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MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 1st August, 2023 at 2.00 pm**

PRESENT: County Councillor Phil Murphy (Chairman)
County Councillor Dale Rooke (Vice Chairman)

County Councillors: Jill Bond, Fay Bromfield, Emma Bryn, Jan Butler,
Ben Callard, John Crook, Tony Easson, Steven Garratt,
Meirion Howells, Su McConnel, Jayne McKenna, Maureen Powell,
Sue Riley, and Ann Webb

County Councillor S. Garratt joined the meeting during consideration of application DM/2022/00331. He took no part in the discussion or voting in respect of this application.

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
Adam Foote	Senior Development Manager
Paul White	Specialist Environmental Health Officer
Mary Paske	Specialist Environmental Health Officer
Joanne Chase	Solicitor
Richard Williams	Democratic Services Officer

APOLOGIES:

None.

1. Declarations of Interest

None received.

2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 4th July 2023 were confirmed and signed by the Chair.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 1st August, 2023 at 2.00 pm

3. **Application DM/2022/00815 - Installation of bio-mass boiler unit (990kW heat) and ancillary equipment, fuel (bio-mass) storage area, replacement of underground heating pipes, installation of 500mm. dia. flue pipe, together with cladding of previously open NE elevation of building with colour coated steel sheets to match existing. The installation is currently being undertaken and will be required solely to provide heat for the farm's poultry unit. The bio-mass boiler is to replace an existing LPG (fossil fuel) heating plant. Trostrey Court Farm Barns, Clytha Road, Trostrey Common, Gwehelog, Monmouthshire**

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 the conditions as amended in late correspondence, plus an additional condition 5 in relation to regular servicing of the boiler.

It was noted that the wording in condition 2 would be revised to just involve virgin wood as a fuel and to incorporate monitoring of the fuel type to ensure compliance with British Standards.

Llanarth Fawr Community Council had submitted a written statement in respect of this application which was read to the Committee by the Head of Planning, as follows:

'The Council is aware that a request has been made to defer consideration of this application because insufficient evidence is available to show concerns raised over a number of issues, particularly noise, have not been fully resolved. We support this request.

On the question of noise, no proper noise assessment (compliant with BS 4142:2014/A1 2019 Methods for Rating and Assessing Industrial and Commercial Sound) has been undertaken. We do not agree with the Case Officer and the Environmental Health (EH) Officer's short visit during office hours (i.e. not in the evening / night or weekend) could sensibly be said to comply with the BS standard. In any event, there has been no assessment at all of the noise impact during night-time and weekend operation (the plant will operate 24/7).

TAN 11 (Noise) at Annex B (revised 2015) notes: "The significance of sound of an industrial and / or commercial nature typically depends upon both the margin by which the rating level of the specific sound source exceeds the background sound level and also the context in which the sound occurs". Further, since background sound levels vary throughout a 24-hour period it will usually be necessary to assess the acceptability of sound levels for separate periods (e.g., day and night) chosen to suit the hours of operation of the proposed development. Similar considerations apply to developments that will emit significant noise at the weekend as well as during the week.

The Case Officer relies at para 6.3.6 on the Environmental Health (EH) Officer's daytime visit. They did not experience any significant noise, but without any detail on actual sound / tone levels emitted following the baffle cowl mitigation, or on background sound levels. The EH Officer suggests future noise complaints could be raised under statutory nuisance legislation. Planning Policy Wales (edition 11) states: "The planning

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

system must protect amenity, and it is not acceptable to rely on statutory nuisance under the Environmental protection Act 1990 to do so.” This is because “Lower levels of noise, however, can still be annoying or disruptive and impact on amenity and as such should be protected through the planning process wherever necessary”.

We recommend that an assessment by means of BS 4142 is undertaken to protect the amenity of residents in Llancao and Bettws Newydd, as well as those living opposite the site in Monkswood, who are additionally concerned by potential sound amplification in this valley location. A BS 4142 assessment could assess this risk.

If the Committee does consider this application: regarding proposed Condition 2: “The bio-mass boiler shall only use Virgin Wood or British Standard PAS111:2012 Grade A – Clean Recycled Waste Wood”. We recommend that this is strengthened by the addition of: “and the developer is required to provide regular data, available for inspection by the Local Planning Authority (LPA), on volume and source of wood chip”. This would ensure no contaminated waste wood chips are used in future, which could impact both on emissions and on the regulatory regime.’

Ms. L. Williams, representing objectors to the application, attended the meeting by invitation of the Chair and outlined the following points:

- There will be the release of carbon emissions with occasional plumes of smoke. There will also be noise emissions.
- The site has had a chequered planning history having been granted permission to store straw but instead used it to house a gasification plant and incinerator which was installed without planning permission. Residents had to go to court to force the Council to take enforcement action.
- Residents acknowledge that this application is not on the same scale but today’s proposal has already been installed and operating without planning permission. However, the applicant has made the necessary planning application, but residents wanted to see a correct and full assessment of potential impacts from this scheme on the amenity of local residents. Many residents belong to the local organisation called SWIPE.
- Welsh Government polices PPW 11 and TAN 11 support appropriate technical noise assessments and recommend that these should also cover night-time and weekend operations if the development operates 24/7, and it will.
- PPW 11 notes that lower levels of sound would be dealt with as statutory nuisance as this could be disruptive and impact on amenity.
- The applicant supplied a noise assessment but had acknowledged that this did not follow British Standards and was deemed inadequate by Environmental Health.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

- Environmental Health's short daytime visit did not consider night or weekend impacts or the potential for noise amplification in the valley.
- Late correspondence indicates that another officer site visit has been undertaken at night with a slight hum being noticeable at the farm entrance. This would suggest that at night with little background noise that the boiler wasn't fully operational. The recent Planning Committee site visit had heard noise from the plant and the flue.
- Some sound mitigation has been undertaken which is welcome but given the 24/7 nature of the development a proper noise assessment must be undertaken that complies with British Standards and Welsh Government Planning Policies. It was considered to be unacceptable to risk a community's amenity and health without investigating the noise issue in full and should not proceed without consideration of night-time and weekend operation of the scheme and to rely on the short daytime and one night-time visit. Neither of the visits have resulted in recordings or data on actual and background sound levels being taken or retained for inspection.
- Residents consider that it is not safe for the application to be decided without a proper noise assessment.

Mr. S. Butler, applicant's agent, attended the meeting by invitation of the Chair and outlined the following points:

- The proposed boiler will operate using certified clean virgin wood fuels.
- The project is seeking to achieve four key aims:
 - To fully displace the use of fossil fuels for the heating of the Trostrey Farm poultry sheds.
 - To improve poultry health via the provision on lower humidity heating.
 - To decarbonise farming and food production operations at the farm in line with government policy.
 - To provide protection against fuel price volatility and supply risk.
- There is a commercial need to increase the sustainability of food and farming operations in Wales and the UK. The agricultural sector accounts for 15% of Wales's total carbon emissions and is obliged under the UK net zero emissions policies to reduce carbon emissions in line with 2040 and 2050 targets.
- Monmouthshire County Council has declared a climate emergency. It was considered that this project would directly prevent over 274 tonnes of fossil carbon emissions being released to the environment and will allow the farm to transition towards net zero.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

- It is not considered that there are any adverse impacts arising from air quality, noise, transport, dust or landscape and visual effects from the proposed development.
- The impacts of the scheme have been assessed on all identified habitat sites within the proximity of the site and concludes that there will be no impacts on human health, environmental habitats, or any effects on the river Usk.
- Concerns raised by Natural Resources Wales (NRW) have been resolved.
- The impacts of the emissions from the bio-mass boiler would be no greater than the existing heating systems. There would be no adverse noise impacts and there would be no significant visual impacts.
- The bio-mass is a clean fuel and has been certified as not containing any harmful contaminants and is recognised by the UK Government and Ofgem as being a renewable fuel. The existing LPG fuels are not environmentally sustainable as LPG is a fossil fuel directly contributing to climate change.
- The proposed scheme is environmentally sustainable and required to be delivered under regional and national carbon energy policy. The proposed development does not pose a risk to the health of people living and working nearby or upon the surrounding environment.
- In planning terms, the sustainability benefits of the proposed development are a material consideration.
- The proposed development fully aligns with regional and national planning policies, carbon policy, the net zero ambitions of Wales and will ensure a sustainable future for the farming operations at Trostrey Farm.

In response, representatives from the Environmental Health Department informed the Committee:

- It is not a requirement for Environmental Health to ask for a BS 4142 assessment.
- This is a retrospective application so issues relating to noise can be assessed in situ.
- Based on the site visits the bio-mass boiler was not audible above background noises at the nearest receptor and is therefore classed as low impact.
- The applicant has installed a silencer to the stack which was where most of the noise was emitting from the site. Mitigations have already been established.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

- Environmental Health supports the amended condition regarding the field stock and the burning of virgin wood only.

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

- A solar scheme would have been a cleaner option to support the heating and energy requirements at this site.
- Conditions are in place to require the maintenance of the boiler and flue. There is also a scheme to monitor and verify that it has been serviced properly. A permit is not required from NRW or from any other agency.
- Concern was expressed regarding the noise emissions at the site and it had been noted that Llanarth Fawr Community Council had asked for consideration of the application to be deferred until this matter had been rectified.
- There will be four lorry movements per week.
- The bio-mass boiler has been operational for four months.
- Background sound levels in the rural location are likely to be low.

It was proposed by County Councillor J. Butler and seconded by County Councillor M. Powell that application DM/2022/00815 be approved subject to the conditions outlined in the report and subject to the conditions as amended in late correspondence plus an additional condition 5 in relation to regular servicing of the boiler.

It was noted that the wording in condition 2 would be revised to just involve virgin wood as a fuel and to incorporate monitoring of the fuel type to ensure compliance with British Standards.

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

In favour of the proposal	-	11
Against the proposal	-	2
Abstentions	-	2

The proposition was carried.

We resolved that application DM/2022/00815 be approved subject to the conditions outlined in the report and subject to the conditions as amended in late correspondence, plus an additional condition 5 in relation to regular servicing of the boiler.

It was noted that the wording in condition 2 would be revised to just involve virgin wood as a fuel and to incorporate monitoring of the fuel type to ensure compliance with British Standards.

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 1st August, 2023 at 2.00 pm**

4. Application DM/2022/00331 - Development of commercial units suitable for use classes B1, B2 and B8 plus associated external works. Land at Severn Bridge Industrial Estate, Pill Row, Caldicot

We considered the report of the application and late correspondence which was presented for refusal for the reason outlined in the report.

The applicant's representatives, Emily Armstrong and Neville Shaw, attended the meeting by invitation of the Chair and outlined the following points:

- The applicant owns 36 units totalling 257,000 sq. ft. at the Severn Bridge Industrial Estate. Currently, there is no available space.
- New lettings have recently been secured of over 37,000 sq. ft. bringing the estate to 100% occupancy.
- A further five tenants have been retained totalling 40,000 sq. ft.
- Enquiries have been received from new and existing businesses that wish to expand into this location and increase employment levels.
- This development is seen as a space for start-up businesses.
- The application is targeting a floor area of approximately 32,000 sq. ft.
- Current take up figures equates to six months of supply and it is anticipated that the development will be let within six months of completion.
- Over 100 jobs have been secured within the current site and it is anticipated that at least 60 jobs will be created once the buildings are operational.
- The applicant would like to engage with local supply chains throughout the development and to work with local employment agencies to provide jobs to local people throughout the construction phase.
- Following discussions with Natural Resources Wales (NRW) and the Local Planning Authority (LPA) it had been agreed that the applicant would take river flood modelling of the site in relation to the adjacent Nedern Brook with the purpose to determine whether the development of the site would have any off-site flooding impacts on adjacent land in extreme storm events. The modelling exercise proved to the satisfaction of all stakeholders that there would be no significant off-site flood related impacts even in extreme storm events and accounting for future climate change.
- In order to meet NRW criteria of no off-site flooding, the modelling exercise undertaken created a balance between limited raising of site levels in order to minimise on site flooding in extreme events and also avoiding any off-site flood impacts in such extreme events. The applicant considers that this balance has

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

been achieved with this modelling exercise with flood depths over the site varying between 0.9 of a metre.

- NRW's review of the modelling exercise noted that flood depths in areas of the site in extreme events were in excess of the allowances that are provided as guidance in TAN 15. Although the model flood depths and extreme storm events are in excess of the maximum flood depths identified in TAN 15, it is within NRW's powers to treat TAN 15 as indicative and not mandatory.
- NRW currently elects to treat these flood depth allowances as a firm requirement which is why it has objected to this development.
- The NRW historic flooding database indicates that the site has not previously flooded. No recorded historic flood events have been identified in the modelled reach of the Nedern Brook.
- The site will remain dry in all but the most extreme conditions and is one of the last sites to flood in the local area.
- There will be no significant off-site flood related impacts from the development of the site.
- In terms of mitigation of on-site flooding in an extreme storm event, the NRW flood warning telephone service will provide 48 hours' notice of a flood event providing ample time for the evacuation of operatives from the site.
- There will be no increased flood risk off the site and the development fall in line with all the mandatory requirements of TAN 15.

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

- Support was expressed for the application subject to proper maintenance of the sluice gate and waterways which would mitigate the risk of flooding in this area.
- It was considered that the applicant had done everything to mitigate any flood risk to the premises and to manage the water produced on site and where it goes.
- The Head of Planning informed the Committee that the application has been presented to Planning Committee at his behest. This is an allocated site within the Local Development Plan and has been allocated for employment and commercial purposes. However, there is a flood consideration as outlined in the report.
- Some Members considered that a decision in respect of the application should be postponed to allow representatives from NRW to express their view on this matter.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

The Senior Development Management Officer responded, as follows:

- NRW had raised no concerns regarding the Source Protection Zone on the basis that the site would be SuDs compliant.
- Litter and ongoing management of the site is outside of the application site, and we, as an authority, would not have control over this matter.
- This is an outline application. Therefore, active travel details are currently not fixed.
- The Flood Consequence Assessment (FCA) that had been submitted has not been able to satisfy NRW regarding the requirements of TAN 15. However, it has been demonstrated that there is no adverse impact off-site.
- NRW is a consultee and has provided comments accordingly and would not participate in Planning Committee meetings.
- The adjoining land is outside the application site so does not fall within the scope of this application.
- It is for the applicant to put in place any necessary measures to minimise flood risk. There would be no liability for the Local Authority in respect of this matter.
- The applicant informed the Committee that future maintenance of the drainage system is outlined in the Flood Consequence Assessment (FCA).

It was proposed by County Councillor D. Rooke and seconded by County Councillor M. Powell that application DM/2022/00331 be approved.

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

For approval	-	12
Against approval	-	1
Abstentions	-	2

The proposition was carried.

We resolved that application DM/2022/00331 be approved and that the decision be referred to Natural Resources Wales (NRW). If NRW does not object to the decision, draft conditions would be presented to the Delegation Panel for approval.

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 1st August, 2023 at 2.00 pm**

5. Application DM/2023/00797 - Change of use from C3 (dwelling) to sui generis (HMO - House in Multiple Occupation) for a maximum of 8 occupants. 2 Little Hervells Court, Chepstow, NP16 5FF

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 Mount Pleasant addressed the Committee via Video recording and outlined the following points:

- This is a contentious application and is the fourth change of use application put forward by the applicant for neighbouring dwellings of houses of multiple occupancy (HMO) in an historic conservation area. The local Member and residents consider that this application is disproportionate.
- The Council does not have a policy or supplementary guidance on multiple HMOs due to the small numbers across Monmouthshire.
- HMOs are a model of tenure that is more akin to our inner-city areas, particularly with our universities.
- Whilst there is no Monmouthshire County Council guidance, there is Welsh Government guidance which sets out the trends and associated challenges of HMOs within Welsh local authorities.
- Problems associated with HMOs are damage to social cohesion with higher levels of transient residents and fewer long-term households and established families, reduction in the quality of the local environment and street scene, change of character in the area, increased pressure on parking and increases in anti-social behaviour. Antisocial behaviour has been a reality for neighbours living next to HMOs already in situ.
- Local residents have been affected by noise from existing HMOs and the police have had to be called on several occasions regarding antisocial behaviour.
- The guidance states that due to the nature of HMOs residents from vulnerable groups who are likely to be unrelated can find living in HMOs a more intensive experience than in single household uses. This may have an impact, not just on the residents in an HMO but on the wider neighbourhood and the likelihood of this increases with the high concentrations of such properties.
- Welsh Government continues to encourage local authorities to move away from HMOs to more self-contained accommodation.
- Strong objections to the application have been received from the Highways Department regarding highway safety, parking stress and the proliferation of HMOs in the vicinity. Parking stress already exists at this location.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

- The local Member considers that the developer has disregard for residents living in Hardwick Hill Lane and in Steep Street by seeking a further application for an HMO.
- The local Member considers that the Planning Committee should consider refusal of the application as there are already three HMOs in this area and an additional HMO is not required as it was considered to be an unacceptable model for the Council.

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

- The HMO will be managed by Monmouthshire County Council.
- HMOs are much needed within the Authority, but measures need to be established to reduce the potential for antisocial behaviour.
- It was considered that Monmouthshire County Council should establish an HMO policy in line with current Welsh Government guidelines.
- Consideration should be given to the provision of bicycle parking facilities on the site.
- Concern was expressed regarding the density of HMOs in this area.
- The Head of Planning informed the Committee that an HMO policy could be investigated as part of the Replacement Local Development Plan (RLDP). However, in a Monmouthshire context, it was noted that generally, HMOs were not an issue. Local Authorities with larger urban conurbations tend to have an HMO policy as there is a greater need for them within these authorities.
- The Development Management Area Team Manager informed the Committee that only 33 people would occupy the four HMOs in this area if this application was approved. HMO guidance helps to deal with harm that is caused from high concentrations, e.g., universities, where buildings are occupied for term times and then unoccupied for holiday periods with local facilities no longer being accessed during this period.
- The applicant would be willing to submit details of proposed bicycle storage facilities on site supporting the modal shift towards using public transport.
- Monmouthshire County Council Housing Officers would manage this site. Similar sites managed by such officers are managed efficiently. It was noted that there is a family in need that has been identified to occupy this property.

It was proposed by County Councillor S. McConnel and seconded by County Councillor M. Powell that application DM/2023/00797 be approved subject to the conditions outlined in the report with an additional condition to ensure that a cycle storage area is provided prior to occupation.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st August, 2023 at 2.00 pm

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

In favour of the proposal	-	12
Against the proposal	-	2
Abstentions	-	2

The proposition was carried.

We resolved that application DM/2023/00797 be approved subject to the conditions outlined in the report with an additional condition to ensure that a cycle storage area is provided prior to occupation.

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

6.1. Appeal decision: Land North West of Holly Lodge, Five Lanes North, Caerwent.

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at land northwest of Holly Lodge, Five Lane North, Caerwent on 3rd May 2023.

We noted that the appeal had been dismissed.

6.2. Costs decisions: Land at High Mass Cottage, Five Lanes North, Five Lanes, Caerwent, Caldicot, & Land North West of Holly Lodge, Five Lane North, Caerwent.

We received the Planning Inspectorate report which related to costs decisions in respect of an appeal decision following a site visit that had been held on 3rd May 2023, as follows:

Application A - Costs application in relation to Appeal Ref: CAS-02144-F2P1C5.
Site address: Land at High Mass Cottage, Five Lanes North, Five Lanes, Caerwent, Caldicot.

Application B - Costs application in relation to Appeal Ref: CAS-02244-P5N1M3. Site address: Land NW of Holly Lodge, Five Lane North, Caerwent.

Decisions:

Application A – Ref: CAS-02144-F2P1C5 - The Enforcement Appeal:

The application for a full award of costs was allowed.

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 1st August, 2023 at 2.00 pm**

Application B – Ref: CAS-02244-P5N1M3 - The Planning Appeal:

The application for an award of costs was refused.

The meeting ended at 4.04 pm.

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