properties, there should be at least 15m between principal elevations with main habitable windows and side gable*

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<sup>1</sup> Paragraph 7.7

*walls without windows (unless these are minor windows such as the landing, WC or utility room windows)."*

13. The proposal would bring a two-storey built form close to the common side boundary with 1 Elm Road, below the 15m distance set out in the SPG. I appreciate the neighbours' rear ground floor windows already face a single storey garage. However, the proposal would bring a two-storey element closer to the rear windows and would extend for a greater depth than the garage that separates the appeal site from No. 1. The proposed development would also be significantly taller than either the garage or the boundary fence. As a consequence, the proposal would have a dominating and overbearing built form. The screening effect of the garage would only provide limited relief from that overbearing and oppressive relationship.
14. Given the orientation, bulk and height of the appeal proposal to its neighbour at 1 Elm Road there would be some overshadowing of its narrow rear garden. Nonetheless, the garden at No.1 also includes an area to the side of the dwelling, and any overshadowing from the new building would only affect a small part of it. Consequently, there would be no material harm to the living conditions of the occupants of No.1 through any overshadowing arising from the development.
15. Whilst I have found no harm in respect of overshadowing, I consider the proposal is unacceptable with regard to the overbearing impact it would have upon 1 Elm Road. The proposal is therefore contrary to LDP Policy DES1 and EP1 which require, amongst other matters, that development proposals should not harm the amenities of neighbouring occupiers.

#### *Other Matters*

16. I acknowledge that the proposal would make a modest contribution to housing stock in the area and that there are no objections from neighbouring residents. These, however, do not outweigh the harm that I have identified above.

#### **Conclusion**

17. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this. Therefore, for the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*J Burston*

INSPECTOR

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