

Public Document Pack



County Hall
Rhadyr
Usk
NP15 1GA

Monday, 22 February 2021

Notice of meeting:

Planning Committee

Tuesday, 2nd March, 2021 at 2.00 pm
Remote Meeting

AGENDA

Item No	Item	Pages
1.	Apologies for Absence.	
2.	Declarations of Interest.	
3.	To confirm for accuracy the minutes of the previous meeting.	1 - 8
4.	To consider the following Planning Application reports from the Chief Officer - Enterprise (copies attached):	
4.1.	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.	9 - 20
4.2.	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.	21 - 28
5.	Presentation on Future Wales 2040 - The National Plan.	

Paul Matthews
Chief Executive

MONMOUTHSHIRE COUNTY COUNCIL

THE CONSTITUTION OF THE PLANNING COMMITTEE IS AS FOLLOWS:

County Councillor Ruth Edwards	Llantilio Crossenny;	Welsh Conservative Party
County Councillor Peter Clarke	Llangybi Fawr;	Welsh Conservative Party
County Councillor Jeremy Becker	St. Mary's;	Liberal Democrats
County Councillor Louise Brown	Shirenewton;	Welsh Conservative Party
County Councillor Alan Davies	Green Lane;	Independent
County Councillor Tony Easson	Dewstow;	Welsh Labour/Llafur Cymru
County Councillor David Evans	West End;	Welsh Labour/Llafur Cymru
County Councillor Mat Feakins	Drybridge;	Welsh Conservative Party
County Councillor Roger Harris	Croesonen;	Welsh Labour/Llafur Cymru
County Councillor Jim Higginson	Severn;	Welsh Labour/Llafur Cymru
County Councillor Giles Howard	Llanfoist Fawr;	Welsh Conservative Party
County Councillor Phil Murphy	Caerwent;	Welsh Conservative Party
County Councillor Maureen Powell	Castle;	Welsh Conservative Party
County Councillor Ann Webb	St Arvans;	Welsh Conservative Party
County Councillor Sheila Woodhouse	Grofield;	Welsh Conservative Party
Vacancy		

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Public Information

Any person wishing to speak at Planning Committee must do so by registering with Democratic Services by no later than 12 noon two working days before the meeting. Details regarding public speaking can be found within this agenda

Access to paper copies of agendas and reports

A copy of this agenda and relevant reports can be made available to members of the public attending a meeting by requesting a copy from Democratic Services on 01633 644219. Please note that we must receive 24 hours notice prior to the meeting in order to provide you with a hard copy of this agenda.

Watch this meeting online

This meeting may be viewed online by visiting the link below.

<https://democracy.monmouthshire.gov.uk/ieListMeetings.aspx?Committeeld=141>

This will take you to the page relating to all Planning Committee meetings. Please click on the relevant Planning Committee meeting. You will then find the link to view the meeting on this page. Please click the link to view the meeting.

Welsh Language

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with 5 days notice prior to the meeting should you wish to speak in Welsh so we can accommodate your needs.

Aims and Values of Monmouthshire County Council

Our purpose

Building Sustainable and Resilient Communities

Objectives we are working towards

- Giving people the best possible start in life
- A thriving and connected county
- Maximise the Potential of the natural and built environment
- Lifelong well-being
- A future focused council

Our Values

Openness. We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

Fairness. We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

Flexibility. We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

Teamwork. We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

Purpose

The purpose of the attached reports and associated officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule, having weighed up the various material planning considerations.

The Planning Committee has delegated powers to make decisions on planning applications. The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an officer recommendation to the Planning Committee on whether or not officers consider planning permission should be granted (with suggested planning conditions where appropriate), or refused (with suggested reasons for refusal).

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the Monmouthshire Local Development Plan 2011-2021 (adopted February 2014), unless material planning considerations indicate otherwise.

Section 2(2) of the Planning (Wales) Act 2015 states that the planning function must be exercised, as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales.

The decisions made are expected to benefit the County and our communities by allowing good quality development in the right locations, and resisting development that is inappropriate, poor quality or in the wrong location. There is a direct link to the Council's objective of building sustainable, resilient communities.

Decision-making

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary to make the proposed development acceptable;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases, or against the imposition of planning conditions, or against the failure of the Council to determine an application within the statutory time period. There is no third party right of appeal against a decision.

The Planning Committee may make decisions that are contrary to the officer recommendation. However, reasons must be provided for such decisions, and the decision must be based on the Local Development Plan (LDP) and/or material planning considerations. Should such a decision be challenged at appeal, Committee Members will be required to defend their decision throughout the appeal process.

Planning policy context

Future Wales – the national plan 2040 is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales – the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Monmouthshire’s Local Development Plan (LDP) sets out the Council’s vision and objectives for the development and use of land in Monmouthshire, together with the policies and proposals to implement them over a 10 year period to 2021. The plan area excludes that part of the County contained within the Brecon Beacons National Park. It has a fundamental role in delivering sustainable development. In seeking to achieve this it sets out a framework for the development and use of land and for the protection of the environment. It also guides and facilitates investment decisions as well as the delivery of services and infrastructure. It determines the level of provision and location of new housing, employment and other uses and sets the framework for considering all land use proposals during the plan period. The LDP contains over-arching policies on development and design. Rather than repeat these for each application, the full text is set out below for Members’ assistance.

Policy EP1 - Amenity and Environmental Protection

Development, including proposals for new buildings, extensions to existing buildings and advertisements, should have regard to the privacy, amenity and health of occupiers of neighbouring properties. Development proposals that would cause or result in an unacceptable risk /harm to local amenity, health, the character /quality of the countryside or interests of nature conservation, landscape or built heritage importance due to the following will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk:

- Air pollution;
- Light or noise pollution;
- Water pollution;
- Contamination;
- Land instability;
- Or any identified risk to public health or safety.

Policy DES1 – General Design Considerations

All development should be of a high quality sustainable design and respect the local character and distinctiveness of Monmouthshire’s built, historic and natural environment. Development proposals will be required to:

- a) Ensure a safe, secure, pleasant and convenient environment that is accessible to all members of the community, supports the principles of community safety and encourages walking and cycling;
- b) Contribute towards sense of place whilst ensuring that the amount of development and its intensity is compatible with existing uses;
- c) Respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings;
- d) Maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties, where applicable;
- e) Respect built and natural views and panoramas where they include historical features and/or attractive or distinctive built environment or landscape;

- f) Use building techniques, decoration, styles and lighting to enhance the appearance of the proposal having regard to texture, colour, pattern, durability and craftsmanship in the use of materials;
- g) Incorporate and, where possible enhance existing features that are of historical, visual or nature conservation value and use the vernacular tradition where appropriate;
- h) Include landscape proposals for new buildings and land uses in order that they integrate into their surroundings, taking into account the appearance of the existing landscape and its intrinsic character, as defined through the LANDMAP process. Landscaping should take into account, and where appropriate retain, existing trees and hedgerows;
- i) Make the most efficient use of land compatible with the above criteria, including that the minimum net density of residential development should be 30 dwellings per hectare, subject to criterion l) below;
- j) Achieve a climate responsive and resource efficient design. Consideration should be given to location, orientation, density, layout, built form and landscaping and to energy efficiency and the use of renewable energy, including materials and technology;
- k) Foster inclusive design;
- l) Ensure that existing residential areas characterised by high standards of privacy and spaciousness are protected from overdevelopment and insensitive or inappropriate infilling.

Other key relevant LDP policies will be referred to in the officer report.

Supplementary Planning Guidance (SPG):

The following Supplementary Planning Guidance may also be of relevance to decision-making as a material planning consideration:

- Green Infrastructure (adopted April 2015)
- Conversion of Agricultural Buildings Design Guide (adopted April 2015)
- LDP Policy H4(g) Conversion/Rehabilitation of Buildings in the Open Countryside to Residential Use- Assessment of Re-use for Business Purposes (adopted April 2015)
- LDP Policies H5 & H6 Replacement Dwellings and Extension of Rural Dwellings in the Open Countryside (adopted April 2015)
- Abergavenny Conservation Area Appraisal (adopted March 2016)
- Caerwent Conservation Area Appraisal (adopted March 2016)
- Chepstow Conservation Area Appraisal (adopted March 2016)
- Grosmont Conservation Area Appraisal (adopted March 2016)
- Llanarth Conservation Area Appraisal (adopted March 2016)
- Llandenny Conservation Area Appraisal (adopted March 2016)
- Llandogo Conservation Area Appraisal (adopted March 2016)
- Llanover Conservation Area Appraisal (adopted March 2016)
- Llantilio Crossenny Conservation Area Appraisal (adopted March 2016)
- Magor Conservation Area Appraisal (adopted March 2016)
- Mathern Conservation Area Appraisal (adopted March 2016)
- Monmouth Conservation Area Appraisal (adopted March 2016)
- Raglan Conservation Area Appraisal (adopted March 2016)
- Shirenewton Conservation Area Appraisal (adopted March 2016)
- St Arvans Conservation Area Appraisal (adopted March 2016)
- Tintern Conservation Area Appraisal (adopted March 2016)
- Trellech Conservation Area Appraisal (adopted April 2012)
- Usk Conservation Area Appraisal (adopted March 2016)
- Whitebrook Conservation Area Appraisal (adopted March 2016)
- Domestic Garages (adopted January 2013)
- Monmouthshire Parking Standards (adopted January 2013)
- Approach to Planning Obligations (March 2013)
- Affordable Housing (revised version) (adopted July 2019)

- Renewable Energy and Energy Efficiency (adopted March 2016)
- Planning Advice Note on Wind Turbine Development Landscape and Visual Impact Assessment Requirements (adopted March 2016)
- Primary Shopping Frontages (adopted April 2016)
- Rural Conversions to a Residential or Tourism Use (Policies H4 and T2) Supplementary Planning Guidance November 2017
- Sustainable Tourism Accommodation Supplementary Guidance November 2017
- Affordable Housing Supplementary Guidance July 2019
- Infill Development Supplementary Guidance November 2019

National Planning Policy

The following national planning policy may also be of relevance to decision-making as a material planning consideration:

- Future Wales: the national plan 2040
- Planning Policy Wales (PPW) edition10 (at time of publication)
- PPW Technical Advice Notes (TAN):
 - TAN 1: Joint Housing Land Availability Studies (2015)
 - TAN 2: Planning and Affordable Housing (2006)
 - TAN 3: Simplified Planning Zones (1996)
 - TAN 4: Retailing and Town Centres (1996)
 - TAN 5: Nature Conservation and Planning (2009)
 - TAN 6: Planning for Sustainable Rural Communities (2010)
 - TAN 7: Outdoor Advertisement Control (1996)
 - TAN 8: Renewable Energy (2005)
 - TAN 9: Enforcement of Planning Control (1997)
 - TAN 10: Tree Preservation Orders (1997)
 - TAN 11: Noise (1997)
 - TAN 12: Design (2016)
 - TAN 13: Tourism (1997)
 - TAN 14: Coastal Planning (1998)
 - TAN 15: Development and Flood Risk (2004)
 - TAN 16: Sport, Recreation and Open Space (2009)
 - TAN 18: Transport (2007)
 - TAN 19: Telecommunications (2002)
 - TAN 20: The Welsh Language (2013)
 - TAN 21: Waste (2014)
 - TAN 23: Economic Development (2014)
 - TAN 24: The Historic Environment (2017)
 - Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)
 - Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)
 - Welsh Government Circular 016/2014 on planning conditions

Other matters

The following other legislation may be of relevance to decision-making.

Planning (Wales) Act 2015

As of January 2016, Sections 11 and 31 of the Planning Act come into effect meaning the Welsh language is a material planning consideration.

Section 31 of the Planning Act clarifies that considerations relating to the use of the Welsh language can be taken into account by planning authorities when making decisions on applications for planning permission, so far as material to the application. The provisions do

not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the local planning authority, and the decision whether or not to take Welsh language issues into account should be informed by the consideration given to the Welsh language as part of the LDP preparation process. Section 11 requires the sustainability appraisal, undertaken as part of LDP preparation, to include an assessment of the likely effects of the plan on the use of Welsh language in the community. Where the authority's current single integrated plan has identified the Welsh language as a priority, the assessment should be able to demonstrate the linkage between consideration for the Welsh language and the overarching Sustainability Appraisal for the LDP, as set out in TAN 20.

The adopted Monmouthshire Local Development Plan (LDP) 2014 was subject to a sustainability appraisal, taking account of the full range of social, environmental and economic considerations, including the Welsh language. Monmouthshire has a relatively low proportion of population that speak, read or write Welsh compared with other local authorities in Wales and it was not considered necessary for the LDP to contain a specific policy to address the Welsh language. The conclusion of the assessment of the likely effects of the plan on the use of the Welsh language in the community was minimal.

Environmental Impact Assessment Regulations 2016

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are relevant to the recommendations made. The officer report will highlight when an Environmental Statement has been submitted with an application.

Conservation of Species & Habitat Regulations 2010

Where an application site has been assessed as being a breeding site or resting place for European Protected Species, it will usually be necessary for the developer to apply for 'derogation' (a development licence) from Natural Resources Wales. Examples of EPS are all bat species, dormice and great crested newts. When considering planning applications Monmouthshire County Council as Local Planning Authority is required to have regard to the Conservation of Species & Habitat Regulations 2010 (the Habitat Regulations) and to the fact that derogations are only allowed where the three tests set out in Article 16 of the Habitats Directive are met. The three tests are set out below.

- (i) The derogation is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- (ii) There is no satisfactory alternative
- (iii) The derogation is not detrimental to the maintenance of the population of the species concerned as a favourable conservation status in their natural range.

Well-being of Future Generations (Wales) Act 2015

This Act is about improving the social, economic, environmental and cultural well-being of Wales. The Act sets out a number of well-being goals:

- **A prosperous Wales:** efficient use of resources, skilled, educated people, generates wealth, provides jobs;
- **A resilient Wales:** maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change);
- **A healthier Wales:** people's physical and mental wellbeing is maximised and health impacts are understood;
- **A Wales of cohesive communities:** communities are attractive, viable, safe and well connected;
- **A globally responsible Wales:** taking account of impact on global well-being when considering local social, economic and environmental wellbeing;

- **A Wales of vibrant culture and thriving Welsh language:** culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation;
- **A more equal Wales:** people can fulfil their potential no matter what their background or circumstances.

A number of sustainable development principles are also set out:

- **Long term:** balancing short term need with long term and planning for the future;
- **Collaboration:** working together with other partners to deliver objectives;
- **Involvement:** involving those with an interest and seeking their views;
- **Prevention:** putting resources into preventing problems occurring or getting worse;
- **Integration:** positively impacting on people, economy and environment and trying to benefit all three.

The work undertaken by Local Planning Authority directly relates to promoting and ensuring sustainable development and seeks to strike a balance between the three areas: environment, economy and society.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Crime and fear of crime can be a material planning consideration. This topic will be highlighted in the officer report where it forms a significant consideration for a proposal.

Equality Act 2010

The Equality Act 2010 contains a public sector equality duty to integrate consideration of equality and good relations into the regular business of public authorities. The Act identifies a number of 'protected characteristics': age; disability; gender reassignment; marriage and civil partnership; race; religion or belief; sex; and sexual orientation. Compliance is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. Due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the needs of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Children and Families (Wales) Measure

Consultation on planning applications is open to all of our citizens regardless of their age: no targeted consultation takes place specifically aimed at children and young people. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

Climate Emergency

In May 2019 Monmouthshire County Council declared a Climate Emergency with unanimous support from Councillors. The Cabinet Member for Infrastructure and Neighbourhood Services has been appointed as the member responsible for climate change and decarbonisation.

Tackling climate change is very important, because if the planet's temperature rises by 2°C there are risks of drought, flood and poverty, impacting on hundreds of millions of people. In Monmouthshire impacts that could happen include more extreme weather events (such as storms), water shortages, droughts, species loss and risk of flooding. Planning has a key role in addressing climate change through the promotion of sustainable development.

The Council has formulated a draft action plan which will be subject to Member approval and will form the Council's response to tackling this issue. Council decisions will need to take into account the agreed action plan.

Protocol on Public Speaking at Planning Committee

Public speaking at Planning Committee will be allowed strictly in accordance with this protocol. You cannot demand to speak at the Committee as of right. The invitation to speak and the conduct of the meeting is at the discretion of the Chair of the Planning Committee and subject to the points set out below. **The conventional protocol has been modified to allow public speaking via pre-recorded videos.**

Who Can Speak

Community and Town Councils

Community and town councils can address Planning Committee via a pre-recorded video. Only elected members of community and town councils may speak. Representatives will be expected to uphold the following principles: -

- (i) To observe the National Code of Local Government Conduct. (ii)

Not to introduce information that is not:

- consistent with the written representations of their council, or
- part of an application, or
- contained in the planning report or file.

When a town or community councillor has registered to speak in opposition to an application, the applicant or agent will be allowed the right of reply.

Members of the Public

Speaking will be limited to one member of the public opposing a development and one member of the public supporting a development. Where there is more than one person in opposition or support, the individuals or groups should work together to establish a spokesperson. The Chair of the Committee may exercise discretion to allow a second speaker, but only in exceptional cases where a major application generates divergent views within one 'side' of the argument (e.g. a superstore application where one spokesperson represents residents and another local retailers). Members of the public may appoint representatives to speak on their behalf.

Where no agreement is reached, the right to speak shall fall to the first person/organisation to register their request. When an objector has registered to speak the applicant or agent will be allowed the right of reply.

Speaking will be limited to applications where, by the deadline, letters of objection/support or signatures on a petition have been submitted to the Council from 5 or more separate households/organisations (in this context organisations would not include community or town councils or statutory consultees which have their own method of ensuring an appropriate application is considered at Committee) The deadline referred to above is 5pm on the day six clear working days prior to the Committee meeting. This will normally be 5pm on the Friday six clear working days before the Tuesday Planning Committee meeting. However, the deadline may be earlier, for example if there is a Bank Holiday Monday.

The number of objectors and/or supporters will be clearly stated in the officer's report for the application contained in the published agenda.

The Chair may exercise discretion to allow speaking by members of the public where an application may significantly affect a sparse rural area but less than 5 letters of objection/support have been received.

Applicants

Applicants or their appointed agents will have a right of response where members of the public or a community/town council, have registered to address committee in opposition to an application. This will also be via a pre-recorded video.

When is speaking permitted?

Public speaking will normally only be permitted on one occasion where applications are considered by Planning Committee. When applications are deferred and particularly when re-presented following a committee resolution to determine an application contrary to officer advice, public speaking will not normally be permitted. Regard will however be had to special circumstances on applications that may justify an exception. The final decision lies with the Chair.

Registering Requests to Speak

Speakers must register their request to speak as soon as possible, between 12 noon on the Tuesday and 12 noon on the Friday before the Committee. To register a request to speak, objectors/supporters must first have made written representations on the application.

Anyone wishing to speak must notify the Council's Democratic Services Officers of their request by calling 01633 644219 or by email to registertospeak@monmouthshire.gov.uk. Please leave a daytime telephone number. Any requests to speak that are emailed through will be acknowledged prior to the deadline for registering to speak. If you do not receive an acknowledgement before the deadline please contact Democratic Services on 01633 644219 to check that your registration has been received.

Parties are welcome to address the Planning Committee in English or Welsh, however if speakers wish to use the Welsh language they are requested to make this clear when registering to speak, and are asked to give at least 5 working days' notice to allow the Council the time to procure a simultaneous translator.

Applicants/agents and objectors/supporters are advised to stay in contact with the case officer regarding progress on the application. It is the responsibility of those wishing to speak to check when the application is to be considered by Planning Committee by contacting the Planning Office, which will be able to provide details of the likely date on which the application will be heard. The procedure for registering the request to speak is set out above.

The Council will maintain a list of persons wishing to speak at Planning Committee.

Once the request to speak has been registered by the Council the speaker must submit their pre-recorded video by midday on Monday before the Committee meeting. The video content must comply with the terms below and be no more than 4 minutes in duration. If the third party does not wish to record a video they will need to submit a script to the Council by the deadline above, that will be read out by an officer to the Committee Members at the meeting. The script shall contain no more than 500 words and shall also comply with the terms below.

Content of the Speeches

Comments by the representative of the town/community council or objector, supporter or applicant/agent should be limited to matters raised in their original representations and be relevant planning issues. These include:

- Relevant national and local planning policies
- Appearance and character of the development, layout and density
- Traffic generation, highway safety and parking/servicing;
- Overshadowing, overlooking, noise disturbance, odours or other loss of amenity.

Speakers should avoid referring to matters outside the remit of the Planning Committee, such as;

- Boundary disputes, covenants and other property rights
- Personal remarks (e.g. Applicant's motives or actions to date or about members or officers)
- Rights to views or devaluation of property.

Procedure at the Planning Committee Meeting

The procedure for dealing with public speaking is set out below:

- The Chair will identify the application to be considered.
- An officer will present a summary of the application and issues with the recommendation.
- The local member if not on Planning Committee will be invited to speak for a maximum of 6 minutes by the Chair.
- If applicable, the video recording of the representative of the community or town council will then be played to Members (this shall be no more than 4 minutes in duration). Alternatively, if the community or town council has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- If applicable, the objector's video recording will then be played to the Members (this shall be no more than 4 minutes in duration) Alternatively, if a third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- If applicable, the supporter's video recording will then be played to Members (this shall be no more than 4 minutes in duration) Alternatively, if the third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- If applicable, the applicant's (or appointed agent's) video recording will then be played to Members (this shall be no more than 4 minutes in duration). Alternatively, if the third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting.
- Where more than one person or organisation speaks against an application, the applicant or appointed agent, shall, at the discretion of the Chair, be entitled to submit a video of their response of up to 5 minutes in duration.
 - Time limits will normally be strictly adhered to, however the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking.
 - Speakers may speak only once.
 - Committee Members may then raise technical questions with officers.
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- Planning Committee members will then debate the application, commencing with the local member if a Member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.
- Where an objector or supporter or applicant/agent community or town council has spoken on an application no further speaking by or on behalf of that group will be permitted in the event that the application is considered again at a future meeting of the Committee unless there has been a material change in the application.
- The Chair's decision regarding a procedural matter is final.
- When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly.
- When the motion has been seconded the Chair shall identify the Members who

proposed and seconded the motion and repeat the motion proposed (including any additional conditions or other matters raised). The names of the proposer and seconder shall be recorded.

- Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that particular application.
- Any Member who abstains from voting shall consider whether to give a reason for their abstention.
- The Legal Officer shall count the votes and announce the decision.
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- When the motion has been seconded, the Chair shall identify the members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded.
- A member shall decline to vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application.
- Any member who abstains from voting shall consider whether to give a reason for his/her abstention.
- An officer shall count the votes and announce the decision.

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Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee Remote Microsoft Teams Meeting on Tuesday, 2nd February, 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, M. Feakins, R. Harris, J. Higginson, P. Murphy, M. Powell, A. Webb and S. Woodhouse

OFFICERS IN ATTENDANCE:

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

APOLOGIES:

County Councillors: D. Evans and G. Howard

1. County Councillor David Dovey

Before commencing proceedings the Chair, on behalf of the Planning Committee, paid tribute to the late County Councillor David Dovey who had recently passed away. As a mark of respect, the Planning Committee held a minute's silence.

2. Declarations of Interest

None received.

3. Confirmation of Minutes

The minutes of the Planning Committee meeting held on 5th January 2021 were confirmed and signed by the Chair.

4. Application DM/2019/02079 - Construction of two detached dwellings and external works (relocation plot 12). Land adjacent to former Ifton Manor Farm, Chestnut Drive, Rogiet

We considered the report of the application and late correspondence which was recommended for approval subject to the 10 conditions outlined in the report and subject to a Section 106 Agreement.

The application was originally reported to the Council's Delegation Panel on the 22nd July 2020. Following consideration of the report the Panel resolved to approve the application subject to the applicant entering into a Section 106 Agreement to secure a commuted sum to be used for affordable housing.

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During the processing of the legal agreement, a public objection had been received. This related to construction works which had already commenced and raised concerns that the development was not being built in accordance with the proposed plans and was closer than that specified as part of the original report. The objector stated that this resulted in an increased level of overshadowing and overlooking to the detriment of amenity.

During discussions the objector had specified that they had not been made aware of the application. Based on the records kept it was noted that a direct neighbour notification was sent to the objector's property and a site notice was erected on the lamppost closest to their dwelling on the 7th January 2020. The objector has maintained that the letter had not been received.

As a result of the objection, site visits were conducted on 11th and 22nd December 2020 where measurements were taken between the property under construction and the objector's dwelling. During these inspections it was noted that the dwelling under construction maintains a distance in excess of 21m between habitable room windows and that a close boarded, timber fence 1.8m in height has been erected between the objector's property and the dwellings under construction. However, it was also noted that vegetation within the development site, adjacent to the boundary with the objector, had been removed.

In light of the new objection being received prior to the Section 106 Agreement being completed, the application was returned to the Council's Delegation Panel on 13th January 2021 for consideration. At that meeting Members resolved that the application should be presented to the Planning Committee for ultimate determination.

In noting the detail of the application the following points were identified:

- Concern was expressed that the building was close to completion before consideration by Planning Committee.
- Initially, it had been agreed to put one property on the site.
- The site has a mixture of properties crammed onto a site that is not amenable to local residents.
- There is a distance of 21 metres between two of the properties. However, at another location within the site one of the properties is too close to another property being eight metres away.
- The frontage, where the car parking provision is located, does not provide space for a footpath, with a 13 metre gap between a property and another property opposite.
- Concern was expressed that the application did not fit within the street scene and there were overlooking issues within the site. It was also considered that the site was being overdeveloped.

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- In response to the comments raised, the Development Management Area Team Manager informed the Committee that the previous application for the residential scheme had been approved. This application was to consider the three properties. The application for three dwellings in this location had been considered by the Delegation Panel and had agreed the proposal could be approved subject to the Section 106 Agreement.
- It was considered that the site was subject to overdevelopment under Planning Policy DES1 and was out of line with the street scene.
- The application has plenty of amenity space and the plots are large enough.
- The Development Management Area Team Manager informed the Committee that the intervening distance is 21 metres and complies with the infill guidance 2019 Supplementary Planning Guidance. The application also complies with the Planning Parking Standards Guidance. The application fully complies with the Authority's Supplementary Planning Guidance.
- The Head of Planning stated that the impact on the street scene is very limited.
- There are no reasons to refuse the application.
- In response to a question raised regarding Supplementary Planning Guidance rules in respect of the front elevations of the property in relation to the ones that have already been constructed, the Development Management Area Team Manager informed the Committee that these properties have been built and a scheme for three dwellings had been considered to be acceptable by the Delegation Panel subject to a Section 106 agreement. The rules have been complied with and applied consistently in this instance. There are no overbearing or overlooking issues arising from the development. Supplementary Planning Guidance measures have been adhered to.

It was proposed by County Councillor P. Murphy and seconded by County Councillor A. Webb that application DM/2019/02079 be approved subject to the 10 conditions outlined in the report and subject to a Section 106 Agreement.

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

For approval	-	10
Against approval	-	2
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2019/02079 be approved subject to the 10 conditions outlined in the report and subject to a Section 106 Agreement.

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

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

The application was presented to Planning Committee on 3rd March 2020 with a recommendation for approval. At this meeting it was proposed that the application be approved subject to the six conditions outlined in the report and subject to a Section 106 Agreement. Also, that an additional condition be added to approve the details of foul drainage including the removal of the existing arrangement. It was subsequently considered that the drainage details should be made available prior to approval to allow scrutiny from the Sustainable Drainage Approving Body (SAB), Natural Resources Wales, local residents, the Community Council and Local Member.

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

- If the application is approved foul drainage issues need to be addressed.
- The proposed application is a better alignment with less overlooking of the adjacent property.
- The local Member would like the Planning Committee to consider lowering the ridge height slightly in line with surrounding properties.
- There has been concerns regarding drainage and the dimensions of the plot.
- The Section 106 funding is a modest contribution.
- The local Member asked for information on sprinkler systems being installed in newly built properties.
- Wainfield Lane had been recently resurfaced. The local Member asked if a bond could be agreed to ensure that any damage to the newly resurfaced road is made good.

Gwehelog 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:

'The council responded to this application on 29 June 2020, when the members unanimously objected on the following grounds:

- *This is an attempt to fit two properties into one plot which itself has been subject of previous splitting. This will make inadequate sized plots and be out of character for what is essentially a rural setting.*

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- *The original plan for the houses to be built one in front of the other has been rejected by planning and new plans were submitted with the houses adjacent to each other to comply with 'the ribbon effect' of the rest of the lane. However, the point remains that there is insufficient land space for two houses on this tiny plot.*
- *Members were concerned that the proposed development would compromise the privacy of another adjacent house.*
- *The council were and are concerned with the proposals for drainage on this land which is predominantly Monmouthshire clay.*

The last point certainly has not been clarified by subsequent tests which were undertaken following a long period of dry weather. We remain very concerned by the proposals for foul drainage.

We are concerned by the apparent confusion over boundaries - there appears to be slight but significant inflation of the plot size, this could be important in respect of meeting the requirements for drainage run-off.

We feel that the development might run counter to policy LPD H3 because this is not an infill, a house will be demolished and substituted by two others. This extends the building boundary of Wainfield Lane into open country.'

Mr. G. Buckle, 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:

'Thank you Chairman for the opportunity to respond to the issues raised relating to drainage at the above development.

The comments have made some assumptions; as at the time of writing we have not received any additional objections from The Community Council and have surmised that these are based on the adjoining neighbours' objections (Mrs. Backland), who I understand is now a Community Councillor.

The proposals submitted for the surface water drainage have been accepted and approved by Monmouthshire County Council SAB Officers, following extensive testing by our Clients Specialists.

The foul drainage proposals have been vetted and approved by Monmouthshire County Council Building Control Officers and Natural Resources Wales, who have no objections to the proposals.

The location of the sewage treatment plants and outfall drainage meet current Regulations and each dwelling will be served separately by a KLARGESTER BIOTEC 2, 7 person population tank, which meets with the new guidance.

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For the avoidance of doubt, the septic tank serving the existing bungalow will be grubbed up and removed. It is also confirmed that the foundations of the bungalow will also be removed.

The infiltration drainage proposed for the sewage treatment tanks fully complies with current Building Regulations and this is supported by Monmouthshire County Council Building Control Officers.

For the avoidance of doubt, and contrary to recent comments from the neighbour, the soakaways are located a minimum of 5.0m from the lane/road, which complies fully with Building Regulations. The soakaway will not have a detrimental impact on the lane, unlike the adjoining property, which allows surface water to drain freely from the driveway on to the highway surface.

The properties on the opposite side of the development will not be affected, as the drainage for the development will be contained on site as approved by Natural Resources Wales and Building Control.

It is agreed that surface water should not be allowed to drain from the site and affect other properties, which is an existing problem caused by recently constructed properties on the Northern side of Wainfield Lane.

Members should be made aware that the drainage proposals for this site will not impact on the properties at lower level or on the lane itself and this is fully supported by Natural Resources Wales and Monmouthshire County Council Building Control.

B.R.E. 365 is a standard method of testing, to ensure that the ground is suitable for natural drainage, allowing natural dissipation and attenuation. The tests have been undertaken and approved by Natural Resources Wales.

Members should be made aware, contrary to the Community Council and neighbour comments, that the scheme has been adjusted to meet Local Authority Building Control Approval and also undergone vigorous scrutiny and approval by Natural Resources Wales.

Again, contrary to comments raised by the adjoining neighbour and the Community Council, the boundaries have not been falsified. The original Topographical Survey indicated the face of hedgerow. The hedgerow has been thinned recently and the stock fence exposed, which corresponds exactly to our Clients land ownership boundary. This has been clearly identified on the amended Site Plan, which was surveyed and prepared by a Professional Land Surveyor (Usk Land Survey) and therefore, there is no falsification what so ever of the site boundaries.

The proposal is wholly within our Clients ownership and the drainage field fits well within our Clients site boundaries, verified and approved by Natural Resources Wales and the Local Authority Building Control Officers.

Natural Resources Wales require the foul drainage field to be at least 2.0m from boundaries and not 2.5m as stated by objectors.

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In summary, we would confirm the following:

- *The position of the foul treatment plant complies fully with current Building Regulations Part H, and this is supported by Monmouthshire County Council Building Control Officers.*
- *The percolation testing method has been approved by Natural Resources Wales in accordance with B.R.E. 365.*
- *Building Regulations state that the treatment plant can be 7.0m from the property and not 10.0m as stated by objectors.*

As requested by members at the Planning Committee on 03 March 2020, details of the drainage were to be provided prior to the issue of the Approval Notice. The drainage details have been provided and approved by Natural Resources Wales and Monmouthshire County Council Building Control and SAB Officers, therefore there is no reason why the Planning Permission should not be issued.

The Section 106 Agreement was signed on 04 August 2020 in respect of Affordable Housing Contribution.

Our Clients would like to conclude with this final statement:

As can be seen, all of these issues arise from Mrs. Backland who became a member of the Community Council 3 months ago. It is evident that her own personal opinions aren't represented by the community which has been stated throughout. As a new family to the area, we are very quickly losing confidence in our Community Council and the work they do may be subsequently devalued. As stated by the Local Government Act 2000, the task of any Community Council is to identify the needs and aspirations of its community and to make decisions that will lead to appropriate action. At some point this might involve setting priorities on the competing or conflicting needs of different sections of the community. We have gathered results from professionals in the relevant fields, with approval from all the relevant bodies yet we are still being vilified by our neighbour/Community Councillor whose opinion has no factual grounds.'

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

- The application was approved in March 2020 and the details of the scheme have not changed apart from the submission of foul drainage details.
- A Section 106 Agreement had also been secured at this time which equated to £8,491.
- Building regulations will ensure that the properties will require the installation of a sprinkler system.

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- In response to the request for a bond to protect the road surface of Wainfield Lane, this would be a matter for the Highways Department to address, as this matter falls outside of the scope of the planning application.
- It was considered that there were no reasons to refuse the application.

It was proposed by County Councillor A. Davies and seconded by County Councillor P. Murphy that application DM/2019/00800 be approved subject to the conditions outlined in the report and subject to a Section 106 Agreement. An additional condition also be added, as outlined in the report, to address foul drainage issues.

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

For approval	-	13
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2019/00800 be approved subject to the conditions outlined in the report and subject to a Section 106 Agreement. An additional condition also be added, as outlined in the report, to address foul drainage issues.

6. Application DM/2020/01438 - Development of 15 dwellings (9 affordable and 6 open market) and other associated development and infrastructure. Land off Ty Gwyn Road, Little Mill, NP4 0HU

This application had been withdrawn by officers before commencement of the meeting.

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

7.1. Appeal Decision - 30 Maple Avenue, Bulwark, Chepstow

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at 30 Maple Avenue, Bulwark, Chepstow on 5th January 2021.

We noted that the appeal had been dismissed.

The meeting ended at 3.05 pm.

Application Number: DM/2020/00881

Proposal: 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 dependant of such person residing with him

Address: Bushes Farm, Chapel Road, Earlswood, Monmouthshire

Applicant: Mr Harry

Plans: Block Plan Block Plan - , Floor Plans - Existing Floor Plan - , Location Plan Site Location Plan - ,

RECOMMENDATION: APPROVE

Case Officer: Ms Kate Young
Date Valid: 07.07.2020

This application is presented to Planning Committee at the request of the Local Member

1.0 APPLICATION DETAILS

1.1 Site Description

Bushes Farm Bungalow is situated directly off Chapel Road on the outskirts of Earlswood. It is a three-bedroomed bungalow that was built in the 1970's. It has off street parking and a small garden area. The applicant owns approximately 15 acres of land surrounding the property. The dwelling is in a very poor state of repair having been vacant for over 11 years. The whole site is overgrown and the roof has failed over a rear extension. The building does not possess operable WC facilities or an equipped kitchen. There are significant areas of damp and there has been no maintenance on the property for some time.

Planning permission was obtained for the construction of the bungalow on 1st September 1975 under planning application reference: 2314. The planning permission includes an Agricultural Occupancy Condition limiting the occupation of the property as detailed below;

"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) or the Town and Country Planning Act 1971, or a dependant of such person residing with him".

1.2 Value Added

The application has been subject to an independent review by the District Valuation Officer.

1.3 Proposal Description

This application seeks to remove the agricultural occupancy condition allowing the property to be sold on the open market. A Planning Statement was submitted as part of the application which included a marketing report suggesting that that the property had been marketed for at least 12 months with a price of £200,000. The sales particulars related to a detached 3 bedroom dwelling, with 0.25 acres of garden and provision for off road parking. The property was advertised as being the subject of an agricultural occupancy condition. The information shows some interest in the property with offers lower than the asking price. These offers ranged between £120,000 and

£140,000, however, the applicants maintain that none would have been compliant with the requirements of the agricultural tie. The planning statement also included 3 quotes from local builders for repairs to the property to bring it up to a habitable standard, these quotes ranged from £90,000 to £128,000.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2018/01222	Conversion of stone barn to dwelling, with detached new double garage	Approved	27.11.2018

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S10 LDP Rural Enterprise
S17 LDP Place Making and Design
S13 LDP Landscape, Green Infrastructure and the Natural Environment
S4 LDP Affordable Housing Provision

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection

Supplementary Planning Guidance

Affordable Housing SPG July 2019:

<https://www.monmouthshire.gov.uk/app/uploads/2019/09/Final-Adopted-SPG-July-2019.pdf>

National Planning Policies (If Any)

Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010):

<http://gov.wales/docs/desh/policy/100722tan6en.pdf>

4.0 NATIONAL PLANNING POLICY

Future Wales: the national plan 2040

As of 24th February 2021 *Future Wales – the national plan 2040* is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. *Future Wales – the national plan 2040* is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040.

Planning Policy Wales (PPW) Edition 10

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Shirenewton Community Council – Refuse.

The 1975 planning consent was an exception to policy to permit accommodation for an agricultural worker and the applicant has shown there is no need for such accommodation nor for a rural enterprise and there is no viable affordable housing.

The two adjoining sites already have residential planning consent and allowing an additional dwelling would create overdevelopment to Bushes Farm. In the event that MCC removes the AOC, it should be replaced with a requirement that occupation be restricted to inhabitants with a strong local connection.

Councillors were aware that the 1975 planning consent with the AOC was an exception to MCC's policy not to permit residential building in the countryside because the need for an agricultural worker outweighed the rural impact. Given that the applicant has demonstrated there is no agricultural or rural enterprise need, the logic is that the bungalow should be removed and the land restored to its original state, and therefore be compliant with the SINC.

MCC Housing

To be able to use this property for affordable housing, I would have to support an RSL with grant funding to purchase and refurbish the property to bring it up to the required standard. The grant allocation for this year has been allocated and I do not have funds available, I am therefore unable to take this forward as an affordable housing option.

5.2 Neighbour Notification

One letter of support was received

The original linkage between the Agricultural Occupancy Condition and the old farmhouse was effectively confirmed as irrelevant when Monmouthshire County Council granted permission for the renovation of the old farm house.

The bungalow is in a poor state of repair and given its location is unlikely to be suitable nor affordable to someone working in agricultural or a related industry. Rather than allowing the bungalow to remain in its dilapidated state it would seem sensible to grant the application to remove the occupancy and allow the Bungalow to be renovated for general housing use This would help meet housing targets in Monmouthshire, allow others to enjoy living in Earlswood and prevent the Bungalow from falling into a state of further disrepair.

5.3 Local Member Representations – can be read in full on the website

Cllr Louise Brown (summarised)

I am writing to request that application DM/2020/00881 is fully considered by the planning committee in relation to the LDP, planning policies, rural and biodiversity policies, TAN2, TAN 5 and 6 policies, affordable housing contribution, removal of PDOs and highways considerations.

Concerns are raised over the suitability of the marketing exercise and the level of information provided. In addition the impact of any potential overage and increase in market value of the property should the tie be removed needs to be considered. The site is also located in a SINC and the biodiversity issues need to be considered including enhancements. In addition further consideration is necessary in relation to the enhancement of affordable housing in terms of strong local ties.

Please note all representations can be read in full on the Council's website:
<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

6.0 EVALUATION

6.1 Principle of Development

The existing dwelling is classed as a residential property with a condition that restricts the use to someone wholly or mainly employed or last employed locally in agriculture. The building is existing and the use of the building is accepted as residential. The application therefore evaluates the proposal to remove the restriction of occupancy completely to allow an unfettered residential use.

Technical Advice Note 6 Planning for Sustainable Rural Communities July 2010 considers in detail rural enterprise dwellings (the modern equivalent of a residential property with an agricultural tie or agricultural workers dwelling). It identifies what factors should be taken into account when approving rural enterprise dwellings in the open countryside. A rural enterprise dwelling is intended to allow for a more flexible approach to the rural economy. It also provides guidance as how to assess applications for the removal of such occupancy conditions.

Paragraph 4.13.5 of the TAN says "*Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for noncompliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.*"

The model condition identified above states:

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.*

The advice given in paragraph 4.13.2 of the TAN says that, "*It should not be necessary to tie occupation of the dwelling to workers engaged in one specific rural enterprise even though the needs of that enterprise justified the provision of the dwelling. An occupancy condition will, however, ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside.*"

Rural Enterprise Dwellings -Technical Advice Note 6 Planning for Sustainable Rural Communities December 2011 Practice Guidance also states:

8.1 The policy for rural enterprise dwellings provides for exceptions to be made to the general policy of restraint on sporadic residential development in the countryside where particular circumstances of functional need exist. It is an important aspect of this policy, therefore, that the needs are genuine and that permitted dwellings remain available to meet the needs of the rural community into the future. Given the widening of the scope of qualifying circumstances, this aspect is of even greater importance and it is necessary to have controls available to address it.

"The occupancy of the dwelling shall be restricted to:

- a) *a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,*
- b) *a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants."*

The guidance goes further to provide flexibility of the location of workers and to provide an intent that the conditions will preserve a stock of dwellings for the local population that can be recycled between workers meeting a constant need.

Where applications are received to remove such occupancy conditions the first consideration is for the dwelling to provide accommodation for a local occupant who meets the Authority's housing policies, i.e. is in need of affordable housing.

Specifically the guidance states that; (paragraph 8.26 to 8.28)

In the event that a proposal to remove the new occupancy condition, as attached to a new dwelling or pre-existing property, comes forward, there will be a need to demonstrate, with supporting evidence, that there is no longer a rural enterprise need for the dwelling or a local affordable housing need in the area. The longstanding mechanism for demonstrating the absence of need has been market testing.

8.27 Evidence of effective market testing will be required over a reasonable period, usually at least 12 months. The critical aspects of market testing are that:

- o the availability of a property is advertised in such a manner that compliant purchasers or tenants are likely to be made aware of it; and*
- o the price or rent attached to a property reflects the restrictive occupancy requirement.*

8.28 The value of any property subject to an occupancy restriction will be less than its value on the open market. Traditionally agricultural dwellings have been marketed at prices generally between 70 and 75% of their open market value. With the wider range of compliant rural enterprise workers and local affordability constraints, this will continue to be the case. The valuation of properties will require professional advice and, in the case of affordability criteria, assistance from the local authority.

In summary, if it is considered appropriate to remove the agricultural occupancy condition the first consideration would be to replace the AOC with a more updated and flexible rural enterprise dwelling condition which expands on the suitable criteria for occupants including those requiring affordable housing. In order to assess the removal of the AOC the appropriate marketing and evidence of lack of need should be demonstrated.

The main issues in the assessment of this case are set out below.

6.2 The need for the original agricultural occupancy condition

There is a general presumption against new residential dwellings in the open countryside. At the time that planning permission was sought for a property on this site the applicant would have needed to demonstrate that there was a functional and financial need for a new dwelling to be located on this site. The condition was necessary in this case because without it approval for a new dwelling would not have been granted. In 1975 planning permission was granted for the bungalow to replace the old stone farm house with a condition that the old stone farm house be demolished or used for storage. The old stone farm house was not demolished, it was used for agricultural storage and then granted permission in 2018 under app ref DC/2018/00128, for conversion to a residential property.

6.3 Marketing Exercise

Welsh Government advice is to ascertain if there is any demand for an enterprise dwelling in this location. The property should be actively marketed for a least 12 months in a location where rural enterprise workers are likely to see the advertisements. In this case DJ & P Newland Rennie marketed the property. Sale particulars were emailed to all registered applicants on the DJ & P Newland Rennie system looking for this type of property. The property was advertised on the open market from the 8th July 2019 through online portals including Rightmove (www.rightmove.co.uk) and On the Market (<https://www.onthemarket.com>) and on the website of DJ & P Newland Rennie (www.djandp.co.uk). The property was further marketed online with UK Land and Farms (www.uklandandfarms.co.uk). Sales particulars were available in offices throughout Monmouthshire, Gwent, Gloucestershire and North Somerset. A 'For Sale' signage board was

erected at the property to advertise the property as available to purchase. The property remains available for sale on the open market. The property was advertised a minimum of three times within printed publication. As such three adverts were placed in the property supplements of the following local newspapers;

- Western Daily Press;
- Free Press; and
- Western Mail.

The adverts on line, in the paper and on site all identified that the property was the subject of an occupancy condition but did not specify the amount of land that came with the property referring only to the 0.25 acre garden and not the surrounding 11- 15 acres in the applicant's ownership. The marketing was extensive in so much as it was advertised in the farming press, locally and that the tie was mentioned. It complies with WG advice in that the marketing should continue for at least 12 months. The advertisements specified that the property came with 0.25 acres of land; planning officers consider that the property would have been more attractive to potential rural enterprises had the advertisements referred to the surrounding 15 acres in the applicant's ownership. Despite this, generally the marketing exercise complies with the advice given in TAN 6, in that it was marketed in suitable publications over an acceptable length of time

The marketing report from DJ & P Newland Rennie found that there was a reasonable amount of interest in the property as a renovation project. A total of 52 enquiries were received from interested parties, including telephone enquiries, in office enquiries and online enquiries. Predominantly enquiries were received through the online market portals and the majority of information with regards to the property was emailed to interested parties, with two copies of the property particulars and details of the agricultural tie being sent via post. From the 52 enquiries received, 94% did not comply with the agricultural tie which limits the occupation of the property to agricultural/forestry workers. The remaining 6% were made up of three interested parties. Two of these were currently working in agriculture within the local area of Monmouthshire. Viewings were undertaken of the property for both interested parties with one party requesting a second viewing but no offers were forthcoming from either party. The remaining interested party was retired and had previously worked in agriculture however, prior to retiring he derived his main source of income from work at Llanwern Steelworks. It was advised that the interested party should contact the Council to confirm whether his historical agricultural work would satisfy such a tie. No further correspondence was received. From the interested parties, 14% of enquiries were from developers/builders looking for a project. One enquiry was from a Town Planner who enquired as to whether an Option to Purchase, subject to gaining planning approval to vary the agricultural occupancy condition would be acceptable. This offer was however rejected. Through the marketing process, three offers have been received from two interested parties. One party initially offered £120,000 which was rejected and a counter offer of £130,000 received however, this was again rejected. A further offer was received from another interested party for £140,000 which was subsequently refused. No offers were accepted at this level as they are substantially below the asking price of the property. It is also important to note that DJ&P took time to consider whether potential purchasers not only complied with the AOC, but whether they would meet the requirements of the wider and more flexible Rural Enterprise Condition and concluded that none of the parties who offered on the property met the tie criteria. Whilst helpful, again this is ultimately a decision for the Local Planning Authority.

However, some interest in the property has been drawn to the attention of the planning authority as a result of this application. A recent enquiry direct to the case officer demonstrated interest in the property as it stands from a party who would comply with the conditions of the rural enterprise dwelling as stated above. From the marketing evidence supplied it is considered that there is some interest in the property from applicants who could potentially make use of the building in line with its intended purpose.

6.4 Was the asking price realistic?

The property was placed on the market for £200,000. The applicant obtained three valuations of the property prior to marketing with these valuations reflecting the poor state of the property and it being subject to an occupancy tie. These valuations ranged from £190,000 to £225,000.

For clarity the Council commissioned a separate valuation by the District Valuer. This valuation stated that the Market Value of the freehold in the subject property is approximately £185,000 as at 20 November 2020. This valuation takes into account the extensive refurbishments required to bring it to a level where it is fit for occupation and the fact that the value of a home tied with an agricultural occupancy condition is generally 30 per cent lower than that of an unencumbered property.

The current owner of Bushes bungalow, the vendor, has put a legal covenant on the land to say that he would get 50% of any uplift on the value of the property if the agricultural tie was to be removed in the next 35 years. The District Valuer did take this into account and concluded that, "The uplift would unlikely 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 were advertised without this clause, the condition of the property and the lack of land it comes with may still deter prospective purchasers."

From the independent valuation it can be seen that the property was marketed at about £15,000.00 above its true value. Given that house prices are often subject to negotiation, it is considered that although rather high, the marketing price was not too far from the independent valuation to warrant a new marketing exercise. It has been suggested to the vendor that he continues to market the property but at a price in line with that of the District Valuer, £185,000.

6.5 Demand for enterprise dwellings in local area

TAN 6 makes it clear that it is intended there should be a pool of rural enterprise dwellings retained within the locality that can be recycled, so that they are available to meet the needs of the rural community now and in the future. It is considered important to maintain a stock of such dwellings to provide accommodation for workers in the rural economy who are often on low wages and may otherwise have to move out of the county or give up their jobs. The pool of such dwellings is also available for retired rural workers and their dependants. To assess demand for this type of accommodation we can look at recent planning applications for rural enterprise dwellings in Monmouthshire over the last 5 years.

MCC produces an annual return to the Welsh Government on the numbers of rural workers dwellings being approved and refused. This return indicated that since 2014 there were at least 11 applications made for new Rural Enterprise dwellings in the county. This would indicate that there is demand within the county for New Enterprise Dwellings in the open countryside.

Officers of the Council were made aware that an interested party had submitted a provisional offer on Bushes Barn and 2.6 acre adjacent field on the 14th December 2020, and were offering £185,000. This interested party sought to start a market garden from which they intended to derive their main source of income and thus satisfy the occupancy condition. At the time of writing, it is unclear as to current status of the offer. The applicant has questioned their ability to meet the tie and sought to obtain such evidence, whilst helpful, ultimately the compliance with an agricultural occupancy condition is a matter for the Local Planning Authority. The council is satisfied that other such enterprises in the area are able to meet the wider scope of activities within the TAN 6 suggested condition. Planning officers are satisfied that there is demand within the county for properties with AOC and Rural Enterprise conditions. If the AOC was removed from this property part of the stock of rural enterprise dwellings would be lost to the county forever and this may result in some potential rural enterprises being unable to start up in the area or more likely would result in greater pressure for new rural enterprise dwellings to be approved in the future.

6.6 Impact of the SINC

The land surrounding the bungalow has been designated locally as a Site of Interest for Nature Conservation (SINC). In this case the land is Species Rich Grassland. The applicant maintains the site is not suitable for a rural enterprise dwelling as the land surrounding the bungalow is designated as a SINC. There is however no requirement or expectation for land owners to alter their current regime for the land. The Gwent Wildlife Trust has produced a Land Management Tool for the management of Local Wildlife sites. This document does make recommendations for the management of land to help maximise the wildlife potential of the site that includes light grazing of the land, but that is only a recommendation and not intended to prevent farming on the land. The

local designation of the land surrounding the bungalow as a SINC does not restrict the bungalow's ability to be a suitable rural enterprise dwelling.

6.7 Suitability for Affordable Housing

TAN 6 outlines, within the model occupancy condition, at chapter 4, para 4.13.1 that where there would be no suitable rural enterprise workers, affordable housing should be considered for the site.

WG advice is that where a property is no longer suitable as a rural enterprise dwelling it should be offered as affordable housing to meet local need. The applicant wrote to MCC Housing and two housing associations seeking an offer to purchase the dwelling. However these housing providers declined on the basis that the agricultural tie is restrictive to occupants and that the condition of the building would require extensive refurbishment. Funds are not available for the extensive upgrades required to the property.

If the housing providers were to take on the property they would not need to apply to remove the occupancy condition, they could just seek to modify the condition to replace it with the model condition. This was not made clear to the housing providers. In the case of MCC Housing there was no allocated funds in their current budget to make the necessary repairs to bring the property up to a habitable standard. If the applicant was to undergo the repairs first and then offer the property to a housing provider there may have been more interest. The applicant also claims that the property is not suitable for affordable housing as it would not meet the standards for life time homes. This is not a reason for it not being an affordable dwelling, it just means that it may have to be adapted to comply with the standards if the funds were available.

The condition of the property means that it will require investment that the local housing providers do not have. It is not a reflection of the need for affordable housing within the locality. The Council are always looking for affordable accommodation and consider any options available to help meet wider housing need.

6.8 Replacement Condition

As per TAN 6 (paragraph 4.13.5) it is recommended that the agricultural occupancy condition (AOC) is replaced with the more flexible rural enterprise condition. This condition allows for the use of the building for those employed in Rural Enterprise and also for occupants who meet the Authority's housing need criteria. The building once restored, would then contribute to meeting local need in a more flexible manner. The Authority has a register with clear evidence of the need for affordable homes within the area.

The assessment above has shown that the applicant has been through a marketing assessment which, despite the higher than normal valuation and the implications of not providing all of the land with the dwelling, is considered to be sufficient. The marketing of Bushes Bungalow has proved that there is interest from people wishing to purchase the property and who could comply with the occupancy condition. It has been brought to the officer's attention that at least two sets of interested parties have considered purchasing the property and this demonstrates that there is demand within the county for such properties.

The restrictions applied to the residential use in the first instance were considered to be necessary, and are still appropriate in policy terms. Relevant up to date policy, TAN 6, states that where AOCs are proposed to be removed they should be replaced with a more flexible rural enterprise condition. In this case it is understood that the current condition is restrictive and that the marketing has shown that as it stands the condition severely limits the occupancy of the building. However, as per the guidance a more flexible condition can be reasonably imposed and in this case, it is considered that it should be applied to the building, which provides a much wider scope of potential occupants whilst retaining the building for its intended purpose.

6.9 Previous Appeal

The applicant refers us to relatively recent planning appeal (2016) in Monmouthshire Tyr Berllan, Llangwm, Usk, DC/2014/01163 (APP/E6840/A/15/3124713). This case referred to the removal of an occupancy condition on a property where a Certificate of Lawful Development had been approved. The Inspector allowed the appeal on the basis that the certificate of lawfulness affected the ability of the Council to enforce the occupancy condition and allowed the appeal to remove all occupancy restrictions from the site.

The circumstances are different in this case, there being no approved certificate of lawfulness, and as discussed above the condition remains relevant and enforceable. Thus, the appeal decision is not material to the determination of this application.

6.10 Other Material Considerations

Design/ Visual Impact/ Residential Amenity

The removal of the condition has no bearing on design, visual impact or residential amenity. As per this application there are no proposals to make physical alterations to the building or the land around it. The applicant could repair the building on a like for like basis without the need for planning permission. Therefore as the application stands, the proposal is acceptable and in accordance with LDP policies DES1 and EP1.

Access and Highway Safety

As with the design, the application does not propose any alterations to the access or parking provision on site. There are no highway safety concerns and the application accords with Policy MV1.

Biodiversity

As the application does not propose any physical alterations to the property or associated land there will be no adverse impact on biodiversity and there is no justification for asking for biodiversity enhancements. The proposal accords with Policy NE1.

Phosphates

The application is outside the Phosphates Catchment Area and so it is not considered to have adverse impact on the protected SAC of the Usk or the Wye in relation to Phosphate inputs. No further screening or HRA will be required.

6.11 Response to the Representations of Third Parties and/or Community Council

Shirenewton Community Council recommend refusal of the application due to overdevelopment. In 2018 planning permission was granted to convert the former stone farm house into a dwelling and also to convert a stone barn to the south of the bungalow into a dwelling; work on these has not yet started. Whilst these applications increase the number of residential units, they both refer to existing buildings. The current application seeks the removal of an occupancy condition and again as this refers to an existing building, with an existing residential use this has no net increase of the level of development on the site. The community council also suggest that future occupiers of Bushes Barn should be restricted to someone with strong local connections.

As stated above it is considered reasonable to replace the outdated occupancy condition with a more updated and flexible occupancy condition which is more appropriate.

Finally the community council recommend the removal of the bungalow to allow for biodiversity enhancements. Again the planning authority does not have powers to remove the building or the residential use from the site, as this is the current lawful position which in theory can be maintained in perpetuity.

Councillor Brown refers to poor access to the site and the fact that two conversions to residential units have been allowed on adjacent sites. As stated above this application does not seek to change the physical arrangements on site; the potential removal of the occupancy condition, which is the subject of this current application, will have no effect on the number of vehicles accessing the site.

Councillor Brown also refers to "Special Conditions of Sale" which were published on the sales particulars which refers to an uplift in value being provided to the vendors. Councillor Brown correctly identifies the need to take the uplift in value into account when assessing this application. It has been acknowledged through case law, that the value of a property is depressed by approximately 30% if that property is the subject of an agricultural occupancy condition; this is to ensure that there is a stock of such dwellings kept available for rural enterprise workers. The replacement of the outdated AOC with a more flexible rural enterprise condition will not affect the value of the property, which will still be suppressed by approximately 30%. Clarification with the DV shows that this has been part of the consideration and resulting valuation.

Councillor Brown also mentions that the property was marketed during the Covid Emergency. The property was first marketed in July 2019, which continued through the beginning of the pandemic. Both the District Valuer and Newland Rennie took this into account when compiling their reports; some adjustments had to be made for the viewing of properties but this did not have a significant impact on the marketing of the property. Councillor Brown raises concerns about the over development on the site (addressed above) and its impact on the surrounding SINC. The removal of the occupancy condition will not result in any new development and will have not have a detrimental impact on the SINC. It is important to note that the land can be legally farmed at present despite the designation as a SINC.

The Councillor has also suggested that more work needs to be undertaken to see if there is local need for affordable housing. We are aware that there is a great need for affordable housing for local people within the Shirenewton area. A register of demand is produced by MCC Housing Department. The application of a more flexible occupancy condition will take into account local residents' needs and housing requirements.

6.12 Well-Being of Future Generations (Wales) Act 2015

6.12.1 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.

6.13 Conclusion

This application seeks to remove an agricultural occupancy condition which is tied to the property. This AOC restricts the occupation of the property for those solely or most recently employed in agriculture in the locality.

The removal of an agricultural condition is generally resisted as policy aims to ensure sufficient affordable dwellings are available for agricultural workers in the countryside. In order to remove an agricultural occupancy condition the application must comply with the tests set out in paragraph 8.27 of TAN 6 Practical Guidance Dec 2011, ensuring appropriate marketing with a realistic price. In this case the applicants have demonstrated that the property was marketed for a period of at least 12 months, in a manner that the advertisements would be seen by relevant tenants or purchasers and that the marketing price was within reasonable parameters. The asking price was higher than the District Valuer's valuation by £15,000 which, subject to the usual negotiations is towards the higher, but not unsuitable, range. Interest was drawn to the Council's attention in relation to the use of the building that could be accommodated with a more flexible and relevant condition.

Whilst the marketing was for a sufficient period and for a reasonable price it is not considered that there is no interest in the property. Moreover, the recent interest directed at the Council confirms that the building is still required for its intended purpose. With this in mind it is considered necessary to follow the TAN6 advice and replace the condition with the more modern and flexible equivalent. Whilst the officer recommendation is to remove the agricultural occupancy condition, it is also to replace this with another restrictive condition, and thus the occupancy of the property should therefore be maintained for its intended purpose.

7.0 RECOMMENDATION: APPROVE

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.*

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Application Number: DM/2020/01872

Proposal: Change of use of retail shop A1 to A3 take-away (hot) food (resubmission of DM/2019/01648)

Address: Cobblers Pride, 9 Newport Road, Caldicot, NP26 4BG

Applicant: Mr Foysal Ahmed

Plans: All Existing Plans 20-100 - , All Proposed Plans 20-200 - , Location Plan 90-100

RECOMMENDATION: Approve

Case Officer: Ms Kate Young

Date Valid: 21.12.2020

This application is presented to Planning Committee as Caldicot Town Council have objected to the proposal

1.0 APPLICATION DETAILS

1.1 Site Description

Cobblers Pride is a modern retail unit located at No 9 Newport Road. It is located within the Primary Shopping Frontage of Caldicot as defined under Policy RET1 and in a Central Shopping Area defined under Policy RET2 of the LDP. It has a total floor area of 96 square metres and a shop frontage approximately 5 metres wide. The unit was used as a cobblers and key cutting shop for many years and was vacant for a time before becoming a vape shop. The shop is currently vacant again. There is rear access to the unit from the car park to the rear.

1.2 Proposal Description

The application seeks a change of use of the ground floor of no 9 Newport Road, from A1 Retail to A3, Hot Food of the Use Classes Order. It is proposed that the premises be used for a hot food takeaway that would be open between 12 noon and 23:30 on all days. It would employ 5 full time staff. The shop would have an internal re-fit. A kitchen and food preparation area would be provided towards the rear of the premises and there would be seating for approximately 8 customers to sit while waiting for their food. The first floor would be retained as ancillary storage area. Externally, it is proposed to retain the large glazed windows to the front of the application site. The door and window frames, and plinth will be repainted. New signage will also be installed which would be the subject of a separate application for advertisement consent. A new extraction flue will also be required, and this would be attached to the left-side of the rear elevation.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2019/01648	Change of use of retail shop A1 to A3 take-away (hot) food.	Refused	28.11.2019

DC/2000/00526	Installation Of Satellite TV Dish, 1300mm Diameter to the rear of Class A2 Shop Unit.	Approved	13.07.2000
DC/2000/00202	Change of use to existing shop unit from Use Class A1 to Class A2	Approved	06.04.2000

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S6 LDP Retail Hierarchy
 S8 LDP Enterprise and Economy
 S13 LDP Landscape, Green Infrastructure and the Natural Environment
 S17 LDP Place Making and Design
 S16 LDP Transport

Development Management Policies

RET1 LDP Primary Shopping Frontages
 RET2 LDP Central Shopping Areas
 EP1 LDP Amenity and Environmental Protection
 DES1 LDP General Design Considerations
 MV1 LDP Proposed Developments and Highway Considerations

Supplementary Planning Guidance

Primary Shopping Frontages Supplementary Planning Guidance April 2016:
<http://www.monmouthshire.gov.uk/app/uploads/2016/05/Primary-Shopping-Frontages-SPG-April-2016-with-footer.pdf>

4.0 NATIONAL PLANNING POLICY

Future Wales: the national plan 2040

As of 24th February 2021 *Future Wales – the national plan 2040* is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. *Future Wales – the national plan 2040* is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040.

Planning Policy Wales (PPW) Edition 10

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well being, creating prosperity for all.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Caldicot Town Council - Refuse

Too many takeaways in the Town Centre

Caldicot Town Team - Support the proposal

There is a significant number of takeaways within Caldicot, 13 at the current count, as well as 4 pubs serving food and 2 cafes. This is approximately 1 per 684 based on population of 13,000.

The makeup of town centres and high streets across the country are changing however, and becoming far more service-based this benefits the local town centre in the view of enhanced footfall and a better atmosphere outside of the standard 9-5 retail operating times.

With new flats being converted in the town centre, we feel that this will add to the atmosphere and could help to potentially reduce some anti-social behaviour. Whilst Caldicot Town Team would of course like to see more retail units being taken up over food outlets, the market is not going in that direction and we feel that on reflection, an occupied premise is a much more appealing option than an empty one; regardless of its use class.

Highway Authority - No objection

The proposal is located in a well-established commercial pedestrianised area with adequate parking provision in close proximity

Environmental Health – response awaited.

5.2 Neighbour Notification

None Received

5.3 Local Member Representations

Councillor Alan Davies:

This application should be referred to Planning Committee in order that local members can contribute.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

6.0 EVALUATION

6.1 Principle of Development

One of the main objectives of PPW 10 is to sustain and enhance retail and commercial centre's vibrancy, viability and attractiveness (para 4.3.3).

This is echoed in *Future Wales: the national plan 2040* which adopts a 'Town Centre First' approach. It recognises that good planning can help us re-think the future of town centres, which are moving away from their traditional retail roles. The impact of Covid-19 on the retail sector is a further driver towards making our town centres multi-functional places. Town centres remain important focal points of communities and are increasingly becoming places to live, centres of community and cultural activity a focus for public services such as health and education, and the location of new co-working spaces. Therefore *Future Wales: the national plan 2040* clearly identifies that town centres are more than the extent of designated retail areas.

As this application relates to a property with a primary shopping frontage within a central shopping area, it falls to be considered under policies RET1 and RET2 of the LDP. Policy RET1 says that the ground floor of properties within the Primary Shopping Frontage shall be occupied by uses A1, A2 or A3 but changes from A1 to A3 will not be permitted if they would create or further extend a continuous frontage exceeding two or more non-A1 units or if they would result in the loss of an A1

retail unit in a prominent location or if it would lead to an over-concentration of uses that detracted from the established retail character.

Policy RET1 does make exceptions where it can be demonstrated that the proposed use would not harm the vitality of the street frontage and that the premises has been vacant for at least 2 years and that genuine attempts at marketing the existing use have been unsuccessful.

Policy RET2 refers to designated Central Shopping Areas seeking to protect the vitality and viability of town centres in line with the objectives of Policy RET1 stated above.

The Primary Shopping Frontages Supplementary Planning Guidance was adopted in April 2016 and states

"Maintaining and enhancing the vitality, attractiveness and viability of primary shopping frontages in Monmouthshire's main town centres of Abergavenny, Caldicot, Chepstow and Monmouth is a key objective of the Monmouthshire Local Development Plan (LDP) and reflects the aims of national planning policy on retail and town centres".

Policy RET1 - Primary Shopping Frontages - of the Monmouthshire LDP seeks to protect the predominant shopping role and character of the main towns by controlling the loss of retail uses in the primary shopping frontages. While national planning policy encourages diversity in town centres as a whole, the SPG highlights the importance of ensuring that ground floor use class changes to non-retail uses are not permitted where they create a predominance of such uses, unacceptably dilute the shopping street frontage or undermine the vitality, attractiveness and viability of a centre.

These principles are reflected in the LDP's retail planning policy framework and the SPG. The clustering of retail uses can significantly contribute to the vitality, attractiveness and viability of the town centres. Whilst it is recognised that other non-A1 uses, such as financial and professional services and restaurants and cafés can complement and contribute to the vitality of shopping centres, there is a need to ensure that they do not reach such a level that the main retail function of a centre, or a particular frontage, is diluted and/or the vitality, attractiveness and viability of a centre is undermined. It is essential, therefore, that the retail core of the County's main centres is protected and that developments which undermine this function are resisted.

6.2 Compliance with Policy RET1 of the LDP

Criterion (a) of Policy RET1, Primary Shopping frontages, advises that a change of use from an A1 to an A3 use will be permitted unless it creates or further extends a continuous frontage exceeding two or more non-A1 units. In this instance unit 9 is located between an A1 use at unit 7 and A3 uses at units 11, 13, and 15; a change of use to A3 for 9 Cobblers Pride would thus be contrary to criterion (a) of the policy as it would create a continuous frontage of four non-A1 uses.

Under criterion (b) of the policy a change of use will be permitted providing it does not result in the loss of an A1 retail unit in a prominent location, a corner unit or a unit with a long frontage. In this instance, 9 Cobblers Pride with a frontage of 5 metres is below the average for the centre and it is located in the centre of the frontage and is not particularly prominent. A change of use to A3 of 9 Cobblers Pride would thus not be considered contrary to criterion (b) of the policy.

Under criterion (c) of the policy such a change of use would be permitted unless it would create an over concentration of uses that detract from the retail character of the area. The Primary frontage Supplementary Planning Guidance assists with the interpretation of this. Percentage figures are provided for the maximum proportion of non-retail (A2/A3) uses the Council considers appropriate in each of the centres' Primary Shopping Frontages; for Caldicot this figure is given as 35%. This figure is already exceeded in Caldicot with the current percentage of non-A1 uses in the Primary Shopping Frontage standing at 44% at the time of the November 2018 survey.

If this proposal was to be granted planning permission then the percentage of non-A1 uses would increase to 46%, well above the identified threshold undermining the vitality and viability of the

centre. In this regard the proposed change of use is contrary to criteria c) of Policy RET1, although an exception to this may arise:

i) when it can be demonstrated that the proposed use would not harm the vitality of the street frontage.

In the supporting text to the policy it states that particular consideration will be given to assessing proposals for A3 uses within primary shopping frontages as whilst it is recognised that cafes and restaurants can complement retail uses, hot food take-away premises that are closed during the day make a limited contribution to the vitality of the centre. In this case it is proposed to provide a hot food takeaway, with premises opening times from 12 noon until 11:30pm every day of the week. With the premises being open during the day time this could contribute to increasing footfall in the town centre thereby boosting vitality and viability

OR

ii) when the premises have been vacant for at least 2 years and genuine attempts at marketing the existing use have been unsuccessful. In this case, 9 Cobblers Pride, Newport Road has been vacant since October 2018.

The nature of town centres is changing following the banking crisis and as a result of the Covid Pandemic. Caldicot Town Centre has been particularly badly affected and there are many vacant retail units within the Central Shopping Area. LDP policy does not really reflect the changing economic climate and planning officers consider that a more flexible approach should now be taken to help promote the vitality and viability of the town centre. The Council is trying to lead this approach introducing working from home stations and hubs within town centres. Given that the current application proposes longer opening hours with more emphasis on daytime activity, when compared to the 2019 application, on balance it is preferable to have a unit occupied and active for most of the day, rather than none of the day.

Whilst the lack of marketing evidence is not ideal it is not considered that it is necessary to provide additional evidence. Given the number of vacant units in the town centre, the change of use of this one will not prevent another A1 retailer from opening up in the town. It is considered, in these changing times the proposed change of use to A3 will help to improve the vitality and viability of the town centre. While not actually complying with elements of Policy RET1 of the LDP the proposal does accord with the objectives behind the policy and that is to protect the vitality and viability of the town centre by increasing footfall.

6.3 Sustainability

PPW and the LDP encourage sustainable development with less reliance on car borne journeys. This unit is located within the town centre within easy walking distance of many residential areas. Customers picking up a take away may also combine the trip with using other facilities within the town centre. No 9 Newport Road is considered a sustainable location for an A3 use and accords with one of the key objectives of PPW10, providing development in a sustainable location.

6.4 Good Design and Place Making

There will be no external alterations to the front elevation but the door and window frames will be repainted. The new signage will be the subject of a separate application for express consent to display advertisements. Subject to careful (and separate) assessment, these would lead to a visual improvement and will enhance the appearance of the town centre. A new flue will be installed at the back of the building, and this will be subject to Environmental Health Regulations. There are many similar flues attached to buildings in this area. The proposal accords with the objectives of Policy DES1 of the LDP.

6.5 Impact on Amenity

The property is surrounded by other commercial properties within the town centre. The first floor of this premises and the surrounding properties are used for ancillary storage and are not residential. The proposed change of use will not cause an unacceptable harm to local amenity, health or character of the area, and therefore accords with the objectives of Policy EP1 of the LDP.

6.6 Transport issues

6.6.1 Sustainable Transport Hierarchy

PPW10 refers to the Sustainable Transport Hierarchy where walking and cycling are the highest priority and public transport second with private motor vehicles being the least desirable. In this case the hot food establishment will be located within the town centre within easy walking distance to many residential areas. Also as it is a town centre location trips to the takeaway may be combined with trips to the town centre shops and facilities and this may help to reduce the number of car borne journeys. In this regard the siting of an A3 use in this location can be seen to conform to the Sustainable Transport Hierarchy.

6.6.2 Access / Highway Safety

This is a town centre location very close to public car parks; while there is no dedicated parking for the takeaway there is adequate parking in the vicinity. The Highway Authority has no objection to the proposal noting that, the proposal is located in a well-established commercial pedestrianised area with adequate parking provision in close proximity.

6.7 Response to the Representations of Third Parties and Town Council

The Town Council has recommended refusal of the application saying that there are too many takeaways in the town centre. It has been explained above that while officers would prefer to see retail units within the town centre the changing nature of town centres means there is now less demand for retail units with more people shopping on-line. This unit has been vacant for over two years as have many other retail units in the town centre. It is considered to be more beneficial to have a takeaway unit occupying the building for a reasonable proportion of the time than to have a long-standing vacant unit. The main difference between this proposal and the application that was refused in October 2019 is the proposed opening hours (that include lunchtime and beyond) and the fact that the unit has been vacant for over two years. The applicant in this case has said that the takeaway will be open from 12 noon when previously it was to be shut during the day and only open in the evenings.

6.8 Conclusion

While the proposal does not accord with elements of Policy RET1 of the LDP in so far as it does extend a continuous frontage of more than two non-A1 uses, the policy does allow for exceptions to be made where it can be demonstrated that the proposal will not harm the vitality of the street frontage. In this challenging economic climate there is a need to be flexible with town centre policies. In this case the A3 takeaway will occupy a retail unit that has been vacant for over two years. The proposed takeaway that is to be open during the day will generate footfall into the town centre and help to increase the vitality and viability of the town centre. The proposal is policy compliant in all other respects.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 The premises shall not be used for the approved purposes outside the following times 12 noon and 23:30 on any day.

REASON: In the interests of amenity and to ensure compliance with LDP Policy EP1.

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