

# MONMOUTHSHIRE COUNTY COUNCIL

## Minutes of the meeting of Planning Committee Remote Meeting on Tuesday, 2nd March, 2021 at 2.00 pm

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

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

### OFFICERS IN ATTENDANCE:

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

### APOLOGIES:

None.

#### 1. Declarations of Interest

County Councillor A. Easson declared a personal, non-prejudicial interest pursuant to the Members' Code of Conduct in respect of application DM/2020/01872 as he spoke on this matter on behalf of Caldicot Town Council. He then observed proceedings and abstained from voting on this application.

#### 2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 2<sup>nd</sup> February 2021 were confirmed and signed by the Chair.

#### 3. Application DM/2020/00881 - Removal of condition 1 from planning consent 2314 (Date of Decision: 01/09/1975) - Occupation of the proposed bungalow shall be limited to a person employed or last employed wholly or mainly locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or a dependent of such person residing with him. Bushes Farm, Chapel Road, Earlswood, Monmouthshire

We considered the report of the application which was recommended for approval as follows:

The occupancy of the dwelling shall be restricted to those:

- a) solely or mainly working or last working on a rural enterprise in the locality where there is / was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;

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- b) who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either a) and b);
- c) widows, widowers or civil partners of the above and any resident dependants.

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

'1. Shirenewton Community Council objects to the entire removal of the Agricultural Occupancy Condition (AOC) but would approve a variation extending it to allow occupation connected to local rural enterprises on the following grounds as we understand that a market gardener has expressed interest in acquiring the property.

2. The site consists of a dilapidated bungalow unoccupied now for some 11 years. The applicant asserts that the property has been on the market for over a year and interest has come from buyers who in the main cannot satisfy the agricultural occupancy condition although an offer of £142000 with the AOC remaining in place was rejected. The applicant has however imposed an overage clause for further money to be paid in the event of discharge of the AOC or the grant of planning permission, which clause does not appear to have been factored into the property valuations by the selling agents nor the District Valuer. The offer of £142,000 demonstrates that the property is saleable albeit not at the price sought by the applicant, which is not a reason for discharging the AOC, neither is the applicant's assertion that the AOC prevents him obtaining a loan for the cost of the renovation work as if correct the applicant's recourse is the sale of the property. We now understand that the offer of £142,000 has been overtaken by a much higher offer from the prospective market gardener. This demonstrates that there are buyers who would fund the work. Indeed we understand the applicant himself only acquired the site (with the farm) in very recent years.

3. That no farm or forest employee has come forward either to buy or rent the property is more an indication of what they can afford. As a community our residents desire housing to be available at a price reflecting what our families can afford. Retaining the AOC constrains the market price making the property more affordable for farm and forest businesses and extending the AOC to rural enterprises would increase the market for such a property. Removing the AOC in its entirety would at a stroke release the property onto the private residential market and the price would jump by some 30%, pricing out any local or rural worker or enterprise. A single property like this is of no interest to the housing associations being too remote to service.

4. We note that the application is for variation or removal of the AOC and we invite Monmouthshire County Council to vary the condition to encompass rural workers and enterprises and / or those with an established local connection – such as families on its housing list.

We are grateful that Monmouthshire County Council rarely discharges its AOC as this plays an important part in maintaining the local landscape character for current and future generations.'

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The applicant, Mr. Richard Harry, had prepared a video recording which was presented to Planning Committee and the following points were outlined:

- The applicant bought the property at auction in 2016 with plans to renovate it.
- The applicant did not appreciate what impact the existence of the tie would have on his plans.
- Because of the poor condition of the property and that the applicant does not meet the tie in planning terms he has been unable to obtain finance. The minimum renovation costs are significant.
- The applicant explored whether the agricultural tie could be removed and sought pre-application advice from the Planning Department. Planning Department advice was that if the applicant wanted to remove the tie then the property would have to be marketed.
- At this point the applicant determined that he would market the property with a view to selling it if a fair offer could be achieved. If he could not receive a fair offer then he considered that he would have a good case to remove the tie.
- The applicant has been fully transparent with the Planning Department regarding what was being marketed and the guide price of the property and no objections were raised.
- After 12 months the marketing exercise failed to secure a purchaser so this planning application was submitted.
- The test applicable is very simple. Firstly, the Committee has to be satisfied that the marketing exercise has been carried out correctly and planning officers believe this to be the case. Secondly the Committee has to be satisfied that there is no demand for this particular property. This is the point where it is considered by the applicant that the Planning officer's report is incorrect.
- The applicant made the following points with regard to the Planning report:
  - The Planning Department has reached its conclusion that there is demand by classing mere expressions of interest that are claimed to have been heard. This is incorrect. Demand is only proven if there is an acceptable and proceedable offer made by someone who is able to meet the occupancy condition. There is no such demand.
  - The Planning Department considers that there is demand for rural enterprise dwellings in Monmouthshire generally. This is irrelevant for the purpose of determining this application.
  - The evidence submitted by the applicant proves there is no demand for the property as a rural enterprise dwelling. The marketing process sought to establish the background of potential purchasers when an enquiry was made.

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No demand has been shown from any rural enterprise workers in the previous 20 months. This means that the removal of the tie is justified under Welsh Government Guidance.

- It was considered that officers have not taken into account the marketing report which should have been the basis on which demand was assessed. Instead, expression of interests have been taken into account.
- What could be a desirable rural property remains unoccupied and deteriorates further.
- The applicant considers that the officer recommendation within the report is incorrect and that complete removal of the tie is justified.

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

- The local Member outlined the planning history of the site.
- Private market housing is available locally but there is a need to retain the supply of rural and affordable dwellings to support the local rural economy and not price rural enterprises out of the market.
- The officer recommendation within the report follows national planning policy in TAN 6 to approve the widening of that tie bringing it up to date to cover a rural enterprise and affordable housing tie.
- If the tie is removed then the property will be sold as a private dwelling at an increased price and will reduce the number of much needed rural enterprises and affordable dwellings needed in this rural farm based area.
- TAN 6 states that when lifting existing agricultural occupancy conditions, the local planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition to meet the housing needs of rural workers and local people in need of affordable housing.
- There have been more than expressions of interest made in respect of this dwelling. Offers have been made.
- The local Member expressed her support for the officer recommendation as outlined in the report.

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

- Support was expressed for the inclusion of a rural enterprise condition.
- Concern was expressed that imposing the TAN 6 regulation might condemn the dwelling to being empty for an even longer period.

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- Concern was expressed that the purchase price of the dwelling with the required renovations might be too expensive to purchase for many agricultural workers.
- It was noted that there is not a financial contribution for change of use of commercial buildings into residential properties.
- With regard to this application, there is no opportunity to claim any additional affordable housing contributions for the property.

The local Member for Shirenewton summed up as follows:

- The officer recommendation as outlined in the report should be followed.
- The applicant marketed the property at £200,000. However, the District Valuer valued the property at £185,000. If the tie is removed, its value will be £265,000.
- None of the original applicant's estate agents valuation of 2000 took account of the overage condition that the applicant was placing on the property when offering it for sale. It means that there is equivalent to a penalty clause on the land if a buyer purchased it for £140,000 rather than £185,000 they would still have to pay the seller the uplift if the agricultural tie was removed or the property extended in the next 35 or 50 years, meaning the buyer would have to pay the seller in the region of £40,000 if the new buyer gave permission to remove the agricultural occupancy condition.
- All of this would occur without the applicant having to make any affordable housing contribution if the AOC is removed.
- The enquiry of the housing associations on affordable housing was a 'tick box' exercise.
- It had not been made clear that a housing association could apply to modify the condition.
- The new condition makes it clear that if there is no one eligible for the Rural Enterprise Condition then it can be considered for people eligible for affordable housing.
- The District Valuer was asked after the main report about the extra overage condition and stated that it would be unlikely to have a major impact to the valuation but the only real way of knowing this is if it was marketed without the overage clause. Even if it was advertised without this clause the condition of the property's lack of land it comes with may still deter prospective purchasers. However, despite all of this the offer detailed in paragraph 6.5 of the report has increased to £200,000.
- It is not merely an expression of interest. The local Member considers that the property will not be left to deteriorate. By extending the condition to a Rural Enterprise, it opens the dwelling up to opportunities such as market gardening.

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- There is an interest in this property despite its condition. There are no issues relating to obtaining a mortgage.
- It will be contrary to National Planning Policy not to follow the officer's recommendation as outlined in the report.
- Monmouthshire needs more affordable rural enterprises.

It was proposed by County Councillor L. Brown and seconded by County Councillor M. Powell that application DM/2020/00881 be approved as follows:

The occupancy of the dwelling shall be restricted to those:

- a) solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;
- b) who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either a) and b);
- c) widows, widowers or civil partners of the above and any resident dependants.

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

For approval	-	11
Against approval	-	2
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2020/00881 be approved as follows:

The occupancy of the dwelling shall be restricted to those:

- a) solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;
- b) who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either a) and b);
- c) widows, widowers or civil partners of the above and any resident dependants.

**4. Application DM/2020/01872 - Change of use of retail shop A1 to A3 take-away (hot) food (resubmission of DM/2019/01648). Cobblers Pride, 9 Newport Road, Caldicot, NP26 4BG**

We considered the report of the application and late correspondence which was

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recommended for approval subject to the three conditions outlined in the report.

Should the Planning Committee be minded to approve the application, officers recommended that an additional condition be imposed to secure details of the proposed flue to the rear of the unit to ensure amenity issues of third parties are safeguarded and retained in perpetuity.

Councillor A. Easson, representing Caldicot Town Council, outlined the following points:

- Within a quarter of a mile there are 12 food outlets and two public houses. The Town Council had expressed concern that to add an additional outlet would not be a benefit to the town centre.
- Recently, a fresh fruit and vegetable shop was opened within the town centre.
- When the Covid-19 restrictions are removed, the only non-essential properties re-opening in the town centre will be two gift shops, a card shop and a charity shop.
- The Town Council would like the developers to investigate ways of getting retail outlets back into the town centre.
- Consultation is currently underway to enhance the whole of the town centre via major financial input. The Town Council has concerns whether this proposal will fit in with the re-development of the town centre.

Mr. W. Collins, applicant's agent, had submitted a written statement in support of the application which was read to the Planning Committee by the Head of Planning, as follows:

'These representations are made by Rackham Planning on behalf of the applicant, the owner of an existing Caldicot based business, in support of the application for a change of use from A1 retail to A3 hot food take-away at 9 Newport Road, Caldicot.

We are pleased to note that approval of the application is supported by the case officer, Caldicot Town Team and Highways Development Control.

We consider this proposal would benefit the town centre by bringing a vacant unit back into use, increasing footfall throughout the day and evening, whilst also helping safeguard the future vitality of the town centre. The unit has been vacant for two and a half years and is currently having a harmful impact on the vitality of the street frontage. By being empty the unit is detracting visitors from making a journey to the town centre and offering no support to the aims and purpose of the town centre. Therefore, this proposal offers an opportunity for the unit to have a positive impact by being brought back into use. The proposed opening hours from midday to 23:30 in the evening Monday to Sunday will engage the premises with lunchtime trade and attract footfall throughout the week.

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Whilst noting that Caldicot Town Council recommended the previous application to be approved, we understand their concern that there are already a number of take-aways in the town centre. However, town centres all around the country are in a stage of transition and with the shift to online retailing, there is simply no demand at this time for retail, as evidenced in the marketing assessment prepared by Bladen Property Consultants and the fact the premises has been empty for two and a half years. Put bluntly, there is therefore a choice between an empty unit which has a detrimental impact on the town centre or bringing the unit back into use to generate footfall and provide a service for the community.

Council Policy RET1 provides clear guidance that a change of use to an A3 use is permissible if it can be demonstrated that the proposed use would not harm the vitality of the street frontage, or the premises have been vacant for at least 2 years and genuine attempts at marketing the existing use have been unsuccessful.

Although only one of these criteria needs to be satisfied, we consider that our proposal satisfies both. The proposed use would not harm the vitality of the street frontage, indeed we consider it would improve the vitality of it by being open throughout the day and evening, and the marketing assessment confirms that the premises has been empty for two years and genuine attempts at marketing the unit have been unsuccessful.

We hope that you will be able to support our application made on behalf of a Caldicot based business owner this afternoon. Thank you.'

The local Member for Green Lane ward, also a Planning Committee Member, outlined the following points:

- Town Centres must adapt to differing circumstances.
- In view of the changes that have been made, an empty shop will be occupied by a business and investment and employment will be brought to the town centre.
- The local Member expressed his support for the application.

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

- Concern was expressed that if approval is given to change the unit to A3 use then it will be difficult in the future to change the use back to A1 use.
- Planning Policy Wales (PPW) 11 recognises the periphery of town centres and it is acknowledged that the Local Development Plan (LDP) will need to recognise that town centres are going to have to shrink to concentrate on making unit usage more attractive places.
- Concern was expressed regarding the opening hours on a Sunday and that the hours should be amended so that the proposed A3 takeaway will close at 10.00pm on this day.



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- A Member questioned whether this was the right time to be making a decision on this unit. The unit has been vacant for two and a half years but a year of that time has been during the Covid-19 pandemic whereby non-essential retail has had to close.
- It was considered that there were too many A3 units already located within the town centre which was preventing new businesses from setting up there.
- An additional A3 business will take business away from existing A3 businesses within the town centre.
- In response to a question raised regarding the flue at the rear of the unit, it was noted that a condition would be added to agree full details that would include technical specifications relating to any noise or odour mitigation where Planning officers could consult with the Environmental Health Department with a view to agreeing a condition discharge application.
- The property has been vacant for two and a half years. A functioning shop would be better than having an empty shop with a view to helping towards revitalising the town centre.
- We need to be more relaxed and flexible about change of purpose in order to fill empty units within our towns and to re-energise our high streets.

The local Member summed up by expressing his support for the application.

It was proposed by County Councillor A. Davies and seconded by County Councillor M. Feakins that application DM/2020/01872 be approved subject to the three conditions outlined in the report and that an additional condition be imposed to secure details of the proposed flue to the rear of the unit to ensure amenity issues of third parties are safeguarded and retained in perpetuity. Also, that a further condition be added to ensure the opening hours on a Sunday would be amended so that the proposed A3 takeaway will close at 10.00pm on this day.

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

In favour of the proposal	-	8
Against the proposal	-	3
Abstentions	-	1

The proposition was carried.

We resolved that application DM/2020/01872 be approved subject to the three conditions outlined in the report and that an additional condition be imposed to secure details of the proposed flue to the rear of the unit to ensure amenity issues of third parties are safeguarded and retained in perpetuity. Also, that a further condition be added to ensure the opening hours on a Sunday would be amended so that the proposed A3 takeaway will close at 10.00pm on this day.

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#### **5. Presentation on Future Wales 2040 - The National Plan**

We received a presentation on Future Wales 2040 – The National Plan. In doing so, the following points were noted following questions:

- In terms of Future Wales Policy 1 the Welsh Government supports sustainable growth in all parts of Wales.
- There are three national growth areas with specific areas outlining where employment and housing should be prioritising infrastructure.
- The challenges in Monmouthshire are affordability, age demographic and connectivity. A level of growth is required in order to address our issues and objectives.
- The National Plan is clear in supporting rural locations and the rural economy.
- The key is to create sustainable development and have the right development in the right locations.
- A certain level of growth is required in order to address the key issues such as providing affordable housing.
- The level of development is in line with the National Plan.
- In terms of the green belt, the Strategic Development Plan (SDP) will allocate that land providing a more definitive map of where this development will be located. However, it was acknowledged that further details were required.
- In terms of the Green Belt and the SDP, the Corporate Joint Committee will be developing the SDP. Welsh Government has outlined specific Strategic Development Plan regulations regarding how that plan will develop as well as ensuring that there will be full consultation on the document with local communities and the South East Wales region. The process will be similar to the Local Development Plan consultation process.
- With regard to the growth level, Monmouthshire has local issues and local challenges to address. A key element is ensuring that there is sustainable development with a view to meeting Monmouthshire's housing requirements and to address affordable housing challenges in terms of affordability.
- The Future Wales Plan outlines the need for 110,000 homes across Wales. There are 7605 homes in the proposed option for the replacement plan. There are 2945 new allocations on new sites. Given the scale of Monmouthshire and the challenges that we have, the level of growth is in proportion with the aims of Future Wales.
- For the new Local Development Plan, the projected housing numbers are 450 dwellings per annum.

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- The Head of Planning would arrange a Local Development Plan workshop for all Members to attend in respect of the Future Wales 2040 National Plan.

**The meeting ended at 4.18 pm.**