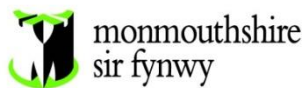


# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Monday, 26 July 2021

Notice of meeting:

## Planning Committee

Tuesday, 3rd August, 2021 at 2.00 pm  
County Hall, Usk - Remote Attendance

### 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/2020/01801 - Use of domestic garage as a dwelling for a temporary period while building works are undertaken on a consented barn conversion. Campston Mill, Barry-Cathlea Road, Llanvihangel Crucorney, Monmouthshire, NP7 8EF.	9 - 14
4.2.	Application DM/2021/00771 - Full Planning Permission - Provision of timber decking under the existing outside seating area. The decking will include four steps and a hand rail. Wye Knot Restaurant, 18A The Back, Chepstow.	15 - 24
5.	FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received:	
5.1.	Her Majesty's Prison Usk, Maryport Street, Usk.	25 - 28

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 Paul Jordan	Cantref;	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

:

## 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/ie/ListMeetings.aspx?Committeed=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](mailto: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.
  -
- 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.
- 
- 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 held  
at County Hall, Usk with Remote Attendance on Tuesday, 6th July, 2021 at 2.00 pm**

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

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

County Councillor V. Smith attended the meeting by invitation of the Chair.

### **OFFICERS IN ATTENDANCE:**

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

### **APOLOGIES:**

None received.

#### **1. Declarations of Interest**

None received.

#### **2. Confirmation of Minutes**

The minutes of the Planning Committee meeting dated 1<sup>st</sup> June 2021 were confirmed and signed by the Chair.

#### **3. Application DC/2010/00670 - Residential Development of 8 Units Comprising of a 1 Bed Flat, a 2 Bed Flat above Four Car Ports and 6no. Three Bedroom Houses and all Associated Works. Land to the Rear of 34 to 39 Cross Street, off Beili Priory, Abergavenny**

We considered the report of the application and late correspondence which was presented to Committee for refusal with two reasons. An additional reason for refusal was considered, namely, the applicant's failure to commit to providing the level of affordable housing on site that was required under LDP Policy S4.

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

- Concern was expressed regarding the poor access into Beili Priory Lane. The provision of additional properties in this location would only exacerbate the access issues.

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- In response to a question raised regarding the lack of phosphate stripping technology, the Head of Planning stated that water quality was an ongoing issue in respect of the rivers within Monmouthshire. It was noted that currently, we do not have phosphate stripping capability within this area. However, there are ongoing discussions with a view to upgrading these systems.

It was proposed by County Councillor R. Harris and seconded by County Councillor P. Murphy that application DC/2010/00670 be refused for the two reasons outlined in the report with an additional reason for refusal namely, the applicant's failure to commit to providing the level of affordable housing on site that is required under LDP Policy S4.

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

For refusal	-	10
Against refusal	-	1
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2010/00670 be refused for the two reasons outlined in the report with an additional reason for refusal namely, the applicant's failure to commit to providing the level of affordable housing on site that is required under LDP Policy S4.

**4. Application DM/2020/00762 - Full planning application for the change of use of the visitor centre at Llandegfedd, to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442. Llandegfedd Visitor Centre, Croes-gweddyn Road, Coed-y-Paen, Monmouthshire**

Application DM/2020/00762 was withdrawn from the agenda to enable discussions to take place involving Gwent Wildlife Trust, Monmouthshire County Council officers, the local Member and the applicant, Welsh Water.

Following these discussions the application will be presented to a future meeting of Planning Committee for consideration.

**5. Application DM/2020/00763 - Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317. Llandegfedd Water Sports Centre, Croes-gweddyn Road, Coed-y-Paen**

Application DM/2020/00763 was withdrawn from the agenda to enable discussions to take place involving Gwent Wildlife Trust, Monmouthshire County Council officers, the local Member and the applicant, Welsh Water.

Following these discussions the application will be presented to a future meeting of Planning Committee for consideration.

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### **6. Application DM/2020/01076 - Use of existing agricultural Dutch barn for the storage of cars. Clawdd-y-Parc Farm, Parc Road, Llangybi, Usk**

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

The application had been presented to Planning Committee in April 2021 with a recommendation for approval. However, the Committee had been minded to defer consideration of the application to investigate whether or not the external works to the building required planning consent or were lawful.

Following investigation it was considered that the works to the Dutch barn were lawful and no further action was required. Accordingly, the external works to the building were considered to be lawful through the passage of time and would not have been required to be advertised as part of this current planning application.

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

- In response to a question raised regarding the reason for imposing a restriction of 13 vehicles only, the Development Management Area Manager stated that Officers had been satisfied that the building could accommodate that number of vehicles being stored as a collection.
- The application site only refers to the building. Therefore, conditions could only be applied to the building, which is the application boundary, and not the surrounding area with regard to the number of vehicles stored on site.

It was proposed by County Councillor P. Murphy and seconded by County Councillor R. Harris that application DM/2020/01076 be approved subject to the two conditions outlined in the report.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2020/01076 be approved subject to the two conditions outlined in the report.

### **7. Application DM/2020/01766 - Retrospective application for amendment to previously approved planning application: DM/2020/00669. Beaulieu Barn, 25 Kymin Road, The Kymin, Monmouth, NP25 3SD**

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

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recommended for approval subject to the five conditions outlined in the report. In addition to these conditions, officers recommended that the details required by conditions two and four are provided prior to approval and agreed by the Delegation Panel and that these conditions become compliance conditions only.

Mr. R. Hatton, an objector to the application, had prepared an audio recording which was presented to Planning Committee and the following points were outlined:

- The objector's property borders the proposed new development and he has a clear elevated view of it from the south.
- Along with other neighbours he supported the original planning application in 2016 which was to extend the existing small stone dwelling to give a modern standard of residential accommodation.
- This extension would allow for two bedrooms and a small single storey pitched roof extension to the rear of the property.
- A further planning application DM/2020/00669 for minor amendments to the original application was approved in July 2020.
- The planning report indicated an increase in the ridge height of the single storey extension to the rear to match the main building ridge height. No mention of an increase in overall main building ridge height was made in the narrative or the addition of a skylight to the front of the building.
- The submitted plans were not clear and it was difficult to read the various measurements.
- It was not possible to accurately gauge the true extent of these minor alterations.
- The current retrospective planning application has been issued to reflect the dimensions and features of the completed building which are considered to be in breach of the two planning consents.
- The majority of the local objectors consider that the building scale is wrong for the position that it occupies.
- Its appearance is at odds with the existing dwellings in its near vicinity.
- The immediate neighbouring cottages are of white painted brick or stone construction and have an appropriate amount of glazing.
- This building is visible from a number of neighbouring homes and the various footpaths that cross the property does not fit well into the landscape or existing architectural styles.
- Due to the increased roof height of nearly a metre, the building dominates the landscape and degrades the visual amenity.

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- The amount of glazing was excessive and does not blend in sympathetically with the existing landscape. There is no similar building like it on the Kymin.
- In respect of the additional two storey gable extension, this reinforces the feeling of a gratuitous and unnecessary addition and does nothing to add to the charm of the building.
- This part of the Kymin, with the Offa's Dyke National Trail, can give visitors their first impressions of the Kymin. It is important that any new development blends in well with the existing dwellings in the immediate vicinity.
- The Kymin is located within an Area of Outstanding Natural Beauty (AONB). The Wye Valley AONB Office and Monmouth Town Council have both objected to this planning application.
- For the reasons given the objector urged the Planning Committee to refuse this planning application.

The applicant's neighbour Mr. D. Edge, had prepared a video recording in support of the application which was presented to Planning Committee and the following points were outlined:

- The neighbour has lived on the Kymin for 30 years and has no business or financial relationship with the applicant.
- The applicant's house is a three bedroomed property. All of the houses on the Kymin vary in size from two to six bedrooms.
- Therefore, a large three bedroomed house is in keeping with the size of properties on the Kymin.
- The applicant's property is made from natural Kymin stone with an oak frame and larch planking and a natural slate roof. It is very much in keeping with the surrounding area as a rural property.
- The property is located on the edge of the settlement and is not particularly prominent and is surrounded by hedges. Whilst it is overlooked by a few properties, they are some distance away.
- One of the issues raised is the second gable on the rear of the property. The work had been undertaken by the applicant under permitted development legislation based on technical guidance from Welsh Government and had been confirmed by Monmouthshire County Council's Planning Department. Unfortunately, the technical guidance from Welsh Government was incorrect but by the time this had been identified the applicant had already ordered the oak frame which had been manufactured, making it difficult at that time to change the structure.

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- The property is an attractive building in a six acre site and is in keeping with the locality.

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

- The property was considered to be an improvement on what was originally in place on the site.
- In response to a question raised regarding conditions to remove permitted development rights, the Development Management Area Manager stated that this matter refers to a condition relating to lighting which comes under a separate part of the general permitted development order. The previous inspector's decision had overturned a previous condition that removed part 1 which covered extensions and alterations and other minor improvements under permitted development. As this is a householder application it is not presented to Committee to remove Part 1 again via a separate condition for Part 1. However, due to the manner in which the building has already been extended, as well as it being located within the Area of Outstanding Natural Beauty, the amount it could be extended further under Part 1 permitted development rights is limited.
- Ecological enhancements and soft landscaping details would be provided prior to release of the decision notice and agreed via the Delegation Panel so that these conditions could be written as compliance conditions, rather than as indicated in the report of the application.

It was proposed by County Councillor P. Murphy and seconded by County Councillor A. Webb that application DM/2020/01766 be approved subject to the five conditions outlined in the report. In addition to these conditions, ecological enhancements and soft landscaping details would be provided prior to release of the decision notice and agreed via the Delegation Panel so that these conditions could be written as compliance conditions, rather than as indicated in the report of the application.

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

In favour of the proposal	-	11
Against the proposal	-	0
Abstentions	-	1

The proposition was carried.

We resolved that application DM/2020/01766 be approved subject to the five conditions outlined in the report. In addition to these conditions, ecological enhancements and soft landscaping details would be provided prior to release of the decision notice and agreed via the Delegation Panel so that these conditions could be written as compliance conditions, rather than as indicated in the report of the application.

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**8. FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received:**

**8.1. Appeal decision - Lingfield, Five Lanes, Caerwent, Caldicot**

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at Lingfield, Five Lanes, Caerwent, Caldicot on 1<sup>st</sup> June 2021.

We noted that the appeal had been allowed and planning permission was granted for front and rear extensions with detached garage at Lingfield, Five Lanes, Caerwent, Caldicot, NP26 5PQ, in accordance with the terms of the application, Ref: DM/2020/01858 dated 14 December 2020, subject to conditions.

**8.2. Appeal Decision - Land adjacent St. Teilo's Church, Llantilio Pertholey**

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at land adjacent St. Teilo's Church, Llantilio Pertholey on 5<sup>th</sup> May and 1<sup>st</sup> June 2021.

We noted that the appeal had been dismissed.

**8.3. Cost Decision - Land adjacent St. Teilo's Church, Llantilio Pertholey**

We received the Planning Inspectorate report which related to a costs decision following a site visit that had been held on 5<sup>th</sup> May and 1<sup>st</sup> June 2021.

We noted that the application for a full award of costs was refused. The application for a partial award of costs was allowed.

**The meeting ended at 3.09 pm.**

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**Application Number:** DM/2020/01801

**Proposal:** Use of domestic garage as a dwelling for a temporary period while building works are undertaken on a consented barn conversion

**Address:** Campston Mill, Barry-Cathlea Road, Llanvihangel Crucorney, Monmouthshire, NP7 8EF

**Applicant:** Mr Stephen Leonard

**Plans:** Location Plan P01 - , Block Plan P02 - , Other Schedule of Works - May 2021

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Bingham  
Date Valid: 08.12.2020

**This application is presented to Planning Committee due to it having received five or more objections**

### **1.0 APPLICATION DETAILS**

#### **1.1 Site Description**

This application relates to a site in the open countryside. Consent has been granted for the rehabilitation/conversion of an existing dilapidated cottage and a new garage. The garage is now complete.

The site is within the Phosphorous Sensitive Area of the River Wye SAC.

#### **1.2 Proposal Description**

This application seeks to allow temporary accommodation within the existing garage during the works to convert the cottage. The garage is of recent construction and was allowed as part of the same application (DM/2018/01956). The applicant had intended to live on site in a caravan whilst the works were completed to rehabilitate the ruined cottage. This would not require planning permission. However, it became evident that it was not possible to bring a static caravan to site due to the tight lanes. As such, the garage is now being used for living accommodation whilst works to what will be the main dwelling are undertaken. The applicant was subsequently informed that this would require a temporary planning permission.

The original consent is considered to be extant as the garage has been built as well as some underground works to facilitate the conversion of the cottage. The Schedule of Works submitted in support of the application has a move-in date of 14th November 2022.

### **2.0 RELEVANT PLANNING HISTORY (if any)**

Reference Number	Description	Decision	Decision Date
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DM/2018/01956	Redevelopment of ruined structure to form new dwelling with single storey extension to rear & side. New garage with storage over for agricultural machinery and garaging. New driveway and domestic garden reinstated.	Approved	11.10.2019
DM/2020/01261	The variation of condition 2 of planning consent DM/2018/01956, to include the revised set of drawings that shows windows added to ground floor	Pending Consideration	

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S1 LDP The Spatial Distribution of New Housing Provision  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S17 LDP Place Making and Design

#### **Development Management Policies**

DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales 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.

#### **Planning Policy Wales (PPW) Edition 11**

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 of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

### **5.0 REPRESENTATIONS**

#### **5.1 Consultation Replies**

**Grosmont Community Council** - No formal comments received to date.

## 5.2 Neighbour Notification

Six representations received. Object on the following grounds:

The application is a fabrication set out to deceive and circumvent the planning process.

The suggestion that it will take two years to convert the cottage is ludicrous.

It is the intention of the applicant to live in the garage permanently and rent out the cottage once completed as a holiday let.

The building was insulated to residential standard. Residential windows and doors were installed together with a wood burning stove, satellite dish and propane gas.

There was no intent to use the lower level for agricultural storage or as a car port.

The application states that the garage is not within 20 metres of a watercourse but a watercourse within this distance can be clearly seen from the road way and on a map. Is a residential building, either temporary or permanent, permitted within such a distance?

By allowing this to stand unchallenged you are setting a new precedence for anyone else who would look to do the same thing, and would be making a mockery of your own laws and regulations in the process.

It would be possible to get a static caravan to the site.

## 6.0 EVALUATION

### 6.1 Principle of Development

6.1.1 The applicant states that the works have been severely hindered by Covid 19. To reduce the costs the applicant is having to employ separate sub-contractors which has further delayed the build. However, some underground work has already been carried out, such as drainage works and the installation of a sewage treatment plant as well as an electrical connection.

6.1.2 The applicants could bring a static caravan to the site and reside in there until the works have been completed without the need for planning consent as this is classed as Permitted Development. In this respect, the applicant has advised that the tight lanes around the site meant that this wasn't possible. The use of the existing garage building as an alternative to a caravan is considered to be acceptable in this case, provided that the works to the cottage are undertaken in a timely manner and the use of the garage as living accommodation ceases as soon as possible. To this end, the applicant has provided a Schedule of Works for the cottage to demonstrate that it is the intention to complete the build and move into the cottage as the main residence by November 2022. On this basis, it is considered that the use of the garage for living accommodation for a temporary period only is acceptable. This will be controlled by condition should Members be minded to approve the application.

### 6.2 Good Design/Placemaking

6.2.1 With the exception of some minor alterations to the windows, the external appearance of the garage is as approved under the original consent. As such there will be no additional visual impact as a result of the temporary use.

### 6.3 Impact on Residential Amenity

6.3.1 There are no neighbouring properties within close proximity to this site that could be adversely affected in terms of loss of privacy or noise or disturbance. In addition, the site already has permission for the rehabilitation of the old cottage to a dwelling. The application therefore does not conflict with LDP Policy EP1.

### 6.4 Access / Highway Safety

6.4.1 No changes to access are proposed as part of this application. There is a temporary loss of parking available within the garage but the site is large enough to accommodate the necessary parking provision and turning area within the site without relying on the garage.

## **6.5 Response to the Representations of Third Parties and/or Community/Town Council**

6.5.1 The main objections to the application appear to be on the grounds that it was always the intention of the applicants to use the garage as a dwelling and let out the cottage once converted back to habitable standards. It is not the function of the planning department to make a judgement on this assumption which has been refuted by the applicant. Notwithstanding this, should the applicant seek to retain the garage as living accommodation in the future then a planning application would be required which would be contrary to both national and local planning policy. Allowing the temporary use applied for therefore, would not lead to the creation of a new permanent dwelling in the open countryside, nor set a precedent for this elsewhere, each case being treated on its merits.

6.5.2 The issue regarding the watercourse would be a matter for NRW who would require a permit for any discharge into this watercourse.

6.5.3 It is unknown whether or not it would be feasible to get a static caravan to the site. However, regardless of this, the use of an existing building on a temporary basis as living accommodation is not contrary to any local development plan policy and therefore there are no grounds to refuse the application and insist a static caravan is employed in this instance.

## **6.6 Foul Drainage (phosphates)**

6.6.1 Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site previously (designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the riverine Special Areas of Conservation (SACs) in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

This application has been screened in accordance with Natural Resources Wales' interim advice for planning applications within the river SACs catchments (issued on 2nd May 2021). It is considered that this development is unlikely to increase phosphate inputs as there is an extant consent under construction for a residential use and this application is for temporary use of the building in lieu of the completion of that consent. There is therefore no net increase above the extant consent. The use of the garage as living accommodation would cease when the dwelling is brought into occupation or by the time set out in condition no.2 below.

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

6.7.1 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.

## **6.8 Conclusion**

6.8.1 The temporary use of the garage as living accommodation whilst works to the cottage are undertaken instead of the use of a static caravan on site is considered to be acceptable in this instance.

6.7.2 The Schedule of Works submitted in support of the application demonstrates that it is the intention of the applicant to complete the works to the cottage by 14th November 2022 and return the garage to its approved use as ancillary to the main dwelling. This can be controlled by appropriate planning condition which would see the use of the building as a dwelling cease by the aforementioned date.

## **7.0 RECOMMENDATION: APPROVE**

### **Conditions:**

1 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.

2 The use of the building as a dwelling shall cease on or before 14th November 2022 or as soon as the cottage approved under application DM/2018/01956 is brought into beneficial use, whichever is the sooner.

REASON: This is a temporary consent. Use of the garage as living accommodation once works to the main dwelling on the site are complete would be contrary to national and Local Development Plan policies to control the building of new dwellings in the open countryside.

## **INFORMATIVES**

1 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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**Application Number:** DM/2021/00771

**Proposal:** Full Planning Permission – Provision of timber decking under the existing outside seating area. The decking will include four steps and a hand rail

**Address:** Wye Knot Restaurant, 18A The Back, Chepstow

**Applicant:** Mr John Tallet

**Plans:**  
P16 Location Plan 29.04.21  
P17 Location Plan 29.04.21  
P18 Location Plan 29.04.21  
Drawing 4 Block Plan 01.07.21  
Drawing 5 Construction 01.07.21  
Drawing 6 Site levels 01.07.21  
Drawing 7 Sections 01.07.21

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Young  
Date Valid: 13.05.2021

### **1.0 APPLICATION DETAILS**

#### **1.1 Site Description**

1.1.1 Number 18A, The Back is located in Lower Chepstow and is being run as La Ribera Restaurant. Between the front of the restaurant and the river bank is a grassy bank which forms part of the flood defence system. The land rises up from the road at the front to the public footpath. This area is rented from the Council under licence. There are several tables and benches on the land which are used for serving food from the restaurant. There are two willow trees on either side of this seating area.

The site is located within the Chepstow Conservation Area, an Archeologically Sensitive Area and A C1 (protected) Flood Zone. The site is also in a Minerals Safeguarding Area.

#### **1.2 Value Added**

1.2.1 Following objections from members of the public the following amendments have been made to the scheme:

The decking would be placed on the ground, not dug into the bank

Newel posts and handrails have been removed from all areas except where needed for the steps.

The extent of the decking has been reduced

Installation of CCTV cameras

Removal of planters

Decking to be fully removable and lifted each week to bait rat traps

#### **1.3 Proposal Description**

1.3.1 The application seeks to place temporary decking on the existing seating area to provide a more even surface. The decking will cover a maximum area of 12 metres by 4.8 metres and will have a maximum height of 750mm (the area slopes). It will be constructed of timber floor panels each measuring 2.4m by 1.2m. There will be a few steps at the front with a hand rail to the front. The decking will be placed on concrete weights.

### **2.0 RELEVANT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
18539	Change of use to snack bar and dwelling over	Approved	09.02.1983
21407	Covered Courtyard and toilets	Approved	08.02.1984
29647	Addition of Bedroom to first floor flat	Approved	21.10.1988
M/12674	Extension to Wye Knot Café and flat over	Approved	04.07.2006
DM/2021/00958	Converted wooden shed to Gin Bar, levelled into rented land	Pending Consideration	

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S8 LDP Enterprise and Economy  
S10 LDP Rural Enterprise  
S11 LDP Visitor Economy  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### **Development Management Policies**

EP1 LDP Amenity and Environmental Protection  
EP3 LDP Lighting  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development

#### **Supplementary Planning Guidance**

Sustainable Tourism Accommodation SPG 2017  
Chepstow Conservation Area Appraisal SPG 2016

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales 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.

## **Planning Policy Wales (PPW) Edition 11**

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 of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

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### **Technical Advice Note**

TAN15 Development & Flood Risk 2004

## **5.0 REPRESENTATIONS**

### **5.1 Consultation Replies**

**Chepstow Town Council** make no observations on this application due to insufficient information

#### **MCC Estates – no Objection**

The proposals are to make the ground more useable and safer for customers of the premises and consist of small scale ground works to level part of the land and for the installation of decking to include hand-railed steps.

Estates are in discussions with the Premises Manager/Applicant regarding a License to Occupy the Council's land, and have no objection in principle to the proposals, although more detailed information is required prior to consenting to the works.

#### **MCC GI & Landscape**

For a decked area for the public to use either associated as paying clientele for the restaurant or general public set within the 'public realm' there does not appear to be any references for materials or construction to comply with any relevant BS guidance for decking.

There does not appear to be any information related to the installation methodology for work close to or within tree root zones, which appear close to the concrete support pads and southern section of deck (right hand on plan 05). The site is within the Chepstow Conservation Area so any works to trees to raise canopies or impact on the root protection zone (RPZ) for instance should also be a consideration.

For 'high-level' decks over 600mm high – parapet height should be 1100mm. There does not appear to be a measure indicating the height of the balustrade

Where parapets act as safety barriers, e.g. where there are falls are next to a deck edge, in this case to highway, they should be designed and constructed to meet the UK building regulations (the Building Regulations for England and Wales and the Technical Standards for Scotland). I would expect to see the parapet to also protect from falls off edge returns of the decking area to a point that risk is reduced and in the vicinity of the recessed steps. This does not appear to be shown on plan.

**MCC Heritage Officer** - The proposal is within Chepstow Conservation Area. The site is within Character Area 4: The Back, Gunstock Wharf and Riverside. The area is associated with Chepstow's river merchants, the river bank is now a public open space of soft landscaping and trees. It is considered there is no temporary permission as suggested by the application. The use of decking, delineates an enclosed space in association with a commercial premises which negates the open character of the area, and the river bank as an area for general public use. The application is viewed to have a detrimental impact on the special character of the conservation area and fails to comply with policy.

## 5.2 Neighbour Notification

5.2.1 The application has been advertised through formal neighbour notification and formal notice posted on site. At the time of writing 28 comments have been received from neighbours and interested parties. From these, 13 are objections and 15 are in support of the application. These objections and comments of support are summarised below.

In support of the application;

- The development will enhance the character of the area, it is tasteful and uses appropriate materials for its setting.
- The development will provide a suitable space for visitors to appreciate the wider views and context.
- The development will support the local business in difficult times and encourage people to visit and stay in the area.
- The development supports the investment and economy in terms of employment in the area.
- The business closes early and so there will be no issues with antisocial behaviour
- Improves access, providing a level and safe seating area for all to use.

In objection to the application

- The development will have a detrimental impact on the character of the conservation area and the AONB. It will disturb key views into and out of the conservation area as well as views towards the historic bridges.
- The development will have a detrimental impact on the wildlife and SSSI.
- The development is within an archaeologically sensitive area and so will require archaeological mitigation.
- The development affects the flood defences and so undermines their effectiveness.
- The development is contrary to the existing character of open public space, contrary to Policy CRF3.
- The development is contrary to LDP Strategic policies S13 and S17 as well as policies DES2 and HE1
- The development is purely for private use and stops the wider public appreciating the views.
- The decking should be reduced in size to respect the amenity of the immediately adjacent neighbours.
- There are more suitable alternative locations for such development.
- The decking will encourage anti-social behaviour, of which there is already a problem, it will not be locked in the evenings and will be open to abuse.
- The decking is positioned too close to the foot and cycle path.
- There is no need for the decking and this contravenes Sustainable Development Principles.
- There are unaddressed Health and Safety issues.
- There are inaccuracies with the application form and the plans require further information and detailing in order to make a valid decision.
- The area underneath the decking will create a space for vermin and therefore become a public health hazard.

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**

6.1.1 The principle of using this area of land for an external seating area for La Ribera Restaurant is already established and has been operating under licence with MCC Estates for some time. During the Covid 19 pandemic it has been the Council's policy to support local hospitality and to encourage

the provision of external eating areas. There are many such examples throughout the county. In this case the area is currently used with ad hoc benches for the use of customers of the restaurant. The consideration of the application is therefore the provision of the timber decking which is proposed to create a more stable platform for the tables and benches. There would be no increase in the number of tables being served and no proposed extension to the hours of operation. Strategic Policy S5 of the adopted Local Development Plan supports development proposals that provide and/or enhance community and recreational facilities within or adjoining town or village development boundaries. Under this policy in a general sense facilities used by local communities for social purposes and in a more specific sense, public houses, are considered to be community facilities. Strategic Policy S8 supports sustainable economic growth especially where the proposals enable the continued development of tourism. Development Management Policy CRF1 seeks the retention of existing community facilities.

6.1.2 Therefore the principle of development is considered to be in line with the relevant Local Development Plan Policies and is considered acceptable subject to detailed material considerations as discussed below.

## **6.2 Sustainability**

6.2.1 The Local Development Plan and PPW encourages sustainable development. In this case the restaurant already exists as does the seating area. The proposal is to enhance the dining experience for locals and tourists by creating a level platform on which to place the existing benches. The site is located within one of the main tourist areas in Chepstow, within easy walking distance of other tourist facilities and public transport routes.

### **6.2.2 Good Design**

The timber decking panels will be placed onto concrete weights and will rise up with the contours of the land underneath. There will be four steps on the southern part of the decking and this will have a hand rail to the highest side, one metre in height. The scale of the proposal is acceptable within this context as is the use of tanalised timber panels, given the former dockside character of the area. Owing to its small scale, the decking would not be visually prominent within the wider landscape. The decking would be level with the height of the bund and therefore would not protrude any higher than the existing land features. In addition the balustrade would be positioned at the highest point of the decking closest to the existing buildings and would be viewed in context with the adjacent structures. This arrangement allows the maintenance of key views across the site looking east to west and north-west towards the historic Wye Bridge.

The proposal will be of high quality, sustainable design which will respect the local character of the area. The proposal therefore accords with the main objective of Policy DES1 of the LDP. Given that the height of the decking will be level with the public footpath to the north this will ensure a safe, secure, pleasant and convenient environment which is accessible to all members of the community. The decking is not considered to have a detrimental effect on the appearance of the area. The seating area is in existence and the decking will raise the height of the tables and benches slightly but for the reasons given above it is not considered to impede natural views and panoramas through the site and the increase in height is minimal and as such would not warrant refusal of permission in respect of intrusive or unsightly.

### **6.2.3 Green Infrastructure/Place Making**

6.2.3.1 The applicants had initially proposed to place flower planters around the site but these have now been removed from the scheme as locals residents considered that this may impact on views through the site. The two existing willow trees on either side of the decking will not be impacted by the proposal. The Council's Landscape Officer has not raised any objections in relation to the visual impact of the decking on the landscape views, however concerns were raised in terms of health and safety and root protection zones (RPZ) of the existing trees. Whilst safety is important, this is not a matter for the planning application, and is dealt with under different legislation. In relation to the root protection zones it is considered that as there are no aspects of digging or ground works the RPZ will remain unaffected. However, if any grounds works are subsequently required a condition is

proposed to ensure that appropriate an arboricultural method statement would be required detailing how roots would be protected.

6.2.3.2 The decking is located close to existing willow trees and whilst these are not covered by a TPO, they are within the Conservation Area and so to lop, top or fell would require prior notification to the Council as the local planning authority. An informative would be placed on the decision notice to draw this to the applicant's attention, in the event the application is approved.

### **6.3 Historic Environment**

6.3.1 The site is located within the Chepstow Conservation Area and is seen from the Old Wye Bridge. This area is noted as character area 4 in the Chepstow Conservation Area Appraisal (CAA) SPG as The Back, Gunstock Wharf and Riverside. Characterised by its former function of docks, warehouses and former industrial buildings. The CAA references many open views up and down the river to either of the historic bridges, and that the grassed river banks with seating provide public amenity space.

The Council's Heritage Officer has raised concerns over the visual impact of the decking given the character of the area is open and the river bank is an area for general public use. However the private/public use of the land is not in itself a consideration in terms of the historic environment. The use of the space is currently occupied by patrons of the restaurant/ public house and will continue to be so by virtue of the proposals. The open character of the Conservation Area is a consideration in relation to Policy HE1. Given the decking will only provide a level surface no higher than the existing artificial flood bund, it is not considered to be overbearing or obstructive of wider views. In addition it occupies a small area between the existing (and retained) Willow trees, maintaining the many open views as identified in the CAA. There is no serious adverse effect created by the development. There are no 'protected views' as such, the CAA identifies key views to be protected, which are identified on the appraisals map, and these remain unaffected by the proposals.

Despite the objection, on balance the proposal is considered to preserve the character of the Conservation Area in line with Policy HE1 and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **6.4 Impact on Amenity**

6.4.1 The restaurant is already operational and the seating area is well-established. The provision of the decking on the existing seating area will not impact residential amenity over and above the current arrangement. At present the adjacent land uses are a mix of commercial/ office space and residential. To the east and adjacent to La Ribera/The Wye Knot Restaurant is 18 The Back. To the eastern corner of the block of buildings is Willow Tree Cottage, another residential property forming the corner of The Back where it returns in a southerly direction away from the river to join Lower Church Street. 18 The Back is a residential property which is semi-detached to the restaurant and is positioned directly onto the street overlooking the banks of the river in the same way as the restaurant. It has a window at ground floor facing the roadway and the seating area, although the window itself would directly face a lay-by area with planters rather than the proposed decked area. The distance between the front of the property and the raised grassy bank is approximately 5m. The distance from the front of the building to the access steps is approximately 10.5m when measured at an angle (using electronic mapping). The decking will be at its highest point of 750mm at the closest point (9.5m) to the residential dwelling of 18 The Back and that would be at an acute angle. It is acknowledged that the seating area is already occupied with benches at present and while the decking would raise slightly the level of the tables/ seating it is not considered that the provision of such a level surface would intensify this use or cause any further anti-social behaviour over and above the existing situation. It is also noted that there is another outside seating area 50m to the south west in conjunction with The Boat Inn which would generate similar activity in this riverside setting.

It is, however, accepted that this would provide a raised platform which is at its highest where it is closest to the La Ribera/Wye Knott restaurant and 18 The Back. Concerns have been raised by the neighbour who, whilst in support of the business, is concerned over the impact of the proposals on their amenity. At its closest point the decking will be in line with the level of the existing grassy area, currently occupied by seating. Whilst there could be some additional impact on neighbour amenity,

it is considered that this would not result in a significant increase in impact compared to the current situation so as to warrant refusal of the application. At present the two closest residential properties of 18 The Back and Willow Tree Cottage form the immediately adjacent street frontage onto the riverside and co-exist with the current mixed use of public houses and dwellings. The addition of a raised platform which tapers to join the current level of the grassy bund is not considered to increase impact on the amenity of the adjacent land uses to an unacceptable level. Moreover, the roadway immediately in front of those neighbouring dwellings would give rise to activity from vehicular and pedestrian movements that would already have an impact on the amenity of the occupiers of those properties and thus, tempers any slight raising of the tables and chairs on the proposed decked area.

In addition Stuart House, (office use) and The Wine Warehouse (mixed residential and office use) form the two sides of the street frontages forming The Back. It is considered that these buildings are separated by a reasonable distance so that the visual impact of the decking would not have an impact on their amenity.

Therefore the proposal is considered to accord with the objectives of Policy EP1 of the LDP.

## **6.5 Highways**

### **6.5.1 Sustainable Transport Hierarchy and Access/ Highway Safety**

The proposed decking will not impinge on the road or any parking provision and therefore there is no adverse impact to highway safety.

## **6.6 Drainage**

### **6.6.1 Foul Drainage & Phosphates**

No changes to the existing foul drainage are proposed as part of this development.

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated Special Areas of Conservation (SACs). Natural Resources Wales (NRW) has set new phosphate standards for the riverine SAC's of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphate levels will be subject to appropriate assessment and HRA. This application site is located within the 50 metre buffer zone for the River Wye SAC but as the proposal will not result in any increase in foul water discharge it will not have a detrimental impact on any protected SAC, and as a result no further assessment is required. In addition, the River Wye is tidal in this area where the phosphate issue is not relevant.

## **6.7 Tourism**

6.7.1 The Council seeks to support the tourism sector as it provide employment opportunities and generates income for the County. PPW 11 and the LDP support proposals that enhance sustainable tourism facilities. Policy S11 of the LDP states that development proposals that provide and/or enhance sustainable forms of tourism will be permitted subject to detailed planning considerations. The decking under the existing outdoor seating area in this sustainable location would enhance the customer experience and preserve the character of the area, resulting in the restaurant becoming more attractive to visitors.

## **6.8 Response to the Representations of Third Parties and Town Council**

6.7.1 In reviewing the representations received, there are a number of reasons for objections as follows:

- That the development would have an adverse impact on the character of the Conservation Area - this has been addressed in the preceding paragraphs. It is considered that

development, for similar reasons of scale, size and height will not have an adverse effect on the AONB or the wider landscape views.

- That the development would have an adverse effect on the SSSI - as the decking is placed on the land and is not proposed to be engineered into it, it is not considered to have an effect on wildlife. The decking is also permeable and will not have an impact on flooding or compromise the flood defences in any way.
- That the development does not accord with Strategic Policies S13, S17 and DM Policies DES2 and HE1 - for the reasons identified above it is considered that the application is in accordance with LDP policies.
- That the development is in an archaeologically sensitive area and a full watching brief is required - the development does not involve ground works which would lower existing levels. In addition the bund is made up ground being part of the relatively modern flood defences and so it is not considered that the development would affect any underground archaeology.
- That the development will have an adverse impact on the amenity of residents and encourage anti-social behaviour - as the application relates to the decking only, the use of the space is not proposed to change. It is not considered that the installation of decking will increase the use of the space over and above the existing arrangement. Therefore the impact on neighbour amenity would remain at current levels.
- That there are other more suitable locations - the application seeks permission for decking in the proposed location and it is the consideration of this location that is before the local planning authority.
- That the development is too close to the cycle and footpath - the decking is set back by 2m from the edge of the path. It is considered that this is a sufficient distance to maintain safety and amenity.
- That the development encloses an area of public open space and which will then become solely for private use - as the area of open space is currently used for the patrons of the public house, it is not considered that the installation of decking will change the use arrangements. In addition it is noted that the decking is not enclosed and that the handrail is situated to the south-eastern edge closest to the restaurant/ public house and is for safety only.
- Concerns were raised in relation to licensing which is a separate legal matter.
- That there are inaccuracies on the plans and the application forms - these have been addressed via revised plans and amended forms.
- Comments were received that the development contravenes Sustainable Development Principles, however no further details were provided.
- Concerns were raised in terms of health and safety, however this is properly addressed through separate legislation.

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

6.9.1 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.

## **6.10 Conclusion**

6.10.1 The proposal accords with the objectives of Policy S8 of the LDP which supports proposals that assist economic growth within the County. The proposed decking will also help to promote tourism in the area in accordance with the objectives of Policy S11. The small-scale decking would preserve the appearance of this part of the Chepstow Conservation Area and would not impede views into or out of the Conservation Area. The proposal therefore accords with the objectives of Policy HE1 of the LDP. The seating area is already in existence and the proposal will provide a level area for customers - it would not increase the area in size or intensity of the use. The proposal

would not impact on residential amenity and accords with the objectives of Policy EP1 of the LDP. The proposal is considered to be policy compliant.

## **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 Should any ground works involving reducing the existing ground levels at any point be required a full arboricultural method statement, detailing precisely how tree roots will be protected from any damage through any ground lowering, shall be submitted to and approved in writing by the local planning authority prior to any such works being undertaken. The ground works shall then be carried out in accordance with the approved statement.

REASON - To protect important landscape features within the site and to ensure compliance with LDP Policy GI1

### **INFORMATIVES**

1 I would advise you that all trees in the vicinity of the application site are within the Conservation Area. No works to these trees (to lop, top or fell) shall be carried out without prior approval from the Local Planning Authority or you have established that such consent is not required as per Section 211 of the Town and Country Planning Act 1990.

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/05/21

**gan Mr A Thickett, BA (Hons) BTP Dip  
RSA MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 3/6/21**

## Appeal Decision

Site visit made on 14/05/21

**by Mr A Thickett, BA (Hons) BTP Dip RSA  
MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 3/6/21**

**Appeal Ref: APP/E6840/E/20/3263350**

**Site address: Her Majesty's Prison Usk, Maryport Street, Usk, Monmouthshire,  
NP15 1XP**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by the Ministry of Justice against the decision of Monmouthshire County Council.
- The application Ref: DM/2020/00635 dated 18 May 2020, was refused by notice dated 17 July 2020.
- The works proposed are: Refurbishment and redecoration of wrought and cast iron balustrades, including the replacement of previous inappropriate repairs using conservation repair techniques. Installation of a reversible secondary balustrade system to improve loading and stability.

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the impact of the proposed works on the special architectural and historic interest of Her Majesty's Prison Usk, a Grade II\* listed building.

## Reasons

3. Usk prison lies at the southern end of Maryport Street on the edge of Usk town centre. According to the listing description it was built in 1841/2 and enlarged in 1868. The internal layout is based on the panopticon plan devised by Bentham for the construction of Pentonville Prison in London and which became the model for prison layout for many years. The layout and main fabric of the prison remain largely as it was in the 1860s and the description of the interior includes the metal landings, rails and stairs.
4. According to the Heritage Statement supporting the appeal application, the balustrades at HMP Usk have *'high evidential value as an original component of prison construction'* with *'many Victorian balustrades having been replaced elsewhere such as at HMP Cardiff'*. Further; *'the balustrade has high historic value as an original design component of the Pentonville prison model'* and *'are not only evidence of Victorian*

*prison design, but have potential to yield further information on development and change in detail, design and specification of materials over the twenty year period that the residential wings' span'. My observations confirm the Heritage Statement's finding that; 'Open balustrades and open grid cast iron walkways allowed for largely uninterrupted views down the residential wings from the central rotunda, and thus maximum surveillance with little additional manpower'. I agree that the design of the balustrades contribute to the overall regularity and symmetry of the wings radiating from the central rotunda.*

5. Having never set foot in a prison before, I also agree with the author of the Heritage Statement that the; *'balustrade has high aesthetic value, and can immediately be identified as a quintessential element of prison architecture in the national consciousness, through depictions in prison related dramas as diverse as "Porridge" and "Bad Girls" to prison scenes in historical dramas'*. According to the list description, the building is *'Listed II\* as a mid C19 gaol, illustrating design and social principles of the day, and mainly unaltered'*. For these reasons, I consider the prison to be highly significant architecturally and historically.
6. The main part of the prison comprises 3 wings (A, B and C) radiating out from a rotunda. The cell blocks are accessed through arched openings and are two-storey with barrel vaulted ceilings. There are windows at the end of wings A and C, at the end of wing B is the library. The corridors are lined with cells. Cells on the first floor are served by an iron balcony walkway with iron diamond grid flooring overlaid with boarding and vinyl sheet flooring. The balcony is supported on iron brackets and has a slender iron balustrade, supported on cantilevered iron brackets.
7. The walkways run the full length of the wings on both sides. The walkways to wings A and C connect directly into the rotunda with a balcony forming a bridge across the connecting opening. The walkway to wing B ends in a bridge across the connection to the link block. Within the link block, a gangway supported on iron beams spans the balcony at the termination of wing B and a second gangway spans the connection to the rotunda. Within the rotunda, the bridges at the entrances to the wings are connected by balconies to the north and south east walls. Each wing has two staircases, one original the other modern. The original staircases have similar detailing to the balconies.
8. The first floor walkways and handrails are formed from metal brackets cantilevered from the walls. A metal diamond grid mesh floor spans between brackets and metal uprights at the end of each bracket. A handrail runs between the uprights beneath which are cross braced round bars and a central vertical bar meeting at a circular boss marked 'VR'. The combination of the high vaulted ceilings, the largely open balustrade and fine detailing of the bars gives the wings a light and airy feel.
9. The proposed works include the restoration of the balustrade including putting right previous unsympathetic repairs. This is to be welcomed. In addition, the wrought and cast iron handrails would be encased in a secondary balustrade system, increasing the load capacity of the walkways and the height of the balustrades to 1.5m. The secondary balustrade would be fixed to the existing cast iron cantilever brackets that support the walkways. New weld mesh would be installed to the inner face of the balustrade.
10. Securing the new balustrade would require 3 holes to be drilled in every upright in order that it could be bolted to the existing. Support for the new horizontal rails and steel plates would be provided by drilling through and bolting a new bracket to the existing cast iron brackets (two holes). The works to install the secondary balustrade

are described as reversible as the holes drilled through the cast iron would be filled and, according to the appellant, not noticeable to the 'casual eye'. Given that it would be necessary to drill tens if not hundreds of holes, I am not persuaded that the damage the works would cause to the existing, historic fabric could be concealed were the secondary balustrade removed. Beyond saying that the holes would be filled there are no details of how this would be done or what measures would be needed to ensure that the current appearance of the uprights and brackets would be reinstated. Nor am I persuaded that restoration to a standard to satisfy a casual eye is good enough for a Grade II\* listed building, particularly given the acknowledged importance of the features that would be affected by the proposed works.

11. Looking at the plans and the virtual overlays the secondary balustrade, with its thick box steel beams, would look heavy and brutal in comparison to the finer detailing of the existing structure. Encasing the balustrade below the existing handrails with weld mesh would also be in direct conflict with the original design concept of open balustrades and open grid cast iron walkways enabling '*maximum surveillance with little additional manpower*'. I appreciate that this is a prison, but the proposed works would result in significant harm to the buildings aesthetic and the light, airy feel to the wings. Consequently, I agree with the authors of the Heritage Statement that the proposed works '*will no doubt have a negative impact on the appearance of the residential wings and will impact on their aesthetic significance*'.
12. The appellant's commissioned a structural survey of the balustrades which concluded that their structural capacity is not sufficient for a modern prison environment and warns of a risk of failure, particularly under extreme loading conditions. However, it also notes a lack of distress or apparent failure which suggests they have the same or higher structural capacity as when they were constructed and suggests that loads have not been significantly exceeded through the life of the building, that being around 160 years.
13. The surveyors acknowledge that the only way to achieve the design loads specified by the appellant is to construct a secondary system as proposed. Nonetheless, their recommendation is the acceptance of a lower design load and maintaining the walkways in their current state. I set out their final conclusion in full: '*The building is grade II\* listed and the hand railing and walkway appears to be a significant feature of the original design. Based on this the impact of any repairs, strengthening or new construction on the historic fabric would have to be considered and justified. Part of this justification would need to be a discussion regarding the required loading and why this could not be relaxed in this instance*'.

## Conclusions

14. I acknowledge the high level of responsibility carried by the Ministry of Justice and the Prison Service with regard to the safety of all the users of the prison, many of whom are vulnerable. According to the appellant, a 1.5m high balustrade is considered essential to prevent self-harm or harm through accident or malicious intent. I have taken into account the findings of the surveys which conclude that the structural capacity of the handrails is not sufficient for a modern prison environment and warns of a risk of failure. That these works include refurbishment and repair and would enable the current use of the prison to continue, thereby preserving the historic fabric, is also a significant material consideration.
15. Nonetheless, I am not persuaded that the proposed solution is the only way this can be achieved. For the reasons given above, I do not consider that the specification for the balustrades has proper regard for the age of HMP Usk or its architectural or

historic significance. Having regard to all matters raised, I conclude that the proposed works would not preserve the special architectural and historic interest of this Grade II\* listed building and that the appeal should be dismissed.

*Anthony Thickett*

Inspector