

Public Document Pack



County Hall
Rhadyr
Usk
NP15 1GA

Monday, 27 March 2023

Notice of meeting:

Planning Committee

Tuesday, 4th April, 2023 at 2.00 pm
The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with
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 - 18 |
| 4. | To consider the following Planning Application reports from the Chief Officer, Communities and Place (copies attached): | |
| 4.1. | Application DM/2018/01995 - Outline application for a six dwelling residential development with primary access off Baron Street with some matters reserved. The Willows, 20 Baron Street, Usk, Monmouthshire, NP15 1AS. | 19 - 46 |
| 4.2. | Application DM/2022/01042 - Construction of 70 homes, sustainable drainage infrastructure, open space, internal roads, paths and parking areas, landscaping and associated plant and infrastructure. Land at Vinegar Hill, Undy, Monmouthshire. | 47 - 60 |
| 5. | FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received: | |
| 5.1. | Brookside shed, Llancayo Road, Gwehelog. | 61 - 64 |

Paul Matthews
Chief Executive

MONMOUTHSHIRE COUNTY COUNCIL

THE CONSTITUTION OF THE PLANNING COMMITTEE IS AS FOLLOWS:

| | | |
|-----------------------------------|-----------------------------------|---------------------------|
| County Councillor Jill Bond | West End; | Welsh Labour/Llafur Cymru |
| County Councillor Fay Bromfield | Llangybi Fawr; | Welsh Conservative Party |
| County Councillor Emma Bryn | Wyesham; | Independent Group |
| County Councillor Jan Butler | Goetre Fawr; | Welsh Conservative Party |
| County Councillor Ben Callard | Llanfoist & Govilon; | Welsh Labour/Llafur Cymru |
| County Councillor John Crook | Magor East with Undy; | Welsh Labour/Llafur Cymru |
| County Councillor Tony Easson | Dewstow; | Welsh Labour/Llafur Cymru |
| County Councillor Steven Garratt | Overmonnow; | Welsh Labour/Llafur Cymru |
| County Councillor Meirion Howells | Llanbadoc & Usk; | Independent Group |
| County Councillor Su McConnel | Croesonen; | Welsh Labour/Llafur Cymru |
| County Councillor Jayne McKenna | Mitchel Troy and Trellech United; | Welsh Conservative Party |
| County Councillor Phil Murphy | Caerwent; | Welsh Conservative Party |
| County Councillor Maureen Powell | Pen Y Fal; | Welsh Conservative Party |
| County Councillor Sue Riley | Bulwark and Thornwell; | Welsh Labour/Llafur Cymru |
| County Councillor Dale Rooke | Chepstow Castle & Larkfield; | Welsh Labour/Llafur Cymru |
| County Councillor Ann Webb | St Arvans; | 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/ieListMeetings.aspx?Committeeld=141>

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

Welsh Language

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

Aims and Values of Monmouthshire County Council

Our purpose

Building Sustainable and Resilient Communities

Objectives we are working towards

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

Our Values

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

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

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

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

Kindness: We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.

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 15: Development, flooding and coastal erosion (2021)
 - 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 by 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 or to attend the meeting in person and address the Planning Committee.**

Who Can Speak

Community and Town Councils

Community and town councils can address Planning Committee via a pre-recorded video or in person at the meeting.. 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 or in person at the Planning Committee meeting.

When is speaking permitted?

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

Registering Requests to Speak

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

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

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

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

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

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

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. Alternatively, the community or town council representatives may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- 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. Alternatively, the objector may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- 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. Alternatively, the supporter may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- 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. Alternatively, the applicant (or appointed agent) may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- 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. Alternatively, the applicant (or appointed agent) may address the Planning Committee in person at the meeting 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.

This page is intentionally left blank

Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 7th February, 2023 at 2.00 pm**

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

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

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 |
| Mark Davies | Highway Development Manager |
| Joanne Chase | Solicitor |
| Paige Moseley | Solicitor |
| Richard Williams | Democratic Services Officer |

APOLOGIES:

County Councillor Su McConnel

1. Declarations of Interest

None received.

2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 11th January 2023 were confirmed and signed by the Chair.

3. Application DM/2019/01300 - Erection of 1 no. replacement detached dwelling. Provision of new access road. Amended domestic curtilage to existing dwelling house and all associated external works. Woodmancote and site of former 8a Highfield Close, off Highfield Road and Highfield Close, Osbaston, Monmouth

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

The local Member for Osbaston had submitted a letter in respect of applications DM/2019/01300 and DM/2021/00182 as identified in late correspondence. The chair read the letter to the Committee.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

Aled Roberts, representing objectors to the proposal, attended the meeting by invitation of the Chair and outlined the following points:

- Throughout the three-year process there have been numerous legitimate concerns raised. However, during this period there has been no attempt to recognise the concerns or to adapt the proposals. There has been no engagement or consultation from the applicant.
- For residents of Highfield Close, the key issue is the principle of access. The close is a narrow, substandard road in which two vehicles cannot pass.
- The proposed two properties are a part of a much larger scheme. The actual scheme is for seven houses to be built off the proposed access. All seven proposed developments have been fully designed but due to phosphates restrictions, five of the proposed developments have not been taken further. They are still indicated on their site plans and a planning consultant has stated that this is a temporary situation.
- The applicants have placed the development at the top of the field with a view to developing the lower area of the field at some point in the future. There is reference to five properties being allowed off a private drive. Therefore, the impact of development will be exacerbated further. It is considered to be development by stealth.
- The development will change the character of the close creating a negative impact for neighbours. It was considered that objections to the development, over a number of years, have been ignored.
- The proposed road impinges upon local residents' boundaries and will almost turn existing properties into an island.
- The position of the houses and road, including the ones temporarily 'switched off' for the purposes of this application, will cause residents major loss of amenity.
- The boundary has been shown incorrectly as halfway through an objector's privet hedge and other neighbours' boundaries when it is the field fence on the other side.
- Trees have been shown as being planted on this boundary as a gesture for screening and these are relied upon in terms of the Landscape Officer's justification. However, it is not possible to plant them on this boundary without trespassing on objectors' land. It will be very difficult to maintain due to foliage overhanging onto objectors' properties. Dealing with this matter as a future condition charge avoids the issue that there is no space to plant the trees.
- For several years, residents have asked for the proposals to be pushed back up to five metres to provide a suitable landscape buffer and retain existing trees and

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

vegetation along this boundary. This would create a more sympathetic arrangement. However, this has not been undertaken.

- The replacement dwelling for Woodmancote should be redesigned to keep access off Highfield Road. The applicant wants to create a sweeping drive to Highfield Close but it was considered that this was unnecessary and compounds the issues raised by local residents.
- It was considered that objectors' views have been ignored and there has been a lack of transparency in respect of this application.

The applicant's agent, John-Rhys Davies, attended the meeting by invitation of the Chair and outlined the following points:

- The applicant's vision for the site is for the land to be sensitively developed and is not commercially driven.
- The applicant has been engaged in two pre-application meetings and has been involved in discussions with officers to create a technically sound scheme in accordance with the Local Development Plan (LDP) policy.
- The application site is located within the settlement boundary in terms with policies S1 and H1.
- The intention was to provide more homes on the site but the figure was shown on the layout as being a maximum of seven properties including the replacement of Woodmancote. However, due to the phosphates issue, the application had been altered, as presented to Planning Committee today.
- The development has not been commercially driven. Rather, the applicant has sought to make a positive contribution to the hometown of Monmouth. The intention is to provide a high-quality exemplar scheme with the intention of it being a flagship scheme of sensitive, low energy, environmental responsible development.
- Following officers' advice regarding access from Highfield Road being inappropriate that applicants purchased property 8a and the course of the access is through Highfield Close.
- The proposed access runs along parallel to the hedgerow of Highfields Close following the contours of the site. It will be obscured behind existing hedgerow. Also, taking into account the proposed landscaping, visibility of the access will be further reduced.
- The access road also serves as a sustainable drainage system, providing a betterment in surface water drainage.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- The design has been future proofed and is appropriate for two dwellings providing adequate room for turning and passing on the proposed road.
- The Neighbours' concerns primarily relate to the proposed access. There has been no objection from the Highways Department. Additional vehicle movements are minimal, and any additional homes will be subject to future approval.
- A proposed shared access is not untypical to the area and will be discreetly located. Distances from existing dwellings are in accordance with the Council's own supplementary guidance.
- The proposed development, including the access is not considered to have a significant adverse impact on neighbouring amenity.
- The applicant's agent supports the officer recommendation for this application. The scheme represents a high-quality design and a substantial improvement to the former dwelling. The development complies with the Council's climate emergency. There will be biodiversity enhancements on the site.

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

- Residents' concerns relate to visual impact, drainage, and the use of access for potential future development.
- It was suggested that a condition be added that the vehicles used in the demolition of Woodmancote and the construction of the two new dwellings continue to use the existing entrance on Highfield Road and is then closed once development has finished, reducing the impact on Highfield Close.
- A suggestion was made for the dwelling to be moved west by a distance of two to three metres to allow a bigger buffer between neighbouring properties which would reduce the visual impact and noise from vehicles using the drive.
- Residents are concerned about the access being used for future development. A condition was suggested that the access is to be used only for the two new dwellings.
- Concern was expressed that a considerable amount of green space was being lost with the proposed property being located further away from the access road.
- An additional two properties on the site will have a minimal impact on additional vehicle movements in the area.
- The buildings could be moved to allow for a joint access for both properties off Highfield Road enabling residents to not be disadvantaged.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

The Development Management Area Manager responded, as follows:

- The existing hedgerow will be retained with a swale running from north to south. Compensatory tree planting will be included in the soft and hard landscaping condition.
- The location of the proposed new dwelling allows for a new safer access road to serve that dwelling. With regard to green space and landscaping, there is some vegetation loss. However, there is substantial mitigation and compensation for that, which will be managed via conditions.
- The southern access through Highfield Close is a safer improvement that does not require substantial loss of vegetation.
- The siting of the proposed dwelling is acceptable in landscape terms and in distance from third party dwellings to the east at Highfield Close.
- The Local Planning Authority has fully engaged in the planning consultation process. The case officer has also gone out on site and met with residents to discuss their concerns.
- In response to a question raised regarding a potential construction route through Woodmancote to the north via Highfield Road, it was considered to be a dangerous and substandard access serving a single dwelling. Officers would not support this route.
- The stock proof fencing is not the boundary. The Planning application boundary (red line) is as shown on the plans.

The Highway Development Manager informed the Committee that Woodmancote benefits from an existing access off Highfield Road but is inadequate. The proposed new access can accommodate the increase in traffic movements. Since the original application, Welsh Government has published Common Standards for Highway Development. This encourages the adoption of all residential roads and only accept private drives serving up to a maximum of five dwellings. It was considered that five dwellings can be accommodated via a private shared drive in this location but an unadopted highway and access road cannot be provided to serve any more than that.

In response to a question raised, the Highway Development Manager informed the Committee that the proposed private drive access is for two dwellings. It was noted that the drive turns 90° and the applicant will build this out in excess of five metres providing more room and visibility.

The Head of Planning informed the Committee that any future development at the site would need to be considered on its own merit and be brought to the Planning Committee for consideration.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

It was proposed by County Councillor B. Callard and seconded by County Councillor M. Powell that application DM/2019/01300 be approved subject to the conditions outlined in the report.

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

| | | |
|------------------|---|----|
| For approval | - | 12 |
| Against approval | - | 3 |
| Abstentions | - | 0 |

The proposition was carried.

We resolved that application DM/2019/01300 be approved subject to the conditions outlined in the report.

4. Application DM/2021/00182 - Demolition of existing two-storey dwelling. Construction of a two-storey replacement dwelling including integral garage and amended access. Woodmancote, Highfield Road/ Highfield Close, Osbaston, Monmouth

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report with an additional condition to secure the closure of the existing vehicular access off Highfield Road, in accordance with details to be approved by the Local Planning Authority before works commence on site. The access shall be closed within three months of the date of the approved access being brought into use.

The local Member for Osbaston had submitted a letter in respect of applications DM/2019/01300 and DM/2021/00182 as identified in late correspondence. The chair had read the letter to the Committee during consideration of application DM/2019/01300.

Aled Roberts, objecting to the proposal, attended the meeting by invitation of the Chair and outlined the following points:

- Residents of Highfield Close consider that there is a cumulative effect of the dwellings accessing from Highfield Close.
- Residents consider that Woodmancote has an existing access and that reduces the impact on existing residents and consider that this would be the correct way forward.
- Residents have not been consulted properly.
- Issues regarding the boundary were considered to be unfair.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- Residents consider that this application is an unnecessary addition to the development and could therefore be redesigned and accessed via the existing way.

The applicant's agent, John-Rhys Davies, attended the meeting by invitation of the Chair and outlined the following points:

- The same principles apply as application DM/2019/01300.
- The application offers a substantial improvement to the quality of the dwelling in highway safety by accessing the site via Highfield Close rather than Highfield Road.
- The applicant's agent fully endorses the recommendation to the report.

The Head of Planning informed the Committee that full consultation has been undertaken as part of the statutory requirements and legislation. Also, the case officer did visit the site and met with residents, which was in addition to usual practice, with a view to attempt to address their concerns.

It was proposed by County Councillor B. Callard and seconded by County Councillor M. Powell that application DM/2021/00182 be approved subject to the conditions outlined in the report with an additional condition to secure the closure of the existing vehicular access off Highfield Road, in accordance with details to be approved by the Local Planning Authority before works commence on site. The access shall be closed within three months of the date of the approved access being brought into use.

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

| | | |
|------------------|---|----|
| For approval | - | 11 |
| Against approval | - | 4 |
| Abstentions | - | 0 |

The proposition was carried.

We resolved that application DM/2021/00182 be approved subject to the conditions outlined in the report with an additional condition to secure the closure of the existing vehicular access off Highfield Road, in accordance with details to be approved by the Local Planning Authority before works commence on site. The access shall be closed within three months of the date of the approved access being brought into use.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held
in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 7th February, 2023 at 2.00 pm

5. Application DM/2022/00484 - Full planning application for the construction of 9 dwellings including means of access, drainage, landscaping, associated engineering and infrastructure works. Land at former Tythe House, Church Road, Undy, NP26 3EN

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

The Head of Planning informed the Committee that a notification had been received from Welsh Government officials in which Welsh Government has been asked by a third party to consider whether to call in this application for consideration. Welsh Government officials will have 21 days to establish whether it is of national significance and whether the application should or should not be called in.

The local Member for Magor East with Undy, County Councillor A. Sandles, attended the meeting by invitation of the Chair and outlined the following points:

- Several residents have concerns regarding the proposed development. The local Member has visited and spoken with residents regarding this matter.
- The local Member considers that the number of dwellings on this small site is excessive and is an over development for this area.
- The plan is for nine homes where only one, two-storey building and some outbuildings stood previously.
- According to the site plan there are two pinch points. Plot 1 with the public right of way and plot 9 with regard to 14 Bridewell Gardens overlooking and possibly creating problems with surface water draining into the property from the new development.
- The ridge height of the proposed properties compared to the existing properties in Bridewell indicate a disparity in the heights which will not be aesthetically pleasing.
- The local Member shares concerns with objectors regarding the width of the proposed roads on the site. It will be difficult for large vehicles to gain access. There is also nowhere for vehicles to turn on the site resulting in them having to reverse back to the existing road, which will be hazardous.
- There is currently a six metre wide public right of way running through the site. It is listed by Welsh Government as an active travel route. The route is used extensively by the general public.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- The application has reduced the path from six to three metres. The Active Travel Wales Act 2013 requires local authorities to enhance and not reduce the provision for walkers and cyclists.
- The end 20 metres of the public right of way runs alongside the boundary of plot one. It is likely that the occupants will erect a two metre high fence alongside their property to prevent overlooking. Together with a high boundary wall at Camelot, this will likely create a dark tunnel effect and might encourage antisocial behaviour at this location.
- There is no separation buffer between the public right of way and the road, which is a safety risk for pedestrians.
- The local Member strongly objects to the proposed development in its current format.

Sandra Lloyd, objecting to the proposal, attended the meeting by invitation of the Chair and outlined the following points:

- The development site is set in the old village, a semi-rural setting characterised by large spacious properties and gardens and the historic site of St. Mary's Church.
- The net density of the development site is 30 dwellings per hectare. The officer's report states this is similar to the adjoining housing development at Bridewell Gardens. However, the objector considered that the proposed development is not similar. Bridewell Gardens is just over half the density of this development and to match it this development site should be a maximum of five dwellings. The net density far exceeds the surrounding area and does not comply with policy DES1 or Planning Policy Wales.
- Plot 9 is on a flood plain and is to be raised by two metres from the Church Road level and 1.2 metres higher and set back eight metres from the neighbouring property 14 Bridewell Gardens. It is the raised height and offset that is the problem, not the distance between those properties. The 45° splay line rule when measured from number 14 Bridewell Gardens' nearest habitable room window fails significantly.
- The residents of number 14 Bridewell Gardens will have a solid wall comprising a house wall and a retaining wall of between 8.1 metres and 3.3 metres high from their ground level running along their side boundary blocking their daylight. It will have a profound effect on their quality of life.
- The site consists of two narrow private drives into cul-de-sacs with no turning heads. No tracking analysis has been conducted to determine if larger vehicles can turn at the end of these drives. It is contended that they cannot, and vehicles will be required to reverse long distances to access or egress these properties.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- To service plot 9 the reverse is 87 metres. Any attempt to reverse outside plot 9 could result in a vehicle falling into the swale or down the steep gradient onto Church Road and footpath.
- To service plot 2 the reverse is 70 metres unless the vehicle uses the public right of way to turn.
- The single turning head is only six metres from the site junction with Church Road. There will be conflict at this junction with vehicles reversing and parking there. This will cause traffic to back up along Church Road where there is a blind bend, putting cyclists and horse riders at risk.
- Tracking analysis has been conducted at the single turning head. It indicates that the refuse vehicle cannot make the turn without encroaching onto the public right of way. The refuse vehicle will not go beyond the turning head as it cannot turn anywhere else on site. Despite the plans indicating bin collection points, which they don't have the authority to enforce, the Highways Officer's report states that refuse is to be left at the turning head. The residents of plot 9 will be required to carry their waste at least 66 metres up hill. From plot 2, 51 metres. Concern was expressed that mobility impaired people will have difficulty carrying their waste across these distances.
- There are nine family homes producing 18 red and purple bags and nine food bins on recycling day, as well as nine black bin bags and glass bins on general waste day. Questions were asked where the residents would put this waste on collection days. Concern was expressed that this would encourage vermin around the waste bags. No comments have been received from the Environmental Health Officer regarding the public health issue.
- The waste will be visible from Church Road and St. Mary's Church where regular church and funeral services are held.
- Concern was expressed that this will encourage fly tipping and anti-social behaviour.
- A request was made that none of these issues be conditioned. These issues cannot be resolved without redesigning the site.
- The residents ask that these points be considered and requested that the Planning Committee consider refusal of the application.

The applicant's agent, Joe Ayoubkhani, attended the meeting by invitation of the Chair and outlined the following points:

- The application has been subject to extensive pre-application dialogue and has undergone vigorous examination by officers resulting in a recommendation for approval.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- With a planning history that dates back to 2004, the land is a long-standing infill development site having previously had planning permission for 10 homes.
- The principle for developing the site for housing is firmly established.
- Officers have undertaken a thorough examination of the application and know the site well.
- The report confirms that the proposal meets all the Council's Planning policies and guidance.
- The agent thanked both local Members for their comments throughout the course of the application, many of which have been addressed with amendments to the initial application submission.
- The application meets the Council's Local Development Plan (LDP) density policy providing 30 homes per hectare.
- It is in keeping with the suburban character of the site whilst making an efficient use of this previously developed infill site which is promoted by Planning Policy Wales.
- The change in ridge heights across the site's frontage would be barely perceptible when read from ground level.
- The public right of way issue has been addressed by officers in the report of the application whereby, the three metre wide paved footpath is an enhancement that not only meets the Welsh Government's active travel guidance but would offer a safe, comfortable space for walkers, families and young children. There are no planning grounds to make a footpath any wider than three metres in this location.
- Whilst the Drainage Officer has no objection to the submitted drainage strategy, concerns have been raised regarding the draft flood maps. The Drainage Officer's comments were made in advance of the current consultation on TAN 15 which now does allow some residential development in flood risk areas. The draft flood maps in the consultation draft of TAN 15 have no status in planning terms and are subject to further review. Decisions can only be made on the current flood maps and the advice by Natural Resources Wales (NRW). NRW has reviewed the flood risk assessment, agrees with the recommendation, and has no objection to this application.
- The site is sustainably located and well connected to daily amenities. The Highways Authority has assessed the proposals and supports the application. The approach to waste collection is consistent with national policy and guidance.
- The application delivers a range of benefits from providing family housing, affordable housing, green infrastructure, a pedestrian link using the enhanced

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

public right of way and the remediation of a site, which if planning permission is not granted and the site is left undeveloped, would remain contaminated with asbestos.

- The agent requested that the Planning Committee considers approval of the application in line with the recommendation outlined in the report of the application.

The local Member for Magor East with Undy, County Councillor J. Crook, also a Planning Committee Member, outlined the following points:

- The planning objective is to achieve a good standard of design in order to avoid the bland development as proposed.
- Standardised appearance of some recent urban expansion to ensure that new development respects and enhances its surroundings and responds to the local distinctiveness and to avoid developments that have an inappropriate scale and character in the rural areas.
- The current design does not comply with LDP policies S7, DES 1, MV2 and MV3.
- The proposed development does not respect the character and distinctiveness of a site and its location.
- The local Member quoted LDP policy DES1 criteria i) and l).
- The overpowering of plot 9 over 14 Bridewell Gardens is unacceptable.
- The poor spacing of plots 7, 8 and 9 are too close to each other making it difficult to maintain these properties in the future.
- Policy MV2 sustainable transport access – Development should link into the existing or proposed public rights of way, walking, cycleways and green infrastructure network. There will be reflection in the layout and conditions and obligations of any permission granted. This layout and design do not provide adequate provision for this size of development.
- Policy MV2 Public Rights of Way – Development that would obstruct or adversely affect the public right of way will not be permitted unless satisfactory provision is made which maintains the convenient safety and visual amenities offered by the original right of way.
- The site has a long-standing history of rural development and country life and this needs to be protected.
- The Public Rights of Way Officer had stated that a four-metre segregated path should be delivered for the full length of the site. This would enable the number of houses designed to follow.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- With regard to the character of the site, a large family dwelling existed previously and advice from the previous applications on this site has been recommended for six dwellings.
- The community understands that the redevelopment of Tythe House is inevitable but in a different format to that currently proposed and not at the expense of the important local community facilities.
- The local Member questioned why it was being proposed that a public footpath of three metres be provided when the Public Rights of Way Officer concluded that it should be four metres. Until the scheme is amended to protect and deliver the retention of this historic path the scheme cannot be supported by the community or the local Member.
- It was considered that the application should be refused as it did not comply with LDP policy DES1.
- Just because the site is located within the settlement boundary does not mean that the development can proceed that does not relate to existing form and character. The southern part of Undy is different to the northern suburban area and should not follow this volume house building approach. Average density should not be generally applied. If the site is to be developed it must proceed for the benefit of all within a design framework that respects the full planning balances of all issues and based on its own merits.

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

- Concern was expressed that the public right of way would be reduced from six to three metres and that a tunnelling effect might be created towards the end of the path which might be considered detrimental to the local populace.
- It was noted that there was an additional access to the playing field which could be used by emergency vehicles.
- There is an affordable housing contribution on site in which two affordable units would be provided, namely, plots 5 and 6.
- Concern was expressed that the proposed development would be located on a protected floodplain.
- The density of nine properties was considered to be too many units for the site and that the affordable housing allocation of two units was too low. The aspiration of the Authority is to have 35% affordable housing, but the report refers to 20%. It was considered that this percentage figure should be higher.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- The Public Rights of Way Officer had objected to the width of the public right of way being reduced to three metres. Concern was expressed regarding the proposed reduction in the width of the public right of way.
- Concern was also expressed that the new road would be unadopted which would not be accessed by refuse vehicles.
- Some Members considered that nine proposed dwellings on this site was excessive and would result in overdevelopment of the site. Neighbouring properties might feel a lack of privacy as the ground levels will be raised as the site is located on a protected floodplain.
- There are limited turning points for larger vehicles and emergency vehicles which could result in the main road leading into the site becoming obstructed on occasions creating a negative effect on the highway and road users.
- Concern was also expressed regarding the lack of active travel and the public rights of way issue. Instead of enhancing and improving the path, this application seeks to diminish the size of the path. Whilst a three-metre path is in keeping with other developments, an application to reduce the size of the path is required and is not always granted. It was considered that the public rights of way application should be considered in conjunction with this application.
- A question was asked whether it was in the gift of the Planning Committee to lower the number of proposed dwellings on the application to counter any overdevelopment of the site. If this was achievable, a sufficient active travel scheme could be incorporated to improve the highway within the site and alleviate some of the concerns from residents of neighbouring properties.

The Development Management Area Manager responded as follows:

- With regard to questions raised in respect of potential overdevelopment of the site, it was noted that the Green Infrastructure on the site is sufficient, the affordable housing provision is policy compliant and will be located on site, benefiting the residents of the area.
- Policy DES1 criterion i) identifies a minimum requirement of 30 dwelling per hectare subject to criterion l) which maintains high privacy standards. However, the application is policy compliant with the supplementary planning guidance (SPG) regarding separation distances.
- The application as proposed is policy compliant with the Infill SPG.
- The site is not located within a rural environment. It is located in an urban environment and has residential development surrounding it. The layout and approach to the site, in terms of density, the position of the properties is appropriate to the adjacent residential developments.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- In terms of the gaps between the properties and maintenance, this is not a planning consideration. Future Wales promotes a more efficient use of land. Officers consider that nine properties can be accommodated on the site maintaining privacy standards and remain in compliance with Future Wales, making efficient use of the land.
- With regard to the change of levels in relation to potential flooding, this matter has been carefully considered ensuring that the properties are not overbearing on adjacent properties and that the change in levels is managed effectively via graded sections and planting.
- Regarding potential flooding issues, the application is compliant with current policy. Natural Resources Wales (NRW) has reviewed the flood consequence assessment and has no objections regarding the way flooding is managed on the site or any implications for off-site flooding.
- Consideration had been given to providing bin stores on site. However, this would require maintenance and encourage more mess. Therefore, refuse will be placed at the two areas outlined in the report for collection by the refuse vehicle.
- The Public Rights of Way officer specifies in the report how the six metre wide measurement was drawn. Where the width of a path is not defined by statute, physical boundaries or the definitive statements, its width is a matter of evidence that is habitually used by the public. The path in question follows a track. It should therefore be assumed that the right of way is at least as wide as the track which is about six metres wide. It is not definitive that the existing path is six metres wide, it is an assumption. Officers have taken the current situation which has been the same for some considerable time of a narrow-worn path to the side of the property Camelot. It is considered that three metres is substantially more than the current arrangement. It will also be a tarmac path which will be accessible for all.

The Highway Development Manager informed the Committee as follows:

- The vehicle tracking for refuse vehicles shows that these vehicles would drive onto the site in a forward gear, turn around in the hammer head and then would exit the site in a forward gear. Turning heads are designed to accommodate the largest domestic vehicles that would visit properties, such as refuse vehicles. Refuse will be collected by the curb side. This highway will be adopted and maintained by the Highway Authority in perpetuity. From their private drives, residents might be required to carry their waste a short distance.
- Delivery vehicles have the option to either use the private drive and turn their vehicle in the property that they are delivering to or they can reverse their vehicle. Alternatively, they could park in the turning area for a short period of time and deliver to the premises.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- The three-metre wide footway will be adopted over its length as part of the public highway.
- The turning head will be adopted as part of the public highway and be maintained by the Highway Authority in perpetuity.

The local Member, County Councillor J. Crook, considered that the footpath was not following active travel guidelines or Welsh Government guidelines of a footpath travelling along a new estate road.

In response, the Development Management Area Manager informed the Committee that the footpath is not an active travel route but a local walking route. However, it is acknowledged that the footpath is used hence the consideration of providing a three-metre wide path which will be retained in perpetuity and improves it in relation to its current condition. The alignment of the path remains unchanged. There is a condition in the report of the application relating to the public right of way in which full consultation will take place before any commencement of work takes place.

In response to further questions raised by Members, the Development Management Area Manager responded as follows:

- There is no change to the size of the affordable housing units as they meet the Welsh Development Quality Requirements (DQR) standards.
- The change in the re-consultation was in relation to Plots 3 and 4.
- Regarding the public right of way and the tunnelling effect, there is a nine-metre length of a 1.8 metre high screen wall that extends from the side of unit 1 to the back at the end of the site. The front portion of the garden is enclosed by a small fence and is open at that plot's parking area. This is not considered to create a tunnelling effect due to the straightness of the path. However, a further condition could be added to remove permitted development rights for means of enclosure for plot 1 to ensure there is no future tunnelling effect on the public right of way.
- With regard to the question raised in respect of potential overpowering of units 9 and 14 Bridewell Gardens, appropriate light is maintained to the rear back garden. Plot 9 will be 7.7 metres at its highest point from the ridge height. The boundary wall from its highest point will be 2.4 metres high above existing ground levels reducing to 1.8 metres. The impact of unit 9 is not considered sufficiently detrimental to refuse the application.
- The application is for nine houses and is policy compliant in all respects.

The Head of Planning informed the Committee of the following:

- Welsh Government is looking to use land the most efficient way possible delivering housing solutions. This site is deemed to be acceptable.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

- The site is located in an urban area and an additional nine dwellings would not be deemed overdevelopment of the site.
- The scheme has been significantly amended to address the concerns raised by local residents and is a betterment on the existing arrangements.
- This is a walking route that will connect to the wider active travel links.
- The application delivers 25% affordable housing in accordance with the Local Development Plan (LDP).

In response to further questions raised by Members, the Development Management Area Manager responded as follows:

- In relation to lighting on the public right of way, there is a condition restricting lighting as this is a potential habitat for bats. Therefore, light management on the public right of way needs to be carefully managed.
- There are no proposals for solar panels on the properties as it isn't current policy requirement. This matter will be investigated in the revised Local Development Plan.

The local Member, J. Crook, summed up as follows:

- The site will be overdeveloped.
- There are concerns regarding plots 9 to 14.
- There will be safety issues for children as there will be no demarcation lines between the public right of way and the estate roads.
- The Planning Committee was requested to consider refusal of the application.

It was proposed by County Councillor J. Butler and seconded by County Councillor M. Powell that application DM/2022/00484 be approved subject to the conditions outlined in the report and subject to a Section 106 legal agreement. Also, that an additional condition be added to remove permitted development rights for means of enclosure for plot 1 to ensure there is no future tunnelling effect on the public right of way.

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

| | | |
|---------------------------|---|---|
| In favour of the proposal | - | 9 |
| Against the proposal | - | 6 |
| Abstentions | - | 0 |

The proposition was carried.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 7th February, 2023 at 2.00 pm

We resolved that application DM/2022/00484 be approved subject to the conditions outlined in the report and subject to a Section 106 legal agreement. Also, that an additional condition be added to remove permitted development rights for means of enclosure for plot 1 to ensure there is no future tunnelling effect on the public right of way.

It was noted that the application was subject to a potential call in by Welsh Government. No further action would be taken until the Welsh Government decision was known.

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

6.1. New House Farm, Llangybi

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at New House Farm, Llangybi on 8th December 2022.

We noted that the appeal had been dismissed.

6.2. Grove View, Bully Hole Road, Shirenewton

We received the Planning Inspectorate report which related to an appeal decision in respect of Grove View, Bully Hole Road, Shirenewton.

We noted that the appeal had been allowed.

7. New appeals received - 21st July 2022 to 31st December 2022

We noted the new appeals received by the Planning Department for the period 21st July to 31st December 2022.

The meeting ended at 4.37 pm.

Application Number: DM/2018/01995

Proposal: Outline application for a six dwelling residential development with primary access off Baron Street with some matters reserved

Address: The Willows, 20 Baron Street, Usk, Monmouthshire, NP15 1AS

Applicant: Mr John Lewis

Plans: Location Plan G (1) - , General Green Infrastructure Assets Plan - , General Green Infrastructure Opportunities Plan - , Bat Survey - , FCA FCA V3 - , Other Transport Statement - , Other Preliminary Ecology Report - , All Proposed Plans Sites Sections G (3) Rev. A - , All Existing Plans Topographical Survey - , Site Layout G (2) - Rev G, Drainage Klargest Product Guide Feb2018 - , Drainage TDS0038-02 BA-BC Phosphate Reduction - , Drainage Certificate PIA Kingspan BioDisc +P - December 2020

RECOMMENDATION: Approved

Case Officer: Kate Bingham

Date Valid: 15.04.2019

This application is presented to Planning Committee due to the number of objections exceeding the threshold of five households

1.0 APPLICATION DETAILS

This application was presented to Planning Committee on December 6th with a recommendation for approval. This recommendation was agreed by Members of the Planning Committee subject to two additional conditions namely:

- Compliance with approved site levels (to manage flood issues).
- A Flood Action Plan to be submitted pursuant to the reserved matters.

Also, the resolution to approve was subject to officers checking with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant and that this matter be agreed via the Delegation Panel.

2.0 Consultation Responses

NRW –

We understand that concerns have been raised in relation to the potential sources of flood risk to the site from the Mill Brook and the Olway Brook. Your Authority is seeking assurance that they have been assessed and considered in relation to the proposed development site. We note, amongst others, the concerns set out in the document titled “Correspondence Received Since Closing Report Planning Committee – 6 December 2022” on your website and the photographs showing flooding in and around the Garden Centre (but not directly on the proposed development site).

We understand that the photographs were taken in the Storm Dennis event on 16th February 2020. Although the source of the flooding is not clear, we acknowledge that it could

potentially be from the Mill Brook, if it was unable to discharge into the River Usk, and/or the Olway Brook which may also be affected if there is no free discharge into the River Usk. The Flood Consequences Assessment (FCA) undertaken by JBA, Reference 2017s7040_FCA (Version 3), dated 3rd July 2020 (post Storm Dennis), does not include any specific reference to flood risk from the Mill Brook or the Olway Brook. The FCA has focused on the dominant risk of flooding to the site, which is from the River Usk. However, for completeness the FCA should have considered risk from the Mill and Olway Brooks.

The applicant has submitted evidence (in their email 8 December 2022) which includes a Technical Note prepared by Halcrow from November 2006 (Appendix C of the Flood Consequences Assessment prepared Halcrow Group Ltd, dated January 2007). This considered flood risk from the Mill and Olway Brooks.

Page 2 of the Technical Note provides a predicted flood level of 15.83mAOD from the Mill Brook in the 1 in 100 year (1%) plus an allowance for climate change 20% flood event. Based on photographs of flooding immediately south of the development site, we consider the flood extent shown in the photographs to be comparable to that flood level. Therefore, both the photographs and the predicted flood level would appear to suggest the proposed development site is not affected in this flood event.

On this basis, there is reasonable evidence that the development site is not at risk of flooding from the Mill or Olway Brooks during a 1 in 100 year (1%) plus an allowance for climate change 20% flood event.

Further, and notwithstanding the above assessment, it is important to note the development proposals are designed to mitigate flooding from the dominant River Usk which has been shown to affect the development site. This mitigation is in the form of raised site levels based on the higher predicted flood level of 16.5m AOD (for the 1 in 100 year (1%) plus an allowance for climate change 25% flood event on the Usk).

For completeness, this further assessment should be included in an updated FCA given the submission of third-party information. Your authority can then refer to this in your Officer Appraisal of the planning application. We also refer to our previous advice (response dated 27 May 2021, reference CAS-147195-S8D8) regarding the FCA being updated to reflect the changes to the site layout plan.

However, we are satisfied with the further explanation and evidence submitted by the applicant regarding flood risk from the Mill Brook and/or Olway Brook.

Additional comments: When reviewing the additional information, we noted your Committee Report dated December 2022. Section 6.7, paragraph entitled Flooding at Access Point states "In this case, the flood depths in the 1% flood event plus climate change is up to a maximum of 600mm which is within the tolerable limit of TAN 15 and, therefore, is acceptable." Please note that the tolerable limits that are included in the table under A1.15 of TAN15 should be assessed against the extreme 0.1% flood event, i.e. they do not apply to the 1% plus climate change flood event. Your authority should assess the acceptability of access/egress using A1.15 criteria in the 0.1% flood event.

Usk Civic Society -

I am writing to express Usk Civic Society's concerns that mistaken officer advice has been given to elected members during their consideration at the December meeting of MCC Planning Committee in DM/2018/01995 The Willows Nursery; these concerns are set out more fully below. This advice, on which elected members should be able to rely, has major implications as it may have prevented them from properly considering this application,

particularly for those where the interests of their constituents living in the Baron/Mill Streets area of Usk are involved. As we noted in our late objection to the application, our concerns are as follows:

The Officer Report and Andrew Jones in the recording of the Planning Committee meeting both mistakenly advised Committee Members by stating that the scheme "would not be contrary to the aims of either strategic policy S12 or development management policy SD3" [recording] and that "The proposal accords with national planning policy TAN 15 and local planning policies S12 and SD3" [Officer Report]. Given that the statutory LDP states for SD3 that: "Proposals for highly vulnerable development or emergency services will not be permitted in areas which may be liable to flooding, ..." then the Officer Report and recorded officer advice are both unarguably incorrect. The draconian words "will not be permitted" were introduced into Monmouthshire's statutory Local Plans following the publication of TAN 15 and the decision to refuse the Woodside application for over 200 dwellings on risk of flooding grounds. The phrase "will not be permitted" offers no scope for ambiguity.

As to compliance with TAN 15, a key test is whether the development site can be described as "brownfield" or "previously developed" in accordance with PPW11. If it is agricultural, it does not qualify as "brownfield" so in that respect TAN15 is not complied with. Andrew Jones commented that garden centre use is not agricultural and that as a retail use, or as a 'sui generis' use, then the site was indeed 'brownfield'. He displayed pictures of the glasshouses to be demolished, followed by a picture of the exterior of the shop part of the Willows Garden Centre commenting that "again the building would be lost".

The recorded officer comments were also mistaken. The retail building that Andrew Jones stated "would be lost" is not even part of the planning application site. The glasshouses that are to be demolished are not in retail use, and never have been. The applicant (FCA July 2022. Table 3.2) describes the buildings as "unused green houses" (sic). The greenhouses were a nursery for growing plants which were then transported to the nearby shop area for sale. The Concise Oxford English Dictionary defines a nursery as "A place where plants, trees etc. are reared for sale or transported." Section 336 of the Town and Country Planning Act 1990 includes "market gardens and nursery grounds" within its definition of "agriculture". The site of the proposed dwellings is unarguably in agricultural use. As such, it does not constitute brownfield land, and TAN 15 is not complied with.

Furthermore, regarding the other TAN 15 tests, as UCS has stated previously, the site does not accord with the LDP Strategy which as per its S12 states "All new development must: Avoid the siting of inappropriate development in areas at risk of flooding". That is the Council's Strategy; the wording of S12 is not ambiguous; the TAN 15 flood requirements are not complied with.

Had officers been correct in their guidance to elected members, then the proposal would have been stated as being in conflict with both the LDP and TAN15. Furthermore it would have been advertised as a departure from the LDP which means the Welsh Government would have automatically been alerted to the question of whether the application should be 'called in' if members had been minded to approve the scheme despite its conflict with LDP and national policy. The officers cannot hide behind so-called NRW 'approval'; what NRW state in their letter of 27/05/2021 is: "The planning application proposes highly vulnerable development, six residential dwellings. Our Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map contained in TAN 15 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Usk. Our records also show that this site has previously flooded from the River Usk during the December 1979 flood event. Section 6 of TAN 15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN 15." In other words, questions of compliance with TAN 15

requirements on brownfield land and accordance with the LDP strategy are down to Planning Committee, not the NRW.

In conclusion, local residents, elected members and bodies such as UCS should be able to have confidence that the Officer Report and Committee Presentation will fairly reflect the LDP and national policy TAN 15. Clearly the officer advice has been mistaken. Where this has happened in other cases approvals have been quashed and costs incurred by the planning authority at judicial review. It seems to us that the advice offered to elected councillors in this case (including arguable misinterpretation of statute law) is incomplete and incorrect.

The pause necessitated by Planning Committee's decision to reconsult NRW about flooding originating from the Olway (we note that they have recently replied, suggesting further work) gives a little time for review of the advice offered to councillors in this case. We hope you will feel able to use this time to good effect, possibly in the first instance by involving the Planning Committee Panel. We consider it of prime importance that the advice offered to elected councillors (on which they are entitled to rely) should be of the highest quality, and we remain of the belief that in this case it was not.

Response to objection on behalf of the applicant -

I note that a third objection from the Usk Civic society has been uploaded onto the planning portal claiming mistaken advice has been provided in the planning officer's written and verbal report to the committee. I would like to formally respond to this as some of the claims made are factually incorrect.

National Planning Policy TAN 15 – Development and Flood Risk Section 6 of TAN 15 states that development will only be justified if it can be demonstrated that:

I. Its location in Zone C is necessary to assist or be part of a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement.

The LDP interactive map shows the site to be within the Usk development boundary and designates strategic policy S1 – The Spatial distribution of New Housing Provision. Clearly six new dwellings will assist the authority with this Strategy and will help to sustain the existing settlement and the viability of the town of Usk.

II. It concurs with the aims of PPW and meets the definition of previously developed land.

It has been claimed that the proposed site is “unarguably agricultural” and that “the glasshouses to be demolished are not in retail use and never have been”. For the avoidance of any doubt for over 25 years the greenhouses on the proposed site have formed part of the Willows Garden Centre and have been open to the public for the sale of a variety of items including bedding plants, shrubs, hanging baskets, lawn mowers and garden furniture.

I attach a few photographs which show the greenhouses being used for retail purposes. You will note on the first photograph that the floor of the greenhouse has been hard paved and has been marked out to ensure members of the public adhere to correct social distancing (during Covid).

In the case of *Wiggin V Arun District Council* 14/11/1996 the Court of Appeal found that “a garden centre” is clearly a premises “used for the retail sale of goods”. As a matter of law the current use of the proposed site is class A1 retail, it is clearly not agricultural and is not a use excluded from TAN 15.

It has also been claimed that the officer's comments were mistaken in relation to the retail building adjacent to the site which was stated "would be lost". These comments were not mistaken, it is a requirement that the retail building is demolished so that the ground below can be lowered to compensate for ground raising on the site.

III. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Following extensive negotiation over a two year period NRW have confirmed acceptance of the Flood Consequences Assessment for the site.

It has previously been claimed by the Civic Society that the main risk of flooding at the site is the backing up from the Olway / Mill Brook. Further evidence has been submitted to demonstrate that during a 100 year plus climate change event the undeveloped site remains flood free during this backing up which again has been accepted by NRW. Clearly if these backing up events do not reach the site the proposed development cannot increase the flood risk in the neighbouring properties of Mill Street.

LDP Policies S12 and SD3

The wording of both Strategic Policy S12 and Development Management Policy SD3 contain a certain amount of ambiguity. It is initially stated that SD3 "aims to prevent development in areas that would be at high risk of flooding " and that "TAN 15 identifies those circumstances in which development can be justified in flood zone C" and finally that "the risk of flooding must also be taken into consideration on a development by development basis". I am fully aware of a possible conflict between the wording of the LDP and TAN15 which was queried with your authority back in 2017. The advice received has been backed up by the approval of several residential developments in Usk located on the same flood plain which include the Three Salmons, the Old Smithy Gallery and 33 Maryport Street.

I believe that the officer report and presentation fairly represent the LDP and National Policy TAN 15 and that the advice provided to the Planning Committee has not been mistaken.

3.0 Response to New Issues Raised

3.1 Further consideration of Flood Risk

NRW have confirmed that there is reasonable evidence that the development site is not at risk of flooding from either the Mill or Olway Brooks during a 1 in 100 year (1%) plus an allowance for climate change 20% flood event.

TAN15 also requires that in respect of the residual risk to the development, it should be designed that so in an extreme (0.1% chance) event there would be less than 600mm of water on access roads and within property and the velocity of the water flowing across the development would be less than 0.4m/seconds.

The finished floor level of the proposed houses is between 16.6-16.8m AOD, 200mm above the surrounding ground level. There are two areas within the proposed development that will be lowered to provide mitigation against modelled third-party impacts. Additionally, a lowered track towards the south of the site provides assistance to the flood water conveyance. The post-development modelling shows that the maximum flood depths are less than 600mm during the 0.1% extreme event.

In terms of the access, this will have a maximum flood depth of 600mm – 1000mm. However, the development will provide a betterment to the north and west of the proposed development site, including Baron Street, during the 0.1% extreme event modelled. This betterment to the north of the site reduces maximum flood levels by up to 25mm during a 0.1% extreme event. Maximum velocities at the site are less than 0.2m/second in the 0.1% event, although Baron Street experiences greater velocities as it heads northwards.

As stated by NRW, flood risk to the access / egress is an issue for the local planning authority. Whilst it is acknowledged the site access will flood by up to 400mm over the tolerable limits set out in the TAN15 guidance, extreme floods are by their nature, very rare and also of short duration with the periods when the risk to the access is greatest limited. It should also be noted that the surrounding area is significantly flooded several hours prior to flood waters reaching the proposed development site and access. Flood defences therefore not only provide protection from flooding but also greatly increase the flood warning time available, hence why flooding in Usk first occurs approximately 17-18 hours into an event.

During an extreme flood event, going to the upstairs of the dwellings is considered an acceptable escape route for occupiers, as noted in page 24 of the FCA which has not been contested by NRW. Being dwellings, occupiers will have access to all the facilities / goods that they need within the building until the access is passable again. It is also relevant to consider the proposed development will provide six new homes on a brownfield site in a sustainable location. Should the application be approved, a Flood Action Plan should be developed and adopted by the developer and future residents to ensure the correct action is taken in the event of an extreme flood warning being issued. This can be included in any Reserved Matters application, secured by the condition suggested by Members at the previous Planning Committee Meeting.

Taking these factors together, on balance it is considered the benefits of the proposals outweigh the limited risk of flooding at the access point, the consequences of which can be managed.

3.2 Local Development Plan SD3

The Civic Society objection references Development Management Policy SD3 which states, “proposals for highly vulnerable development will not be permitted in areas which may be liable to flooding” and mentions the “refusal of the Woodside application for 200 dwellings on risk of flooding grounds”. The Woodside application referred to was refused as that area is at much higher risk of flooding than the current application site. Woodside has a long history of flooding with flood events occurring in October 1998, October 2000, February 2002 and February 2020.

Since the construction of the new flood defences in the 1980’s there has been no history of flooding at the Willows application site. Even during the Storm Dennis event of February 2020 when the River Usk reached its highest ever recorded level of 18.112 metres Ordnance Datum (OD) the site remained flood free. Flood modelling which forms part of the Flood Consequence Assessment submitted with the application demonstrates that the proposed development will also remain flood free during a 100 year flood event plus a 25% allowance for climate change. It can therefore be concluded that during the lifetime of the development (100 years advised by NRW for new residential development) the site will not be liable to flooding.

The aim of LDP Policy SD3 is “to prevent development in areas that would be at high risk from river or coastal flooding”. Compliance with the technical requirements of TAN 15 demonstrates that the proposed development will not at be high risk of flooding and therefore the development accords with LDP Policy SD3.

3.3 Previously Developed Land

Planning Policy Wales Edition 11 (PPW11) defines 'previously developed land' as the following:

Previously developed (also known as brownfield) land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage of the development is included, as are defence buildings and land used for mineral extraction and waste disposal where provision for restoration has not been made through development management procedures. Excluded from the definition are:

- land and buildings currently in use for agricultural or forestry purposes;
- land which has not been developed previously, for example parks, recreation grounds, golf courses and allotments, even though these areas may contain certain urban features such as paths, pavilions and other buildings;
- land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings;
- land which is species rich and biodiverse and may qualify as section 7 habitat' or be identified as having nature conservation value; Environment Act; and
- previously developed land subsequently put to an amenity use.

The Civic Society have questioned the use of the glasshouses, identifying them as a nursery rather than garden centre and therefore within agricultural use. If this is the case then the site cannot be classed as previously developed land for the purposes of LDP Policy SD3. The appeal decision ref: APP/R0660/X/09/2115961 Garden Centre, 9 Lees Lane, Newton, Macclesfield, Cheshire, SK10 4LJ suggests that if plants for sale are grown on site then the use is classed as a nursery (agriculture), whereas where plants are imported for sale, the use is a garden centre so retail (A1). (N.B. The classification of a garden centre as A1 use was established in the case of Wiggins v Arun District Council 14/11/1996 where the Court of Appeal found that "a garden centre" is a premises "used for the retail sale of goods"). As such, establishing the use of the application glasshouses will determine whether the site is brownfield or greenfield.

The glasshouses themselves were erected in the late 1960s and early 1970s. Whilst initially used for commercial growing, during the late 80s early 90s the site transitioned away from growing plants for sale off site, to more general use selling the plants on site as well as other horticultural related products. Therefore the use of the glasshouses has been incorporated into the overall garden centre through the passage of time.

A garden centre use rather than an agricultural nursery use is considered to be when the sale of bought in goods exceeds the level of *de minimis* or a level that is no longer insignificant. Since January 2009 the site has been leased to the applicant who as well as managing the garden centre has diversified part of the site to a soft play area and café. The glasshouses are no longer used to propagate any of the plants from seed as all are bought in as small plants which are grown on and sold exclusively in the garden centre. Therefore, the sale of bought in goods sold at the site has exceeded the level that would be considered insignificant. The applicant has also advised that the glasshouses on the site have been open to the public for the sale of a variety of items including bedding plants, shrubs, hanging baskets, lawn mowers and garden furniture for over 25 years. It is also worth noting that the site is charged for Business Rates; a nursery or agricultural use would be exempt from such rates.

There appears to be no firm figure for this percentage of imported goods although 20% is quoted in the case of "Bromley LB V George Haeltchli and Son". The percentage of imported goods sold at The Willows is well in excess of this figure as the sales from bedding plants which are grown on from small plants accounts for only 8.8% of total sales. The primary use of the site is therefore the retail sale of goods and services to visiting members of the public rather than as a nursery where plants are sold on.

On the basis of the above, officers are satisfied that the glasshouses have been used as part of the wider garden centre and are not a nursery (agriculture). Therefore, the land meets the definition of previously developed land cited in PPW11 and can be redeveloped in accordance with TAN15 subject to the consequences of flooding being reasonable managed. The applicant has provided a detailed FCA outlining that the consequences of flooding can be reasonably managed and therefore the re-development of the site is in accordance with the requirements of TAN15.

4.0 Conclusion

It has been demonstrated that the site will not be at risk of flooding from the River Usk. Furthermore, as advised by NRW, there is reasonable evidence that the development site is not at risk of flooding from the Mill or Olway Brooks during a 1 in 100 year (1%) plus an allowance for climate change 20% flood event.

Officers are satisfied that the application site is 'previously developed land' in accordance with the definition in PPW11 and therefore is suitable for re-development under the technical advice contained within TAN15.

The previous Committee Report (December 2022) and recommendation is below.

Application Number: DM/2018/01995

Proposal: Outline application for a six dwelling residential development with primary access off Baron Street with some matters reserved

Address: The Willows, 20 Baron Street, Usk, Monmouthshire, NP15 1AS

Applicant: Mr John Lewis

Plans: Location Plan G (1) - , General Green Infrastructure Assets Plan - , General Green Infrastructure Opportunities Plan - , Bat Survey - , FCA FCA V3 - , Other Transport Statement - , Other Preliminary Ecology Report - , All Proposed Plans Sites Sections G (3) Rev. A - , All Existing Plans Topographical Survey - , Site Layout G (2) - Rev G, Drainage Klargester Product Guide Feb2018 - , Drainage TDS0038-02 BA-BC Phosphate Reduction - , Drainage Certificate PIA Kingspan BioDisc +P - December 2020

RECOMMENDATION: Approved

Case Officer: Kate Bingham
Date Valid: 15.04.2019

This application is presented to Planning Committee due to the number of objections exceeding the threshold of five households

1.0 APPLICATION DETAILS

1.1 Site Description

The application site is located to the south of the settlement of Usk, off Baron Street. The application site forms part of the wider Willows Garden Centre which extends westwards towards the River Usk.

The application site currently accommodates commercial greenhouses which were constructed in the 1970s and 1980s and were part of a nursery associated with the garden centre. The garden centre to the west will continue to operate.

To the north and east of the application is residential development, there is open land to the south and, as mentioned above, the garden centre to the west.

The site is currently accessed via Baron Street.

The application is located within the Usk Conservation Area and near to several listed buildings, the most closely related being nos. 7, 9, 11 and 13 Baron Street to the north. The site is also within the Phosphorous Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC).

1.2 Value Added

The application as originally submitted proposed 7no. dwellings. It became clear following discussions with Natural Resources Wales that to deal with potential flood risk the site was not capable of accommodating 7no. dwelling since space was needed on site to provide flood storage. The proposed development was therefore reduced to 6no. dwellings.

Also, the proposed dimensions included a minimum and maximum height of 9m and 9.5m, respectively. The Heritage Officer raised concerns regarding the proposed height on the basis that a dwelling over two storeys, considering the ground level increases required for the flood mitigation, would look out of keeping with the Conservation Area and would not preserve its character or appearance. As such, the minimum and maximum height is restricted via condition to 8.2m, despite the proposed maximum dimension proposed by the applicant.

1.3 Proposal Description

Proposed Development

The proposed application seeks outline permission with *all matters reserved except access*. The proposed layout shows an adoptable standard access road to the north-west of the site via Baron Street. The access leads eastwards into the site forming a small cul-de-sac which splits to the north and south. The dwellings front onto the access road.

The proposed dwellings are shown to be a mix of detached and semi-detached dwellings within the following minimum and maximum dimensions:

| Plot | Length | | Width | | Height | |
|------|--------|-----|-------|-----|--------|------|
| | Min | Max | Min | Max | Min | Max |
| 1 | 9m | 10m | 7m | 8m | 8.2m | 8.2m |
| 2 | 9m | 10m | 7m | 8m | 8.2m | 8.2m |
| 3 | 9m | 10m | 8m | 10m | 8.2m | 8.2m |
| 4 | 8m | 10m | 6m | 8m | 8.2m | 8.2m |

| | | | | | | |
|---|-----|-----|----|-----|------|------|
| 5 | 8m | 10m | 6m | 8m | 8.2m | 8.2m |
| 6 | 11m | 12m | 8m | 10m | 8.2m | 8.2m |

To accommodate the flood mitigation measures the finished floor levels of the site will need to be raised to a maximum of 16.8m AOD, which is a level rise of approximately 1m compared to the existing ground level. The proposals include an area of flood storage to the south of the site.

2.0 RELEVANT PLANNING HISTORY (if any)

| Reference Number | Description | Decision | Decision Date |
|------------------|---|-----------------------|---------------|
| DM/2018/00299 | Change of use of horticultural shop/display area to children's activity/play area | Approved | 19.04.2018 |
| DM/2018/00303 | Discharge of conditions 2, 7, 8 & 9 of DC/2017/01081. | Approved | 22.11.2018 |
| DM/2020/01090 | Demolition of commercial greenhouses (Conservation Area Consent) | Pending Consideration | |
| DC/2014/01289 | Proposed replacement of glazed roof of existing glasshouse by colour coated profiled steel sheets and translucent sheets. | Approved | 15.12.2014 |
| DC/2017/01181 | Retention of an unoccupied residential caravan on The Willows Garden Centre site between the months of July to March (inclusive) in any year. | Approved | 04.07.2018 |

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

- S1 LDP The Spatial Distribution of New Housing Provision
- S4 LDP Affordable Housing Provision
- S12 LDP Efficient Resource Use and Flood Risk
- S13 LDP Landscape, Green Infrastructure and the Natural Environment
- S16 LDP Transport
- S17 LDP Place Making and Design

Development Management Policies

H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements
DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
EP5 LDP Foul Sewage Disposal
HE1 LDP Development in Conservation Areas
NE1 LDP Nature Conservation and Development
MV1 LDP Proposed Developments and Highway Considerations

Conservation Area Appraisal

Usk Conservation Area Appraisal. The existing buildings that are proposed to be demolished have not been identified as having an especially positive impact on the Conservation Area.

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.

Technical Advice Notes

TAN15 - Flood Risk and Development.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Usk Town Council - The Town Council recommended approval of the application.

MCC Heritage Officer - No objection, subject to a condition controlling the maximum height of the proposed dwellings.

Natural Resources Wales - No objection, subject to conditions.

Response to Habitats Regulations Appropriate Assessment - Agreed. We have reviewed your Habitats Regulation Assessment Record dated 28/06/2022 along with supporting evidence submitted with the planning application reference DM/2018/01995. We apologise for the time it has taken for us to respond to this consultation.

You have concluded a likely significant effect from the project on the River Usk Special Area of Conservation. As such you have taken forward the following potential impact pathways into an Appropriate Assessment (AA) for further consideration:

- Change in water chemistry during operation stage, this includes increased loading of Phosphorus
- Toxic contamination and siltation/sediment/turbidity during the construction stage
- Changes in surface flooding during both construction and operation stage
- Otter entrapment during construction stage
- Disturbances during construction stage, including noise and increased activity

We agree with the above and provide the following advice on your AA.

Operational stage - phosphorus loading

We agree that the project has the potential to increase phosphorus loading on the River Usk SAC. The AA has largely relied on the Phosphate Statement prepared by N.J.Bowen (Rev C, dated 2/3/22) to consider this impact further. The statement provides a baseline of existing Phosphorus (P) loading at the site from its existing use against a future predicted P loading from its proposed use. The statement explains that the crops and plants within the existing greenhouses are fertilised with a combination of base fertilisers dug into the soil and soluble fertilisers in irrigation water.

The Phosphate Statement references several research studies, including a desktop study by Defra to understand how much fertilizer and therefore P could be discharged from the site. Using these studies, the Statement provides a P emission rate of 9.35 kg/ha/year at this site from the existing use, which is equivalent to a total phosphorus load of 2.89kg/year. It is likely that a new commercial greenhouse operation would yield a much lower figure than this, based on the fact that they would have more efficient irrigation systems. However, the Defra study suggests that older operations tend to use fertilizers more freely, with little attention paid to efficiency of nutrient use. We are not aware of any evidence opposing the Defra study, and therefore we consider this to be reasonable.

The other element to consider is whether there is a pathway for P to enter the SAC river from the existing operations at the site. We consider a pathway to surface waters (including the SAC river itself) or highway drains via run-off of P is unlikely due to the greenhouses being covered.

In terms of a pathway via groundwater, P does not normally move in soluble form within sub-surface flows. This is because it binds in the soil, where the soil has capacity. However, there would be exceptions to this where there is excessive application of P over long periods of time. The evidence submitted by the applicant shows the operation of the greenhouse is likely to have resulted in over-application of fertilizer (and therefore P) over several decades, therefore it is likely the soils have no further capacity for retention of P through binding. As a result, it is likely the soil would be free draining, and as such the P would be finding its way to the river. This effectively creates a pathway.

Therefore, the applicant states there are existing P losses from the site which have been and are entering the river environment via sub-surface flow. Further, the information submitted by

the applicant concludes that the new proposal can achieve neutrality or betterment, resulting in a net reduction of 0.459kg/year total phosphorus. This conclusion is based upon calculations for 6 residential units, with an average occupancy of 2.3 people, using 110l/p/d and a total phosphorus concentration of 4.4mg/l being discharged from the Usk wastewater treatment works. In our view, without any further evidence to the contrary, the figures for total phosphorus above are reasonable to use in assessing the overall phosphorus balance.

Based on this assessment, we agree with your conclusion that there will be no adverse effect on the integrity of the River Usk SAC.

Construction stage - all pathways

We agree with the elements of the construction of the project which you have taken through to Appropriate Assessment. We note the proposed Construction Environmental Management Plan and the Surface Water Management Plan conditions which are set out under 5.3 of the AA. Subject to the approval and implementation of these conditions and relevant mitigation measures, we agree with your conclusion that there will be no adverse effect on the integrity of the River Usk SAC during the construction stage.

Operational stage - Surface water

We note the applicant has demonstrated that surface water can be managed through infiltration and that a SAB consent will be required. We agree with your conclusion that there will be no adverse effect on the integrity of the River Usk SAC.

Summary

We agree with the conclusions of your appropriate assessment that subject to the above planning conditions being attached and implemented, there will be no adverse effect on the integrity of the River Usk SAC.

Dwr Cymru Welsh Water – No objections subject to condition.

We can accommodate an increase in foul flows generated from the site into the public sewerage network as well as catchment's waste water treatment works.

Condition: No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Glamorgan Gwent Archaeology Trust - No objection, subject to conditions.

MCC Highways - No objection.

MCC Biodiversity Officer - No objection.

MCC Housing Officer - We had originally asked for 2 affordable units on site but the viability assessment considers this to be unviable. If there is an opportunity for a financial contribution for affordable housing, which the viability assessment suggests that there is, I would welcome this.

MCC SAB - Now they have been able to show the site can infiltrate that will take away my concerns. As the site needs a full SAB app I am happy for this to be managed through that process.

SEWBRc Search Results - No significant ecological record identified.

5.2 Neighbour Notification

13no. objections to the application received raising the following concerns:

- Raising site levels will adversely impact on neighbouring amenity;
- Loss of privacy;
- Increased risk of flooding to surrounding properties;
- A similar application was refused by the Council in the past;
- Increased air pollution;
- The application site is opposite a retirement complex with vulnerable residents;
- Disturbance during construction in relation to traffic, noise and dust;
- Adverse impact on Highway Safety due to increased traffic on substandard access road;
- Adverse impact on pedestrian safety;
- Adverse impact on parking;
- Adverse visual impact;
- Adverse impact an increase in traffic would have on the structure of the surroundings dwellings;
- The development should fund the resurfacing of the riverside path;
- Consultation not carried out correctly;
- The road should be resurfaced.

5.3 Other Representations

Usk Civic Society - The Civic Society objected to the application on the following grounds:

- Concerns regarding the flood risk
- Concerns regarding third party impact of flooding
- Concerns regarding the capability of the access road to cater for additional traffic;
- Concerns regarding the traffic impact of large vehicles serving remaining nursery as well as the proposed development.

Usk Trail Access Group - Trail Access Group would like to see MCC negotiate some improvements to local access provision should this development get planning permission. A priority should be safe walking and cycle provision to and from the site to school and improvements to the surface of the path along the riverbank to make it accessible to all ages and abilities.

5.4 Local Member Representations

No comments received.

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

6.0 EVALUATION

6.1 Principle of Development

The site is located within the settlement boundary of Usk, which is defined as a rural secondary settlement in the Local Development Plan. Policy H1 supports development in rural secondary settlements in principle, subject to detailed material planning considerations. The primary material planning considerations relevant to this application are:

- Heritage Considerations;

- Section 106 Requirements;
- Flood Risk;
- Residential Amenity;
- Impact on Highways; and
- Ecological Considerations.

6.2 Good Design / Historic Environment

The application site lies within the Usk Conservation Area and, therefore, must be assessed against whether the proposed development preserves and enhances the Conservation Area in accordance with Policy HE1 and Policy DES1, which relates to good design. The site also lies in an area of archaeological sensitivity. Planning Policy Wales 11 (PPW) requires development to ensure the protection of the archaeological resource. These heritage matters will be discussed in turn below.

Policy HE1 requires development in the Conversation Area to meet the following criteria:

- a) preserve or enhance the character or appearance of the area and its landscape setting;
- b) have no serious adverse effect on significant views into and out of the Conservation Area;
- c) have no serious adverse effect on significant vistas within the area and the general character and appearance of the street scene and roofscape;
- d) use materials appropriate to their setting and context and which protect or enhance the character or appearance of the Conservation Area; and
- e) pay special attention to the setting of the building and its open areas.

The existing buildings are of low architectural value and the redevelopment of the site represents an opportunity to develop a high-quality scheme which is sympathetic to the historic context.

The application is made in outline for 6no. dwellings with key matters such as layout and appearance reserved for later consideration. It is considered that the amount of development proposed is in keeping and would integrate well with the existing urban grain of the area. The proposed appearance and materials can be secured at reserved matters stage to ensure they are acceptable in the historic setting and in accordance with Policy DES1.

The Heritage Officer has reviewed the application and raised no objection to the loss of the existing buildings. They considered the proposed development to be acceptable in terms of density and the concept of detached and semi-detached dwellings is appropriate. The heritage officer does, however, have concern regarding the scale of the proposed dwellings and the potential impact on the character of Baron Street, featuring several listed buildings (no. 7, 9, 11 and 13 Baron Street) and the wider Conservation Area. Due to the lack of detail regarding the proposed house types and their scale, the Heritage Officer has requested that a condition be imposed limiting the ridge height of the proposed dwellings to a maximum of 8.2m to ensure the scale of the dwellings is acceptable in the Conservation Area. The height is already limited to 8.2m as it is an agreed perimeter as part of the application and therefore should a future developer wish to increase the height above those agreed in this application, then this would have to be considered as part of a Full Application rather than Reserved Matters. However, it has been included as a condition below for clarity.

On the basis of the above, it is considered that the proposed development, subject to an acceptable design and scale to be agreed at reserved matters, would improve the

appearance of the site within the Conservation Area and preserve and enhance its setting, in accordance with LDP policies HE1 and DES1.

The application site is also in an Area of Special Archaeological Sensitivity (ASA) and, therefore, there may be archaeological remains of significance on site. Glamorgan Gwent Archaeological Trust (GGAT) has been consulted and advised that during an archaeological evaluation undertaken in 2006, archaeological remains (pottery and metalworking slag) and features of medieval and potentially of Roman origin, were encountered. This indicates that further archaeological features are likely to exist within the application area which would require further investigation and recording during any future development of the site. GGAT have raised no objection subject to a condition to secure a written scheme of historic environment mitigation.

The proposed development is considered acceptable in accordance with the requirements of PPW, subject to the condition requested by GGAT which will be imposed.

6.3 Biodiversity

The site is within 100m of the River Usk Special Area of Conservation (SAC). There is a pathway for potential adverse impacts on water quality on the SAC both during construction and operation. The site is also within the buffer area for Otter which have the potential to be detrimentally impacted by the development. As such the Council undertook an Appropriate Assessment (AA) under the Habitats Regulations Assessment. This has concluded that there will be no adverse impact on site integrity of the River Usk SAC because of change in water chemistry (increase in phosphates).

In respect of the other hazards to be considered by this Appropriate Assessment it is considered that subject to the imposition and incorporation of the additional mitigation measures via appropriately worded planning conditions and the subsequent enforcement and monitoring of implementation and conditions, it is concluded that the hazards associated with the project will not adversely affect the integrity of the River Usk SAC. The Assessment was sent to NRW for review as required who agreed with this conclusion.

In terms of other ecological considerations, a Preliminary Ecological Appraisal (PEA) has been submitted to assess the potential impacts on habitats, protected species and designated sites, arising from proposals to demolish the existing greenhouses and sheds and build new houses in their place. This concluded that the onsite leylandii and Russian vine hedge and the ornamental trees with ivy are considered to be the most ecologically valuable habitat on site, as they can provide nesting opportunities for birds. The plastic sheet flooring within the greenhouses (G1 & G3) and the small pile of wood and brash in the south-east corner of the site offer potential habitat for reptiles to use as refuge. The brash pile and grassland offer potential habitat to amphibians including Great Crested Newts (GCNs). All of the on-site buildings have negligible potential to support roosting bats.

Consequently, all works would be required be carried out following the recommendations in the PEA report (Section 5) and secured via a condition requiring a Construction Environmental Management Plan (CEMP) to be submitted prior to development. This should include details of an external lighting scheme to avoid negative impacts on foraging and commuting bats or any bats roosting, reasonable avoidance measures for reptiles and GCNs, vegetation clearance to only take place outside of the bird breeding season (i.e. this must take place within the period September to February inclusive). Furthermore, all on-site and neighbouring trees/hedgerows which are to be retained will require a Root Protection Area (RPA) to be calculated and fenced off prior to work commencing. The on-site leylandii hedgerow and the ornamental shrubs to the north-east of the site will be removed during the proposed works. This must be compensated for by the planting of a new, native species rich

hedgerow to the rear of the new houses and the planting of native plant species around the site. Furthermore, in order to fulfil the requirements PPW, the enhancements provided in the PEA (Section 5) should be followed. This can also be secured via condition should Members be minded to approve the application.

Subject to the conditions referred to above, it is considered that the proposed development will not adversely affect local biodiversity and the provisions of LDP Policy NE1 can be met.

6.4 Impact on Amenity

The application is made in outline and, therefore, no final layout or dwelling design has been proposed. The application description, however, confirms that permission is being sought for a maximum of 6no. dwellings and the applicant has provided the minimum and maximum dimensions which are detailed earlier in this report. The proposed dimensions indicate a maximum height of 8.2m. There would be an increase in ground levels and finished floor levels to a maximum of 1m when measured from Baron Street. Details of the finished floor levels would be conditioned to ensure full details are assessed as part of the reserved matters application.

A full assessment of the impact on neighbour amenity is not possible at this stage since the final layout and house types have not been finalised and will be subject to a reserved matters application. It will be necessary that the final scheme takes into account neighbouring properties and to ensure there is no adverse overlooking, and this will be fully assessed at reserved matters stage.

Whilst a full assessment is not possible, the indicative layout demonstrates that 6no. dwellings can be achieved on the site without affecting neighbour amenity. There is sufficient space on the site and enough flexibility in the agreed parameters to achieve a layout which does not adversely affect amenity of existing or future occupiers. Given the size of the site, the offset the proposed dwellings can achieve in relation to surrounding neighbours, ensures that the proposed increase in ground levels will not result in an adverse overbearing impact.

The proposed outline development is considered capable of according with policies DES1 and EP1 at reserved matters and no further details are needed at this stage.

6.5 Highways

6.5.1 Sustainable Transport Hierarchy

The site is located in the town of Usk which benefits from a regular bus service connecting it to Cwmbran, Monmouth and Abergavenny. The town also has a variety of shops and services that are all within walking distance of the site reducing day-to-day reliance on car usage.

6.5.2 Access / Highway Safety

The proposed development will be accessed via a new entry point located off Baron Street. The proposed access point will be designed to adoptable standards and includes a 5.5m wide carriageway and 2m wide footpaths either side. *The point of access off Baron Street is not a reserved matter and is to be determined as part of the outline permission.*

Internally to the site, the proposed road would reduce to 4.8m in width and provide a footway on one side of the road. The internal road layout could be subject to change at reserved matters stage, but the indicative layout plan shows an acceptable highway arrangement can be achieved.

The indicative layout also demonstrates the necessary parking provision of 1no. space per bedroom to a maximum of 3no. spaces. The layout also provides for 4no. additional spaces to serve visitors and existing properties adjacent to the site.

The proposals also include localised widening of Baron Street to allow vehicles to pass. This will require the applicant to enter into a legal agreement with MCC Highways to agree and enable these works to take place.

In terms of traffic movements, the development is likely to generate 7no. movements in the peak period which is unlikely to coincide with the existing commercial and retail activities associated with the adjacent garden centre.

The Highway Authority has assessed the proposed development and confirm the proposed means of access and widening works along Baron Street are acceptable. The traffic generation is not considered to be significant and would not be detrimental to the current capacity or operation of Baron Street. The Highway Authority recommends a Construction Traffic Management Plan (CTMP) is prepared to alleviate potential impact on neighbours as a result of the construction traffic associated with the development.

The Highway Authority concludes that they have no objection to the development subject to conditions in relation to the following:

- No development shall take commence until detailed design, technical and safety audits have been agreed with the Local Planning Authority to ensure the safety of the highway works proposed;
- Provision of a CTMP;
- Details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority.

The Highway Authority also requested Section 106 obligations to secure the following:

- The applicant enters into a Section 278 agreement to secure the off-site highway improvements to Baron Street; and
- A Financial contribution of £3,000 per dwelling towards sustainable travel improvements; and
- Provision of electric charging points.

Whilst the requirement to enter a Section 278 will be essential, the provision of £3,000 per property has been subject to a viability assessment which has concluded that the development would not be viable with these additional costs (see paragraph 6.6 below for further details).

To conclude on highway matters, the proposed development will result in very limited traffic generation and there is capacity within the existing highway network to accommodate the traffic without there being an adverse impact on highway safety. The access to the site, subject to localised widening along Baron Street, is appropriate and safe. The proposed development can provide sufficient parking provision in accordance with the Council's Parking Standards SPG.

The proposed development is acceptable in terms of its impact on highway safety in accordance with LDP Policy MV1.

6.6 Affordable Housing (AH) / Section 106 Contributions

Under Policy S4 of the LDP, the site should provide affordable housing on site (35%). However, the applicant has stated that any contribution either on site or as a payment for off-site provision is not economically viable. A viability report has been provided and sent to the District Valuer (DV) for an independent assessment.

The DV has determined that a scheme that reflects a planning compliant scheme with 35% AH and section 106 obligations of £38,352 achieves a profit rate of 13.90%. This results in a deficit of £49,496. However, a scheme based on the same parameters excluding the Section 106 contributions achieves a profit rate of 15.98%. This results in a deficit of £9,516. Therefore, based on the information provided and the subsequent revisions, the DV is of the opinion that the proposed scheme cannot achieve a competitive rate of return of 16.5% with or without the proposed planning obligation payment.

The abnormal costs associated with the development are as a result of the requirement of the Flood Consequence Assessment submitted in support of the application that the proposed dwellings incorporate several flood resilient measures. The DV adopted an additional abnormal cost of £60,000 (£10,000 per unit) to account for this requirement. The DV also deemed it appropriate to include off site highways works at a rate of 15% abnormal costs that will be required as part of any Section 278 agreement. As such, it would not be appropriate to seek any provision for affordable housing on this site as it would result in the development becoming unviable.

6.7 Flooding

The site is in TAN15 defended floodplain (C1 flood zone). As such Strategic Policy S12 and supporting development management Policy SD3 of the LDP relating to Flood Risk together with national planning policy TAN 15 are relevant.

The proposal relates to 6no. new residential dwellings, which would be highly vulnerable development, in a floodplain. It is, therefore, necessary to consider whether the proposal satisfies the justification tests outlined in Welsh Government Guidance in TAN 15 to justify vulnerable development in the defended floodplain and whether the criteria in Policy SD3 is met. These policy requirements will be addressed below.

The TAN 15 justification tests are extracted below and discussed in turn.

i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement. *The site is in the settlement of Usk and will develop 6no. new homes on a currently vacant, previously developed site. The site's redevelopment will support the function of the existing settlement and the viability of Usk town centre.*

Or

ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
Not applicable since i) is met.

And:

iii. It concurs with the aims of PPW and meets the definition of previously developed land
The site is previously developed in accordance with the definition included in Planning Policy Wales 10.

iv. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

A Flood Consequences Assessment, (hereafter referred to as FCA) and Modelling Technical Note has been prepared to support the application and reviewed NRW. The FCA includes for the potential 25% blockage of Usk Town Bridge. The assessment below in respect of 1% plus climate change and 0.1% flood event takes account of the flood risk including the bridge blockage scenario, representing a robust assessment of the flood consequences. NRW has assessed the potential consequences of flooding in relation to the proposed development and this is discussed in more detail below.

1% plus Climate Change Allowance Event

NRW has advised that the proposed development including raising of the ground level of the development to between 16.3m - 16.55m AOD, the finished floor level between 16.6m - 16.8m AOD and lowering a track towards the south of the site and two storage areas result in the site becoming flood free in the 1% plus climate change (+CCA) flood event (with 25% blockage i.e. 5% to each of the 5 arches to Usk Town Bridge). NRW acknowledge that small areas within the gardens are predicted to flood during this flood event but this will be less than 10mm. NRW conclude that whilst the small level of flooding does not comply fully with the requirements of A1.14 of TAN15, in this instance, due to the nature of the areas predicted to flood and their shallow depths, they raise no significant concerns in relation to the proposals.

0.1% Flood Event (Extreme Flood Event)

NRW concluded that during the 0.1% flood event with 25% of the Usk bridge blocked, the properties are predicted to flood to a maximum depth of up to 200mm with some of the wider site, including site access and gardens flooding up to 400mm. These depths are in line with the tolerable limits set out within table A1.15 of TAN15 (i.e. less than 600mm) and, therefore, acceptable.

The predicted maximum velocities at the site would be less than 0.2 metres/sec which is in line with the tolerable limits set out in TAN 15.

Third Party Flood Risk

In terms of third-party flooding, it is proposed to improve flood conveyance locally to the site (on land under the ownership of the developer) by constructing a flood conveyance route using lower level land alongside the development. This is predicted to reduce the risk of flooding to the area around the periphery of the site to the north.

During the 1% Flood Event plus climate change adverse impacts on maximum water levels are limited to the south of the proposed development and the vast majority of the detriment experienced is limited to the flood storage and conveyance areas and land within the applicant's ownership.

During the 0.1% flood event (extreme event) there is an increase in flooding beyond the redline and limited to less than 25mm. The increase of 25mm in depths does not result in an increase in the frequency or extent of flooding elsewhere. NRW has raised no concerns in relation to this flood impact.

The Local Planning Authority has considered the third-party flood risk further. The flood risk of the proposed development in a 1% Flood event results in no third-party impact. In terms of the extreme event, there is a minimal increase on flooding of up to 25mm on undeveloped land. Whilst this does represent an impact on third-party land, the impact would only be realised in an extreme event which is very rare, and the proposed flood increase would be minimal.

Since the land is not in a sensitive or highly vulnerable use, it is not considered the impact would be perceivable and adversely affect the use or enjoyment of this land in its current form. On balance, the risk to third parties is considered acceptable.

Flooding at Access Point

The FCA indicates that during the 1% flood event plus climate change the access/egress on Baron Street is predicted to flood to a maximum depth of 0.6m with velocities of up to 1m/s which is classified as a hazard rating of danger for most. During the extreme event, the predicted depth at the access is greater than 1m with a velocity of greater than 1m per second which is hazardous to all.

The flood risk at the access point is an issue for the Local Planning Authority. In this case, the whole of Usk is affected by flooding and it is challenging for new development to achieve a flood free access. Indeed, most existing development in Usk does not achieve a flood free access. In this case, the flood depths in the 1% flood event plus climate change is up to a maximum of 600mm which is within the tolerable limit of TAN 15 and, therefore, is acceptable.

It is acknowledged the access would flood significantly during an extreme flood event. This type of event is very rare and if it were to occur the whole of Usk would be affected, not just the proposed development site. Given the unlikelihood of this type of event and the fact that the whole of Usk would be affected but would still need to be accessed if necessary, it is considered unreasonable to refuse the application on this basis.

The proposed flood risk to the access and egress is considered to be acceptable.

Usk Town Flood Defences

NRW has confirmed that a structural assessment of the existing Usk Town flood defences has been undertaken and confirmed to be capable of withstanding overtopping conditions during the 0.1% extreme event.

Flood Risk: Conclusion

The flood risk to proposed development is compliant with the requirements of TAN 15. NRW do not object providing the mitigation measures included in the FCA are conditioned, including raising the ground level to between 16.3m - 16.55m AOD, the finished floor levels of the proposed dwellings between 16.6m - 16.8m AOD and a lowered access road within the site to assist flood water conveyance. The proposed dwellings should also include flood resilient measures since as passive flood doors, air brick and tiled floors. These measures will be conditioned.

The proposed development has an acceptable impact in terms of flood risk, subject to conditions. The proposal accords with national planning policy TAN 15 and local planning policies S12 and SD3.

6.8 Drainage

It is proposed that the foul water from the new residential development will be fed into the adjacent 375mm diameter Dwr Cymru combined foul / storm sewer. The 2018 amendment to document G of the building regulations Wales requires water consumption in new dwellings to be limited to 110 litres / person / day. Dwr Cymru Welsh Water have confirmed in a letter dated 22/9/21 that they can accommodate the increased flows generated by the proposed development at the Usk WwTW.

Each four bedroom dwelling will generate 0.9 m³ of discharge per day. Phosphate levels for the whole development site are provided as being:

6 Residential Units = Additional Population of 14.4 Persons (Based on average household size of 2.4)
Total Phosphates = 14.256kg TP / Year (Based on 0.99 kg Total Phosphates per person per year)

The site is currently covered with 2,500m² of commercial greenhouses which were erected in the late 1960's and early 1970's. Impermeable concrete pathways have been constructed between the greenhouses. As this is a developed site a phosphate export coefficient of 1.38 kg/Ha/year has been calculated based on Zhang et al (2014) after HR Wallingford method (DoE, 1981) using locally specific information. The phosphate budget calculation within Appendix A of Phosphate Statement rev C (3/3/22) demonstrates that the change of use of the site will result in a yearly phosphate budget of - 0.459 kg.

A negative phosphate budget figure demonstrates that the proposed development will provide phosphate neutrality or betterment. As such there will be no adverse impact on the integrity of the River Usk SAC as a result of the development.

The applicant has also demonstrated via soakaway testing that surface water can be infiltrated from the site. The development must also obtain SAB consent.

6.9 Planning Obligations

None required due to lack of financial viability .

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

The application has received a number of responses from interested parties and for completeness these comments will be addressed in turn below.

Trail Access Group

The trail Access Group requested that the development include improvements including a safe walking and cycle provision to and from the site to school and improvements to the surface of the path along the riverbank to make it accessible to all ages and abilities. The proposed development is small scale and would result in the increase of 6no. households. It is not considered the scale of development justifies the costs of improvements to local footpaths. The improvement works sought are not integral to the acceptability of the development or directly related to the development and, therefore, are not deemed necessary to mitigate the impact of the development.

Usk Civic Society

The Civic Society raised concerns regarding the flood risk/ Concerns regarding third party impact of flooding. The flood risk has been assessed at length with NRW over a period of nearly two years. The negotiation has included additional flood modelling being completed including accounting for a potential blockage at the Usk Town Bridge. NRW has concluded, based on the extensive information provided, that the risk of flooding is acceptable. This consideration has assessed impact of flooding on future occupiers and existing neighbouring properties, as detailed in full earlier in this report. The Local Planning Authority is satisfied that the risk of flooding is acceptable and accords with TAN15.

Concerns regarding the capability of the access road to cater for additional traffic:
The Highways Authority has assessed the proposal in detail and concludes that the additional traffic generation would be very limited at 7no. vehicles at peak times. The

existing road network can accommodate the increase in traffic. It is considered the proposed increase in traffic is acceptable and would not have an adverse impact.

Concerns regarding the traffic impact of large vehicles serving the remaining nursery as well as the proposed development:

The proposed development includes localised widening along Baron Street to enable vehicles to pass. This will improve the access road along Baron Street and make it easier and safer for larger vehicles to enter the garden centre as well as improving the access to serve the proposed development. Notwithstanding the improvement works, as discussed above the proposed traffic increase would not be significant and unlikely to coincide with traffic associated with the Garden Centre.

Neighbours

Raising site levels will adversely impact on neighbouring amenity/ Loss of privacy:

This application is made in outline and scale, layout and appearance are matters reserved for later consideration.

Despite this, the indicative layout, minimum and maximum scale parameters and proposed finished floor levels provide sufficient information to indicate that the application site would be able to accommodate 6no. dwellings in a manner which would not adversely affect neighbour amenity due to the separation distance which can be achieved. Notwithstanding this, a full assessment of residential amenity can be carried out at reserved matters stage to ensure there is no adverse overlooking or overbearing impact as a result of the proposed dwellings.

Increased risk of flooding to surrounding properties:

As discussed above in detail, the proposed development would not increase flood risk to surrounding residential properties.

A similar application was refused by the Council in the past:

Multiple applications can be submitted on sites and, regardless of the outcome, it does not indicate whether a future development would be successful or unsuccessful. This application has been considered on, amongst other things, the current policy regime and up to date flood information and it is against these relevant material considerations that this application is recommended for approval.

Increased air pollution:

The proposed development would result in a minor increase in traffic and it is not considered this would result in an adverse impact on air quality to an extent which would warrant refusal of the application.

The application site is opposite a retirement complex with vulnerable residents:

The proposed development is for residential development which is not a use which is incompatible or would pose a risk to surrounding uses.

Disturbance during construction in relation to traffic, noise and dust:

It is inevitable there will be a level of disruption during construction, however, this will be temporary. To reduce the impact during construction a Construction Traffic Management Plan will be conditioned requiring the applicant to agree measures to reduce the impact of traffic, noise and dust during the construction.

Adverse impact on Highway Safety due to increased traffic on substandard access road:

This has been addressed above.

Adverse impact on pedestrian safety:

The proposed development will result in only a small increase in traffic and include localised improvement works. The proposed development is considered to have a neutral impact on pedestrian safety.

Adverse impact on parking:

The proposed parking provision accords with the adopted Parking Standards Supplementary Planning Guidance.

Adverse visual impact:

The appearance of the proposed dwellings is reserved for later consideration. Notwithstanding this, the existing site currently accommodates glass houses with limited architectural merit. The proposed development, subject to the final design, will offer a betterment and improved streetscene.

Adverse impact increase traffic would have on the structure of the surroundings dwellings: There is no evidence to suggest increased traffic generation will adversely affect the structural integrity of nearby dwellings.

Consultation not carried out correctly:

The consultation was carried out in accordance with the legislative requirements, including direct neighbour notification, press and site notices.

The Road should be resurfaced:

There will be widening works along Baron Street where required and these works will include localised surfacing to accommodate the widening. Full resurfacing of Baron Street is not reasonable given the small scale of the proposed development.

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

6.11.1 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.

6.12 Conclusion

The proposed redevelopment of the application site accords with LDP Policy H1 and offers an opportunity to redevelopment an underutilised brownfield site for residential purposes. The proposal represents an efficient use of land and accords with the principles of Planning Policy Wales.

The consequences of flooding have been assessed in detail and considered by NRW. NRW raise no objection and the Local Planning Authority is satisfied that the risk of flooding is within tolerable limits as set out in TAN15 and in accordance with the relevant policies.

The proposed access point and localised widening works along Baron Road are acceptable a represent an appropriate access arrangement which would not impact on highway safety in accordance with Policy MV1.

The application is made in outline with all matters except the pint of access reserved, so a full assessment in terms of heritage matters and residential amenity are not possible at this stage. The information provided, however, demonstrates that it possible an acceptable

development in relation to these material considerations can be achieved and, therefore, full assessment can be reserved for later consideration.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 This development shall be begun within 5 years from the date of the Outline permission or within 2 years of the date of approval of the last of the reserved matters to be approved whichever is the later.

REASON: To Comply with Section 92 of the Town and Country Planning Act 1990.

2 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

REASON: The application is in outline only.

3 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.

4 No development shall take place (including ground works, vegetation clearance) until a Contractor's Construction Environmental Management (Biodiversity) plan has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following as a minimum:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) General site management: details of the construction programme including site clearance, method statements, surface water management and measures, site waste management and disposal, sustainable drainage (pre- and post-construction), maintenance and monitoring programmes;
- j) Pollution prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and an incident response plan;
- k) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: To safeguard species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) and the Integrity of the River Usk SAC.

5 No development shall commence until a Surface Water Management Plan (SWMP) for the protection of water quality in the River Usk and River Usk SAC has been submitted to and approved in writing by the Local Planning Authority.

The Approved SWMP must be adhered to throughout the demolition and construction phases and should include, but not be limited to the following:

1. Identification of all potential sources of contaminated water that may be generated on or brought to site during all construction phases until development completion. This includes identifying how silty water could travel on/off site, i.e. pollution pathways, considering drains, watercourses, slope and topography. Seasonal variation will need to be considered i.e. wetter autumn/winter months will require increased pollution prevention measures and management.
2. Specification of what mitigation measures will be deployed (e.g. lagoons, silt fencing, straw bales, attenuation tanks, SuDS), and when and how they will be deployed throughout the construction phases until completion.
3. Demonstration of the use of clean surface water separation e.g. cut-off trenches/diversion ditches, vegetation corridors, buffer strips to separate clean from contaminated water on site, promoting sustainable development and preventing generation and propagation of contaminated water.
4. Mitigation management procedures including maintenance and monitoring programmes to ensure mitigation methods employed are working effectively. Consideration needs to be given to the type of mitigation measure being deployed and the appropriate monitoring and repair/replacement frequency.
5. Emergency/contingency plans to prevent and control spills and emissions. All staff/contractors employed during the phases must be aware of the SWMP and its requirements, including reporting procedures, as well as contact details for NRW in the event of pollution to the environment.
6. Relevant guidance documents e.g. NetRegs GPP5, CIRIA C532 that support and assist mitigation measures to avoid, minimise and reduce potentially adverse effects that have been identified and described in the WMP.

The approved SWMP shall be adhered to and implemented throughout the development phases, strictly in accordance with the approved details.

REASON: To ensure the Integrity of the River Usk SAC.

6 In conjunction with the submission of the first of the reserved matters, a scheme for biodiversity enhancement shall be submitted to and agreed in writing by the local planning authority. The details shall include a timetable for the implementation of the approved means of enhancement. The approved details shall be implemented in accordance with the agreed timetable and retained as such in perpetuity.

REASON: Future Wales, Planning Policy Wales and Policy NE1 of the Monmouthshire Local Development Plan requires all development to maintain and enhance biodiversity.

7 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

REASON: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

8 Prior to the commencement of development, a Construction Transport Management Statement shall be submitted to and approved by the local planning authority. The agreed method statement shall be implemented in full.

REASON: In the interests of highway safety in accordance with LDP Policy MV1.

9 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

REASON: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

10. The dwellings hereby approved shall have a maximum ridge height of 8.2 metres.

REASON: In the interests of visual amenity and to preserve the character and appearance of the Usk Conservation Area in accordance with LDP Policies DES1 and HE1.

This page is intentionally left blank

Application Number: DM/2022/01042

Proposal: Construction of 70 homes, sustainable drainage infrastructure, open space, internal roads, paths and parking areas, landscaping and associated plant and infrastructure

Address: Land at Vinegar Hill, Undy, Monmouthshire

Applicant: c/o agent

Plans: Site Location Plan 0769-101,
Topographical Survey 0769-100,
Planning Layout 0769-102 B,
Street Scenes 0769-103 A,
External Works Layout 1 of 3 0769-104-1 B,
External Works Layout 2 of 3 0769-104-2 B,
External Works Layout 3 of 3 0769-104-3 B,
Vehicle Tracking Layout Fire Tender 0769-105-2 B,
External Detailing 0769-106,
Adoption Plan 0769-107 B,
Materials Layout 0769-108 B,
Garages and Bin and Cycle 0769-109,
Building Heights Plan 0769-110 B,
Refuse Collection Plan 0769-113 B,
Parking Matrix 0769 February 2023,
Detailed Landscape Design Proposal Edp2927_d160 F,
Landscape and Green Infrastructure Strategy Edp2927_d161 D,
Ecological Enhancement Plan Edp2927_d163 D,
Green Infrastructure Management Plan Edp2927_r027 E,
Sustainability Statement June 2022 Rev 1,
Environmental Noise Assessment 6617/ENS1,
Lighting Strategy Document MMA17372 R1,
Lighting Area Calculation MMA17372 R1,
Lighting Strategy Plan MMA17372 R1,
Drainage Technical Note July 2022,
Engineering Layout 10251-110 G,
Drainage Layout 10251-111 D, Refuse Vehicle 10251-306 A,
Land Use Plan 0769-121
Open Market: X203 Hawthorn – 0769-800,
X305 Hazel – 0769-801,
X306 Rowan – 0769-802,
X307 Spruce – 0769-803,
X308 Cypress - 0769-804,
X308 Cypress - 0769-805,
X308 Cypress - 0769-806,
X309 Beech - 0769-807,
X414 Aspen – 0769-808,
X414 Aspen – 0769-809,
X411 Willow – 0769-810
F03L – 0769-811,
F03L – 0769-812,
F03L – 0769-813,
F03L – 0769-814,
F03L – 0769-815,
F03L – 0769-816,

F03L – 0769-817
Harcourt – 0769-818,
Wyatt – 0769-819,
Mountford – 0769-820,
Mountford – 0769-821,
Pembroke – 0769-822,
Pembroke – 0769-823
Affordable: Worsley – 0769-824,
Cooper – 0769-825,
Cooper – 0769-826,
Asher – 0769-827,
Spiers – 0769-828

RECOMMENDATION: APPROVE

Case Officer: Mr Adam Foote
Date Valid: 15.07.2022

This application is presented to Planning Committee upon the request of the Head of Planning and with the agreement of the Chair of Planning Committee

1.0 APPLICATION DETAILS

1.1 Background

The application site forms part of a wider strategic allocation within the Monmouthshire Local Development Plan (LDP) under Policy SAH6 which covers a total of 7.81 hectares allocated for residential development for "around 225 new dwellings".

Outline planning consent was granted under application ref: DM/2019/01937 subject to a S106 agreement allowing "Hybrid planning application - Outline planning application for up to 155 dwellings, associated open space and infrastructure with all matters excluding access reserved, of which full planning permission is sought for 72 dwellings, associated open space and infrastructure". A copy of the completed Section 106 agreement and the full contributions required to be provided is available on the Council's website.

The wider allocation is split either side of an adopted but unclassified highway known as Vinegar Hill. Parcel A is positioned on the western side of Vinegar Hill with Parcel B to the east. Parcel A obtained full planning consent under application DM/2019/01937 and is currently under construction, parcel B was granted outline consent and the reserved matters are the subject of this application.

1.2 Site Description

The application site (Parcel B) comprises two undeveloped fields totalling approx. 2.7 ha divided by a short hedgerow running north to south. The site is within the settlement boundary which reflects its allocation under LDP Policy SAH6. A public right of way enters the western boundary and turns south to allow access to Breezy Bank Wood a designated Site of Importance for Nature Conservation (SINC). The western field is bound on the north and south by fields which are outside of the application site but do form part of the strategic allocation. The eastern field adjoins with the strategic site allocation at Rockfield Farm (LDP Policy SAH5). The southern boundary runs along the edge of Breezy Bank Wood. Whilst gently undulating in profile the land is raised relative to the properties in Vinegar Hill and the wider Undy and Magor settlements to the south.

1.3 Value Added

Various amendments have been achieved since the original submission including amendments to layout, biodiversity and green infrastructure enhancements and amended design of buildings.

1.4 Proposal Description

With access having been approved at the Outline stage, this application seeks reserved matters (RM) approval for the layout, scale, appearance and landscaping of the proposal. This application relates to the provision of 70 dwellings, as well as associated roads, drainage and other services/infrastructure, green space provision and landscaping.

The properties are proposed as a mix of flats, maisonettes, and houses with the proposed dwellings ranging from 2 – 2.5 storeys in height. The scheme would provide 1, 2, 3 and 4 bedroom offerings with a mix in the housing supply offering an apartment block, terraced, semi-detached and detached properties. All properties would benefit from designated parking and amenity areas. The external finish of the properties will incorporate a range of materials that have been selected to allow cohesion with parcel A which is currently under construction. The boundaries between dwellings will be demarcated by close board fencing whilst other prominent boundaries will be constructed of masonry walls. The proposed layout has been designed to maximise active frontages within the development and to allow for natural surveillance within the public realm.

The primary road through the site runs east/west and is proposed to be constructed up to the site boundary which will link with the Rockfield Farm LDP allocation (Policy SAH5). A buffer zone is proposed to the south of the main access road to ensure there is no unacceptable impact upon Breezy Bank SINC (site of interest for nature conservation – a local designation) with additional landscaping/planting features proposed along the buffer zone. The majority of dwellings are proposed to be sited to the north of the access road in response to the shape of the site, land availability and to set development away from the SINC. Two 'no through' access roads are proposed to provide access to the southern portion of the site whilst three are proposed to provide access to the north. A pumping station is proposed within the north/east corner of the site to service the development.

2.0 RELEVANT PLANNING HISTORY

| Reference Number | Description | Decision | Decision Date |
|-------------------------|--|-------------------------------|----------------------|
| DM/2019/01937 | Hybrid planning application - Outline planning application for up to 155 dwellings, associated open space and infrastructure with all matters excluding access reserved, of which full planning permission is sought for 72 dwellings, associated open space and infrastructure. | Approved (subject to S106) | 16.06.2022 |
| DM/2022/00903 | Discharge of conditions 4 and 15 relating to DM/2019/01937; Site location plan, construction and environmental management plan and construction traffic management plan. | Approved | 19.08.2022 |
| DM/2022/00910 | Discharge of conditions 3, 5, 8 and 10 relating to application DM/2019/01937. | Approved | 19.08.2022 |
| DM/2022/00911 | Discharge of applications 11, 14, 18 and 19 relating to application DM/2019/01937. | Split Decision | 19.08.2022 |

| | | | |
|---------------|--|----------|------------|
| DM/2022/00912 | Discharge of conditions 6 and 9 relating to application DM/2019/01937: (1) a Lighting Strategy and accompanying details for the lighting engineering across Parcel A to address Condition 6; and (2) a Implementation Phasing Plan for the landscaping on Parcel A to address Condition 9. | Approved | 19.08.2022 |
| DM/2022/01132 | Discharge of condition no. 41 (written statement by Vistry Home and a plan setting out the houses identified for Electric Vehicle charging infrastructure) of planning consent DM/2019/01937. | Approved | 14.09.2022 |
| DM/2022/01463 | The proposed amendment concerns the use of bricks as set out on the approved External Materials Finishes Plan (drawing no. EDP2927_D105N-101) and within the approved House Type plans. | Approved | 12.10.2022 |

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S1 LDP The Spatial Distribution of New Housing Provision
S2 LDP Housing Provision
S3 LDP Strategic Housing Sites
S4 LDP Affordable Housing Provision
S12 LDP Efficient Resource Use and Flood Risk
S16 LDP Transport
S17 LDP Place Making and Design
S13 LDP Landscape, Green Infrastructure and the Natural Environment
Policy SAH6 – Land at Vinegar Hill, Undy

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
GI1 LDP Green Infrastructure
H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements
LC5 LDP Protection and Enhancement of Landscape Character
MV1 LDP Proposed Developments and Highway Considerations
MV2 LDP Sustainable Transport Access
MV3 LDP Public Rights of Way
NE1 LDP Nature Conservation and Development
Policy SD3 - Flood Risk SD4 LDP Sustainable Drainage

Supplementary Planning Guidance

Affordable Housing SPG July 2019
Green Infrastructure April 2015
Monmouthshire Parking Standards (January 2013)

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.

Technical Advice Notes

Technical Advice Note (TAN) 2: Planning and affordable housing
Technical Advice Note (TAN) 5: Nature conservation and planning
Technical Advice Note (TAN) 11: Noise
Technical Advice Note (TAN) 12: Design
Technical Advice Note (TAN) 18: Transport

Other National Policies

The Environment (Wales) Act 2016 places a duty on the Council to maintain and enhance biodiversity, promote the resilience of ecosystems and increase their ability to adapt to events such as the impacts of climate change.

The Active Travel (Wales) Act 2013 makes walking and cycling the preferred option for shorter journeys, particularly everyday journeys, such as to and from a workplace or shops and services.

Well-Being of Future Generations (Wales) Act 2015; 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.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Magor/Undy Community Council: No reply

MCC Highways: No objection

Drainage: No objection

Active Travel: No objection

Building Control: No observations

Public Rights of Way: No objection

Environmental Health No reply

Biodiversity/Ecology: No objection subject to conditions

Landscape/Green Infrastructure: No objection subject to conditions

Affordable Housing: Proposal meets the requirement for 25% affordable homes

Dwr Cymru-Welsh Water: No objection subject to conditions

Welsh Government Highways: No objection

5.2 Neighbour Notification

This application was advertised by means of direct neighbour notification, site notices and an advert in the Free Press. Four representations have been received objecting to the proposed development on the following grounds;

Highways and general safety concerns, inadequate infrastructure, increased traffic volumes, green field development/ loss of open space and habitats, damage to wildlife, climate impact, homes will not be affordable to young local residents, over population with detrimental impacts to local area and residents, lack of facilities.

5.3 Local Member Representations

None.

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 application site forms part of a strategic allocation as part of the LDP (Policy SAH6) with outline consent already gained under application DM/2019/01937 and therefore the principle of this development has already been established. Only matters of the details reserved for approval which have now been submitted are for consideration. The main considerations with regard to this application are whether the proposed details are in accordance with the approved outline permission, whether the proposed internal road layout and parking areas are acceptable; whether the proposal is visually acceptable in terms of its impact on the character and appearance of the area; whether the proposal is acceptable in terms of ecological interests of the site; and whether the proposal is acceptable in terms of its impact on the residential amenities of the occupiers of nearby dwellings and future residents.

6.1.2 The entire Vinegar Hill (SAH6) allocation was designated for residential development to provide "around 225 new dwellings". Since the allocation additional requirements have been introduced, mainly the requirement for a Sustainable Drainage System (SuDS) and this has reduced the amount of developable land on the allocation and therefore reduced the number of dwellings that are achievable on site. Additionally, some land parcels adjacent to the application site but within the allocation are within separate ownership and have not come forwards as previously anticipated, therefore further limiting the number of properties. The outline consent granted permission for up to

155 dwellings with this application providing 70 dwellings in combination with the existing 72 dwellings approved on the adjacent parcel A, totalling 142 dwellings, which is considered to comply with the outline consent for up to 155 dwellings.

6.2 Sustainability

6.2.1 The application site is within the settlement boundary as defined on the Proposals Map of the LDP where there is a presumption in favour of development and the efficient use of land is encouraged. The application site is considered to be a sustainable location in close proximity to local amenities and public transport links.

6.2.2 The site has been designed taking active travel principles into account by providing a series of pedestrian links throughout the site and connecting the site with the wider area.

6.2.3 Future residents would have easy access to the facilities within Magor and Undy as well as access to public modes of transport. This allocation forms part of a wider allocation and neighbours the Rockfield Farm allocation which, when complete, would be linked via a road network where it is hoped a bus route will operate.

6.3 Place Making/Good Design

6.3.1 The primary road running east/west through the site provides a natural split with the majority of the development located to the north of the road due to the availability of land and in response to the location of Breezy Bank Woods.

6.3.2 Development to the north is accessed via three 'no through' roads terminating at turning heads and/or parking areas whilst the southern section is accessed via two vehicular access points with a break in the road to ensure there is not a loop on the southern section and to ensure the majority of vehicular traffic flows along the main link road opposed to turning down the private drive serving the first three dwellings which runs parallel to Vinegar Hill.

6.3.3 Where possible, the layout allows for visual permeability through the site and beyond by ensuring gaps or low-level development such as parking areas along the boundary of the site at key locations to allow views through and out of the site. The proposed dwellings have been arranged to be outward facing to overlook areas of public open space to create active frontages and provide natural surveillance within the public realm. Additionally where possible, the properties located along the main road are to be accessed directly from it, this assists with the place making objectives of the scheme but also acts as a natural deterrent for speeding vehicles.

6.3.4 The proposed housing types are considered to be acceptable in terms of their design which will result in a positive outcome and overall attractive place for future residents to live. Housing is proposed as 2 and 2.5 storeys with the 2.5 storey dwellings located on the primary street only to create a sense of enclosure to the primary street leading west-east. This creates legibility within the scheme and promotes a strong sense of place. The proposed block of flats is considered to act as an important entrance feature to Parcel B, again contributing to a sense of place within the wider development. The flats are proposed with dual aspect elevations facing south and west and it is considered that the scale, design and general form of the block allow it to be a prominent feature within the public realm without resulting in a massing effect that would have an adverse visual impact and be detrimental to the character of the area.

6.3.5 The boundary treatments between dwellings comprise of close board fencing however the visually prominent boundary treatments within the public realm are proposed to be constructed of brick. The external finish of the dwellings is proposed to match those used on parcel A to provide an element of cohesion between the sites. Where possible permeable paving has been used as opposed to tarmac to soften the visual impact of the development and create a more aesthetically pleasing environment.

6.3.6 Green infrastructure (GI) is well integrated into the development with extensive planting and other GI features proposed throughout the public realm as well as enhancement of existing features

such as hedgerows and the planted buffer zone between the development and the SINC. An element of GI should be visible from all areas of the public realm within the site. Much of the open space is dual purpose as public open space (POS), SuDS features and/or used for GI/ Biodiversity enhancements to best utilise the limited space available. A trim trail runs parallel to the main road through the site with play features proposed for the enjoyment of future residents.

6.3.7 A pumping station is required on the development, and it is proposed to be sited in the north/east corner of the site, this is considered to be the least visually prominent location and allows for it to be well separated from the residential properties on the development. The station will be sited beyond a SuDS feature and screened by planting to reduce its visual impact further.

6.4 Biodiversity/Ecology

6.4.1 The impact of the development as a whole in relation to Ecology and Nature Conservation was assessed as part of the outline application and it was established that the development could progress subject to conditions.

6.4.2 The proposed layout has been designed to direct development away from the SINC, the residential dwellings and main access/link road are proposed to be separated from the SINC by a buffer zone which will provide additional landscaping to further enhance the SINC.

6.4.3 The proposed development includes enhanced soft landscaping comprising of amenity grass planting, tree and meadow planting as well as 10 integrated bat boxes within the fabric of the new buildings, 18 bird nesting chambers to be installed across 9 locations and 5 reptile hibernacula to be created within the site.

6.4.4 The proposal is considered to provide suitable roosting, foraging, commuting and dispersal habitat for the local bat population, in addition to offering suitable opportunities for breeding birds. Such features also have the potential to support common reptiles, small mammals, and other wildlife. Furthermore, the GI Management Plan sets out suitable management schedules and responsibilities for the landscape contractor to undertake with regards to habitats and species that may be present on site. These include measures to maintain and enhance habitats including trees, woodland, hedgerows, shrubs, and grassland. The aforementioned details can be controlled via condition to ensure their implementation and retention.

6.4.5 The Council's Ecologist has been consulted on this application and raises no objection subject to conditions. One condition requested by the Ecologist requires the applicant to submit a CEMP prior to the commencement of development; this condition was attached to the outline consent and therefore will not be attached again to any consent for reserved matters.

6.5 Landscape/Green Infrastructure

6.5.1 GI has been incorporated into the design/layout of the proposed development to ensure ecological steppingstones and corridors of GI are present throughout the site linking it to the wider landscape/environment.

6.5.2 Street tree planting is included outside of private ownership throughout the development including the provision of a community orchard within an area of public open space located to the south of the access road and north of the SINC. Primarily the tree planting will consist of native tree species of local provenance, however some non-native species will also be integrated as feature trees to aid climate resilience.

6.5.3 Whilst the majority of the existing shrubs lining the site are to be retained, some areas have been identified as needing to be removed to accommodate the proposed development. To compensate for this loss, new shrub planting with species of local provenance is proposed as is planting to re-enforce existing hedgerow features throughout the site.

6.5.4 Sustainable drainage features are proposed to be integrated within streetscapes and green corridors throughout the development to store and slow the movement of surface water across the

site at peak flow, as well as providing an element of water cleansing. SuDS features will be designed to provide both amenity and biodiversity value to these areas, creating a linked network of habitats which will allow for species movement as well as providing an attractive aesthetic element to be enjoyed by residents.

6.5.5 The Council's Landscape/GI officer has been consulted on this application and raises no objection subject to conditions. The Officer notes that some areas of POS, due to their scale, layout and other function may potentially be less useable. Whilst this point is acknowledged it is considered there is a sufficient element of POS throughout the site which would be useable to future residents. Furthermore this parcel of land is linked to the adjacent land where there is a larger more obviously useable POS and it is noted that the developer has made contributions to offsite improvements to play and POS through the S106 agreement to the benefit of the wider area. On the basis of the Landscape/GI Officer raising no objection and given the POS provision provided over the wider allocation no concern is raised in respect of the impact of the development upon the landscape or GI.

6.6 Impact on Amenity

6.6.1 The development of the site for residential purposes in comparison to the existing use and arrangement will inevitably have an impact on the residential amenity of those living closest to the site. However, based on the layout and hard and soft landscaping plans submitted, in association with the relationship of the site relative to the closest residential developments, the development is considered acceptable having regard to impact on existing neighbours. Distances between existing and proposed houses would be sufficient so as not to unacceptably impact on privacy, light or be significantly overbearing. It is however considered necessary to restrict permitted development rights to ensure that any future developments/alterations to dwellings do not result in any unacceptable impact upon the living conditions of neighbouring occupiers.

6.6.2 With regards to the amenity of future residents the plans detail that each dwelling would benefit from an area of private enclosed amenity space and would have easy access to the areas of open space that run through the development linking it with the wider area. Provision for recreation facilities was achieved via the S106 agreement attached to the outline consent.

6.7 Highways

6.7.1 The primary access to this site for both pedestrians and vehicles will be via the access point on Vinegar Hill. The main link/access road throughout the development will join to link with the road on the Rockfield Farm allocation which borders the application site to the east and provide additional connectivity through the wider area.

6.7.2 The proposed development is considered to be acceptable in terms of its general layout which will allow both road users and pedestrians to pass through the site without concern for conflict, with the layout and arrangement of footpaths generally according to the requirements of the Active Travel Wales Act. The internal estate roads have been designed in accordance with the Welsh Common Standards for adoptable estate roads namely, 5.5m wide carriageways with 2x 2m footways on the main spine road and minimum of 1x 2m footways on the estate road spurs leading off the main spine road.

6.7.3 The proposed parking provision accords with the levels as prescribed by the parking standards adopted by the Council. The adopted standards require 1 space per bedroom up to a maximum of 3 spaces per dwelling.

6.8 Affordable Housing

6.8.1 The affordable housing policy and S106 agreement pertinent to this site as agreed for the outline planning consent (DM/2019/01937) required 25% of the proposed dwellings to be affordable housing. In this case the proposed number of affordable houses is 18, therefore according with the requirements for 25%.

6.8.2 The proposed affordable housing units are proposed as a mix tenure consisting of 8no 1-bedroom maisonettes, 6no 2-bedroom houses, 3no 3-bedroom houses and 1no 4-bedroom house.

6.8.2 The Council's Affordable Housing Officer has been consulted on this application and raises no concern. The original mix of affordable housing has been amended to reflect their comments and to better address the need within the area.

6.9 Flooding/Drainage

6.9.1 The application site is outside of any flood zone as shown on the Development Advice Maps (DAM) that accompany the existing Technical Advice Note (TAN) 15. However, small parcels of the site are shown to be within flood zones for surface water on the Flood Maps for Planning that will accompany the emerging TAN15.

6.9.2 Details of Surface Water Flooding are the remit of the Lead Local Flood Authority (LLFA) who have been consulted on this application and are satisfied that the drainage of the site can be dealt with appropriately though the SuDS application therefore no concern is raised in this respect. Furthermore the LLFA's database of previous flood events does not record any flood events near the site.

6.9.3 Due to the scale/nature of the development a SuDS/ SAB approval will be required. The details as provided have been considered by the Council's Drainage Engineer and are deemed acceptable; an appropriately worded informative will be attached to any subsequent planning consent.

6.9.4 DC-WW have been consulted on this application and given the restrictive conditions (18 & 19) attached to the outline consent they have no objection to the positive determination of this application subject to a further condition.

6.10 Public Right of Way

6.10.1 A public right of way (PROW) runs through the development site linking Vinegar Hill with Breezy Bank Woodland. An application has been submitted to reroute the PROW to follow the alignment as proposed in this application. The development has considered the PROW within its design and integrated it into its pedestrian routes through the site. The Council's PROW Officer has been consulted on this application and raises no objection to the proposed development.

6.11 Noise

6.11.1 Technical Advice Note (TAN) 11: Noise (1997) sets out the Welsh Government's guidance on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development. The TAN sets out four noise exposure categories (NECs) that sites may fall in, taking account of both day and night time noise levels.

6.11.2 A noise assessment has been carried out in support of this application by Hunter Acoustics (document reference 6617/ENS1) Dated 13/06/2022. The noise assessment submitted concludes that, predicted noise levels have been assessed against daytime and night-time noise criteria quoted in current planning guidance. Road traffic noise levels are indicated to fall under NEC B across the majority of the site. Standard thermal double glazing and trickle ventilation is indicated sufficient to control road traffic noise intrusion for NEC B. An assessment of external noise in gardens has been undertaken and shows that the majority of gardens meet the LAeq,16hr 55dB garden criterion with the exception of a marginal excess (2dB) in gardens along the northern boundary (plots 113-115). The drop in ground height between the development site and the motorway (that is in a 5m deep cutting) already provides full screening of the M4 road surface to the site. Therefore, garden noise levels of up to 57dB LAeq,16hr could be considered the 'lowest practical'.

6.11.3 Based on the noise surveys submitted it is considered that noise levels on site can be managed to an acceptable level and would not have any unacceptable adverse impact upon the living conditions of future occupiers.

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

Four objections were received from the public consultation raising the following concerns; Highways and general safety concerns, inadequate infrastructure, increased traffic volumes, green field development/loss of open space and habitats, damage to wildlife, climate impact, homes won't be affordable to young local residents, over population with detrimental impacts to local area and residents and a lack of facilities.

Response: This application is for reserved matters; the principle of the application was established as part of its allocation in the Monmouthshire LDP and as part of the outline planning consent. Therefore concerns in relation to the principle of the development or the loss of green field land have already been decided and are outside the remit of this application. The capacity of the road network in the area has been assessed by the Council's Highways Department as part of the outline consent and is deemed to be sufficient to accommodate the development. No objection is raised by the Highways regarding highway or pedestrian safety in respect of this application and therefore there would be no grounds to raise concern or to refuse the application on this basis. The application is proposed with a number of ecological/biodiversity measures as compensation and mitigation; this has been considered by the Council's Ecologist and is deemed to be acceptable to support the application; therefore no objection is raised in this respect. 25% of the homes will be affordable for those in need of housing in the area, the remaining housing will be open market; however these houses act as means of enabling the affordable units. As 25% is the required amount as prescribed by the S106 agreement there is no objection in in this respect. The proposed development will result in an uplift in the local population but as this is an allocated site with outline planning consent this matter has already been considered and therefore has been given little weight in the assessment of this application. The proposed development is solely residential to comply with its allocation, and whilst there are no community facilities proposed on site the residents would be well served by the existing facilities in the area and will add to the customer base to support existing or potentially new businesses.

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

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

6.14 Conclusion

It is considered that this proposal complies with both the strategic allocation within the LDP and the subsequent outline planning permission. It is considered that the proposal represents a well-considered, high quality development which will positively contribute to the area. It is therefore recommended that this reserved matters application be granted subject to the conditions set out below. The conditions relating to the outline planning permission and the requirements of the Section 106 Agreement also remain in force and relevant.

7.0 RECOMMENDATION: APPROVE

Conditions:

APPROVED PLANS

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.

PD RIGHTS

2 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (Or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls, shall be erected other than those expressly authorised by this permission.

REASON: To protect the character and appearance of the proposed development.

PD RIGHTS – PART 1

3 Notwithstanding the provisions of Schedule 2, Part 1, Class A (sections (h) and (j), B, C and D) of The Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking or re-enacting that order with or without modification), no extensions with more than one storey, roof enlargement or alterations and porches shall be erected.

REASON: To protect the character and appearance of the proposed development and the living conditions of neighbouring occupiers.

GI MANGEMENT PLAN

4 The development shall be carried out in strict accordance with the approved 'GREEN INFRASTRUCTURE MANAGEMENT PLAN - EDP2927_R027E'. Evidence of compliance with the plans in the form of georeferenced photographs must be provided to the LPA no more than three months later than the final occupation of the development.

Reason: To ensure safeguards for species of principle importance for conservation and to ensure compliance with LDP policy NE1.

ECOLOGY MANAGEMENT PLAN

5 The 'ECOLOGICAL ENHANCEMENT PLAN EDP2927_D163D' document which illustrates the design and location of bat and bird box provision as well as hibernacula and wet scrapes for amphibians and reptiles shall be implemented in full and shall be retained as such in perpetuity. Evidence of compliance with the plan in the form of georeferenced photographs must be provided to the LPA no more than three months later than the final occupation of the development.

Reason: To provide biodiversity net benefit and ensure compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policy NE1.

NOISE

6 Prior to the occupation of any of the dwellings the noise mitigation measures detailed in The Hunter Acoustics Environmental Noise report REF 6617/ENS1 (dated 13/06/2022), shall be undertaken. The development shall only proceed in accordance with the approved details and shall be maintained as such thereafter.

REASON: In the interests of amenity, in compliance with LDP policies S13 and EP1

SURFACE WATER

7 Surface water flows from the development shall only communicate with the public surface water in the location agreed with Welsh Water. Through an attenuation device that discharges at a rate not exceeding 16 l/s.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

INFORMATIVES

1 Bats - Please note that Bats are protected under The Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). This protection includes bats and places used as bat roosts, whether a bat is present at the time or not. If bats are found during the course of works, all works must cease and Natural Resources Wales contacted immediately (0300 065 3000).

2 Nesting birds - Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended). The protection also covers their nests and eggs. To avoid breaking the law,

do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most bird species is between March and September.

3 All reptiles are protected by the Wildlife and Countryside Act 1981 (as amended). It is illegal to intentionally kill or injure Adder, Common lizard, Grass snake or Slow worm. If reptiles are found at any time during clearance or construction, all works should cease, and an appropriately experienced ecologist must be contacted immediately.

4 Bat boxes are more likely to be used if they are located where bats are known to feed. Ideally, several boxes should be put up facing in different directions on sunny aspects to provide a range of warm conditions. Boxes should be put as high as possible to try and avoid predation from cats on the ground or nearby structures. Bats use dark tree lines or hedgerows for navigation, so putting boxes near these features could help bats find the box. In summary, locate boxes:

- Where bats are known to feed and navigate (close to hedges and tree lines);
- Ideally at least 4m above the ground (where safe installation is possible);
- Away from artificial light sources (to protect them from predation); and
- Sheltered from strong winds and exposed to the sun for part of the day (usually south, south-east or southwest).

Bats need time to find and explore new homes, and it may be several months or even years before boxes have residents - be patient! Once bats find a place they want to live they can return over and over again. Droppings on the landing area, urine stains around the lower parts of the box and chattering noises from inside on warm afternoons and evenings are signs of occupation. Please note, as bats are vulnerable to disturbance and fully protected under UK law, boxes must only be opened by a licensed bat worker.

5 Boxes for tits, sparrows or starlings should be fixed two to four metres up a tree or a wall.

-Unless there are trees or buildings which shade the box during the day, face the box between north and east, thus avoiding strong sunlight and the wettest winds. Make sure that the birds have a clear flight path to the nest without any clutter directly in front of the entrance. Tilt the box forward slightly so that any driving rain will hit the roof and bounce clear. Fixing your nestbox with nails may damage the tree. It is better to attach it either with a nylon bolt or with wire around the trunk or branch. Use a piece of hose or section of car tyre around the wire to prevent damage to the tree. Remember that trees grow in girth as well as height, and check the fixing every two or three years. Open-fronted boxes for robins and wrens need to be low down, below 2m, well hidden in vegetation. Those for spotted flycatchers need to be 2-4m high, sheltered by vegetation but with a clear outlook. Woodpecker boxes need to be 3-5m high on a tree trunk with a clear flight path and away from disturbance. Nestboxes are best put up during the autumn. Many birds will enter nestboxes during the autumn and winter, looking for a suitable place to roost or perhaps to feed. They often use the same boxes for nesting the following spring. Tits will not seriously investigate nesting sites until February or March.

6 The proposed scheme will require a sustainable drainage system designed in accordance with the attached Welsh Government Standards for sustainable drainage. The scheme will require approval by the SuDS Approving Body (SAB) prior to any construction work commencing. Details and application forms can be found at: <https://www.monmouthshire.gov.uk/sab>

7 The Naming & Numbering of streets and properties in Monmouthshire is controlled by Monmouthshire County Council under the Public Health Act 1925 - Sections 17 to 19, the purpose of which is to ensure that any new or converted properties are allocated names or numbers logically and in a consistent manner. To register a new or converted property please view Monmouthshire Street Naming and Numbering Policy and complete the application form which can be viewed on the Street Naming & Numbering page at www.monmouthshire.gov.uk This facilitates a registered address with the Royal Mail and effective service delivery from both Public and Private Sector bodies and in particular ensures that Emergency Services are able to locate any address to which they may be summoned. It cannot be guaranteed that the name you specify in the planning application documents for the address of the site will be the name that would be formally agreed by the Council's Street Naming and Numbering Officer because it could conflict with the name of a property within the locality of the site that is already in use.

8 The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

9 The applicant is advised that there are public rights of way in the vicinity of the development. The grant of planning permission does not give permission to close, divert or obstruct a public right of way. Obstructing a public right of way is a criminal offence for which you may be prosecuted. You should contact the Monmouthshire County Council Countryside Team on 01633 644850 or email countryside@monmouthshire.gov.uk for advice on the procedure should you need to close or divert a public right of way.

10 In addition to the above conditions, the conditions attached to outline consent DM/2019/01937 still apply to this development. The outline permission will lapse if details of the reserved matters have not been submitted to the Local Planning Authority within the period stipulated in the permission or, if no period was stipulated in the permission, as laid down in Section 92 of the 1990 Act.



Appeal Decision

by I Stevens BA (Hons) MCD MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/02/2023

Appeal reference: CAS-02108-X4B4D6

Site address: Brookside shed, Llancayo Road, Gwehelog, Monmouthshire, NP15 1JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Nowogrodski against the decision of Monmouthshire County Council.
 - The application Ref DM/2021/01801, dated 1 November 2021, was refused by notice dated 4 July 2022.
 - The development proposed is replacement of existing storage buildings with an exemplar Eco single dwelling.
 - A site visit was made by the Inspector on 9 January 2023.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Appeal Form indicates that the appeal site is in a green belt/green wedge. The appellants and Council have not referred to it elsewhere in their submissions and I have seen no indication from the evidence that the appeal site is in a green belt/green wedge.

Main Issues

3. The main issue is whether the proposal would comply with national and local planning policies relating to development in the countryside.

Reasons

4. The appeal site comprises a level parcel of land adjacent to a local highway. It forms part of a larger field within the appellants' ownership that rises to the north up to dense vegetation. A row of planted trees has been placed along the approximate line of the northern boundary to delineate the appeal site from the wider field. Two buildings are on the appeal site, of metal construction with green coloured walls and corrugated sheet roofs. A storage container is located adjacent to the larger building. The site is interspersed with trees and vegetation, while a low-level hedgerow defines the boundary

around to the access point, which is provided by gates from the eastern end of the site. A public footpath runs along the northern boundary of the appeal site from near the access drive. A stream runs along part of the southern boundary of the site and under the highway. The immediate area is characterised by densely vegetated hillsides, with sporadic dwellings and buildings mostly along the highway.

5. In planning policy terms, the site lies in open countryside, outside of any settlement development boundary as defined in the Monmouthshire Local Development Plan (LDP), adopted February 2014. Policy S1 of the LDP states that outside of the defined settlements open countryside policies will apply where planning permission will only be allowed for certain types of residential development. These include acceptable conversions of rural buildings, sub-divisions of existing dwellings, and dwellings necessary for agricultural, forestry or other appropriate rural enterprises, in accordance with national planning policy and guidance. The appeal proposal seeks to demolish the existing structures and build a detached dwelling and annexe in a similar footprint position on the site. No evidence has been provided against any of the criteria listed within Policy S1. The proposal therefore fails to comply with Policy S1.
6. However, the appellant has indicated that the proposed dwelling has been designed closely to the requirements of One Planet Developments (OPD). Planning Policy Wales (PPW), Edition 11, February 2021, states that OPD is development that through its low impact either enhances or does not significantly diminish environmental quality. It adds that OPD located in the open countryside should provide for the minimum needs of the inhabitants in terms of income, food, energy, and waste assimilation over a period of no more than five years from the commencement of work on site, and this should be evidenced by a management plan produced by a competent person(s).
7. Government advice in Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities, July 2010, states that planning applications for OPD located in the open countryside need to be supported by robust evidence. The guidance sets out what should be included in the management plan. A separate OPD Practice Guidance document, October 2012, has been prepared to advise on such developments in the open countryside. Overall, the advice documents are detailed in terms of their requirements for OPD in the open countryside.
8. The appellant has indicated that the dwelling would be an exemplary eco-home with sustainable design features that minimise energy use. While the appellant has referred to several sustainability features, the level of detail is insufficient to allow for full assessment against national policy and guidance. The appellant states they will show how within five years the appeal site can fulfil 65% of their basis needs, however, this evidence has not been provided. The appellant's statement that they will use only their global fair share of resources, equivalent to six acres of land, has not been substantiated. The low-energy and sustainable design features of the proposed dwelling are noted. However, it is clear from the policy and guidance that such measures need to be linked with a comprehensive and robust management plan for the development, which would be either tied to a planning condition or legal agreement.
9. PPW adds that where the OPD cannot be demonstrated in line with the policy, proposals should be considered against policies which seek to control development in the countryside. I have already concluded that the proposal fails against local planning policy regarding development in the countryside. It also follows that the proposal fails against national policies. While the appellant intends to develop a highly sustainable dwelling that demonstrates self-sufficiency in terms of their income, food, and energy use, this is subject to providing the necessary evidence and justification to allow the development which would be an exception to strict national and development plan policies on

housebuilding in the open countryside. Indeed, PPW states that new building in the open countryside away from settlements must continue to be strictly controlled, and the fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. In the absence of comprehensive evidence, the proposal would therefore be an unjustified new dwelling in the open countryside, contrary to LDP Policy S1, PPW and advice in TAN 6.

Other Matters

10. In its second refusal reason, the Council stated that no affordable housing contribution has been secured, as sought by Policy S4 of the LDP. The policy sets out locations and thresholds where it is expected that affordable housing contributions would be made. The appeal proposal, as a new dwelling in the open countryside and exception to development plan policy, does not appear to fall within the development locations listed in Policy S4 and where the policy thresholds apply. Nevertheless, the appellant is agreeable to the principle of providing for affordable housing albeit there is no formal agreement in place to secure this provision. Given my findings on the main issue, I have not addressed this matter any further.
11. In its third refusal reason, the Council indicates that the appeal site is within the catchment of the River Usk Special Area of Conservation (SAC), protected under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). Natural Resources Wales has set new phosphate standards for the riverine SACs following the revised Common Standards Monitoring guidance updated in 2016 by the Joint Nature Conservation Committee. The evidence indicated a widespread or severe failure to meet SAC phosphate targets in the Usk. The statement added that any proposed development that might increase the amount of phosphate (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC.
12. The nature of the proposed development has the potential to increase phosphate levels in the SAC, and a significant effect on the SAC cannot be ruled out. Consequently, the decision maker as the competent authority is required to carry out an appropriate assessment to determine whether they are likely to have a significant effect on the SAC. As the decision maker in this appeal, I have considered the evidence provided by the appellant. However, there is little detailed information in terms of the potential new package treatment plant, or the proposed woodland area as a form of mitigation. Neither is it clear how several of the figures used in the phosphorous budget calculator have been estimated. I therefore have insufficient evidence before me to carry out a screening under the Habitats Regulations in respect of the levels of phosphate produced from the development. As I am dismissing the appeal for other reasons, I have not sought the views of parties to inform a screening. Nevertheless, even if the development were acceptable in terms of its effect on the River Usk SAC, this would not outweigh my conclusions on other grounds.
13. The appellant has drawn attention to other benefits of the proposal, including its contribution towards biodiversity enhancement. However, these benefits would not outweigh the significant conflict with local and national planning policy as identified above.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.
15. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is

Ref: CAS-02108-X4B4D6

in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

I Stevens

INSPECTOR