

**DC/2018/01143**

**OUTLINE PERMISSION FOR ONE BUILDING PLOT IN GARDEN OF BROOKSIDE**

**BROOKSIDE, WELL LANE, LLANVAIR DISCOED**

**RECOMMENDATION: APPROVE**

Case Officer: Kate Young

Date Registered: 19/07/18

**1.0 APPLICATION DETAILS**

- 1.1 This outline planning application was deferred at the meeting of committee held on 4<sup>th</sup> December 2018, to ensure that public speaking at committee takes place. The application is therefore re-presented for Members to determine.

**PREVIOUS REPORT**

**1.0 APPLICATION DETAILS**

1.1 This is an outline application, with all matters reserved for the erection of a detached dwelling in the grounds of Brookside in Llanvair Discoed. The indicative layout shows the new dwelling to be sited on the southern part of the site utilising the existing vehicular access, with a new access being created further up Well Lane for the existing dwelling. The footprint of the dwelling would be a maximum of 12 metres by 12 metres. There are several mature trees on the site, some of which would have to be felled to accommodate the new dwelling. Following negotiations with officers the scheme has been amended from two dwellings to one. There was full re-consultation on the amendment. A table has been submitted showing the maximum height for the building to be 12 metres with a maximum footprint of 14 x 14 metres. The minimum parameters are 8 metres to the ridge and a footprint of 8 x 8 Metres.

- 1.2 Llanvair Discoed is identified as a Minor Village in the LDP and the site is located within a Minerals Safeguarding Area and a Sources Protection Zone 1 (SPZ1).

**2.0 RELEVANT PLANNING HISTORY**

DC/2013/00305 Second storey extension - Approved 17.06.2013

**3.0 LOCAL DEVELOPMENT PLAN POLICIES**

Strategic Policies

- S1 LDP The Spatial Distribution of New Housing Provision
- S4 LDP Affordable Housing Provision
- S12 LDP Efficient Resource Use and Flood Risk
- S13 LDP Landscape, Green Infrastructure and the Natural Environment
- S15 LDP Minerals
- S17 LDP Place Making and Design

Development Management Policies

H3 LDP Residential Development in Minor Villages  
SD3 LDP Flood Risk  
SD4 LDP Sustainable Drainage  
NE1 LDP Nature Conservation and Development  
EP1 LDP Amenity and Environmental Protection  
EP2 LDP Protection of Water Sources and the Water Environment  
EP5 LDP Foul Sewage Disposal  
M2 LDP Minerals Safeguarding Areas  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations

## **4.0 REPRESENTATIONS**

### **4.1 Consultations Replies**

#### **Caerwent Community Council - Refuse**

Our previous objections dated 15th August still stand in regard to this application. We have received further concerns regarding precedent and overdevelopment, ecological impact, drainage, safety and vehicular/pedestrian access, effect on privacy, light and enjoyment of property. In addition, real concerns regarding damage to air quality during necessary heavy vehicles emptying the required cess pits and increased blocking of Well Lane through building works and additional cess pit emptying preventing emergency ambulance access to the care home at the top of Well Lane. Very strongly, therefore, the consensus is still to reject this amended planning application.

Caerwent Community Council – Initial response sent 15/08/18

The Welsh Office rejected an appeal for a dwelling in the grounds of a property in Llanvair Discoed on the grounds that the village is characterised by sizeable properties on large plots and that to allow an application on this site would set a precedent leading to multiple applications.

Damage to the character and nature of this mature residential area.

Neighbours will submit similar applications

Contrary to MCC policies as this is a minor village

Damaging to the stream and its banks

Detrimental to residents

Detrimental to ecology

Loss of trees

Poor visibility from the new access

Safety issues for walkers

Road not suitable for large vehicles

Encroach on neighbouring properties when turning into new driveway

Installation of three sealed cesspits and heavy tankers will be required weekly to empty the tanks

The tankers will damage the lane, the banks of the stream and trees

Increase in traffic

Construction traffic will cause damage

Inconvenience to local residents

No mains sewers in Llanvair Discoed

Existing cesspit is in neighbour's garden

Supply of fresh water is already a problem

Disposal of grey and black water is a problem

Water course could be compromised

Negative impact on drainage and water flows

The village already floods in winter

Intrusive impact on 9 Court House Road

Loss of privacy light and enjoyment for neighbouring properties  
There may be restrictive covenants limiting development to single dwellings  
The applicant has been a major objector to similar developments  
The site plan is inaccurate, misnaming neighbouring properties

**Natural Resources Wales** - We do not object to the application as submitted.

We note that the application is for outline planning permission for one dwelling. The application is within a sensitive location as it overlies a Sources Protection Zone 1 (SPZ1). Source Protection Zones are designated by Natural Resources Wales to identify those areas close to drinking water sources where the risk associated with contamination is greatest. No information had been provided regarding the disposal of foul waters from the proposed development. We understand that the development is not served by the public foul sewer. In these circumstances WG Circular 008/2018 advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6 of the Circular, in order to justify the use of private drainage facilities. In this instance, no information has been submitted.

We therefore refer the applicant to the Environment Agency's approach to groundwater protection, which Natural Resources Wales has adopted. Section G concerns discharge of liquid effluents into the ground. Position statements G2 and G6 state the following.

**G2 – Sewage effluent discharges inside SPZ1**

Inside SPZ1 all sewage effluent discharges to ground must have an environmental permit. All permit applications will be considered on the basis of risk assessment and the appropriateness of the discharge with respect to the local environmental setting. For new discharges you should contact Environment Agency (NRW) to discuss whether or not it is likely to grant a permit.

If an unpermitted discharge is discovered in a SPZ1 and there is evidence of pollution or a significant risk of pollution, the Environment Agency (NRW) will work with the operator to address the issue on a site specific basis. Where necessary, the Environment Agency (NRW) may use a notice to deal with any unacceptable discharge.

**G6 – Cesspools and cesspits**

The Environment Agency (NRW) does not encourage the use of cesspools or cesspits, other than in exceptional circumstances. A cesspool or cesspit is a sealed unit that is used for the storage of untreated sewage. There must be no discharge to the environment. Poorly managed cesspools and cesspits present a considerable risk of causing pollution, which can be difficult to monitor and correct.

We understand from correspondence from your authority that foul drainage proposals will be to a new cesspit. We advise the applicant must therefore fully justify the use of a cesspool over preferred alternative means of foul disposal in accordance with the hierarchy set out in the Circular and Building Regulations Approved Document H. The Local Planning Authority will need to be satisfied that the sewerage arrangements are suitable.

**Flood Risk**

We note that the site lies within Zone A of the Development Advice Maps (DAM) contained within Technical Advice Note 15 Development and Flood Risk (July 2004). In addition, we are not aware of any localised flooding in this area. We advise that the Authority's Land Drainage Department may hold records and can advise further on surface water requirements.

**MCC Flood Risk Manager-** We note that new crossings of the watercourse would likely be required for the building plots.

I take this opportunity to draw your attention to the likely requirement for an Ordinary Watercourse Consent to be obtained prior to construction of any such crossing. Details are available on our website Please note that Ordinary Watercourse Consenting sits outside

the planning regime. Receipt of planning consent does not in itself imply a right to undertake works within the watercourse.

**Glamorgan Gwent Archaeological Trust (GGAT) - No objection.**

We identified a possible historic environment issue regarding this application; consequently, we have consulted the further information on your website and in the Historic Environment Record.

The Historic Environment Record notes that the area of the current house and garden and proposed houses falls within the northern part of an area of orchard to the Court House, as shown on the Tithe Map of 1846. The core focus of the historic settlement is to the south west, where the castle is a Scheduled Monument Cadw reference MM047, and is beside the church of St Mary; both are thought to date from the 13th/14th centuries. Llanfair is also c2.5km from the Scheduled Monuments of the Roman town of Caerwent, and within 1km of the Scheduled Monuments of Five Lanes Roman Villas, and finds of Roman date are noted in the vicinity.

However, it is our opinion, given the current information, that the proposals will not encounter any buried archaeological remains. Given the current information, therefore, it is our opinion that there will not be a requirement for archaeological mitigation works.

As the archaeological advisors to your Members, we therefore have no archaeological objection to this application. The Record is not definitive, however, and should any archaeological remains or features be encountered please contact us, as these may be a need for archaeological mitigation in order that information is not lost without record.

**MCC Housing** - It is a basic principle of Local Development Plan Policy S4 that all residential developments (including at the scale of a single dwelling) should make a contribution to the provision of affordable housing in the local planning area. As this site falls below the threshold at which affordable housing is required on site, the calculation of the financial contribution that will be required is £27,685

The calculator does not assess whether or not the scheme can afford the policy compliant amount of affordable housing. Should there be issues of viability a full viability assessment would need to be undertaken.

**MCC Highways** comments received 25/09/18

The Application is for the sub-division of the existing residential dwelling plot into 2 separate units. The southern part is intended for use as a building plot.

The southern plot will utilise the existing vehicular access to/from the public highway (Well Lane).

The existing residential property, known as "Brookside", will require a new vehicular access to/from Well Lane. This is included in the submitted proposal.

Insufficient information is provided by the Applicant to allow consideration of the proposal. No details of the construction make-up of the proposed access road has been provided. The Applicant should note that, where feasible, permeable paving or other forms of sustainable drainage systems should be specified.

No details of the visibility available from the proposed access road onto the public highway has been included. Visibility to current design standards should be provided. The presence of extensive tall vegetation along the property boundary at the location of the proposed access is noted.

There is an existing surface water drainage ditch is located directly alongside Well Lane. The Applicant has not provided details as to how the integrity of this drainage feature will be maintained where the proposed vehicular access crosses the ditch. It should be noted that any culverting works will require separate land drainage consent from the Highway Authority therefore the applicant should contact the Land Drainage Department on 01633 644644.

Consideration should be given to the conversion of the existing access and driveway, serving Brookside, into a shared use driveway serving Brookside and the proposed

development, thus removing the need for a new access onto the public highway and works to the existing drainage ditch infrastructure.

In light of the above we would object to the application in the absence of information and request that the applicant consider our comments with a view to submitting additional information to our satisfaction.

**MCC Highways** comments received on 18/10/18 – No Objection.

The application is for outline planning permission with all matters reserved including highways matters. We would therefore comment that we as Highway Authority have no grounds to sustain an objection to outline planning approval subject to the applicant addressing all of our concerns at the reserved matters stage. We would recommend that our initial comments be conditioned as part of any outline consent.

**MCC Highways** comments received 16/11/18

With reference to earlier comments in respect of this application I can advise that the highway authority have had cause to review the comments provided, these comments have been informed following a site inspection of the proposed development on the 1st November 2018 and with particular regard to Well Lane and the locality.

The Highway Authority note that the application is an outline application with all matters reserved. The Highway Authority would not object to the construction of a further dwelling served off Well Lane; the development of a further dwelling would not lead to a real deterioration in highway safety or capacity. However, we would offer the following comments to either accompany this application or for further consideration at reserved matters or full application stage:

- It should be noted that the proposed dwelling located within the grounds of Brookside will utilise the existing shared access and not a shared drive.
- The Highway Authority as indicated on 18/10/2018 would offer no objections and have no grounds to sustain an objection to the proposal on highway grounds, the creation of an additional dwelling off Well Lane would not represent a shortfall in highway standards that would lead to a real deterioration in highway safety or capacity.

The Highway Authority recognise the environmental and physical constraints associated with Well Lane therefore if the planning authority are minded to approve the outline application the highway authority recommend appropriate conditions.

**MCC Tree Officer** - I have not carried out a site visit, however, there is sufficient evidence on aerial photography to demonstrate that there is a significant constraint in terms of trees. Accordingly the applicant is required to submit a tree survey in accordance with BS5837:2012 – Trees in relation to Design, Demolition and Construction Recommendations.

The report will include the following information:

- A scaled plan of the layout showing retained trees and their root protection areas.
- Arboricultural Method Statement.
- Arboricultural Impact Assessment.

#### 4.2 Neighbour Notification

Initial consultation, letters of objection received from 14 addresses

Close to adjoining properties  
Development is too high  
Inadequate Access  
Increase in traffic  
Over development

Strain on existing community facilities  
Adverse impact on the fabric and character of the village  
Covenants on Court House Road restricting new buildings  
There will be an increase in traffic as a result of the need to empty the cess pits  
Impact on the road surface, verges and stream from tankers used to empty the cess pits  
No mains drains in the area  
Further pressure on water levels  
All utility suppliers should be given full details of the proposal  
Applicant has objected to similar proposals  
This will set a precedent leading to the loss of village community  
MCC has a responsibility to uphold the environment, health and safety of residents and the financial implications needed to deal with the aftermath of a decision in regard to maintenance and upkeep  
Too close to common boundaries  
Overlooking /loss of privacy  
Problems with cess pits  
No other permanent building can be erected on the plot  
Original planning permission only allowed for one dwelling per plot  
Loss of trees and impact on biodiversity  
Increase in traffic to empty cess pits  
Impact on the drainage field of adjoining properties  
A previous application was turned down by Welsh Office because it would set a precedent which would lead to multiple applications  
Impact on pedestrians  
Vehicles would drive into Bryn Adam  
Damage to the stream and the banks  
Supply of fresh water and disposal of grey and black water is already a problem  
Obstruction of lane by tankers emptying cess pits  
May compromise underground water courses/ springs  
Inadequate infrastructure  
Disruption during construction  
Detrimental to adjoining properties  
It would be better to build on the edge of the village  
Adverse impact on village form  
Poor access no footpaths  
Loss of mature trees  
Negative impact on drainage and water flows  
Village floods in winter  
Economic advantage for the applicant  
Poor visibility from proposed access  
Traffic has increase over the past 28 years, now more properties on Well lane  
No highway regulations were imposed resulting in disputes over turning on private drives  
Increase in accidents as a result of the previous development  
NRW needs to be informed because of increased risk of flooding from the stream  
Respecting the environment should be on MCC agenda  
Contrary to MCC clean air strategy as the lorries emptying the cess pits issue dirty emissions while emptying the tanks that can take up to 40 minutes so increase pollutants into the air.  
Poor access from the main A48  
Road will have to be closed while the cess pits are being installed, this could be life threatening; restricting the access to an existing residential nursing home  
Cess pits will exacerbate flooding in the area  
A previous development company was fined by HSE for illegal and dangerous excavations (MCC chose to ignore this)  
Impact on archaeology  
Bat survey is required

Need to consider how the properties will be heated, will they need fuel tanks  
MCC made many mistakes on adjacent plot  
Part of the stream may be made into a culvert  
Cess pits and foundations could impact on drainage patterns  
We do not believe that staff within MCC planning department are sufficiently robust to legally and safely ensure that any development is done correctly except using Lego bricks and then only under supervision  
Construction would cause noise and disturbance to the village  
MCC is incompetent based on previous experience something that the current applicant believed in at the time  
There are no pavements on Well Lane

Further comments received from 8 addresses after re-consultation on the amendment to reduce the scheme from two to one dwellings.

WG set a precedent in the village  
Damage to the stream and trees  
Cesspit issues  
Damage to the environment  
The amendment does not address any of our objections  
The village is the gateway to one of the oldest woods in Wales and should be protected  
The new access will affect a Copper Beech Tree  
The Tree Officer should visit the site  
Well Lane cannot support an additional dwelling without a significant adverse impact on the natural environment  
Site Notice was not visible enough as it was put on a no through road  
Object to the amendments on the same grounds as the original  
Will destroy a major length of stream and its banks  
Lorries will use neighbouring properties in which to turn  
Reduction to one plot makes no difference to the issues  
Serious sustainability issues with the sealed cess pit to the residents from pollution and the occupiers due to the cost of emptying  
The amendments do not address our concerns  
The gardens of these properties are an important part of the character of the village; they create a rich habitat for wildlife  
Set a further precedent of turning gardens into building plots solely for financial gain damaging the village community.  
Refusal to allow another dwelling to utilise our shared access. My property shares an access with Brookside protected by a covenant stating use by one dwelling only. Therefore I strongly object to another property using this access along with the associated heavy traffic that would be required to construct the property and the subsequent and ongoing heavy lorry movements to empty cesspits etc., and as such I would advise the council that in no way will I allow, under any circumstances, extra traffic access across my shared area of the driveway.

## **5.0 EVALUATION**

### **5.1 Principle of the proposed development**

5.1.1 Llanvair Discoed has been identified in Policy S1 of the LDP as a 'Minor Village' where small scale residential development will be allowed in accordance with the circumstances set out in LDP Policy H3. Policy H3 states that in Minor Villages planning permission will be granted for minor infill of no more than 1 or 2 dwellings resulting from the filling in of a small gap between existing dwellings subject to detailed planning considerations. These would include there being no unacceptable adverse impact on the

village form and character and surrounding landscape and other policies in the LDP that seek to protect existing retail, employment and community uses. In this case the garden area of Brookside is of sufficient size to conformably accommodate an additional dwelling of the scale set out in this outline application and its associated amenity space, parking and services. The proposal constitutes “infill” development as the plot is surrounded on all sides by existing residential development. The residential plots in this part of the village are especially large and characterised by open spaciousness. However, the plot at Brookside is over 70 metres long and averages 35 metres wide so even when subdivided would provide two spacious plots which were not out of keeping with the character of the area. Three new dwellings have recently been completed at Rose Court on the opposite side of the road. The proposal certainly consists of minor infill of a small gap between existing residential dwellings and therefore the principle of residential development is acceptable in this location and is compatible with the objectives of Policy H3 of the LDP.

## 5.2 Previous Appeal Decisions

5.2.1 In 1996 a planning appeal was dismissed for a separate residential dwelling to be built in the grounds of 3 Court House Road in Llanfair Discoed. The new dwelling was to be attached to the east elevation of the existing bungalow, which occupied the central part of the plot. In his report dismissing the appeal the inspector referred to paragraph 84 of PPW which says that in established areas insensitive infilling or the cumulative effect of development or redevelopment should not be allowed to damage an area’s character or amenity. The inspector said that in his opinion, the essential character and appearance of the locality was one of spaciousness and privacy contributing to an exclusive and highly desirable residential environment. He sympathised with the councils desire to protect the character and appearance of the locality which he felt was consistent with the emerging Local Plan Policy H4. Since that time PPW has undergone many amendments but the current version still refers to infilling in Chapter 9.3. The current version of PPW states “Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area’s character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing. In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area’s character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas”.

5.2.2 While the sentiments of preserving an areas character and amenity remain the same from the original PPW written in the 1990s, the two proposed developments are quite different. It is still important to preserve an area’s character from insensitive infill. The properties on Court House Road are large and situated in the centre of spacious plots while the existing property at Brookside is located in the northern part of the plot and therefore, if a new dwelling were to be constructed in the grounds there would be significant amenity space around both the existing and the proposed dwellings. Another significant difference is that while the plots in Court House Road are exceptionally large, the plots on Well Lane are generally smaller. One new dwelling in the grounds of Brookside would not significantly change the character of the area. When dismissing the previous appeal, the Inspector referred to the relationship between the proposed new dwelling and the existing one as they would have shared amenity space, being attached, and result in the front door or one being close to the bedroom window of the other and that this would lead to mutual disturbance and possible dispute. This is not the case with the application which is currently under consideration.

5.2.3 When dismissing the previous appeal the Inspector stated that he was concerned “as to the likely deleterious impact of sub-division of other plots in the cul-de-sac which would inevitably ensue. The cumulative impact would be likely to cause serious harm to the character of this pleasant locality.” There the Inspector was considering the change in character of the area if all the dwellings on Court House Road were to subdivide their plots. As planners we should consider each application on its own merits. If we receive applications from other properties in Llanvair Discoed to subdivide their plots then each should be considered on its own merits. This is not a reason for refusing the current application.

5.2.4 There have been several changes in circumstance since the dismissal of the appeal at 3, Court House Road: PPW has been amended and the Monmouth Borough Local Plan was superseded by the Monmouthshire Unitary Development plan and then in 2014 by the current Local Development Plan. Planning policy has evolved over the past 20 years since the appeal decision at 3 Court House Road. While the “Impact of a development on the character of an area” still applies the current proposal of one new dwelling in the grounds of Brookside would not have an adverse impact on the character of the area. The spaciousness and amenity around buildings in the area would be retained. The fact that an appeal was dismissed on a different plot in the area 20 years ago is not sufficient reason for refusing this current application, circumstances have changed and each application should be determined on its merits.

5.2.5 In 2006 an appeal was dismissed for the erection of a detached dwelling and garage in the grounds of 14 Court House Road. At that time the Inspector evaluated the proposal against the policies of the Gwent Structure Plan and the Monmouth Borough Local Plan. He considered that in line with Policy H4 of the Local Plan the landscape, village form and character should be considered and noted that Policy D1 of the Local Plan sought to secure high standards of design and appearance and respect the existing scale, pattern and character of its setting. He also referred to the policies of the emerging Monmouthshire County Council Unitary Development Plan which at the time was emerging and not adopted, but did have similar policies to the Gwent Structure Plan and the Monmouthshire Borough Local Plan. When dismissing the appeal the inspector said that he found the spaciousness around the dwellings to be a particular characteristic of this part of the village. He noted that national and local planning policies were supportive of new housing developments within settlements but reminded us that PPW advises that such development should not damage an area’s character and amenity. He stated that he accepted that the large garden could accommodate an additional dwelling but he thought that it would not be in keeping with the existing pattern of the settlement and would be detrimental to the character of the surrounding area. He thought that the proposed dwelling at no 14 Court House Road would be detrimental to the appearance of the surrounding area and would result in inappropriate and insensitive infilling. The proposal was to subdivide the garden of no 14 and to build a new dwelling in the southern part of the site because no 14 is set in the centre of the plot and the proposed dwelling would occupy a much smaller plot to those of the surrounding properties. In addition no 14 Court House Road is seen in visual terms to be part of Court House Road, an estate of similar dwellings all built at the same time and of similar design. Brookside is seen in visual terms to be part of Well Lane where there is a more varied mix of house types. The configuration of the plot is also very different with Brookside occupying the northern part of the curtilage. Thus, no direct comparison can be made between the two cases, and each application should be considered on its merits. Since the appeal at 14 Court House Road was dismissed, there has been a material change in circumstances with the adoption of the Monmouthshire LDP in 2014.

### 5.3 Highway Considerations

5.3.1 When the initial comments were received from MCC Highway Engineers in September, they were unaware that this was an outline application and that access was a reserved matter. Subsequently they had requested details of the access. Once it was ascertained that this was an outline application they withdrew their objection. There is sufficient capacity within the surrounding road network to accommodate one additional dwelling. On the indicative layout plan it shows that the new property would use the existing vehicular access and that there would be no alterations to this access. There is an existing bridge over the stream that is shared by Brookside and the adjoining property Over The Stream. It is understood that this is subject to various covenants between the two parties. It is not proposed to make any alterations to this access or to the two driveways. It is proposed that a new access be made for the existing property at Brookside. This is only an indication at this stage and would be the subject of detailed consideration as part of the reserved matters. In their initial comments Highways suggested that consideration should be given to the conversion of the existing access and driveway, serving Brookside, into a shared use driveway serving Brookside and the proposed development, thus removing the need for a new access onto the public highway and works to the existing drainage ditch infrastructure. The benefits of this could be considered as part of the reserved matters but this may not be possible in legal terms if it contravenes private covenant and the adjoining neighbour does not agree. This however is a matter to be addressed with the details of the access which will be submitted with the reserved matters. With regards to the current outline application, Highways have no objection to the principle of a new dwelling being provided in this location.

#### 5.4 Mineral Safeguarding Area

5.4.1 The Regional Technical Statement (RTS) of the South Wales Aggregates Working Party (October 2008) requires MCC to investigate and safeguard limestone for possible future use. This requirement is achieved through LDP Minerals Policy S15 which states that the council will seek to contribute to regional and local demand for a continuous supply of mineral's by safeguarding known and potential resources and maintaining a 10 year land bank of permitted aggregate resources through the plan period. To this end Minerals Safeguarding Areas have been identified on the LDP proposals map. The whole of this site is the Limestone Safeguarding Area. Policy M2 of the LDP states that development proposals which may impact on the MSA will be considered against the following requirements:

a) Proposals for permanent development uses within identified MSA will not be approved unless:

- i. "The potential of the area for mineral extraction has been investigated and it has been shown that such extraction would not be commercially viable now or in the future or that it would cause unacceptable harm to ecological or other interests; or
- ii. The mineral can be extracted satisfactorily prior to the development taking place; or
- iii. There is an overriding need for the development; or
- iv. The development comprises infill development within a built-up area or householder development or an extension to an existing building."

In this case, the proposal comprises of infill development within a built up area. This land is not considered suitable for quarrying as it is located within the centre of the village surrounded by established residential properties. The proposal therefore does not contradict the objectives of Policy M2 of the LDP.

#### 5.5 Residential amenity

5.5.1 To the south of the site is the property known as Over the Stream, which is a dormer bungalow that faces the proposed plot. It is set at an angle so its distance from the common boundary varies from 8 metres at the east and 15 metres at the west. At present, there is a

hedge along part of this common boundary but closer to the road there is a low-level wall with railing above. Over the Stream would be facing at an oblique angle, towards the side elevation of the proposed dwelling at a distance of approximately 19 metres. This distance is considered acceptable and despite the two-storey nature of the proposed dwelling would not result in an overbearing impact. At the reserved matters stage it can be ensured that there would be no first floor windows on the side elevation of the proposed dwelling. There would be a 1.8 metre high close boarded fence along the common boundary which would also help to maintain privacy.

5.5.2 To the east of the proposed plot is no.9 Court House Road. This modern two storey dwelling has its side elevation facing into the plot. This side elevation contains a first floor bathroom window. The side elevation of no 9 is approximately 13 metres from the common boundary and approximately 23 metres from the rear elevation of the proposed dwelling. This is also an acceptable distance and will not result in an overbearing impact. Detailed design at the reserved matters stage can ensure that there is no direct overlooking or loss of privacy. To the north of the proposed dwelling is the existing property of Brookside. This has a ground floor conservatory and first floor windows facing into the site. The existing property is set at a higher level than the proposed dwelling. Due to the difference in levels, the large size of the plot and the close boarded fence along the common boundary there will not be a significant adverse impact on the occupiers of the existing dwelling.

5.5.3 To the west of the site is Well Lane and beyond this Well Cottage; this property faces towards the site, but is on the opposite side of the road and the existing mature hedge along the western boundary of the site will be retained. There would be adequate space between the proposed dwelling and Well Cottage to ensure amenity is unharmed. The proposal does comply with the objectives of Policy DES1 and EP1 of the LDP. A new dwelling in this location would respect the existing form, scale, siting and massing of neighbouring properties and would protect the spaciousness and privacy of the neighbouring residential area.

## 5.6 Drainage

5.6.1 Surface water will go to a soakaway and there is sufficient land available in the curtilage of the proposed plot to accommodate this. Details of the location of the soakaway will form part of the reserved matters. The effectiveness of the soakaway will be controlled by a Building Regulations submission and porosity tests will be required to ensure its operational requirements.

5.6.2 There are no mains drains in the village and that means the foul drainage for the new dwelling will need to be disposed of by either by a private treatment plant or by a sealed cesspit. As this is an outline application there is no requirement on behalf of the applicant to give details of foul drainage as this will be considered as part of the reserved matters. However, given the history of foul drainage along Well Lane and the fact that the site lies in the Source Protection Zone 1 (SPZ1), NRW and MCC Building Control have agreed to give comments at this stage. In areas not served by public foul sewers, WG Circular 008/2018 advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6 of the Circular, in order to justify the use of private drainage facilities and that an Environmental Permit from NRW will be required. The applicant would be required to fully justify the use of a cesspool over preferred alternative means of foul disposal in accordance with the hierarchy set out in the Circular 008/2018 and Building Regulations Approved Document H. NRW would prefer the use of a package treatment plant over the use of a sealed cesspit. Cesspits will only be allowed in exceptional circumstances. Although the means of foul drainage is not being considered here, experience from recent nearby development would suggest that package treatment plants may not be acceptable as the flow in the stream into which such plants would discharge is not continuous during the

summer months. It may be that foul drainage would have to discharge into a sealed cess pit, as do most other dwellings in this part of Llanvair Discoed. If this was the case the applicants would have to justify the use of a cess pit in accordance with the guidance of the Circular. This would be submitted as part of the reserved matters. The applicants would also need to apply for an Environmental Permit.

5.6.3 When drawing up sewerage proposals for any development, the first presumption must always be to provide a system of foul drainage discharging into a public sewer. There are, however, no mains sewers in Llanvair Discoed so alternative means for dealing with foul waste must be sought. Paragraph 2.5 of Circular 008/2018 says that only if it can be clearly demonstrated by the developer that mains sewers and package treatment plants are not feasible, taking into account cost and/or practicability, should a system incorporating septic tank(s) be considered. Applications for planning permission should be supported by a full assessment of the proposed use of septic tanks, to confirm the adverse effects by reference to the factors in paragraph 2.6 will not arise. This assessment should focus on the likely effects on the environment, amenity and public health and, in particular, it should include a thorough examination of the impact of disposal of the final effluent by soakage into the ground. It should be noted that discharge of septic tank effluent into surface waters is not permitted.

5.6.4 Paragraph 2.6 then lists the following nine factors to be taken into account.

- a) Contravention of recognised practices: Any evidence which shows the proposed arrangements are likely to prejudice, contravene or breach any statute, Regulation, Directive, Code of Practice, Byelaw, water quality objective or any other authoritative standard (such as British Standards, Groundwater protection position statements research papers/reports with proven conclusions).
- b) Adverse effect on water sources/resources: Any information produced by the British Geological Survey, Natural Resources Wales (including its predecessor bodies) or any other authoritative sources, which shows the area has geological formations which could allow the transmission by percolation or by surface run-off of sewage effluent from the proposed foul drainage system, directly or indirectly, so as to adversely affect any existing or potential surface or groundwater sources.
- c) Health hazard or nuisance: Any evidence which indicates the proposed arrangements and the associated effluent disposal system is likely to lead to a risk to public health or cause a nuisance.
- d) Damage to controlled waters: Any evidence, including reference to information on site hydrology and geology and to the Environmental Permitting Regulations, which indicates the proposed arrangements may result in the entry of any poisonous, noxious or polluting matter or any solid waste matter into any controlled waters, including ground waters.
- e) Damage to the environment and amenity: Any evidence the proposed arrangements are likely to lead to raw or partially treated sewage entering into receiving waters or onto land, to such an extent as to damage or undermine the environment and amenity value of the locality or any other area, particularly if it is of special significance such as a Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) or public open space.
- f) Overloading the existing capacity of the area: Any authoritative assessment or available records, which indicate
  - i) the addition of new discharges from a proposed development to those which already exist in the area, or
  - ii) the quality or quantity of new discharges by themselves are likely to overload the local subsoil soakage capacity or receiving water to the extent it may lead to the problems of ponding, sewage flooding, pollution or nuisance.
- g) Absence of suitable outlets: Any evidence to show there is no suitable facility such as satisfactory water courses (for a package treatment plant) or adequate land for soakage in

the locality to accommodate the disposal of effluent from the proposed treatment plant(s) or septic tank(s) serving the new development.

h) Unsuitable soakage characteristics: Any results derived from percolation tests which have been carried out in accordance with BS 6297 or a subsequent superseding standard, (preferably carried out in winter conditions when the soils are saturated), which show the local soil conditions would preclude effective disposal of any sewage effluent from the proposed sewage treatment plant(s) or septic tank(s) serving the new development.

i) High water table: Any evidence drawn from records of 'rest water levels' observed in trial holes which show the water table in the locality is so high, at any time of the year it could inhibit or impede or adversely affect the proposed foul drainage/effluent disposal arrangements.

j) Rising ground water levels: Any evidence, such as water table records of the locality, which show the levels have been rising consistently and are likely to interfere with the proposed foul drainage/effluent disposal system, or may cause damage to other land or property in the area e.g. by its contribution to landsliding or subsidence.

k) Flooding: Any evidence, such as records of frequencies and levels of previous flood incidents, which show the locality is subject to flooding to the extent the proposed private sewerage would lead or contribute to environmental or amenity problems.

l) Maintenance plan: Environmental Permitting Regulations permits and exemptions require records of maintenance and de-sludging of the treatment system to be kept for 5 years. Keeping a service log, contractor invoices or entering into a service agreement with a servicing contractor should meet this requirement.

5.6.5 The Council is not aware of any statutes, regulation, Directive, code of Practice or Byelaws stating that septic tanks should not be installed in this area. In fact, most of the existing properties in this area have used sealed cesspits to deal with foul drainage. NRW have not objected to the proposal and they are aware of the applicant's intention to use a sealed cesspit. With regard to the effect on water sources/resources, the plot is located within a Source Protection Zone 1. Source Protection Zones are designated by NRW to identify those areas close to drinking water sources where the risk associated with contamination is greatest. NRW reminds us that inside SPZ1 all sewage effluent discharges to ground must have an environmental permit and that all permit applications will be considered on the basis of risk assessment and appropriateness. NRW does not encourage the use of cesspools or cesspits, other than in exceptional circumstances because poorly managed cesspools and cesspits present considerable risk of causing pollution, which can be difficult to monitor and correct. Although not encouraged, the guidance from NRW does not say that cesspits will not be allowed and in this case NRW offers no objection to the proposal - rather they request that the applicant fully justifies the use of a cesspool over preferred alternative means of foul disposal in accordance with the hierarchy set out in the Circular and Building Regulations Approved Document H. As this is an outline application with drainage being considered as a reserved matter, the applicant can submit the drainage details and justifications as part of the reserved matters where they will be fully evaluated.

5.6.6 There is no substantive evidence which indicates the use of a cesspit and the associated effluent disposal system is likely to lead to a risk to public health or cause a nuisance in this location. It is the responsibility of the occupier of the new dwelling that the cesspit is correctly maintained and emptied as it is for the occupiers of the surrounding properties who also have cesspits. There should be no damage to controlled waters as the cesspit will be sealed, water tight with no discharge. There is no evidence to suggest that the proposed arrangements may result in the entry of any poisonous, noxious or polluting matter, solid waste matter, raw or partially treated sewerage into any controlled waters or land as the cesspit will be sealed and result in no discharge. The cesspit will be emptied by truck and the process will comply with the relevant legislation. The proposal will not impact upon the environment and there are no special designations nearby such as public open spaces, Site of Special Scientific Interest (SSSI) or Special Area of Conservation (SAC).

There will no new discharges that could overload the existing capacity of the area or result in flooding or ponding.

5.6.7 There are no other suitable facilities that could be used. In this instance, a package treatment plant cannot be used, as there is no suitable watercourse into which it could discharge. There is no need to consider percolation tests for the foul drainage, as there would be no discharge from the sealed unit. Percolation tests will be required for the surface water discharge that will be via soakaway but there is sufficient land available within the site to accommodate the scale of soakaway needed. There is no evidence of unusually high water table or rising water levels in this area. The site is not in a C1 or C2 Flood zone and NRW has said that they are not aware of any local flooding issues on the site. A Maintenance Plan will be required as part of any Environmental Permit from NRW. Regulations permits and exemptions require records of maintenance and de-sludging of the treatment system to be kept for 5 years. Keeping a service log, contractor invoices or entering into a service agreement with a servicing contractor should meet this requirement. It will be the responsibility of the occupiers of the property to obtain an Environmental Permit and also maintain the cesspit in a satisfactory condition.

5.6.8 It has been suggested by local residents that the plot is not of sufficient size to accommodate a sealed cesspit. According to Part H of Building Regulations, a 4 bed house would require a cesspit large enough to provide for 8 people, that would mean it needs to be 59 cubic metres (18m<sup>3</sup> for two persons and then 6.8m<sup>3</sup> extra per person ). The cesspit has to be sited at least 7metres from any habitable parts of the building and preferably downslope from it. It should preferably be lower than any other existing building in the immediate area. It should be within 30 metres of a vehicle access point for it to be emptied and be able to be emptied without any hazards i.e. going through the house. There are also stipulations on its construction, namely a ventilated, waterproof inspection chamber just before it on the inlet. It can be built in situ, either brickwork or concrete or can be a factory made unit and brought to the site. There is nothing in the Building Regulations Part H about distance from a watercourse. The actual regulation states that it must not contaminate any water course, but it also states the cess pit must be watertight. As long as it is constructed correctly and well maintained then it should not leak or contaminate the watercourse. It would be the home owner's responsibility to ensure that the cess pit was properly maintained. Although no details of foul water disposal are being considered at this outline stage, it can be seen that a sealed cess pit could be accommodated in physical terms on the site. NRW to do not object to the application as submitted

## 5.7 Flooding

5.7.1 The site is not in a C1 or C2 Flood Zone as identified in the DAM maps. Local residents have indicated that the site is prone to flooding so NRW has been consulted. They responded offering no objection. They noted that the site lies within Zone A of the Development Advice Maps (DAM) contained within Technical Advice Note 15 Development and Flood Risk (July 2004) and therefore is outside of any defined flood zone. In addition, they are not aware of any localised flooding in this area. There is no justification for refusing this application on grounds of flooding.

## 5.8 Ecology and Trees

5.8.1 The applicant has undertaken a survey of trees on the site. These include a mature copper beech, sycamore, maple and magnolia. Some of the smaller trees on the site will need to be felled to accommodate a house on the site. Several of the older trees are in a poor condition and reaching the end of their life. MCC's Tree Officer has requested a full tree survey in accordance with BS5837:2012 – Trees in relation to Design, Demolition and

Construction Recommendations. This can be secured by condition to be submitted as part of the reserved matters submission.

## 5.9 Affordable Housing

5.9.1 It is a basic principle of LDP Policy S4 that all residential developments (including at the scale of a single dwelling) should make a contribution to the provision of affordable housing in the local planning area. As this site falls below the threshold at which affordable housing is required on site, the calculation of the financial contribution that will be required is £27,685. This will be secured through a 106 Legal agreement and the applicants have agreed to this.

## 5.10 Impact on the adjoining stream

5.10.1 There is a small stream running down between the plot and Well Lane. This is outside of the site boundary. The footprint of the proposed dwelling will be approximately 15 metres from site boundary with the stream. It is possible that the cesspit will be located closer to the stream but its position will be determined with as part of the drainage details for the reserved matters and will be subject to Building Regulations. There may also be the need for a new culvert for a new access into Brookside but again this will form part of the reserved matters. There is no evidence that the proposed development will have any adverse impact on the stream.

## 5.11 Archaeology

5.11.1 Glamorgan Gwent Archaeological Trust (GGAT) looked at this application due to its proximity to several Scheduled Ancient Monuments but considered because of its position the proposals would not encounter any buried archaeological remains and therefore they had no objection to the proposal and did not require any archaeological conditions to be imposed

## 5.12 Response to the Representations of the Community/ Town Council and other issues raised

5.12.1 Caerwent Community Council are concerned that this proposal would result in over development of the site. The site is of adequate size to accommodate an additional dwelling with the associated parking and amenity provision. The dwelling would be at least 10 metres from the common boundaries. The proposal does not result in over development of the plot. Well Lane is a no through road that serves approximately 20 dwellings. While it is narrow and has no footway, the impact of one additional dwelling will not have a significant impact on the capacity of the lane and will not in itself compromise the safety of pedestrians. Many of the existing properties on Well Lane have sealed cesspits that need emptying as there are no mains drains in the village. One additional cesspit will not result in a significant increase in pollution from the lorries emptying it. The lorries will not have to block Well Lane during emptying because they will have access via the existing access. Turning provision can be made within the site for vehicles. Disturbance to existing residents during construction would be temporary and would not be grounds to refuse permission for this proposed development, but a condition could be imposed requesting a construction management plan including hours of operation for construction. If neighbours were to submit similar applications then they would be determined on their merits and that is no reason for refusing this current application. The principle of infill development in this village is acceptable on policy grounds so other applications for new dwellings within the village may also receive planning permission subject to detailed planning considerations. The restrictive covenants are not a material planning consideration but rather a private legal matter. The site notice was clearly displayed at the entrance to the site. A bat survey was not requested at this stage as there

is no demolition of existing structures but if there is potential for bat roosts in any trees to be felled this would come to light in the tree survey and appropriate conditions could be applied at that stage.

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

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

## **6.0 RECOMMENDATION: APPROVE**

Subject to a 106 Legal Agreement requiring the following:

### S106 Heads of Terms

- A financial contribution of £27,685 towards Affordable Housing in the local area.
- If the S106 Agreement is not signed within 6 months of the Planning Committee's resolution then delegated powers be granted to officers to refuse the application.

### Conditions/Reasons

1. Approval of the details of the layout, scale and appearance of the building(s), the means of access and the landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority prior to any works commencing on site.

REASON: The application is in outline only.

2. (a) Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
b) The development hereby approved must be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: In order to comply with Section 92 of the Town and Country Planning Act 1990.

3. Prior to work commencing on site a construction management plan shall be submitted to and agreed in writing with the Local Planning Authority. All of the works shall be carried out in accordance with the approved construction management plan

REASON: In the interests of residential amenity.

4. A tree survey shall be submitted as part of the reserved matters this should be in accordance with BS5837:2012 – Trees in relation to Design, Demolition and Construction Recommendations.

The report will include the following information:

- A scaled plan of the layout showing retained trees and their root protection areas.
- Arboricultural Method Statement.
- Arboricultural Impact Assessment.

Reason To inform the footprint of the proposed dwelling and to ensure that the most valuable trees on the site are protected

5. Prior to any works commencing on site a Construction Traffic Management Plan (CTMP) shall be submitted to and approved by the local planning authority, the CTMP shall take into account the specific environmental and physical constraints of Well Lane and the adjoining highway network. The CTMP shall include traffic management measures, hours of working, measures to control dust, noise and related nuisances, measures to protect adjoining users from construction works, provision for the unloading and loading of construction materials and waste within the curtilage of the site, the parking of all associated construction vehicles. The development shall be carried out in accordance with the approved CTMP.

NOTE – it is recommended that the size and weight of all delivery vehicles shall be considered so as to minimise damage, congestion and disruption to Well Lane and the adjoining highway network.

Reason In the interests of highway safety

6. Prior to any building construction works including groundworks, site clearance, the means of access, as approved, shall be constructed in accordance with the approved plans and turning provision shall be provided to enable all delivery, construction and contractors vehicles turn within the curtilage of the site as well as providing for suitable levels of on-site parking.

Reason In the interests of highway safety.

Informatives:

1. A turning facility and on-site parking provision in accordance with supplementary planning guidance, Monmouthshire Parking Standards 2012, shall be provided within the site, details of which should be submitted as part of the reserved matters submission, and retained thereafter.