

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee County Hall, Usk - Remote Attendance Tuesday, 5th April, 2022 at 2.00 pm

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

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

County Councillors P. Pavia and V. Smith 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
Denzil – John Turbervill	Commercial Solicitor
Richard Williams	Democratic Services Officer

County Councillor R. Harris joined the meeting during consideration of application DM/2019/00800. He therefore took no part in the discussion and abstained from voting.

County Councillor S. Woodhouse joined the meeting during consideration of application DM/2020/01495. She therefore took no part in the discussion and abstained from voting.

APOLOGIES:

County Councillor A. Davies

1. Declarations of Interest

None received.

2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 1st March 2022 were confirmed and signed by the Chair.

3. Application DM/2019/00800 - Demolition of existing bungalow and outbuildings and replacement with 2no. detached two storey dwelling houses with altered driveway access from highway. Homestead, Wainfield Lane, Gwehelog, Usk

We considered the report of the application and late correspondence, which was presented for refusal for one reason, as follows:

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- The construction of two dwellings at this site does not constitute infill development as it is not a small gap between existing dwellings and therefore the development would be contrary to Policy H3 of the Monmouthshire Local Development Plan.

The application had been approved by Planning Committee on 2nd February 2021. The consent was for the demolition of an existing bungalow with outbuildings and the erection of the two detached dwellings. The decision was subsequently subject to a Judicial Review by a local resident, the single ground of challenge to the grant of the permission being that part of the officer's report was substantially misleading in relation to foul drainage, in that there is guidance within approved document H2 that suggests that drainage fields should be at least 15 metres from a building. If that had been applied in this case, the effect would be that each of the proposed drainage fields would be required to be five metres further away from Ty Cwtch and from the proposed buildings.

The judge had concluded the following:

"Reading the officer's report as a whole, which incorporated a previous report, the concerns in relation to foul drainage from objectors and the local community council are noted and these include references to the history of drainage issues in the area and to the site being predominantly on clay. In dealing with amenity, the report deals only with visual amenity and privacy. In my judgment, by not referring to the Circular or the Approved Document H2, the members, even as informed readers, are likely to have been left with the impression that as the building control officers were satisfied that the drainage proposals satisfied the requirements of the 2010 Regulations, that was the end of the matter in respect of such proposals. In the planning context, in my judgment, it was not. To leave it there without fully dealing with the adequacy of the drainage proposals in that context was in my judgment significantly misleading".

On this basis, the decision was quashed and therefore the application is re-presented to the Planning Committee for consideration. The Local Planning Authority has conducted a complete re-appraisal of the development proposal in light of this judgement and conducted further consultation in the form of the erection of a site notice at the site and consultation with the local community council, neighbouring parties and statutory consultees.

The local Member for Llanbadoc, attending the meeting by invitation of the Chair, outlined the following points:

- The local Member had spoken against this application at previous Planning Committee meetings and is now pleased that officers are now recommending refusal of the application.
- Infill on the site has already occurred with the development of Ty Cwtch, with no further room within the site for an additional infill dwelling.
- The current proposal does not comply with Planning Policy H3.

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- Ty Cwtch's ridge is higher than originally proposed. The proposed development was proposing an even higher ridge than Ty Cwtch.
- The current development is already prominent in the landscape and the proposed two dwellings would be higher than Ty Cwtch and prominent in the landscape.
- There are no mitigating factors that support the proposal for two large houses on the site.
- The local Member asked that the Planning Committee considers refusal of the application in line with the planning officer's recommendation.

Ms. L. Young, objecting to the application, had prepared an audio recording which was presented to Planning Committee and the following points were outlined:

- The objector welcomes the officer recommendation for refusal as the proposal does not comply with the local plan infill policy.
- Homestead has already had an infill plot which is now called Ty Cwtch.
- Local residents have argued that adding more large houses onto the site cannot comply with the infill policy as it is not filling a small gap between existing dwellings.
- Should the Planning Committee support the officer recommendation for refusal, the applicant will still be able to go to appeal so that an independent inspector could have the final say in respect of this matter.
- Should the proposal go to an appeal, local residents would support Monmouthshire County Council in fighting against the scheme but would also oppose the two dwellings for reasons other than just the infill policy.
- The objector expressed disappointment that the officer's report did not acknowledge and include further reasons for refusal such as landscape harm with both proposed dwellings being taller than Ty Cwtch and being on the crest of a hill.
- Officers have apologised for the height of Ty Cwtch which had been approved under delegated powers. Assurances had been made to local residents that this issue would not happen again.
- Disappointment was also expressed that the officer report did not recognise the drainage problems that would result if the properties were built.
- The site is too small to accommodate sufficient parking provision with no adequate turning space.

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- There is too little land available to deal with foul drainage which will not meet building regulations, which was the reason for the judicial review. Lack of foul drainage also means there is no room to provide landscaping.
- For all of the reasons mentioned, the objector strongly supports the officer's recommendation for refusal of the application.

Mr. G. Buckle, the applicant's agent, had submitted a written statement in respect of the application which was read to the Planning Committee by the Development Services Manager, as follows:

'The Officers' Report is a shameful capitulation, and it is obvious the Council fear legal action from disgruntled neighbours, rather than an appeal by the applicants. Councillors should question why, on two previous occasions, the Application has been recommended for approval and voted in favour with unanimous decisions on both occasions. H3 Policy is complied with, as was Approved Appeal Ref: APP/E6840/A/12/2174137 on the site opposite Homestead, Luxfield Ref: DC/2011/00977. The Council have also debated and approved a similar site at The North Ref: DM/2019/00280. Demolition of one property and replacement with two dwellings. The previous report prepared by officers makes it quite clear that: In Minor Villages Planning Permission will be granted for minor infill of no more than one or two dwellings, from the filling in of a small gap between existing dwellings or residential development. Following the Judicial Review, the Judge found no issue with the Proposal: Para: 32 of the judgement gives officers the opportunity to fill in the gaps identified by the judge and approve the proposal. Councillors are duty bound to question officers why the report is a complete turnaround from a cast iron approval to refusal. The Council have a responsibility to treat this application with due care and diligence competence, honest and integrity. My clients have complied fully with all requests for additional information from Council officers and have complied fully with Council Policy. When my clients attended the community council meeting, it was agreed that there were no further objections to the proposal. The objecting neighbour just wanted the drainage to work, this has been scrutinised by Building Control and Natural Resources Wales (NRW) on two separate occasions and approved the application has received full approval from Council Members previously. My clients are a young family with two children, who are desperately trying to make a life for themselves in Gwehelog; in a similar way to other families in the immediate area, who have constructed and live in new in-fill properties. The application, as presented by officers, clearly identifies the judge's concerns, and the sole reason for the permission being quashed in relation to drainage has been dealt with. This application has been vetted and scrutinised by neighbours and the community council on more than four occasions, and it beggars belief that the community council still regurgitate objections from three years ago, which have little or no relevance. My clients have been in direct contact with Craig O'Connor and Andrew Jones, who informed them that it was a bullet proof application. I would request that Council Members overturn the recommendation of officers and again approve this application. It is your democratic duty to question the complete turnaround by your officers. A refusal is unacceptable when you consider the scheme has been fully supported by officers and Members during the past four years, with no concerns

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raised regarding the H3 Policy. Following the Judicial Review decision, we met with Planning officers and Monmouthshire Legal Team. It was agreed that the application for two houses was acceptable and it was a robust application. We had to deal with the new phosphate drainage issues, which had arisen in the intervening period, which we did, and this was approved by NRW. At no point was the H3 Policy mentioned during the Judicial Review process. The threat by neighbours for another Judicial Review is always going to be the case, but by refusing and passing the responsibility on to the Welsh Assembly, by way of an appeal, is a complete dereliction of duty, with a decision potentially being made for financial reasons alone. My clients deserve equality and respect, so please determine this application on its merits as you have done so previously and approve the application.

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

- Members expressed sympathy for the applicant. However, it would be difficult to go against the ruling of a judicial review and the views that had been expressed regarding infill of the site.
- The judicial review related solely to the issue regarding foul drainage on the site.
- Planning officers had undertaken a full re-appraisal of the scheme with internal consultees.
- The scheme conflicts with Planning Policy H3.
- In addition to not complying with Policy H3, a Member considered that the application also did not comply with Planning Policy DES1. However, the Head of Planning stated that officers had concluded that there is scope only for one reason for refusal for this application, namely Planning Policy H3.

It was proposed by County Councillor P. Jordan and seconded by County Councillor G. Howard that application DM/2019/00800 be refused for one reason as follows:

The construction of two dwellings at this site does not constitute infill development as it is not a small gap between existing dwellings and therefore the development would be contrary to Policy H3 of the Monmouthshire Local Development Plan.

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

For refusal	-	8
Against refusal	-	2
Abstentions	-	1

The proposition was carried.

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We resolved that application DM/2019/00800 be refused for one reason as follows:

The construction of two dwellings at this site does not constitute infill development as it is not a small gap between existing dwellings and therefore the development would be contrary to Policy H3 of the Monmouthshire Local Development Plan.

4. Application DM/2020/01495 - A new 4-bedroom dwelling on land adjacent to The Royal George Hotel. Land to the west of the Royal George Hotel, Forge Road, Tintern

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report and subject to a Section 106 Agreement.

This application had been presented to Planning Committee on 1st March 2022 for consideration. However, the Committee had been minded to defer consideration of the application to allow officers to negotiate with the applicant with a view to identifying the number of parking spaces available and where they will be located on the site. The application is therefore re-presented to Committee for consideration.

The local Member for St. Arvans, also a Planning Committee, outlined the following points:

- Tintern Community Council's objections to the application have made the Press. Details of which were read to the Committee.
- Community Council's comments should be taken into consideration when determining planning applications.
- The local Member is representing the strong feelings of local residents who object to the application. In particular, the issues regarding the parking arrangements on the hotel site and the concerns raised regarding lack of parking provision.
- Nearby car parks are often full at weekends and during the week which are used by walkers and tourists on a regular basis. Tourism is adversely affected in Tintern due to the lack of parking provision in the village generally. Tintern is the most popular tourist venue in the County.
- Photographs have been submitted to support the parking issues.
- The local Member cannot equate the parking spaces with the numbers required for day visitors, residents and staff.
- The owners wish to live on the site and manage the hotel.
- Concern was expressed regarding the agent's comments.

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- If the application was approved, a further condition was requested that the new property be tied to the hotel and not treated as a separate application.
- Forge Road is narrow with a small pavement. Emergency vehicles would have difficulty accessing this route. The parking issue has not been resolved and no internal site visit has taken place.
- The local Member does not accept the officer's recommendation as outlined in the report and asked that the Committee consider refusal of the application.

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

- The area containing the 12 parking spaces is owned by the applicant, the hotel owners.
- Parking provision provided with the proposed development would be for the sole use of the occupiers of the house and not for use by the hotel.
- The car parking plan for the hotel and chalet accommodations is sufficient for the use of the hotel with the addition of the dwelling as outlined in the report. The Highways department has also confirmed that the car parking plan is compliant with appropriate guidelines. 34 parking spaces would be sufficient to provide 16/17 bedrooms and also provide three staff parking spaces. Additional parking can also serve the other functions such as the Coffee shop and the lounge bar eating area.
- A Member considered whether a hybrid parking standard should be applied in this case in view of the hotel's usage. In response, the Development Services Manager stated that this is an historic coaching inn with 34 spaces to serve the 16/17 bedrooms, some staff, the additional function of the restaurant and bar area and the coffee shop. In context, this is considered to be a reasonable proportion of parking provision for the type of building this is and the capacity that it has. There are other car parks in the area that could be used at peak times.
- In response to questions raised, it was noted that the Highways Department had seen the revised details from the agent and maintain no objection to the application on highways grounds which includes the parking provision at the front of the site.
- It was noted that Planning does not have the ability to prevent the separation of land. Therefore, it cannot be insisted upon that land be maintained for parking provision.
- The Development Services Manager informed the Committee that the Committee should look at the land for the proposed dwelling as an independent parcel of land in its own right, independent from the hotel.

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The local Member summed up by stating that she continued to have concerns regarding the parking provision on the site.

It was proposed by County Councillor A. Webb and seconded by County Councillor L. Brown that we be minded to refuse application DM/2020/01495 on the following grounds:

The construction of the proposed dwelling would remove an area historically used for parking for customers and staff of the hotel and its associated functions. Its loss for that purpose would be likely to lead to increased on-street parking in the locality on narrow lanes to the detriment of local amenity and highway safety and would be contrary to Policy DES1 d) of the Monmouthshire Local Development Plan.

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

For refusal	-	5
Against refusal	-	7
Abstentions	-	1

The proposition was not carried.

It was proposed by County Councillor P. Murphy and seconded by County Councillor J. Becker that application DM/2020/01495 be approved subject to the conditions outlined in the report and subject to a Section 106 Agreement.

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

For approval	-	7
Against approval	-	5
Abstentions	-	1

The proposition was carried.

We resolved that application DM/2020/01495 be approved subject to the conditions outlined in the report and subject to a Section 106 Agreement.

5. Application DM/2021/01562 - Change of use from C3 (dwelling) to C4 (HMO). Plot 5, Lower Hardwick, Hardwick Hill, Chepstow

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

The local Member for Larkfield, Chepstow, attending the meeting by invitation of the Chair, outlined the following points:

- Problems commonly associated with a House in Multiple Occupation (HMO) include damage to social cohesion with higher levels of transient residents and fewer long term households and established families.

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- Increases in anti-social behaviour, noise and other potentially associated crime.
- Reduction in the quality of the local environment and street scene due to increased litter refuse, fly tipping and increased levels of disrepair.
- A change of character in the area.
- Increased pressure on parking.
- A reduction in provision of community facilities for families and children.
- In 2017, Welsh Government conceded in its guidance on HMOs that due to the nature of HMOs, residents on low incomes and vulnerable groups are likely to be unrelated and they can be more intensive than single use households.
- Welsh Government has encouraged local authorities to move away from HMOs to more self-contained accommodation. The original applications for all the properties on this site were for family residential dwellings.
- More family accommodation is needed in Chepstow.
- The site already has access challenges in terms of accessing Hardwick Hill Lane off the A48 and into the site itself. Highways concerns have been highlighted by the Highways Department which includes parking stress that will be caused on adjacent streets if the application is approved.
- The application is for five bedrooms but there are only three parking spaces. Realistically, there will be more than three cars being parked in the driveway with significantly increased traffic movement in Hardwick Hill Lane.
- As there is no one way system along Hardwick Hill Lane, the challenges of ingress / egress car manoeuvres are extreme.
- The site is logistically impractical for this application as it will compromise highway safety.
- The application is located within an air quality management zone and the access point to Hardwick Hill Lane is opposite the diffusion tube which measures the levels of pollution in that area of the zone. This measuring point has the highest levels of nitrogen dioxide in the entire zone since the removal of the bridge tolls which has resulted in more traffic movement and more pollution.
- Monmouthshire County Council has called a climate emergency. Planning Policy has a significant role to play in assisting the Authority to deal with that critical incident warning.

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- The local Member enquired as to what consultation had been undertaken with Environmental Health and Welsh Government to oversee the management of the zone.
- Approval of this application would go against the management air quality zone and the calling of a climate emergency.

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

- Housing provision needs to be properly managed. A Member expressed concern that anti-social behaviour can occur within HMOs if not managed properly.
- HMOs also play a role for providing accommodation for professional people / key workers.
- It was considered that there are no material planning reasons to refuse this application.
- Concern was expressed that the proposed HMO would be run by a private landlord and not by a Registered Social Landlord (RSL).
- Concern was expressed as to whether the application did comply with Policy H9(d) due to parking provision at the site. The development is close to the junction with Hardwick Hill and traffic problems already exist at this location.
- In response, the Development Services Manager informed the Committee that the site is in walking / cycling distance to the centre of Chepstow town. Welsh Government emphasises the need not to rely on parking standards that would have been applied in the past at this location. Therefore, there is a strong case to argue that three parking spaces to serve up to six individuals living in the property is reasonable. The parking guidelines have been applied, in this case, in a sensible, proportionate and sustainable manner and would argue that the application does comply with Policy H9.
- In response to a question raised regarding the need for the installation of fire doors within a HMO, this matter would be addressed via Building Control with a view to approving building regulations at the property.
- It was noted that the Environmental Health department has not objected to the application. Approval of the application should not create any further impact than is already the permitted lawful use for the site, namely, a single household dwelling house.

The local Member summed up as follows:

- The property is currently a family dwelling and could be sold as such.

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- There are limited circumstances where HMOs can work in this Authority, for example, to deliver supported living arrangements for adults with learning disabilities or adults that require extra care. This could work due to the lack of car ownership.
- It was considered that this is not the right policy goal for housing in this area nor in the County.
- The application is not in the right location because of the limited traffic access with additional parking stress and air quality management issues that have been raised.
- It was considered that more than three cars would be required. There is no parking provision for visitors to the property.
- Air quality will be adversely affected should the application be approved.
- Should the application be approved, conditions should be considered to limit the number of rooms to three then living amenity and the area in relation to traffic and parking could be improved.

It was proposed by County Councillor J. Becker and seconded by County Councillor A. Webb that application DM/2021/01562 be approved subject to the conditions outlined in the report and that condition 4 be amended as follows:

The property shall not be occupied by more than six persons at any one time within use Class C4 (a House in Multiple Occupation).

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

For approval	-	11
Against approval	-	1
Abstentions	-	1

The proposition was carried.

We resolved that application DM/2021/01562 be approved subject to the conditions outlined in the report and that condition 4 be amended as follows:

The property shall not be occupied by more than six persons at any one time within use Class C4 (a House in Multiple Occupation).

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6. Application DM/2021/01623 - Change of use from C3 (dwelling) to C4 (HMO) for maximum of 6 no occupants. Little Hervells Court, 3 Hardwick Hill, Chepstow, NP16 5PT

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

The local Member for Larkfield, Chepstow, attending the meeting by invitation of the Chair, outlined the following points:

- There is a different access point at the other side of Hardwick Hill onto Steep Street with the ingress / egress and parking challenges at this location.
- The Highways Department has objected to the application on highways safety grounds.
- To manage HMO development and prevent proliferation, authorities should not have HMOs 'sandwiched' together.

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

- The internal structure of the house would be subject to building regulations approval and is not a planning consideration.
- The proposed HMO would have a communal area consisting of a kitchen diner to be used by residents. There would also be a garden at the rear of the property for use by all residents.

The local Member summed up as follows:

- If the application is approved a condition could be added to limit the number of rooms which would improve living amenity and also limit the impact on the area in relation to traffic and parking provision.

It was proposed by County Councillor J. Higginson and seconded by County Councillor M. Powell that application DM/2021/01623 be approved subject to the conditions outlined in the report and that condition three be amended as follows:

The property shall not be occupied by more than six persons at any one time within use Class C4 (a House in Multiple Occupation).

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

For approval	-	10
Against approval	-	1
Abstentions	-	1

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The proposition was carried.

We resolved that application DM/2021/01623 be approved subject to the conditions outlined in the report and that condition three be amended as follows:

The property shall not be occupied by more than six persons at any one time within use Class C4 (a House in Multiple Occupation).

7. Application DM/2022/00241 - The proposed construction of surface water apparatus to serve the development of a new care home and residential dwellings approved under planning ref: DM/2018/00696. Land Development south of Crick Road, Crick Road, Portskewett

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report and that an additional condition be added to ensure compliance with the submitted Construction Environment Management Plan (CEMP).

In noting the detail of the application, it was proposed by County Councillor J. Higginson and seconded by County Councillor D. Evans that application DM/2022/00241 be approved subject to the conditions outlined in the report and that an additional condition be added to ensure compliance with the submitted Construction Environment Management Plan (CEMP).

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2022/00241 be approved subject to the conditions outlined in the report and that an additional condition be added to ensure compliance with the submitted Construction Environment Management Plan (CEMP).

The meeting ended at 4.40 pm.