

Public Document Pack



County Hall
Rhadyr
Usk
NP15 1GA

Monday, 24 July 2023

Notice of meeting:

Planning Committee

Tuesday, 1st August, 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/2022/00331 - Development of commercial units suitable for use classes B1, B2 and B8 plus associated external works. Land at Severn Bridge Industrial Estate, Pill Row, Caldicot.	19 - 28
4.2.	Application DM/2022/00815 - Installation of bio-mass boiler unit (990kW heat) and ancillary equipment, fuel (bio-mass) storage area, replacement of underground heating pipes, installation of 500mm. dia. flue pipe, together with cladding of previously open NE elevation of building with colour coated steel sheets to match existing. The installation is currently being undertaken and will be required solely to provide heat for the farm's poultry unit. The bio-mass boiler is to replace an existing LPG (fossil fuel) heating plant. Trostrey Court Farm Barns, Clytha Road, Trostrey Common, Gwehelog, Monmouthshire.	29 - 42
4.3.	Application DM/2023/00797 - Change of use from C3 (dwelling) to sui generis (HMO - House in Multiple Occupation) for a maximum of 8 occupants. 2 Little Hervells Court, Chepstow, NP16 5FF.	43 - 52
5.	FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received:	
5.1.	Appeal decision: Land North West of Holly Lodge, Five Lanes North, Caerwent.	53 - 54

5.2.	Costs decisions: Land at High Mass Cottage, Five Lanes North, Five Lanes, Caerwent, Caldicot, & Land North West of Holly Lodge, Five Lane North, Caerwent.	55 - 58
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**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
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

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Public Information

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

Access to paper copies of agendas and reports

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

Watch this meeting online

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

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

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

Welsh Language

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

Aims and Values of Monmouthshire County Council

Our purpose

Building Sustainable and Resilient Communities

Objectives we are working towards

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

Our Values

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

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

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

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

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.

Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote
attendance on Tuesday, 4th July, 2023 at 2.00 pm**

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

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

County Councillors Catherine Fookes, Penny Jones and Paul Pavia
attended the meeting by invitation of the Chair.

OFFICERS IN ATTENDANCE:

Craig O'Connor	Head of Planning
Philip Thomas	Development Services Manager
Andrew Jones	Development Management Area Team Manager
Amy Longford	Development Management Area Team Manager
Paige Moseley	Solicitor
Richard Williams	Democratic Services Officer

County Councillors J. McKenna and J. Crook left the meeting following determination of application DM/2023/00302 and did not return.

County Councillor A. Easson and S. Riley left the meeting following determination of application DM/2022/01376 and did not return.

APOLOGIES:

County Councillors: Jill Bond and Ben Callard

1. Declarations of Interest

None received.

2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 6th June 2023 were confirmed and signed by the Chair.

3. Application DM/2023/00550 - Retention of and completion of proposed first floor rear extension. Celebration Cottage, Candwr Road, Ponthir, Monmouthshire, NP181HU

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

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

- The area is classed as open countryside.
- The application does not comply with Policy H6 of the Local Development Plan (LDP).
- Officers are satisfied that this application will not have an intrusive appearance. However, photographs in late correspondence and from the site visit indicate that the extension can be seen from the road when entering from Llandegfeth Village.
- This will be an intrusive extension on an already very large property.
- Although the extension is less than 30% of the dwelling, it is still a large extension that will overlook its neighbouring property. It is only 6% less than is considered acceptable within the guidance. A degree of common sense should be applied.
- It may be argued that this application does not comply with the wording of Policy H6 which aims to avoid over extension of existing rural dwellings and the adverse impact this has on the character and appearance of the open countryside.
- Large scale extensions can be harmful if they result in the loss of scale and character of traditional rural dwellings.
- The local Member does not consider the justification that the property has lost its traditionality should be applied.
- The objective of Policy H6 is that rural dwellings do not lose their traditionality through over extension. This application conflicts with those objectives.
- The report of the application only considers one part of policy DES 1. The justification is that the windows proposed will be for uninhabitable rooms and that there is sufficient distance between the properties. However, it was considered that these two properties already have overlooking issues and approving this application will exacerbate this issue.
- The local Development Plan (LDP) and Supplementary Planning Guidance (SPG) are for guidance. The local Member does not consider that this application is compliant with policy EP1 of the LDP.
- The report of the application does not adequately address noise and light pollution that the neighbouring property will be affected by should this application be approved.
- The report of the application indicates that the first-floor extension will not give rise to unacceptable noise. However, the extension is just one part of this

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application. There has been no consideration regarding the car parking spaces. This is allowed under permitted development rights, but it is still part of this application, and the Committee must give consideration to the effect this will have on neighbouring properties. Additional vehicles throughout the day and night will exacerbate noise and light pollution given its proximity to the cottage.

- Planning Policy Wales (PPW) 11 addresses noise pollution and must be complied with. Amenity must be protected.
- As the car parking spaces form a part of this application it is considered that this matter is not compliant with PPW 11 or EP1 of the LDP.
- Condition 4 is welcomed. However, the condition could be stronger to ensure that there is a net biodiversity gain. A root system plan should be considered for existing established trees on the site.
- Adequate parking provision already exists at the front of the property.
- Approval of the application would result in overdevelopment of the site in the open countryside.
- The local Member could not support approval of the application as it was considered not to be compliant with local and national planning policies.

The Development Management Area Team Manager responded as follows:

- The increase in development relates to the first-floor addition and what the visual impact would be in the wider context. The extension can be seen from several public vantage points. However, the issue is whether the increase in volume of that property in its setting affects the landscape character. The Planning Department's view is that the additional impact created by the extension is acceptable.
- The privacy distance is around 40 metres between properties which exceeds the general guidance.
- Aside from this application, the applicant would be entitled to exercise permitted development rights for a greater area of hard landscaping unrestricted by some of the conditions for permitted development to hard surfacing to the front of the dwelling.
- In terms of noise and air pollution generated by the development, there will be an element of disruption during construction works. However, longer term, light nuisance or air pollution caused by the development would remain one dwelling house. The first-floor extension is not considered to exacerbate that use to an extent that it would cause harm.

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- The site is not located within a conservation area. None of the trees are protected by an individual group Tree Preservation Order (TPO). The applicant is entitled to carry out hard landscaping works to the rear separately to this application.

Mr. S. Baldwin, objecting to the application, attended the meeting by invitation of the Chair and outlined the following points:

- The objector's family have lived here for 300 years, and he has also lived here all of his life. The objector's house belonged to his grandfather, and he has undertaken renovation work on it during the previous four years.
- The objector purposely kept his property to an appropriate size to the plot in which it is located and to use appropriate materials.
- Celebration Cottage has had four extensions which have doubled the size of the property. There is an issue of common sense and of contextual over development.
- The current size of the house in proportion to the plot and accommodating the contextual aspect, there has also been a pool house added to the site in the last 12 months.
- It was noted that under permitted development rights the site could be covered with any material chosen by the property owner. However, this would not address their right to how they chose to use it.
- The history of this application is not straightforward. The previous application was subject to a judicial review which caused extreme stress and loss of work to the objector.
- The application was put forward to a judicial review. The consent order submitted today which was not just procedurally based and Monmouthshire County Council chose not to defend that for a range of reasons.
- The impact and character will impact the local countryside. It is not just that it can be seen from the road, but it is about the green and verdant landscape in which the objector's family has lived for 300 years.
- No other house in the area has been extended to this proportion and it was considered that common sense should prevail.
- Contextual overdevelopment is key and it is hard for the objector to live closely to the site in which his grandfather had lived, causing stress to the objector over a long period of time.
- The application will impact the objector's amenity via noise and light pollution at various times throughout the day and night. The property already has and is able

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to accommodate three to four parking spaces and could already accommodate a further two more. The marginal benefit of having three more parking spaces at the rear of the property would substantially damage the amenity of the objector.

- The Community Council commented and objected to both applications.
- The objector questioned the impartiality of the Planning Department regarding the two applications for this site.

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

- This application has been the subject of extended and detailed scrutiny.
- There are no new windows to habitable rooms within the proposal that are facing the property known as the Cottage.
- Windows within the proposal to the first floor and facing east are at 90° to the rear of the neighbouring property and 46.43 metres distant. These are not habitable rooms but only serve to provide light to the first-floor landing and stairwell.
- Due to the acute angle no visual aspect can possibly be achieved in the direction of the Cottage.
- The adopted Supplementary Planning Guidance (SPG) states that a minimum of 21 metres between directly facing habitable windows should be achieved. The only habitable window facing the Cottage is within the existing ground floor of the application property and is 40.52 metres distant. This represents almost 100% increase over the minimum requirement and sits with the adopted SPG.
- Under the criteria of Policy H6 a volume calculation is required which has been provided and concludes a percentage increase over the existing dwelling of 23.831%.
- Policy H6 provides a target increase of 30% as a guideline rising to 50% if no harmful intrusive impact can be established and that there is an enhancement in the appearance of the existing dwelling.
- The application has demonstrated that the proposal sits within the criteria of Policy H6 as outlined in the report of the application.
- The Highways Department has no objection to the application. However, the application has amended the block plan and layout by reducing the spaces to three, handling the layout away from the boundary adjacent to the Cottage and agreed to plant enhancements to reduce the impact on the eastern boundary.

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- Existing trees will remain to compliment the intended enhancements that will be agreed via condition.
- The pool house sits approximately nine metres away from the rear of the host dwelling and is the subject of an approved certificate of lawful development.
- The amended dormer to the rear of the host dwelling is an upgrade and an amendment to an existing dormer window. A measurement assessment has been undertaken and has been deemed within the bounds of permitted development.
- The Committee was asked to consider approval of the application as outlined in the report.

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

- House sizes within the countryside vary.
- The peak of the roof when completed will only be in the region of 18 inches above the hedge.
- It was considered that any potential noise pollution from additional vehicles would be minimal.
- The ongoing development does not look intrusive or out of character for a dwelling in the open countryside.
- It was considered that the application meets the requirements and material considerations outlined in the report.
- An additional condition could be considered that the three first floor windows on the eastern elevation of the first-floor extension be fixed pane and obscured glazing.

It was proposed by County Councillor M. Powell and seconded by County Councillor J. Butler that application DM/2023/00550 be approved subject to the conditions outlined in the report and subject to an additional condition that the three first floor windows on the eastern elevation of the first-floor extension be fixed pane and obscured glazing.

County Councillor McKenna was unable to vote on this application due to having technical issues with her Microsoft Teams connection and was not deemed present for the whole of the discussion on this matter. She therefore abstained from voting.

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

For approval	-	11
Against approval	-	1
Abstentions	-	2

The proposition was carried.

We resolved that application DM/2023/00550 be approved subject to the conditions outlined in the report and subject to an additional condition that the three first floor windows on the eastern elevation of the first-floor extension be fixed pane and obscured glazing.

4. Application DM/2022/00473 - Proposal of 7 mews cottages to replace Hebron Hall, a disused Pentecostal chapel and community room positioned off Monnow Street in Monmouth. Proposed removal of an existing garage. Creation of a new public through route from Monnow Street to Howell's Place. Pentecostal Church, Monnow Street, Monmouth, NP25 3EQ

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

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

- Monmouth town centre is following a declining trend like all high streets as people are increasingly shopping online.
- The town has several empty buildings that require renovation.
- Hebron Hall has been empty for at least a decade and is attracting antisocial behaviour. The hall is currently in a state of disrepair.
- This scheme makes use of a vacant plot in a positive way on the high street.
- The development has been planned sensitively and is supported by or has received no objections from surrounding neighbours.
- The application provides housing, two of which are affordable housing units.
- A walkway will be provided bringing footfall to the high street.
- The local Member disagrees with Natural Resources Wales (NRW) regarding its view of this application. It was considered that TAN 15 has been met and the flood risk is managed to acceptable level.

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- A 1 in 100-year flood risk has been mitigated by having the living accommodation located on the first floor.
- This development is considered to be safer than most other nearby buildings and houses that are located in the C1 zone that have ground floor accommodation.
- The local Member asked the Planning Committee to consider supporting the application. If it is refused, then it would be unlikely that any development would be able to be undertaken at this location.
- Monmouth Town Council had been minded to support the application.

The applicant, Mr. M. Hall attended the meeting by invitation of the Chair and outlined the following points:

- Hebron Mews proposes an infill development for the brownfield site occupied by Hebron Hall.
- It is a strategically important site which spans from Monnow Street to Waitrose car park and beyond that to Chippenham Fields.
- A scheme was designed to respond to the site's many constraints and a simple terrace of modern mews cottages was considered to be a convincing use of the site.
- A cobbled thoroughfare would provide access for the homes while establishing a new public link from the high street.
- The buildings use quality brick, a rhythmic roofline, and colourful doors to create a durable addition to the townscape.
- Historically, a mews would provide accommodation for horses and carriages on the ground floor with living accommodation above. A 21st Century equivalent is being proposed.
- Local amenities are a short walk away enabling a single car per household to be a sustainable proposition.
- The two bedroomed homes incorporate covered outdoor terraces connecting to open plan living spaces on the first floor with bedrooms placed above on the top storey.
- Complex but flexible layouts have been created providing very liveable homes. Two of the seven homes will be affordable housing.
- A number of individual concerns have been raised by specialist consultees. Overall, the Planning department has been satisfied that the scheme provides a well thought through and socially responsible solution within Monmouth

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Conservation area. Over the course of several meetings, it had been identified that Hebron Mews would be recommended for approval were it not for an objection by Natural Resources Wales (NRW) on flooding risk grounds.

- Monmouth Flood defences mean that the site is protected against a 1 in 100 year event. However, modelling a 25% overage to predict for climate change indicates the town's current flood defences would overtop and the site would flood. Over 500 acres of Monmouth would be under water at that point.
- In the event of overtopping, on site flood water has been modelled peaking between 0.9 metres and 2.1 metres in depth. That is well below the 2.45 metre level of the proposed living accommodation. Considered in isolation, garaging and storage have low vulnerability to flooding making them an acceptable form of development for the site's ground level.
- Hebron Mews will be far more resilient than neighbouring homes and businesses.
- NRW makes no distinction between the site's use at ground level and upper floors. The entire development has been categorised as highly vulnerable and objects on that basis. Taking this approach stymies any equivalent development within central Monmouth.
- Refusal of this scheme would prevent any infill development across 500 acres of the town. Market towns need to evolve with places to live as well as to shop.
- The applicant's agent requested that the Committee considers approval of the application with a view to rejuvenating the site.

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

- The site has never flooded.
- On balance, it is unlikely that the site will flood to over two metres in height. If this did occur half of Monmouth would be under water.
- The applicant has mitigated flood risk by designing the living area to be above 2.4 metres and be located on the first floor.
- There is a current housing shortage in Monmouthshire. This scheme will provide 7 new houses in Monmouth with two of the properties being affordable housing.
- Development on this site will enhance the area.
- The proposed new public route would be welcomed by local people adding another access point between Monnow Street and the car park.

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- The site is close to several car parks so parking provision would not be an issue.
- This is a much-needed scheme within Monmouth.

The Head of Planning responded, as follows:

- TAN 15 does refer to locating people within the flood risk zone. It is recognised that additional pressures could be placed on emergency services in the event of a flood. It was considered that the tolerance levels of TAN 15 in this case would be exceeded.
- Should the Committee consider that the planning benefits outweigh the risk to residents and supported approval of the application against officers' recommendation then officers would notify Natural Resources Wales (NRW) accordingly. A set of conditions would then be prepared by officers which would be presented to the Planning Delegation Panel. It was noted that NRW could impose additional conditions and could also ask Welsh Government to call in the application.

The Development Management Area Team Manager informed the Committee:

- The access road within the site has been designed to be a shared cobbled surface to encourage people to walk from Monnow Street to the car park.
- The garages will have roller shut doors.
- The air source heat pumps are located at a low level and are screened providing some noise attenuation. If located at a higher level, they would be more visually intrusive and potentially noisier to the occupants or other neighbours.
- If the application was approved conditions would need to be considered by the Delegation Panel which would include matters relating to ecology, lighting and a construction traffic management plan. Maintaining the garages in perpetuity could also be considered.
- There would be a full documented photographic record of the existing building before any development takes place.
- A method statement for demolition could also be included with consideration of the reuse of fabric within the building.
- A flood rescue plan has been submitted as part of the application. The applicant has committed to providing a flood defence system which could be included as a condition.
- Currently, the phosphate levels are considered to be a betterment. However, a Grampian condition could be applied.

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It was proposed by County Councillor J. McKenna and seconded by County Councillor A. Webb to approve application DM/2022/00473 subject to a Section 106 agreement and to agree conditions to be applied via the Delegation Panel. Natural Resources Wales to be contacted to notify them of the resolution to approve the application.

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

For approval	-	13
Against approval	-	0
Abstentions	-	1

The proposition was carried.

We resolved to approve application DM/2022/00473 subject to a Section 106 agreement and to agree conditions to be applied via the Delegation Panel. Natural Resources Wales to be contacted to notify them of the resolution to approve the application.

5. Application DM/2023/00302 - Conversion of garage and linking to main residence to form additional accommodation. 75 St Lawrence Park, Chepstow, NP16 6DQ

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

The local Member for Mount Pleasant addressed the Committee via Video recording and outlined the following points:

- The key element of the contention is reflected in paragraph 6.5.1 of the report of the application. The Committee is required to disaggregate this matter which is subject to a further application.
- The applicant has informed the local Member that they have no intention of extending their child-minding business. However, there is a level of scepticism from neighbours that this is the case. Therefore, several residents have objected to the application and raised concerns.
- The local Member asked whether consideration of the application could be deferred until other matters have been resolved.
- The local Member has been contacted by several residents post report publication highlighting what they perceive as factual inaccuracies contained within the report, namely:
 - Chepstow Town Council's response was not formally recognised that was submitted on 15th June 2023.
 - Supporting correspondence in 5.2 of the report was not published.

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- Whether the level of direct consultation that affected neighbours was sufficient as outlined in 5.2 of the report. Neighbours had informed the local Member that they had not received formal consultation letters.
- The local Member considered that deferral of the application should be considered if the Committee concluded that there were evidence gaps and due process had not been undertaken.
- The report states in 6.2 that there will be an amenity impact. It was considered that the Committee needs to satisfy itself how much of a potential impact this might have and whether it is reasonable and proportionate.
- Concerns have been raised regarding the over development of the plot and massing. The Committee needs to satisfy itself whether the amount of proposed development and its intensity is comparable with existing uses and whether the footprint is balanced, sensitive and in keeping with neighbouring properties.
- The proposal needs to maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties, does not lead to amenity infringement, loss of light and overshadowing.
- St. Lawrence Park is a dense estate, and this cul-de-sac has limited access for vehicle circulation and parking.
- Concerns had been raised by the Highways Department which have been maintained despite alterations to the proposals submitted.
- There was a need to identify whether relaxing parking standards would adversely affect the safety and efficient operation of the highway system and where they would afford satisfactory provision for access circulation and parking.

Mr. P. Healy-Jones, objecting to the application, attended the meeting by invitation of the Chair and outlined the following points:

- The project description in the report as an amendment extension to an existing residential property is considered to be fundamentally flawed.
- The Local Planning Authority's decision to disaggregate this application with the property being run as a fulltime nursery is a conflict of interest. This has been verified by the Enforcement Department inviting an application for change of use.
- It was considered that if this application is legitimate in its intended purpose for residential use only, its outcome should be delayed until the change of use application is determined.
- The size of the property does not require an additional staircase and an independent front door within 20 feet of existing doors.

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- It was considered that this was an application for a separate nursery annex apart from the main dwelling.
- Chepstow Town Council has objected which is significant as this application is only meant to be an extension to an existing garage.
- It was considered that the report incorrectly states that direct neighbour consultation has occurred, However, only property number 74 received written notice despite three properties being directly affected.
- With regard to design and amenity the objector's original comments demonstrate that the proposals are overbearing in terms of over development, plot density, streetscape and context but these have been disregarded.
- It is unorthodox for planners to suggest that if the proposal is located on a boundary and the level of overlooking in the area is high that it is acceptable to make it worse and further reduce amenity, we would normally experience the opposite in the planning process.
- The parking and highways response is irregular. Because parking guidelines designed to improve parking established in 2013 cannot be applied retrospectively it gives licence to approve proposals that aggravate an already inadequate provision. This approach disregards all best practice design guidelines that existed prior to 2013. The substantiation in this instance for using Future Wales aspiration and local transport is impractical. If retrospective guidelines cannot be applied to older properties neither can Future Wales. It should only be applied to new developments.
- If the proposals did not include shared driveway access, road safety issues, increased on street parking located on a blind bend, then one space would still not be enough. However, they do and is the view of the Highways Department.
- When considering day to day parking at property number 75 with vehicles dropping off and collecting children, nursery staff parking and parents drop off and collection, the conclusion to disregard the Highways Department and local residents is difficult to comprehend.
- Residents consider the recommendations of the report has disregarded local concerns and put the planning process in jeopardy.
- The risk of potential exposure to future reviews is not insignificant if it was later demonstrated that this accommodation was being used as a nursery annex should this application and the change of use be approved.

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Mr. A. Cox, the applicant's representative, attended the meeting by invitation of the Chair and outlined the following points:

- The application is not to expand the child-minding business but to provide additional family living space and to create a better quality of life.
- To provide additional living space to accommodate an elderly family member.

The Development Management Area Team Manager informed the Committee:

- Chepstow Town Council's comments have been presented to Committee Members.
- Direct letters were sent to third parties as well as the usual site notice being erected.
- With regard to deferral of the application pending consideration of a separate application for change of use, the lawful use of the building is that of a single dwelling house. The extension size and scale as a domestic extension can be considered on its merits. A separate application has been received but this will go through its own planning process and may be presented to Planning Committee at a future date for consideration.
- There is a small increase in footprint to the dwelling, linking the small gap between the dwelling and the garage. The extension has been significantly reduced and does not represent an over development of the plot.
- Privacy issues, overbearing and energy impact have been improved via negotiation. There would be a degree of impact but not to an unacceptable level.
- Future Wales and PPW 11 are live planning policies and are a material consideration for the determination of applications presented at today's meeting. Current planning policy has been applied to this application. The highways issues have not been disregarded but have been carefully considered and the view is that from a highway safety perspective, there is not an unacceptable harm to wider and local highway safety.

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

- A condition requiring rear first floor windows of the extension could be fixed pane obscure glazed.
- The shared driveway is wide enough to accommodate two vehicles.

It was proposed by County Councillor F. Bromfield and seconded by County Councillor M. Powell that application DM/2023/00302 be approved subject to the conditions

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outlined in the report and subject to an additional condition requiring rear first floor windows of the extension to be fixed pane obscure glazed.

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

For approval	-	10
Against approval	-	2
Abstentions	-	1

The proposition was carried.

We resolved that application DM/2023/00302 be approved subject to the conditions outlined in the report and subject to an additional condition requiring rear first floor windows of the extension to be fixed pane obscure glazed.

6. Application DM/2021/02070 - Reserved Matters consent pursuant to the approval of outline planning permission ref: DM/2018/00769 for Outline development of up to 45 dwellings. Land at Chepstow Road, Raglan

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 final confirmation from Natural Resources Wales (NRW) that the development would not have an adverse impact on water quality within the river Usk catchment.

The Head of Planning informed the Committee that the permit review at Raglan Treatment works is the first in Wales undertaken by Natural Resources Wales (NRW). NRW is using this application as a test case.

The local Member for Raglan, attending the meeting by invitation of the Chair, outlined the following points:

- The local Member is in favour of the proposed development.
- The development will afford opportunities to local residents of Raglan.
- Raglan residents have raised some areas of concern regarding sewerage. There have been some long-standing issues regarding this matter and it was hoped that these issues would be addressed before development takes place.
- Flooding on the roads can be severe and it was hoped that TAN 15 guidelines had been used to assess and address the flood risk in this area.

The Development Services Manager responded as follows:

- Welsh Water has advised that there is no objection to this scheme and has not identified any infrastructure issues that require improvement in relation to the proposed development.

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- The flooding issues have been properly investigated. A plan has been established which identifies the southern part of the site being in the flood zone. This area needs to be retained as a flooding area and biodiversity habitat.
- There will not be any negative impacts to existing dwellings from this development.
- The proposed development will be SuDS Approval Body (SAB) compliant.

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

- The proposed development was welcomed.
- Directly opposite Brookland's Lodge there is a National Speed Limit sign exiting the area. Going into the area the speed limit is 30mph. It was suggested that an extension of 20mph zoning could be looked at when entering the area.
- Concern was expressed regarding having a footpath at this location due to the bend in the road and the speed of vehicles.
- A sum of £3132 per dwelling towards the provision of recreation / community facilities in Raglan has been secured as well as £30,000 to pump prime and enhance the local bus service including route numbers 60 and 82.
- There will be additional Green Infrastructure (GI) to enhance the site and create more ecological corridors for wildlife.
- Benches will be located along the public open space. Raglan Community Council has already installed benches at various locations within the area.

It was proposed by County Councillor D. Rooke and seconded by County Councillor A. Easson that application DM/2021/02070 be approved subject to the conditions outlined in the report and subject to final confirmation from Natural Resources Wales (NRW) that the development would not have an adverse impact on water quality within the river Usk catchment.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2021/02070 be approved subject to the conditions outlined in the report and subject to final confirmation from Natural Resources Wales

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 4th July, 2023 at 2.00 pm

(NRW) that the development would not have an adverse impact on water quality within the river Usk catchment.

7. Application DM/2022/01376 - Conversion of the former convent building into 4no. self-contained apartments (C3 Class). 151 Park Crescent, Abergavenny, Monmouthshire NP7 5TN

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. Also, that two further conditions be added, namely:

- The retention of the existing windows to the front of the building.
- A method statement be submitted for the repair on the lintels on the property frontage.

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

- The additional conditions were welcomed.
- In response to a request for an additional condition to upgrade the windows to Heritage double glazing, it was noted that officers will have the ability to manage any changes needed to replace the windows and would be in keeping with the wider conservation area. This will provide officers with a level of control in this matter.
- There is sufficient space at the front of the development for multiple residents to store bicycles.

It was proposed by County Councillor D. Rooke and seconded by County Councillor M. Powell that application DM/2022/01376 be approved subject to the conditions outlined in the report and subject to a Section 106 Legal agreement. Also, that two further conditions be added, namely:

- The retention of the existing windows to the front of the building.
- A method statement be submitted for the repair on the lintels on the property frontage.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 4th July, 2023 at 2.00 pm

We resolved that application DM/2022/01376 be approved subject to the conditions outlined in the report and subject to a Section 106 Legal agreement. Also, that two further conditions be added, namely:

- The retention of the existing windows to the front of the building.
- A method statement be submitted for the repair on the lintels on the property frontage.

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

8.1. Vern Cottage, 16 Castle Parade, Usk

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at Vern Cottage, 16 Castle Parade, Usk on 31st May 2023.

We noted that the appeal had been allowed on ground (a) and the Notice was quashed. Planning permission was granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the removal of a chimney in the Conservation Area at Vern Cottage, 16 Castle Parade, Usk NP15 1AA referred to in the Notice.

The meeting ended at 5.20 pm.

Application Number: DM/2022/00331

Proposal: Development of commercial units suitable for use classes B1, B2 and B8 plus associated external works

Address: Land at Severn Bridge Industrial Estate, Pill Row, Caldicot

Applicant: Mrs Armstrong

Plans: Site Plan 1887-A1-01-C - , Elevations - Proposed 1887-A4-01 - , Tree Protection Plan B - , Location Plan 1892-A1-00 - , Other CIL QUESTIONS - , Other SUDS STRATEGY - , Other PHASE 1 GEO-ENV REPORT - A, Other PHASE 1 GEO-ENV REPORT - B, Other PHASE 1 GEO-ENV REPORT - C, Other PHASE 1 GEO-ENV REPORT - D, Design and Access Statement - , Other PHASE 1 GEO-ENV REPORT - E, Other PHASE 1 GEO-ENV REPORT - F, Other FCA - , Other FCA - (Final), Other SITE DETAIL SHEET - ECOLOGY - , Other STATEMENT OF COMMUNITY INVOLVEMENT - , Topographical Survey TOPOGRAPHICAL SURVEY - , Tree Survey TREE SURVEY - , Other UES PEA - (PT1), Other UES PEA - (PT2), Other UES PEA - (PT3), Other UES PEA - (PT4),

RECOMMENDATION: REFUSE

Case Officer: Mr Adam Foote
Date Valid: 09.03.2022

This application is presented to Planning Committee upon the request of the Head of Planning

1.0 APPLICATION DETAILS

1.1 Site Description

The application site comprises an undeveloped parcel of land within the settlement boundary for Caldicot as shown on the proposals map of the Monmouthshire Local Development Plan (LDP). The site is allocated for development for new industrial and business development under LDP Policy SAE1(h). The site is the last remaining undeveloped parcel of land allocated for industrial and business development in this area and would form part of the Severn Bridge Industrial Estate.

The site falls within a C1 flood zone as shown on the Development Advice Maps (DAM) that accompany the existing Technical Advice Note (TAN) 15: Development and Flood Risk and is partly within zone 2 and zone 3 for river flooding and entirely within zone 3 for flooding from the sea as shown on the Flood Maps for Planning that will accompany the emerging TAN 15.

The site falls within a Source Protection Zone (SPZ) and is party within an Internal Drainage Board. There are Tree Protection Orders covering Sycamore Trees along the southern boundary of the site.

1.2 Proposal Description

This application seeks outline consent including access, appearance and layout for the creation of 12 industrial units (use class B1, B2, B8) and associated works. Vehicular access is proposed to be gained via Castle Court on Severn Bridge Industrial Estate and a second pedestrian/cycle access point is proposed within the north/ west section of the site. The industrial units adopt a utilitarian design which is considered to be a standard for the nature of development and the

proposed use. The units are proposed to face into the site with parking bays separating the structures from the access road. Development is proposed to be set away from the site boundaries to allow for SuDS features, additional landscaping/planting and to safeguard the existing hedgerows and trees. Additional detail in terms of scale, design and position of the development is illustrated in full on the submitted drawings.

2.0 RELEVANT PLANNING HISTORY

Reference Number	Description	Decision	Decision Date
DM/2022/00331	Development of commercial units suitable for use classes B1, B2 and B8 plus associated external works.	Pending Consideration	

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

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
S8 LDP Enterprise and Economy
S9 LDP Employment Sites Provision
SAE1 LDP Identified Industrial and Business Sites

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
EP2 LDP Protection of Water Sources and the Water Environment
EP3 LDP Lighting
GI1 LDP Green Infrastructure
LC5 LDP Protection and Enhancement of Landscape Character
MV1 LDP Proposed Developments and Highway Considerations
MV2 LDP Sustainable Transport Access
NE1 LDP Nature Conservation and Development
SD3 LDP Flood Risk
SD4 LDP Sustainable Drainage

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040
Planning Policy Wales (PPW) Edition 11

Technical Advice Notes

Technical advice note (TAN) 4: retail and commercial development
Technical advice note (TAN) 5: nature conservation and planning
Technical advice note (TAN) 10: tree preservation orders
Technical advice note (TAN) 11: noise
Technical advice note (TAN) 12: design
Technical advice note (TAN) 15: development and flood risk (2004)
Technical advice note (TAN) 18: transport
Technical advice note (TAN) 23: economic development

5.0 REPRESENTATIONS

5.1 Consultation Replies

Caldicot Town Council: Recommends approval.

Portskewett Community Council: Recommends approval.

MCC Ecology: No objection subject to conditions.

MCC Highways: Provisional holding objection.

MCC Drainage: No objection to drainage, holding objection to flooding.

MCC Environmental Health: No objection subject to condition.

Trees: Provisional holding objection.

Glamorgan Gwent Archaeological Trust (GGAT): No objection subject to condition.

Natural Resources Wales (NRW): Objection on flooding grounds.

5.2 Neighbour Notification

This application was advertised by means of 4 no. site notices, a press notice and direct neighbour consultation.

One representation in support of the proposed development has been received.

Numerous objections have been received with the main points summarised as:

Loss of green/open space and impact upon ecology

Pollution (noise, light and air)

Detrimental impact upon traffic

Loss of trees/hedgerow and concern over the specification of the planting scheme

Visual impact of the proposed development with particular reference to colour of the units

Concern relating to drainage and flooding and

Question of the need for the development.

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

This application has been screened under Schedule 2 of the Town and Country Planning (EIA) (Wales) Regulations 2017, and it is considered that the proposal does not raise significant environmental impact to require the proposal to be EIA development.

The application site is allocated within the adopted Monmouthshire Local Development Plan (LDP) for industrial development (Policy SAE1) and is the final portion of land in the area allocated for business/industrial development with this proposal comprising the final portion of the Severn Bridge Industrial Estate allocation. It is therefore considered that the principle of industrial development on this site is acceptable and has been established. The allocation of this land is for B1 and B8 uses only, however given the existing B2 uses within the adjoining industrial estate no objection is raised to this application moving forward with a B1, B2, B8 use subject to a noise

impact assessment being submitted demonstrating no unacceptable impact upon the living conditions of neighbouring occupiers. As this application is for outline consent it is considered that this can be conditioned for approval as a reserved matter. The inclusion of B2 uses is not considered to result in a significant departure from the allocation or the objectives of the LDP.

Therefore, the main issues to consider with regard to this proposal are: whether adequate access and parking arrangements can be provided; the development's impact on the character and appearance of the area; flooding/flood risk and ecological issues.

6.2 Sustainability

The application site is located within the settlement boundary where there is a presumption in favour of development and the efficient use of land is encouraged. The site is accessible via sustainable modes of transport and public transport. The submission includes the creation of a cycle/footpath within the central and northern-western sections of the site that will enhance the connectivity of the wider industrial area and encourage sustainable transport to and from the site. Additionally the proposal includes a cycle storage area which is considered to add to the sustainable credentials of the scheme and encourage active travel to and from site. It is therefore considered that the proposal meets the sustainability objectives supported by Local and National Planning Policy.

6.3 Place Making/Good Design

As stated above this site is allocated for industrial purposes and therefore the principle of erecting purpose built industrial buildings has been established. The layout and design of the scheme is utilitarian as is standard with many industrial estates/buildings which are designed for functionality. The layout as proposed would form a clear and legible extension to the existing industrial estate and thus given the context of the site and the proposed use of the buildings it is not considered that there would be any unacceptable adverse visual impact or impact upon the character of the area from within the context of the industrial estate. The site is visible from outside of the industrial estate, primarily Pill Row, a residential street that runs parallel with the site boundary to the west. Given that the proposed buildings would be set off the boundary and additional planting is proposed as a buffer/screen it is not considered that the proposed buildings would result in any unacceptable adverse visual impact that would harm the amenity of the area or character of the area when viewed from outside the site.

6.4 Biodiversity/Green Infrastructure

The application site comprises an undeveloped parcel of land most recently used for the grazing of horses, the Preliminary Ecological Appraisal (August 2021) submitted in support of this application concludes that the site has limited ecological value with the majority of the site occupied by poor semi-improved grassland with areas of dense scrub and scattered trees around the boundaries of the site.

A tree survey, arboricultural impact assessment (AIA) and a tree retention and protection plan (TRPP) and a proposed planting plan has been submitted in support of this application. The surveys identify a total of 45 individual trees and 3 groups of trees were recorded on site. The surveys identified 5 dead/moribund trees with a recommendation for removal; this includes one protected Sycamore on the south boundary. The proposed access onto Castle Court requires the removal of 6 trees including 2 protected Sycamore Trees (excluding the dead/moribund Sycamore) whilst another 2 trees are identified for removal to facilitate the internal layout. To compensate for this loss 21 trees are proposed to be planted within the site comprising of 5 Field Maple, 7 Alder, 3 Birch, 4 Oak and 2 Bird Cherry. The proposed replacement tree planting is considered to be sufficient mitigation for the loss.

The Council's Tree Officer has been consulted on this application and raises no objection to the proposed development however has lodged a holding objection as additional information has been requested in the form of a tree protection method statement and an indicative services run layout plan for water, sewage, electricity, gas, telecommunications, etc, including where such might exit the site to connect to existing service runs. It is considered that this information can be provided at the reserved

matters (RM) stage and controlled via condition should this application progress with a positive recommendation.

In addition to the proposed tree planting the proposal includes the following ecological enhancements: bat boxes, bird boxes, native hedgerow, shrub and meadow planting. The Council's Ecologist has been consulted on this application and raises no objection to the proposed development concluding that the level of survey undertaken was appropriate and proportionate for the level of development and that the ecological mitigation as proposed was suitable to support the application and meet the requirements as set out by PPW11 and section 6 of The Environment Wales Act to provide a net benefit in terms of biodiversity on site.

6.5 Historic Environment

The application area is within the Archaeologically Sensitive Area of the Gwent Levels, defined for the significance of reclaimed land, managed drainage and buried land surfaces with settlement remains, and significant waterlogged deposits, dating from the prehistoric onwards. The area is c.300m south-east of the Scheduled Monument of Caldicot Castle, and is on the western bank of the Nedern Brook. Significant archaeological remains have been found in the park, including the Bronze Age Caldicot Boat, and areas of brushwood track and other waterlogged remains from the same date, associated with the Nedern Brook which was more used as a channel for small ships and boats during that period. No activity is noted in the proposed development area itself, however, the area is the last area of open ground and appears to have been pasture since at least the 1830s. It is therefore possible that features or artefacts may be located inside the application area, and the proposed development therefore will require mitigation. As a result, GGAT recommend that a condition, requiring the applicant to submit a detailed programme of investigation for the archaeological resource to be undertaken, should be attached to any consent. GGAT envisage that this programme of work would take the form of an archaeological watching brief during the associated groundworks required for the development, with detailed contingency arrangements, including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for appropriate recording of human remains, and any sampling that may prove necessary, post excavation recording and assessment and reporting and possible publication of the results. It is recommended that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular; 016/2014. Should this application progress with a positive recommendation this condition would be attached.

6.6 Landscape

The application site is within a built up area and would form an extension to the existing industrial estate, therefore no concern is raised to the proposed development in respect of its impact upon the landscape/landscape character in the area.

6.7 Impact on Amenity

The properties considered to be most impacted as a result of the development are those on Pill Row to the west of the application site. It is not considered that the built form of the development would have any unacceptable impact upon the living conditions of neighbouring occupiers in respect of outlook or loss of light. It is considered that the development is a sufficient distance from the closest neighbouring properties so as to avoid any unacceptable impact and that the additional planting proposed on the site boundary would reduce any impact further.

Regarding noise/odour any unacceptable impacts would be controlled via separate legislation however in this case the Council's Environmental Health Officer has been consulted and not raised issue/concern with the proposed development particularly given the layout of the proposed scheme with the units arranged to face into the site away from the closest residential properties, therefore not dispelling noise/odour towards the nearby residential properties. No concern is raised by the Environmental Health Department on the basis of B1/B8 uses, however, as B2 uses are sought a Noise Impact Assessment will be required prior to the commencement of development to demonstrate that there would be no unacceptable adverse impact upon the living conditions of

neighbouring occupiers. As this application is for outline consent it is considered this information can be provided at RM stage should the application progress with a positive recommendation.

6.8 Highways

The development is proposed with two access points, a vehicular and pedestrian access from Castle Court in the south and a cycle/pedestrian access in the north-west. The vehicular access from Castle Court has been designed to current design standards for new industrial estate roads and adoptable standards and therefore no objection is raised in this respect. The turning head as proposed is also shown to be in accordance with current design standards as a vehicle tracking layout has been provided demonstrating that rigid HGV turning movements can be accommodated. However, no tracking layout has been submitted for articulated HGV's. MCC Highways have requested this be amended to accommodate articulated HGV's. As this application is for outline consent such details can be controlled via condition and this detail agreed at RM stage.

In accordance with the Active Travel Act 2013, the application site is shown to have appropriate active travel links to the existing pedestrian footway network throughout the Severn Bridge Industrial Estate and beyond to the Portskewett area. Furthermore, an active travel link is also proposed from the site directly onto the adjacent Pill Row, providing links to the wider Caldicot area and Town Centre.

In respect of traffic impact/generation the TRICS data base estimates that in the AM peak period 35 two way movements and 27 two way movements in the PM peak period would come from the proposed development. This has been considered by Highways who consider this to be minimal considering that the traffic will be absorbed within overall traffic generation from the existing Severn Bridge Industrial Estate, which is an historic and well established commercial industrial estate. Therefore, the impact on safety and capacity of the existing local highway network will not be exacerbated to the detriment of highway safety.

In respect of parking provision, each unit is proposed with 3 allocated spaces with additional disabled spaces throughout the site. Units 2, 4, 5, & 6, have satisfied their parking requirements under the local parking standards, however the remaining larger units each have a shortfall of 1 space each. Highways have raised concern in this respect and requested that a revised layout showing additional parking provision is provided. In this case given the highly sustainable location of the site and given the additional sustainable/active travel provision proposed it is not considered that a shortfall of 1 space for the remaining units would result in any unacceptable impact. The current parking standards were adopted in 2013 and have therefore been superseded by both PPW 11 and Future Wales, both of which promote lower levels of parking provision within sustainable/suitable locations (see references below). It is considered that the shortfall as proposed is minor and should not result in the refusal of this application.

PPW11

4.1.50 "Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed".

4.1.52 "Parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places".

Future Wales

Policy 12 page 83 "Planning authorities must act to reduce levels of car parking in urban areas, including supporting car free developments in accessible locations and developments with car parking spaces that allow them to be converted to other uses over time".

6.9 Flooding

The application site falls within a C1 flood zone as identified by the Development Advice Maps (DAM) that accompany the current TAN15 and is shown to be at risk of flooding from coastal/sea water and from the Nedern Brook (fluvial). A Flood Consequences Assessment (FCA) and additional flood modelling of the Nedern Brook have been produced by the applicant in support of the proposed development. The FCA and flood modelling data have not been able to demonstrate that flood risk on site is acceptable in line with the tolerable limits as set by section A1.14 and 15 of TAN15. The TAN states that depths/information within A1.15 “should not be regarded as prescriptive provides indicative guidance on what is considered tolerable conditions for different types of developments”. However, as the extent/depth of flood risk on site is considerably beyond the depths set out in the TAN it is not considered that the proposal can be supported on the basis of on-site flood risk. NRW has been consulted on this application and maintain their concerns in relation to flooding/flood risk and unless an FCA can be produced outlining that flood risk is acceptable in line with the requirements of TAN15 would object to the proposed development.

The FCA confirms that ground levels for the development site range between 7.08-8.68m AOD and it is proposed that the site will be raised to the level of the adjoining road to the south of the site, which is 8m AOD. Based on these proposed site levels (8-8.68m AOD), the FCA confirms:

A1.14 Criteria

During a 1% (1 in 100 year) plus 25% for climate change annual probability fluvial flood event, the predicted flood level is 9.12m AOD. Therefore, the development site is predicted to flood to maximum flood depths between 1.12m and 2.04m. This fails A1.14 criteria that states all development should be flood free during this event. During a 0.5% (1 in 200 year) plus climate change (LOD 2098) annual probability tidal flood event, the predicted flood level is 9.70m AOD. Therefore, the development site is predicted to flood to maximum flood depths between 1.7m and 2.62m. This fails A1.14 criteria that states all development should be flood free during this event.

A1.15 Criteria

During a 0.1% (1 in 1000 year) annual probability fluvial flood event, the predicted flood level is 8.54m AOD. Therefore, the development site is predicted to flood to maximum flood depths between 0.54m and 1.46m. This is beyond the tolerable limits of A1.15 criteria (<1000mm). During a 0.1% (1 in 1000 year) plus climate change (LOD 2098) annual probability tidal flood event, the predicted flood level is 10.48m AOD. Therefore, the development site is predicted to flood to maximum flood depths between 2.48m and 3.4m. This is beyond the tolerable limits of A1.15 criteria (<1000mm).

The proposed development has demonstrated negligible third party land flood related impact in the 1 in 100 year event and minimal third party land flood related impact in the 1 in 1000 year event, this has been corroborated by NRW therefore the proposed development is not considered to have an unacceptable adverse impact on flooding/flood risk off site. It is not considered the proposed development conflicts with the requirements of section A1.12 of TAN15.

It is noted that within the NRW historic flooding dataset that the site has not historically flooded nor are there recorded historic flood events identified in the modelled reach of Nedern Brook. Land levels on site cannot be raised further without having an adverse impact upon flooding/flood risk off site.

The application site is within a C1 flood zone, this is classified as “Areas of the floodplain which are developed and served by significant infrastructure, including flood defences”, “Used to indicate that development can take place subject to application of justification test, including acceptability of consequences” With the nature of the development classified as “less vulnerable”. Section 6 of

TAN15 requires the Local Planning Authority to determine whether the development at this location is justified and accords with the tests outlined within section 6. The tests must be applied sequentially with the proposed development satisfying points i or ii and iii and iv. The tests are;

- 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; 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; and,
- iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
- 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.

Test i is not applicable. The proposed development site is allocated for industrial development within the adopted LDP and therefore test ii is met. The application site is an undeveloped parcel of land and thus does not meet test iii, however whilst the proposal does not strictly meet this definition its allocation for industrial development within the LDP is considered to outweigh this element of the tests and therefore is not considered to be a sufficient reason for planning consent to be withheld in isolation.

However, the FCA submitted in support of this application has not demonstrated that flood risk on site is of an acceptable level as set out by sections A1.14 and A1.15 of TAN15 and therefore the proposal fails test iv. It is therefore considered that the proposed development is unjustified and contrary to the requirements of TAN15.

6.10 Drainage

Given the scale and nature of the proposed development it will be subject of Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems; designing, constructing, operating and maintaining surface water drainage systems'. The applicant has provided a drainage scheme/destination for surface water drainage and engaged with the Local Authority's Drainage Department in the form of a submission for pre-application advice. No objection in relation to drainage has been raised by the Lead Local Flood Authority (LLFA) in response to this application.

The site is within a Source Protection Zone (SPZ) and internal drainage board area. Dwr Cymru Welsh Water have been consulted on this application and raise no objection in this respect. DCWW made comments relating to the presence of sewers in the vicinity of the application site and confirmed that they would not support operational development within 3 metres either side of the centreline of the sewers and requires that the location of these assets is to be determined prior to the commencement of development. This is controlled by legislation outside of the Town and Country Planning Act and therefore would not warrant the refusal of this application for planning consent. Should this application be supported an appropriately worded informative would be attached to the grant of planning consent. DCWW raise no objection to the proposal subject to conditions.

6.11 Economic Development

This proposal is the final phase/parcel of land within the area that would form part of an existing industrial estate. The proposed development would generate much needed employment space within the County and meet the objectives of the adopted LDP. The proposed development complies with LDP Strategic Policies S8 and S9 which aim to provide additional employment land and to deliver the Council's vision for sustainable economic growth.

6.12 Response to the Representations of Third Parties

The main points of the objections received are addressed below.

Loss of green/open space – The land is private with no right of public access; therefore it is not a useable or community asset at risk. The site is allocated for development within the adopted LDP and so the principle of the development is established.

Impact upon ecology - The application has been accompanied by a number of surveys which identify limited ecological value to the site. The proposed scheme has been designed to provide an ecological net benefit and thus this concern would not warrant the refusal of this application.

Pollution (noise, light and air) – The Council’s Environmental Health Officer has been consulted on this application and raises no in principle concerns/objection to the proposed development but has required a noise impact assessment should the application continue with a B2 use. Given the context of the site and provided a noise impact assessment can demonstrate no unacceptable impact it is not considered that the development would have any unacceptable adverse impact upon the living conditions of neighbouring occupiers given the separation distances and general relationship between the site and the closest neighbouring dwelling(s). Should the application be considered for approval it is considered that conditions can adequately address impact in respect of noise/light and air pollution. The impact upon the living conditions of neighbouring occupiers has been considered within an earlier section of this report.

Detrimental impact upon traffic – This has been considered by the Local Highway Authority and is deemed to be acceptable.

Loss of trees/hedgerow – It is considered that adequate mitigation has been proposed to compensate for the proposed development; this has been addressed within an earlier section of this report.

Concern over the specification of the planting scheme – The proposed scheme has been considered by the Council’s Ecologist and Tree officer and is deemed to be acceptable.

Visual impact of the proposed development with particular reference to colour of the units – the principle of erecting industrial style buildings is considered to have been established within the allocation of the land. However, it is not considered that the buildings would result in any unacceptable adverse visual impact that would be unacceptably detrimental to the amenity/character of the area. The proposed grey colour is not considered to be visually prominent or unacceptable within the context of the site.

Concern relating to drainage and flooding – The applicant has identified a drainage destination as part of this application and engaged within the SuDS pre-application service with the SAB at Monmouthshire Council, therefore no objection has been received from the drainage officer at MCC. Due to the scale of the development a SuDS application would need to be agreed prior to the commencement of development and constructed in accordance with the scheme. SuDS is separate legislation outside the remit of planning legislation and therefore this consent can be obtained following the grant of planning consent. Drainage is a material consideration in the assessment of a planning application and it is considered that the applicant has satisfied the requirement for this application to proceed.

In respect of flooding, it has not been possible for the FCA to demonstrate on-site flooding/flood risk to an acceptable level in line with TAN15 and therefore this application is recommended for refusal.

Question of the need for the development – The LDP allocates land in accordance with an evidence base. Therefore the principle of the development was established when the LDP was adopted.

6.13 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 WCFG 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 WCFG Act.

6.14 Conclusion

The application site is allocated for commercial/industrial development within the adopted Monmouthshire LDP (Policy SAE19(H)). The site is within a defined settlement boundary and is in a sustainable location well served by local amenities, accessible by both public and sustainable modes of transport. The development would provide much needed employment facilities and would support the economic objectives of the Council. The site at present has limited ecological value and the proposed development would adequately compensate for the losses required whilst providing a net benefit for ecology/biodiversity. No concern is raised in respect of highway safety or upon the living conditions of neighbouring occupiers. Additional information would be required in support of the final development however this is standard for outline planning consent and it is considered that all information currently outstanding could be controlled via condition and submitted at Reserved Matters stage. The application, however, has not been able to demonstrate that flood risk on site can be managed to an acceptable level in line with sections A1.14 and A1.15 of TAN15 and therefore fails the justification tests within section 6 of the TAN. Therefore the proposed development is recommended for refusal.

7.0 RECOMMENDATION: REFUSE

Reason(s) for Refusal:

The proposed development has failed to demonstrate that flood risk on site can be managed to an acceptable level in accordance with sections A1.14 and A1.15 of Technical Advice Note (TAN) 15: Development & Flood Risk (2004) and therefore represents unjustified development contrary to TAN15.

Application Number: DM/2022/00815

Proposal: Installation of bio-mass boiler unit (990kW heat) and ancillary equipment, fuel (bio-mass) storage area, replacement of underground heating pipes, installation of 500mm. dia. flue pipe, together with cladding of previously open NE elevation of building with colour coated steel sheets to match existing. The installation is currently being undertaken and will be required solely to provide heat for the farm's poultry unit. The bio-mass boiler is to replace an existing LPG (fossil fuel) heating plant

Address: Trostrey Court Farm Barns, Clytha Road, Trostrey Common, Gwehelog, Monmouthshire

Applicant: Alkana Corporation Ltd

Plans: Site Plan 0088/22/01 - , All Existing Plans 0088/16/03 - , All Proposed Plans 0088/22/03 - , Photography PHOTO1 - , Photography PHOTO2 - , Location Plan 0088/22/00 - , Other Air Quality Assessment by Sol Environment - Feb 2023, Other LSO 220710 TIDY PLANET USK RHI REPORT V1 Stack Emissions Monitoring Report

RECOMMENDATION: Approve

Case Officer: Ms Kate Bingham
Date Valid: 27.06.2022

This application is presented to Planning Committee due to the number of objections

1.0 APPLICATION DETAILS

1.1 Site Description

This application site is part of a larger complex of buildings formerly used as a Combined Heat and Power Plant (CHP Plant), and forms part of a substantial range of modern farm buildings near the main farmhouse Trostrey Court. Existing poultry houses and former dairy farm buildings lie to the north of the site while to the south, east and west is adjacent open farmland. A County Class 3 highway runs immediately adjacent to the farm, although a private farm access road allows direct access from the farm's fields to the main Usk to Abergavenny Road.

The site is within the Phosphorous Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC). The site is not within any other designations.

1.2 Background

Trostrey Court is an existing enterprise of 500 acres. Until recently the farm had a large dairy enterprise but that has now ceased, however the adjacent large poultry unit continues to operate - an operation that consumes a considerable amount of heat and electricity. In 2007 permission was granted to build a power generation plant to provide heat and power for the farm, with surplus electricity being sold to the grid. Over the years this grew to a larger plant (CHP Plant) that was fuelled by gasifying wood chip/bio-mass for the generation of low carbon/renewable heat and power as a direct replacement to fossil fuels - in this case gas. However due to technical difficulties the plant was not able to operate to its full operational capacity and has since been decommissioned. This decommissioning included the removal of various flues/vents from the roof of the existing building, as well as an external gas tank, coolers and a flare stack.

1.3 Value Added

Air Quality Assessment provided.

1.4 Proposal Description

This application seeks planning permission for the installation of a non-fossil fuel heating system within part of the existing redundant CHP Plant building to serve the adjoining farm poultry unit at Trostrey Court Farm. Part (approx. 20%) of the redundant building will house the bio-mass boiler and associated fuel store. The previously open north-east elevation of the building has been enclosed and clad with colour coated steel sheeting to match the existing. Except for a section of the boiler flue exhausting one metre above the ridge of the building and the replacement and upgrading of existing underground flow and return heating pipes that run between the application building and the adjacent poultry sheds, all the scheme's installation works are within the existing building's footprint. The installation work is currently being undertaken but the plant is not yet operational.

The proposed boiler unit comprises a 990 kW (heat) unit designed to use waste bio-mass material (wood chip) at a maximum of 330 kg/hour at full output, but would modulate during the day / night / season and reduce to around 66% of that quantity.

The biomass boiler proposed, would be fuelled by virgin wood and 'Grade A – Clean Recycled Waste Wood' only, and provide energy for hot water for heating of the existing chicken sheds on the farm. Grade A wood is clean and untreated pre-consumer waste wood and untreated wooden packaging derived virgin wood.

The definition of 'clean' waste wood is established under British Standard PAS111:2012 adopted by the Wood Recyclers' Association as the industry standard for grading used woods. This type of wood is commonly used as a fuel in domestic biomass installations and is typically made up of solid softwood and hardwood, packaging waste, scrap pallets, packing cases, cable drums, process off-cuts from the manufacture of virgin/sawn timber and untreated board products. The aim of PAS 111 is to provide a specification for individuals and organisations recovering and processing post-industrial and post-consumer waste wood into wood products such that potential customers will be assured that they are procuring a material of consistent and verifiable quality. If the minimum specification is met or exceeded then the material is PAS 111 compliant; if the minimum requirements are not met, then the material is non-compliant.

The limited scale of the proposal means that it falls under the threshold that would require an Environmental Impact Assessment (EIA). Being under 1MW, the proposed unit will also be under the thermal output level for a non-waste wood fuel boiler and so will not need to be regulated by Natural Resources Wales as a Medium Combustion Plant. Furthermore, the proposed bio-mass boiler will not require a Permit under Part B from the Local Authority (Environmental Health) as it is below the 20MW threshold for a boiler burning virgin or Grade A wood.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
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DM/2018/01641	Erection of fuel storage building to replace existing open storage compound, relocation of 2 no. portable office buildings together with parking provision and internal diversion of nine existing engine exhaust flues to new single 17m flue stack (in lieu of buildings and 17m flue stack previously approved under application DC/2016/01465).	Withdrawn	29.04.2021
DC/2010/00437	Proposed extensions to agricultural generator building	Approved	22.07.2010
DC/2011/00373	Proposed extension to agricultural generator building - for storage and processing/drying of straw, etc.	Acceptable	17.05.2011
DC/2007/01200	Erection of agricultural building for storage and standby electrical generation with new access way.	Approved	01.11.2007
DC/2017/01078	Alterations and extensions of existing combined heat and power plant.	Withdrawn	03.09.2018
DM/2021/01812	The proposed use as a bio-mass heating facility to provide heat for the farm's poultry unit within an existing agricultural building, will be an agricultural use and within the ambit of the existing agricultural consent.	Withdrawn	30.06.2022
DC/2008/00833	Proposed construction of weighbridge and ancillary building.	Approved	26.09.2008
DC/2017/01125	Dairy cow housing.	Approved	24.11.2017
DC/2008/01424	Retention of variations and amendments to previously approved scheme (LB Application No: M/10606) for conversion to three dwelling units.	Approved	24.04.2009

DC/2009/00208	Conversion of former stables and cider mill to three dwelling units (retention of changes from approved scheme M/10599, including alterations to fenestration).	Approved	22.04.2009
DC/2012/00882	Proposed straw storage barn	Approved	18.02.2013
DC/2008/00835	Retention of agricultural building to house electrical generating unit, fuel tanks, switch gear and ancillary accommodation, concrete apron, gas tanks and access.	Approved	17.07.2009
DC/2009/00665	Proposed Construction of Roof over part of existing silage bay	Approved	11.08.2009
DC/2006/00947	Alterations and conversion, including rebuilding of collapsed/unsafe areas and re-roofing	Approved	11.07.2007
DC/2008/00834	Retention of siting of portable building to provide staff facilities for poultry farm.	Approved	09.09.2008
DC/2008/00570	Proposed change of use and alterations to former workshop building to provide office/workshop units (class B1).	Approved	09.07.2008
DC/2008/00229	New private drive with parking areas to serve Trostrey Court and Trostrey Court Cottages.	Approved	05.08.2008
DC/2016/01465	Alterations, efficiency and safety improvements and extensions to existing wood powered electrical generating plant (a Combine Heat and Power Plant - 7.2MWe/hr. wood fuel powered) to better screen and improve existing bio-mass fuel storage compound, provide a feedstock (wood) fuel storage area, chipping building, char storage building, 3 no. feedstock (woodchip) storage silos, dryer plant with flue, emergency by-pass flare stack, and associated plant and works.	Approved	01.03.2017

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S10 LDP Rural Enterprise
S12 LDP Efficient Resource Use and Flood Risk
S13 LDP Landscape, Green Infrastructure and the Natural Environment
S17 LDP Place Making and Design

Development Management Policies

SD1 LDP Renewable Energy
LC1 LDP New Built Development in the Open Countryside
LC5 LDP Protection and Enhancement of Landscape Character
DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
NE1 LDP Nature Conservation and Development

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

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

Planning Policy Wales (PPW) Edition 11

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

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

5.0 REPRESENTATIONS

5.1 Consultation Replies

Llanarth Community Council - The Council objects to the application because it lacks the clarity and detail required to make an informed decision:

- the applicant proposes to use wood chips/fines as fuel, but the boiler manufacturer states this model runs on solid fuel waste including Refuse Derived Fuel (RDF).
- if the boiler uses wood chips, will this include waste wood which may contain contaminants?

- there are no verifiable emissions data supplied as part of the application, which we know is a concern for local residents.
- it is not clear if the 330kg per hour figure is an estimate of potential use or the maximum capacity of the proposed plant.
- we understand that an application to NRW for a permit under the Environmental Permitting Regulations has not been made (at 25th July 2022); will this plant require instead a Small Waste Incinerator Plant permit (SWIP) from MCC, and if so, has an application to Environmental Health been made?
- We note the plant is described as being in the process of installation. Please confirm that it is not yet operating (without planning permission or a permit).

Natural Resources Wales (NRW) - No objections. As noted in our previous response dated 9th September 2022 (ref: CAS-192670-X8V2), the application site is within 650m of the River Usk Site of Special Scientific Interest (SSSI). A number of notified features of the SSSI are sensitive to nitrogen, and therefore we previously requested further information on the emissions from the proposed flue.

We have reviewed the submitted Air Quality Assessment (AQA) prepared by Sol Environment dated February 2023. We are satisfied with the conclusions set out in the report. All process contributions are shown to be below the recommended guidance threshold (<1% of critical level/load) and can therefore be screened out as not significant in terms of impacts on sensitive ecological receptors. We therefore consider that the proposed development is not likely to damage the features for which the River Usk SSSI is notified and have no further comments to make.

The proposed application site lies in a landscape that has records of bats and dormice, European Protected Species. We recommend you seek the advice of your in-house ecologist to determine if there is a reasonable likelihood of European Protected Species' being present within the application site.

MCC Environmental Health (Noise) - No objections:

03/03/2023 - From a noise and nuisance perspective, our department has no objections to the above proposal.

15/05/2023 – I visited Trostrey Court Friday 12th May 23 while the biomass boiler was in operation. I have been advised that a baffle cowl was fitted to the stack on Wednesday 10th May 23, which I have been told, has made a difference in reducing the sound levels emitted from the biomass boiler.

There are also no sirens/alarms as part of a warning system anymore, they are now remote alarms/alerts sent to mobile phones.

While on site, I visited the closest sensitive receptor (point 20 in the noise report) and the sound levels from the biomass boiler were not above background sound levels.

I continue with my original response, advising no objections in relation to noise nuisance.

12/06/23 - The "Occupational and Environmental Noise Survey" dated 29/03/23 was not adequate and did not meet the standard (BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound) which would be expected for this sort of development, if noise was suspected to be a concern. This particular report was not requested by EH. The methodology of the Survey was not correct for this sort of development and it was also undertaken during poor weather conditions so the reported sound levels would not be representative. BS 8233, also referred to, is for new residential developments and therefore again would not be appropriate to this planning application.

Since the Survey the applicant has installed sound mitigation. I visited the area on 12/05/2023, when the background sound levels were typical for what I would expect and the bio-mass boiler was in use. I did not experience any significant noise in the vicinity of the nearest dwelling and therefore do not object to this application.

MCC Environmental Health (Air Quality) – No objection:

18/07/2023 - The original SOL Air Quality Impact Assessment (AQIA) assumed worst case emissions i.e., the emission limit values in the Medium Combustion Plant Directive (MCPD) for a bio-mass boiler large enough to require an Environmental Permit under the MCPD. This facility is not large enough to require a MCPD permit, and as it will use virgin/clean recycled wood, rather than waste wood, would not require an Environmental Permitting Regulations Permit.

The AQIA used the ADMS 5.2 dispersion model to predict the stack emissions at a number of nearby receptors and compared the results to the assessment of significance tables in the Institute of Air Quality Management Planning Guidance, concluding that the impact would be negligible and not significant. The applicant then commissioned stack emission monitoring to determine actual emission levels, rather than assuming MCPD emission limit values, and that report identified that emissions would be below those values. As such the AQIA's conclusions remain valid.

Therefore I have no further comments with regard to air quality.

22/03/2023 - The proposed bio-mass boiler is just under 1MW, and therefore would not be regulated by NRW as a Medium Combustion Plant, however to derive the modelling data the consultant used the emission limit values given in the MCP Directive to give a prediction as to the worst case emissions from the bio-mass boiler. In some ways the modelling was conservative, assuming a maximum level of emissions allowable by the MCPD, and assuming all dust emissions are fine particles (PM10 and PM2.5), with the plant operating at full load continually.

Further information requested:

1. I would prefer to see actual emission data from the specific bio-mass boiler, based on actual monitored emissions, using the exact fuel stock that will be used at the farm, rather than assumed worst case data.

Response: Monitoring of the bio-mass boiler was carried out at the end of January 2023 utilising the proposed non-waste bio-mass. A summary of the NOx and total particulate matter emissions are compared to the assumed levels for the assessment have been provided. It should be noted that the reference conditions assumed for the assessment were at 6% oxygen. The monitoring report presents results at 10% oxygen. Therefore, the monitored results are recalculated at 6% oxygen to allow a direct comparison with the assumed values. Measured NO concentrations were 30% lower than assumed for the assessment and are well below the emission limit values (EL) used within the report. TPM concentrations are less than half that assumed for the assessment. Therefore, it is concluded that the assessment provided is representative of the worst-case and the plant will easily meet the ELVs used in the report.

2. The type of fuel to be used will impact on the emissions, and so should also be taken into account. Furthermore the background Air Pollution maps used would not take into account human derived emissions in the area. I appreciate that these should be low, as it is in a rural area, however activities like poultry farming can create emissions, as can vehicle use. As such I would like to see the assessment take this into consideration.

Response: The Defra background mapped data does take into account human derived emissions, including the impact of vehicle emissions on local roads. To provide a worst-case background concentration, the nine 1 km² grids around the site were considered and the highest concentration adopted as the background. For example, for NO₂, concentrations ranged between 4.5 and 5.4 ug/m². The grid for the site location had a mapped concentration of 4.9 ug/m³, 0.5 ug/m lower than was assumed for the assessment. It is understood that the poultry sheds generate up to 3 heavy duty vehicles (HDs) per day (6 HDV movements). This is well below the IAQM criterion for requiring a detailed air quality assessment (100 HDV movements). Therefore, it is concluded that the vehicle movements associated with the poultry sheds would have a negligible impact on local air quality. Combined with the worst-case background and the low number of HD movements, it is concluded that the cumulative impact of the bio-mass boiler and poultry shed traffic is more than adequately covered by the assessment provided.

3. I would appreciate some consideration as to the change in local air quality based on the current method of heating the poultry sheds.

Response: It is understood that the poultry sheds are currently heated by LPG and this will contribute to local air quality. Offsetting the existing emissions against the proposed emissions was not provided in the assessment so as to provide a worst-case analysis. Furthermore, the LPG heaters will be retained for emergency use should the bio-mass boiler be unavailable. It should be noted that there would be no circumstances where the LPG heaters and bio-mass facility would operate at the same time. The emissions from the bio-mass facility are acceptable when they are considered alone. The overall impact would be less had account been taken of the significantly reduced operation of the LPG heaters.

MCC Landscape/GI - Based on the information provided the proposed development is acceptable from a landscape and GI perspective based on the information provided and will not have an unacceptable visual impact on the character and appearance of the valued Upper Usk Valley landscape and its setting, provisions of Planning Policy Wales (Edition 11) February 2021 and policies S13, NE1 and LC5 of the adopted LDP.

SEWBRc Search Results – Bats and Dormice recorded within the vicinity of the site.

5.2 Neighbour Notification

Representations from four neighbouring households received objecting on the following grounds:

- I am concerned that there appears to be too many unanswered issues with this application which might turn out to be entirely unsuitable, particularly with reference to the previous attempts on the same site for an incinerator:
 - i. The application itself contains very little information about emissions control and how this will be monitored and managed on a long term basis.
 - ii. What fuel stock will be used? Wood chips, fines and solid waste are all mentioned.
 - iii. The reference to two lorries per week does not specifically say that this is the capacity of the plant.
 - iv. It is possible that the developer could ramp up generation in future - by how much? How would that be controlled and or enforced?
- The documentation submitted suggests that this is a small incineration plant. I am extremely concerned about the pollution and traffic issues that would result.
- Local knowledge can evidence that in cold and still anticyclonic weather conditions, or in the evening when there is less background noise, it is a near certainty that the bio-mass boiler noise will be a highly intrusive and disturbing noise source that will adversely affect neighbouring amenity, and the amenity of walkers using Potters Road.
- The Noise Survey needs to be redone, and to be undertaken during still weather conditions when the lower atmosphere is layered and temperature inversion can reflect rising sounds back down, a commonplace occurrence in the Usk Valley.

5.3 Other Representations

Two further objections and one supporting statement received:

Avara Foods (Support):

Avara Foods are a joint venture between Freemans of Newent (formerly Cargill Meats Europe) and Faccenda Foods Ltd. I confirm that the company has a long-standing relationship with the Morgan family, who are a valued member of our Herefordshire broiler grower base and have operated this broiler farm for many years for Cargill and now Avara Foods. Over the duration of the relationship the family have made significant investments at the site resulting in the operation of a highly efficient poultry unit. Avara Foods have set a science based target to be net zero by 2040. This includes our whole supply chain and therefore our supply farms too. Renewable energy sources on farms significantly contribute to reducing on farm emissions and we encourage all farms to apply for installations wherever possible and viable. 90% of our existing broiler supply

farms have at least one source of renewable energy and we will continue to encourage investments in this field to achieve 100%. We always strive for our suppliers to continue making investments in their farm and therefore we fully support this application for the installation of a bio-mass boiler unit, especially as Trostrey Court Farm falls into the 10% of farms without renewable energy. The new unit will allow the farm to move away from LPG heating, providing a renewable source of heat for the chickens which will make the farm much more sustainable and environmentally friendly. The new bio-mass unit will also improve the conditions of the environment within the poultry houses.

Biofuelwatch (Objection):

We believe that the information submitted by the applicant is insufficient and contradictory and that it does not form a credible basis for granting planning permission. According to the Planning Statement, there will be "no visible plume from the external roof flue" because of a flue gas filter "which captures all the smoke particles". The applicant seems to confuse the terms 'plume' and 'smoke'. A visible plume forms dependent on temperature differences between the water vapour discharged and ambient temperature. Depending on location and height, it may well impact on the visual amenity and landscape of the area, which are material planning issues under Monmouthshire's Local Plan, Policy SP13.

According to the Planning Statement, "emissions are well below the mandatory levels set by the Environment Agency/NRW". Yet, as the developer concedes, the plant does not require an environmental permit as a medium combustion plant. The only reason why a permit would be required would be if the plant was operated as a small waste incineration plant. We would suggest that the Planning Department requests information from NRW to establish whether such an application has indeed been submitted to them and what the details are.

Assessing the air quality and public health impacts of the proposed heat plant requires reliable information about the operations of and emissions from the boiler. The Planning Statement contains an incomprehensible sentence: "Levels of nitrous oxide (NO_x) particulates from this particular boiler a filter will be less than 5mg./m³ (max. permissible is 30mg/m³)." Clearly a word is missing and the developer must mean either nitrogen oxides or dust (PM₁₀), because nitrous oxide is not regulated under any environmental permitting rules. The document from Tidy Plannet, the distributors of the boiler the developer wants to install, on the other hand, states that dust (PM₁₀) emissions will be less than 5/m³,/m³.mg and emissions of NO_x less than 150 mg. All of those emission figures are unusually low for a boiler with a capacity of ~1MW. If the capacity was between 1 and 5 MW, thus falling under the Medium Combustion Plant Directive as applied in m3 Wales, the emission limits would be 500 mg/for NO_x and 50/m³ mg for dust. We therefore believe that evidence of actual emissions should be required and used as the basis for assessing the public health and air quality impacts.

Stop Waste Incineration, Protect the Environment (SWIPE) (Objection):

The Air Quality Assessment (AQA) fails to consider the impact on air quality for walkers using the Potters Lane (C215-8) public route which passes alongside the bio-mass installation. Defra's Technical Guidance 22 refers in its Chapter 7 to pollutants from bio-mass combustion (Table 7.4) and from poultry farms (table 7.3). The Sol AQA accepts that footpath use will lead to transient exposure, but then fails to include Potters Lane on its list of Human Health Receptors at its Table 3.2. Walkers are sensitive receptors. The Sol AQA needs to explicitly consider Human Health Impacts from the bio-mass combustion, in combination with particulate matter emissions from the poultry units that also adjoin Potters Lane.

We note and welcome the applicant's suggestion (via Mr Butler's comments, 17 August 2022) that fuel stock is identified as "virgin, forestry and untreated waste wood only", and if the application is recommended for approval, it should be conditioned as such.

We consider that it is critical that waste codes are provided in the documentation, because it is important to ensure that *only* material specified by the relevant codes is utilised. Supply sources and economic conditions change over time and it is reasonable to predict the applicant may seek

to change the type of fuel used in future. Any change of fuel stock to treated wood or other fuel should necessitate a reassessment/approval by the LPA, and will also require a change to the permitting regime.

The boiler selected by the applicant (Sugimat Horizon 1000+) is capable of utilising not only “clean” waste wood, but also RDF (Refuse Derived Fuel) and SRF (Solid Recovered Fuel). RDF is produced from municipal solid waste (MSW), industrial waste and commercial waste, and can contain plastics as well as biodegradable material. Clearly emissions from a plant burning RDF – which may include heavy metals, dioxins and furans - are potentially more harmful to the locality and residents. This choice of boiler is puzzling if, as the applicant says, the aim is solely to provide heat for the farm’s poultry business.

Sugimat’s boilers are not listed on Ofgem’s RHI Emissions Certificates register (rhielist.org.uk) which contains data for over 80 manufacturers who supply bio-mass boilers, including many to the poultry industry. This might suggest that no Sugimat boiler has been used to generate heat from bio-mass at least until the end of March 2021 when the non-domestic Renewable Heat Incentive closed to new applicants. The fact that Sugimat is not registered also means there is an absence of verifiable emissions data which is required to assess air quality and public health impacts.

In light of the applicant’s past proposal to burn RDF in an incinerator, there is a legitimate concern that this proposal may be resurrected in future – and that this boiler could be an important “building block” for such a plant.

Changes to the type or volume of the fuel used in this boiler will impact its status and subsequent permitting regime. If, for example, it burns *any* amount of treated wood, even if the overall volume remains the same, we understand it may then be defined as a small waste incineration plant and require a SWIP permit. Any future application to burn mixed waste at this site will conflict with the LDP and Welsh planning and waste policy, and will meet strong objection locally.

It is highly likely that a visible plume will form, influenced by temperature differences between the discharged water vapour and ambient temperature. This will conflict with MCC’s policy LC5: Protection and Enhancement of Landscape Character.

The applicant states additional traffic from incoming fuel stock and outgoing ash will be low and will utilise the private farm road out onto the B4598. Even small numbers of additional HGV traffic on small country lanes - if the above route is not adhered to - can cause unacceptable levels of noise, disruption and pollution. All traffic to the site must either use or cross the unclassified Clytha Road.

We welcome the confirmation that all bio-mass fuels delivered to the plant would be sourced in the south Wales region, in line with Welsh Government requirements on the circular economy. If the application is recommended for approval, it should be conditioned as such.

“Smoke” and “plume” are not interchangeable terms.

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 Policy S12 of the Local Development Plan states that all development must demonstrate efficient resource use including increasing the supply of renewable energy. In this case the bio-mass boiler would replace the use of LPG, a fossil fuel that is currently used to heat / cool poultry sheds on the farm.

6.1.2 The use of bio-mass fuel is considered to be a renewable fuel as the carbon dioxide produced during the burning process is offset by that absorbed during the growing process of the

trees. Even though the combustion of renewable fuels produces carbon dioxide, this activity displaces the use of fossil fuels (in this case LPG) and therefore results in a reduction in overall carbon emissions. The benefit of this type of energy generation is considered to outweigh any carbon emissions from transport movements as a result of the development as all wood will be sourced from within the South Wales area.

6.1.3 Other considerations relate to the visual impact of the external parts of the development on the wider landscape and the impact on local amenity in terms of air quality and noise.

6.2 Good Design/ Place-making

6.2.1 The external works proposed to facilitate the installation of bio-mass boiler unit and ancillary equipment and storage area comprise the replacement of underground heating pipes, installation of 500mm. dia. flue pipe, together with cladding of a previously open north-eastern elevation of the building with colour-coated steel sheets to match existing. The previous flue stack, gas buffer tank and coolers have been removed from the site.

6.2.2 The relatively minor changes to the existing site are considered to be appropriate in the setting of the existing, substantial farm complex and will not have an unacceptable visual impact on the character and appearance of the site. As such there will be no conflict with the provisions of LDP Policy DES1 relating to good design.

6.2 Landscape Impact

6.2.1 As the site is within the open countryside, Policy LC5 of the LDP applies. The site is located within an existing complex of agricultural buildings set within the Upper Usk Valley Landscape Character Area (LCA) characterised by flat, river valley floodplain, of alluvium soils flanked by low river terraces of sand and gravels. It is a landscape of outstanding ecological interest identified as a rare example of a large mesotrophic lowland river. Large fields of arable crops and improved pasture dominate. It is an open landscape, enclosure provided only by low intensively managed hedges, in places replaced by post and wire fencing, individual field trees, hedgerow trees and linear tree belts with sinuous lines of willow and alder, following water courses.

6.2.2 The inclusion of the River Usk SSSI/ SAC within the area, whilst only taking up 5% of the LCA land area does emphasise the Landscape Habitat importance of this LCA. An analysis of the relevant sensitivity appraisals from LANDMAP information indicates that the LCA has been evaluated as;

Visual and Sensory; 4% Outstanding, 90% High
Landscape Habitats; 5% Outstanding
Historic Landscape; 7% Outstanding, 89% High
Cultural; 36% Outstanding 64% High

6.2.3 The proposal is primarily the internal boiler installation, renewal of pipes and recladding an existing building with cladding to match that existing together with the installation of a short flue terminating 1m above the ridgeline. The supporting analysis indicates that there will be emissions within permissible levels and no visible smoke from the exhaust stack (except when first operational). It is accepted that there may be a plume of vapour visible during certain weather conditions. Given the intermittent nature of this, and the fact that the plume will be viewed in the context of an existing working farm and large agricultural sheds, this is not considered to reasonably justify the refusal of the application in the context of LDP Policy LC5 - the plume would not permanently or adversely affect the character of the wider landscape.

6.2.4 The relatively minor changes to the existing site are considered to result in a development that is acceptable from a landscape perspective and would not have an unacceptable visual impact on the character and appearance of the valued Upper Usk Valley landscape and its setting.

6.3 Impact on Residential Amenity (Including Air Quality and Noise)

6.3.1 An Air Quality Assessment (AQA) has been undertaken to demonstrate the emission levels from the proposed development. The applicant's consultant has used ADMS dispersal modelling 5.2 to determine predicted nitrogen dioxide, PM10 and PM2.5 at a fifteen locations around the site. The modelling has indicated that alongside the background levels in the area (obtained from DEFRA's Background Air Pollution maps), the bio-mass boiler would have a negligible and not significant impact on local receptors. This assessment has been derived using the methodology given in IAQM's Air Quality and Planning Guidance, and compared against the Local Air Quality Management regime's emission limit values for ambient air quality. The applicant then commissioned stack emission monitoring to determine actual emission levels, rather than assuming MCPD emission limit values, and that report identified that emissions would be below those values. As such, the Council's Environmental Health Officer has confirmed that the AQA's conclusions remain valid.

6.3.2 The proposed boiler is fitted with an automatic ash removal system to ensure effective combustion with the ash residue being approx. 5 - 10% of the incoming fuel quantity. The ash produced is non-hazardous and a valuable source of organic minerals. Flue gases are cleaned via a ceramic flue gas filter which captures the smoke particles ensuring that there is no visible smoke from the external roof flue beyond those visible when the boiler is first lit. The emissions are below the mandatory levels set by Natural Resources Wales. Similar installations are in use in many poultry units in the County and nationally.

6.3.3 In terms of noise, TAN11 (Noise) states that Local Planning Authorities must ensure that noise generating development does not cause an unacceptable degree of disturbance. Measures introduced to control the source of, or limit exposure to, noise should be proportionate and reasonable, and may include containment of noise generated (e.g. insulating buildings which house machinery). In this case, it is accepted that the boiler will generate noise and sound insulation has therefore been installed to minimise this in the form of a baffle cowl to reduce emitted noise from the stack, which is understood to be the main emission point. A baffle cowl is an external cover that substantially reduces noise emission.

6.3.4 When assessing the impact of any noise generated from the boiler, it is important to take into account the noise that would be expected from the current agricultural use. This will include noise from existing Heavy Goods Vehicle movements in association with the poultry farm as well as movements of other agricultural machinery and the extraction fans in the chicken houses.

6.3.5 An Occupational and Environmental Noise Survey was submitted by the applicant in support of the application prior to the installation of the baffling cowl. The recommended limit for "disturbing" nuisance noise in the UK is 70dB and the Noise Survey found that the levels detected outside the limits for the property and within the field were below these levels. Noise detected towards the neighbouring property was ranging from 47.5 dB to 66dB, although this was also contributed by some wind noise and wildlife. It was noted that although sound was not excessive, the frequency of the heating plant could be heard above the background noise which led to the recommendation to install the cowl which is considered to be proportionate and reasonable in this case (proposed condition 3 covers this point).

6.3.6 It is accepted that this survey did not meet the relevant standard (BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound) which would be expected for this sort of development if noise was suspected to be a concern. Notwithstanding the quality of the noise survey, the applicant has since installed sound mitigation referred to above. The Council's Environmental Health Officer visited the area when the background sound levels were typical and the bio-mass boiler was in use. The Environmental Health Officer has confirmed that they did not experience any significant noise in the vicinity of the nearest dwelling and therefore there are no grounds on which to sustain an objection to this application based on excessive noise.

6.3.7 On the basis that the proposed boiler would not have any adverse effect on local amenity in terms of air pollution or noise nuisance, the development does not conflict with any of the provisions of LDP Policy EP1.

6.4 Access / Highway Safety

6.4.1 No changes to access or parking are proposed as part of this application. It is understood that the poultry sheds generate up to 3 heavy duty vehicles (HDVs) per day (6 HDV movements). The proposed bio-mass boiler will generate an additional 2 delivery vehicles per week. All delivery vehicles will utilise the private farm road out onto the B4598. Therefore, it is concluded that the vehicle movements associated with the proposal would have a negligible impact on highway safety or local amenity.

6.5 Biodiversity

6.5.1 The application site is within approximately 650m of the River Usk Site of Special Scientific Interest (SSSI). A number of notified features of the SSSI are sensitive to nitrogen, and therefore An Air Quality Assessment (AQA) has been undertaken to demonstrate the emission levels from the proposed development. NRW are satisfied with the conclusions set out in the report. All process contributions are shown to be below the recommended guidance threshold (<1% of critical level/load) and can therefore be screened out as not significant in terms of impacts on sensitive ecological receptors. We therefore consider that the proposed development is not likely to damage the features for which the River Usk SSSI is notified.

6.5.2 Planning Policy Wales (PPW) 11 sets out that “planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016. There are opportunities within the application site to provide enhancements for biodiversity either in the form of bat/bird boxes or new planting but no details have been provided to date. As such, should Members be minded to approve the application, any consent should include a condition requiring details of biodiversity enhancement features as well as a timetable as to when these will be implemented.

6.5.3 On the basis of the above and subject to a condition requiring enhancement for biodiversity, it is concluded that there will be no adverse impact on the SSSI and the provisions of PPW11 and LDP Policy NE1 are met.

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

6.6.1 Issues in relation to air quality and noise have been addressed above in Section 6.3 of this report.

6.6.2 If in the future, there are concerns of noise nuisance, for example, as a result of the bio-mass boiler not working correctly/ being in disrepair then it can be investigated by officers of the Council's Environmental Health section under the statutory nuisance provisions of the Environmental Protection Act 1990. A limit on the type of fuel to be used at the plant can be conditioned as requested by those making representations.

6.6.3 The questions raised by the Community Council have been addressed elsewhere in this report.

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

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

6.8 Conclusion

6.8.1 Having regard to the policy context above, the proposal is considered to be acceptable and planning permission is recommended subject to conditions.

7.0 RECOMMENDATION: APPROVE

Conditions:

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

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

2 The bio-mass boiler shall only use Virgin Wood or British Standard PAS111:2012 Grade A – Clean Recycled Waste Wood.

REASON: In the interests of local amenity in accordance with LDP Policy EP1, and to protect the integrity of the SSSI.

3 Before the bio-mass is used on the premises, it shall be fitted with sound insulation in accordance with details shown on Page 5 (CP03 - CA - 0500 Silencer) by Acoustica dated 24/7/23, and retained in perpetuity. Should the sound insulation require replacement, details shall be submitted to and approved in writing by the Local Planning Authority prior to installation.

REASON: In the interests of local amenity in accordance with LDP Policy EP1.

4 Prior to the first beneficial use of the biomass boiler, details of enhancement features for biodiversity together with a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The details as agreed shall be carried out in accordance with the approved timetable.

REASON: In the interests of the ecological and biodiversity value of the site and to ensure compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policies S13, and NE1.

Application Number: DM/2023/00797

Proposal: Change of use from C3 (dwelling) to sui generis (HMO - House in Multiple Occupation) for a maximum of 8 occupants

Address: 2 Little Hervells Court, Chepstow, NP16 5FF

Applicant: Mr Adam Vers

Plans: Site Plan 2326/01 - A, Location Plan 2326/02 - , All Proposed Plans 2326/03

RECOMMENDATION: Approve

Case Officer: Mr Ryan Bentley

Date Valid: 06.06.2023

This application is presented to Planning Committee upon request of the local member, an objection from MCC Highways and the number of unresolved objections received

1.0 APPLICATION DETAILS

1.1 Site Description

The application site comprises a recently constructed detached dwelling with accommodation arranged over four floors on Hervells Court, Hardwick Hill. The property benefits from a private rear amenity space and off street parking consisting of driveway and parking area immediately outside the dwelling, with a detached garage and parking area adjacent to the dwelling. The application site is within the Chepstow Conservation Area and within close proximity to the listed building, Lower Hardwick.

The application site falls outside of a flood zone as identified by the Development Advice Map (DAM) that accompanies Technical Advice Note 15: Flood Risk and Development and is outside of the River Wye Phosphates Catchment Area.

1.2 Value Added

The applicant has provided amended plans that details two bird boxes fitted on the north-east elevation. There will also be two bat boxes fitted on the north-west elevation. This would serve as biodiversity enhancement.

1.3 Proposal Description

This application seeks consent to use the property as a house in multiple occupation (HMO) for a maximum of 8 occupiers. This would result in a 'sui generis' use at the site (i.e. it does not fall into any specified planning use class such as A1, B1 or D2 etc). No external alterations are proposed to the property. The occupiers would utilise the existing parking provision and amenity space. Occupiers would have private bedrooms and communal living areas.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
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3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

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

Development Management Policies

DES1 LDP General Design Considerations
H9 LDP Flat Conversions
SD3 LDP Flood Risk
LC5 LDP Protection and Enhancement of Landscape Character
NE1 LDP Nature Conservation and Development
EP1 LDP Amenity and Environmental Protection
MV1 LDP Proposed Developments and Highway Considerations
HE1 LDP Development in Conservation Areas
HE2 LDP Alterations to Unlisted Buildings in Conservation Areas

Supplementary Planning Guidance

Monmouthshire Parking Standards (January 2013)
<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Mon-CC-Parking-Standards-SPG-Jan-2013.pdf>

Conservation Area Appraisal

Chepstow Conservation Area Appraisal (March 2016):
<http://www.monmouthshire.gov.uk/planning-policy/supplementary-planning-guidance/chepstow-conservation-area-appraisal>

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.

The Planning (Listed Building and Conservation Areas) Act 1990.

Technical Advice Notes

Technical Advice Note 24: Historic Environment.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Chepstow Town Council - Chepstow Town Council recommends refusal for the following reason(s):

1. The addition of an HMO where there is already a high density of these types of properties is an overdevelopment of the site and not appropriate in a conservation area.

MCC Heritage - No objection. This application proposes only a change of use at 2 Little Hervells Court, no external works are proposed. On this basis, no comment in regard to the change of use.

MCC Highways - Objection.

Concerns have been raised in relation to details to demonstrate that the additional parking requirements would not adversely affect the safe operation of the private shared drive and turning provision is maintained to ensure all vehicles access and egressing the three properties can be maintained.

Concerns relate to the shortfall in parking will add to the existing parking stress experienced on the adjacent public highway particularly Hardwick Lane and Steep Street which could compromise highway safety.

Concerns are also raised in terms of the number of similar applications for change of use, and that the increase in this type of development in this location is considered to be detrimental to the highway safety.

MCC Environmental Health - No response to date.

MCC Licensing - No response to date.

MCC Tree Officer - No response to date.

SEWBRc Search Results - Red alert and priority species of Bat, Bird, Moth and Weasel.

5.2 Neighbour Notification

The application has been advertised by direct neighbour notification and the erection of a site notice. Seven neighbour objections have been received to date, objecting on the following grounds:

- HMO density having a detrimental impact on the character of the area and the Chepstow Conservation Area. The density is in breach of Welsh Government Guidelines.
- Insufficient parking for the occupants of the HMO within the site and congested streets adjacent and near to the site. Vehicles have been blocking the lanes.
- Proposed parking spaces have already been allocated on previous applications to occupants of neighbouring property.
- Population density within the site. Overload the capacity of travel infrastructure within the town.
- Neighbouring properties not notified of the application.
- Loss of family housing with the change of use.
- Noise complaints from within the site.

- Report sent to Licensing sub-committee and residents given opportunity to speak. This has not been the case.
- Need for a balanced community within the area with lack of community cohesion with short term residents. Site is overpopulated. Negative impact from vulnerable people.
- Concerns with the rubbish bins.

It is noted that the applicant has submitted comments supporting the application.

- The application is to lease to MCC to provide housing for those in desperate need.
- Any HMO residents from Little Hervells Court are unable to use Hardwick Hill Lane and therefore there will be no impact to these properties. The application is from Hardwick Hill and not Hardwick Hill Lane.
- Regards to parking / traffic concerns, since number 3 Little Hervells and Envy House have been HMO properties the tenants have had a maximum of 2 vehicles (between 12 tenants). Should the HMO be granted 18 private parking spaces across 3 properties will be provided. The complaints regarding parking are nothing to do with the HMO properties.
- We have been living next door for a number of months and have never been disturbed by any of the tenants. We are aware that noise may be heard from the residents of number 4 Little Hervells Court as they have a large outbuilding used as a music studio and are often singing and playing instruments into the late evening. Again this is nothing to do with the HMO tenants.
- On the issue raised about rubbish, there have been a few occasions when seagulls have opened black bags on the road but these have been dealt with in a timely manner and we have never witnessed bags being 'left out for days'.
- The approval of this application will allow another 8 individuals to have a safe roof over their heads who may otherwise be on the streets / sleeping in vehicles. As the area is gated with only 1 private property within the boundary Little Hervells seems an ideal area for an HMO.

5.3 Local Member Representations

Cllr P Pavia - I am formally objecting against this proposal due to the fact that the developer has already been given planning permission to change two of his properties into HMOs. Creating a third in the same vicinity is a harmful concentration for the other residents in this area. If officer recommendation is for approval, I would like to take it to the Planning Committee for further scrutiny.

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 application site is located within the settlement boundary as identified in the Monmouthshire Local Development Plan (LDP) where there is a presumption in favour of development and the efficient use of land is encouraged. The site is within a residential area and the proposed use is for a form of residential accommodation of which the site already has an established C3 residential use.

Monmouthshire's LDP does not have a policy relating to HMO's nor does it have any supplementary planning guidance relating to the distribution of HMO's, their concentration or location. Policy H9 relates to flat conversions and whilst it is not directly applicable it is considered the closest relevant policy to consider the acceptability of the principle of development.

H9: Proposals for the conversion of properties into flats within town and village development boundaries will be permitted provided that the development:

- a) will not adversely affect the particular qualities of the street or area where the proposed conversion is located;
- b) will not adversely affect the particular qualities of the buildings, particularly where they make a positive contribution to the character of Conservation Areas;

- c) provides reasonable levels of amenity and privacy of adjacent properties through careful consideration of the positioning of entrances and fire escapes, and noise transmission issues; and
- d) ensures that car parking and service requirements are met in a manner which preserves the character and appearance of the area and do not have an adverse impact on highway safety or cause traffic congestion.

It is not considered that the use of the property as an eight person HMO would have an unacceptable impact or is contrary to the criteria of Policy H9. The development is considered to be acceptable in principle.

Consideration of points c and d are set out in the below paragraphs.

6.2 Sustainability

The application site is within the Chepstow settlement boundary where there is a presumption in favour of development and the efficient use of land is encouraged. The property is within easy walking distance of the town centre and its amenities and is well served by public transport. The proposal therefore accords with the sustainability objectives of both local and national Planning Policy.

6.2.1 Good Design

No alterations are proposed to the exterior of the property and therefore the visual impact and the effect upon the character and appearance of the Conservation Area would be unchanged. There is no requirement for additional infrastructure such as fire escapes or bin stores. No conflict with Policies DES1 or HE1 has been identified.

6.2.2 Place Making

There are no proposed external changes to the building as a result of this application. The building is located within the boundary walls of the listed building, Lower Hardwick. It is noted that there are a number of HMO buildings within the site (this would form a fourth) but the existing boundary walls act as a natural barrier to the surrounding roads consisting of the A48, Hardwick Hill Lane and Vauxhall Lane. Given that there are no proposed changes to the external elevations of the building and that the parking arrangements are contained within the site, similar to the existing parking arrangements there would be no anticipated detrimental impact to the character of the area. The application is considered to comply with section 3.14 of PPW11 as the development is well integrated into the fabric of the existing built environment and also accords with Policy DES1 of the adopted LDP.

6.3 Landscape/Green Infrastructure

Due to the location and there being no external alterations to the building, no unacceptable impact on the surrounding landscape is predicted. It is noted that there are TPO trees in the surrounding area but as there are no external changes there will be no additional impacts on the TPO trees. Therefore, the proposal is considered to be compliant with Policy LC5 of the adopted LDP.

6.4 Historic Environment

As the property is located within the Chepstow Conservation Area and located near to the listed Lower Hardwick, MCC Heritage has been consulted. As there are no external alterations to the building, they have no objections to the development. The use of the building as an HMO is not considered to have an unacceptable impact on the Conservation Area. Therefore, the development is considered to adhere to Technical Advice Note 24: The Historical Environment and Planning (Listed Buildings and Conservation Areas) Act 1990, section 72, in addition to Policy HE1 of the adopted LDP.

6.5 Biodiversity

Having regard to PPW 11 and the Dear CPO letter (23/10/19) this application must demonstrate a net benefit for biodiversity. The applicant has submitted amended plans that details two bird boxes to be fitted on the north-east elevation. There will also be two bat boxes fitted on the north-west elevation. On this basis, it is considered that the proposal accords with Policy NE1 of the adopted LDP.

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SAC's. NRW has set new phosphate standards for the riverine SACs of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA.

This application is outside of the SAC catchment and so will not have a detrimental impact on any protected SAC, and as a result no further assessment is required.

6.6 Impact on Amenity

The proposed use is residential in its nature and therefore is not considered to result in a materially different impact to the existing lawful use as a single dwellinghouse. The existing property is extensive and arranged over four floors. As such, it could accommodate a larger family within the existing use, to which there is no limit on family size. The property is of a sufficient scale to accommodate the change of use without requiring external alterations or extension and therefore there will be no different impact upon neighbouring occupiers in terms of the built form. Due to the scale of the property, the proposed change of use is not considered to result in an unacceptable intensification of the use taking account of similar uses in nearby properties, or cause any overlooking issues.

Due to the above it is considered that the use of the dwelling for up to eight occupiers is acceptable and would not prejudice the character or amenity of the area to an unacceptable degree. Therefore, it is considered to adhere to policies DES1 and EP1 of the adopted LDP.

6.7 Highways

6.7.1 Sustainable Transport Hierarchy

PPW11 Section 4.1.12 states that it is Welsh Government policy to require the use of a sustainable transport hierarchy in relation to new development, which prioritises walking, cycling and public transport ahead of the private motor vehicles. This application has detailed the provision of five off-road parking spaces and as detailed in section 6.2 of this report, the building is located in a sustainable location with amenities within walking distance and good public transport links. The application is considered to adhere to the sustainable transport hierarchy.

6.7.2 Access/Highway Safety/Parking

It is noted that the MCC Highways Officer has objected to the application for the following reasons:

- The application proposes the conversion of a large, recently built residential property accessed via a shared private drive serving two other properties, Nos. 1 & 3 Little Hervells Court. The property benefits from limited parking via a gravel/loose bound shared forecourt with No. 3 Little Hervells Court and a shared block of detached garages. The detail submitted in support of the application is limited and the applicant has not provided any details of how the required parking associated with the proposal can be accommodated within the curtilage of the shared private forecourt. No details have been submitted to demonstrate that the additional parking requirements would not adversely affect the safe operation of the private shared drive and turning provision is maintained to ensure all vehicles accessing and egressing the three properties can be maintained.

- In the absence of any supporting details and particularly the lack of car parking details and turning provision the highway authority does not support the application as submitted on the basis that any shortfall in parking provision will add to the existing parking stress experienced on the adjacent public highways, particularly Hardwick Lane and Steep Street and create what are considered unreasonable and impractical vehicle manoeuvres that compromise highway safety.
- Additionally in light of the highway authority's concerns regarding this application the highway authority has significant concerns regarding the proliferation of recently approved change of use in the immediate vicinity of the proposal, the increase in the type of development in this location is considered to be detrimental to highway safety, namely:

DC/2019/01091 - Lower Hardwick 10 rooms

DC/2021/01562 - Envy 6 occupants

DC/2021/00797 - 2 Little Hervells Court - 8 occupants

6.7.3 The building currently has a C3 Dwellinghouse use. There are no proposed changes to the existing access at the site and the applicant has detailed the off-road parking provision within the site. The access is appropriate for the existing use, which is very similar to that of the proposed and so is considered appropriate. Additional information has been provided in relation to the parking layout and turning within the site.

In relation to parking, both Future Wales and PPW support lower levels of parking provision for residential developments within sustainable locations:

PPW11

4.1.50 Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off street parking, when well designed.

4.1.52 Parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places.

Future Wales

Policy 12 page 83 Planning authorities must act to reduce levels of car parking in urban areas, including supporting car free developments in accessible locations and developments with car parking spaces that allow them to be converted to other uses over time.

Policy 12 Page 86 Planning authorities should also challenge perceptions that housing needs to be built with parking on plots, which promotes car-dominated developments, and promote different ways of dealing with cars that encourage a reduction in car use and increase active travel and use of public transport.

Additionally, there is no evidence to support that the use of the property as an HMO would have a greater impact upon parking / the highway network than the existing use as a dwellinghouse, which could be occupied by a large family, with more than 3 cars. At the time permission was granted for the single dwelling, the site met the maximum standard as set out in the Monmouthshire Parking Standards, via the provision of 3 spaces. The current proposal does not propose any alterations to the access but the number of car parking spaces would be increased to five. The adopted Monmouthshire Parking Guidelines require one car parking space per bedroom up to a maximum of three. The concerns from the Highways Officer are acknowledged, however given the current lawful use of the building and the increased provision within the site the parking capacity on site is considered acceptable.

As stated above, the site is located within a sustainable location and given the nature of the units, it is very unlikely that all of the car parking spaces will be occupied. The proposal is considered to accord with the objectives of Policy MV1 of the LDP in providing adequate on-site parking.

6.8 Flooding

The site is not in a designated flood zone identified in the DAM maps of TAN 15.

6.9 Drainage

6.9.1 Foul Drainage

The applicant has indicated that the sewage at the site will be disposed of via the Mains Sewer, with the existing connection remaining in use. This is considered to be acceptable.

6.9.2 Surface Water Drainage

The applicant has indicated that the surface water will be disposed of via a soakaway at the site. There are no external changes to the building so no increase in surface water discharge is predicted. This is considered to be acceptable. There is a large area at the front of the property that provides the current parking area and that will not be altered as a result of this proposal. Rates of surface water flow will remain unchanged as a result of this proposed change of use from C3 Dwellinghouse to HMO.

6.10 Air Quality

The application site is located within an Air Quality Management Area and air quality on Hardwick Hill is constantly monitored. The impact on air quality as a result of this proposed change of use would be minimal and would not warrant the refusal of planning consent.

6.11 Noise

The MCC Environmental Health officer has been consulted for comment but has not responded to date. There is an existing residential use at the building and the proposed change of use to allow up to eight separate occupants is not considered to be likely to result in an unacceptable noise impact on the surrounding buildings and area. Good management of the site by the landlord would ensure this is the case.

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

6.12.1 It is noted that several objections have been received with regards to the application. These are considered below.

6.12.2 It is noted that Chepstow Town Council, the Local Member and neighbours have objected due to the HMO density within the area and the detrimental impact this is having on the character of the area and the Chepstow Conservation Area. With regard to the impact on the Conservation Area, this has been considered in section 6.4, given that there are no physical alterations to the building, it is not considered to affect the character or appearance of the Conservation Area. There are a number of HMO buildings in the immediate area but it should be noted that Monmouthshire does not have a dedicated planning policy with regards to the concentration of HMO's. When considering the impact on social cohesion and character of the area, the length of tenancy associated with HMO's may result in a higher turnover of residents than associated with the rental of entire properties or the purchase of properties, however this is a subjective matter and any effects of the HMO use would depend on a number of factors outside the control of the planning authority, including the letting and management strategy of the landlord. This is particularly important in areas where there are proportionately high levels of HMOs in relation to other tenures, typically in areas serving universities. It is acknowledged that three of the five properties on site already have HMO status, this would be the fourth. However, it is not considered that there would be grounds to refuse permission on the basis of an over-concentration of HMO uses potentially leading to amenity problems, especially in the absence of an LDP policy to support this. In reality the number of HMOs within the community remains at a low level.

The building currently has a C3 use and there are no exterior alterations to the dwelling. Therefore, with regards to the building's impact on the character of the area, it will remain as existing. With regards to the potential residents of the building, the planning department would not be able to control this.

It is also noted that objections have been received that the density of the site is in breach of Welsh Government guidelines. The documents referenced within the objections have been considered but these relate to the creation of HMO planning policy. As stated above, Monmouthshire does not have a dedicated HMO policy (as there are relatively few HMOs across the County) and any application needs to be judged on its individual planning merits, with regards to material considerations and policies.

6.12.3 It is noted that MCC Highways and neighbours have objected to the application on the grounds of insufficient parking and turning provision. As stated in 6.7 of the report, PPW11 and Future Wales promote a reduction in car parking levels to promote good (and more sustainable) places. In this case, the applicant has detailed at least five parking spaces within the site, two more than the current residential provision. This is considered to be sufficient within the sustainable setting of the building and accords with the sustainable transport hierarchy. The application can only consider the parking provision within the site. It is noted that concerns have been raised with regards to the parking on the surrounding lanes and streets but this is not within the control of the planning authority. Based on the plans submitted, the parking provision is considered to be acceptable. With regards to turning provision within the site, there are no proposed changes to the existing access and shared forecourt. There are no controls on the amount of vehicles that can be parked at the current C3 dwellinghouse. It is noted that there is the possibility of additional parking at the site with eight separate occupants but in a recent appeal decision the inspector found that potential occupiers would know the amount of parking available at a property when they signed the lease and if parking was an important consideration for them and it was not available, then this would impact upon the attractiveness of the property as a home. For the above reasons, the application is considered to have an acceptable impact with regards to Highways.

6.12.4 It is noted that one parking space detailed has been included on a previously approved planning application, DM/2021/01623 for the adjacent property, no. 3 Little Hervells Court. This 'overlapping' of parking provision has been removed from the plans and the resulting provision is acceptable.

6.12.5 With regards to concerns raised regarding the population density within the site, this has been considered. The development is located within the Chepstow Development Boundary and is considered to be located in a sustainable location. There is sufficient travel infrastructure within the town, including bus and rail links. Within this context, the proposed density of the site within the surrounding area is considered to be acceptable.

6.12.6 With regards to the comments that local neighbours have not been notified regarding this application, the immediate neighbouring properties were notified with neighbour letters for this application. These letters were posted out via second class mail on the 13 June. A site notice was placed next to the entrance to the site in a publicly visible location. Therefore, this publicity was compliant with procedure.

6.12.7 It is noted that the proposed change of use will lead to the current C3 dwellinghouse being used as a house in multiple occupancy. However, the building will provide secure living accommodation for a range of individuals. The property is located within a sustainable area where there are a range of property types. The resulting HMO, when considered in relation to the surrounding area, is considered to be acceptable in character.

6.12.8 With regards to noise complaints from the site, this has been discussed in section 6.11 of the report. Due to the scale of the development, and whilst it is noted that there are a number of HMO buildings in the surrounding area, it is not considered to cause an unacceptable impact with regards to noise.

6.12.9 In respect of a report being sent to a licensing sub-committee, this is not within the remit of the Planning Authority. A representative can make comments to Planning Committee and residents are able to make comments on planning applications that are considered within the written report.

6.12.10 With regards to the concerns regarding the rubbish around the site, it is noted that there is no dedicated bin store within this application. However, it is not considered necessary to require this provision given the scale of the development and the existing domestic use of the building. This can be managed by the landlord.

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

6.14.1 For the reasons detailed above in this report, having regard to the relevant policies and all other material considerations the proposed development is considered to be acceptable subject to the conditions set out below.

7.0 RECOMMENDATION: APPROVE

Conditions:

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

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

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

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

3 The net biodiversity enhancement measures shall be installed in accordance with the details shown on Drg No 2326/01A within one month of the development hereby approved being brought into beneficial use and retained as such in perpetuity.

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

4 The property shall not be occupied by more than 8 persons at any one time.

Reason: to avoid an unacceptable intensification of the use and in the interests of the living conditions of neighbouring occupiers.



Appeal Decision

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 11/07/2023

Appeal reference: CAS-02244-P5N1M3

Site address: Land NW of Holly Lodge, Five Lane North, Caerwent, NP26 5PQ

- 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 Shannon Connolly against the decision of Monmouthshire County Council.
 - The application Ref: DM/2021/00738, dated 23 April 2021, was refused by notice dated 20 July 2022.
 - The development is proposed equestrian use including an amended access, a menage, stable block and barn/ store outbuilding.
 - A site visit was made on 3 May 2023.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal was originally linked with enforcement appeal Ref: CAS-02144-F2P1C5. However, I wrote out to the Council in respect of that enforcement appeal, outlining a number of concerns in respect of the Enforcement Notice. The Council has since acknowledged the issues raised in respect of that appeal and has withdrawn the Enforcement Notice. No further action shall therefore be undertaken in respect of the enforcement appeal. I shall therefore confine my reasoning to the appeal submitted under Section 78 of the 1990 Act, with Ref: CAS-02244-P5N1M3. The applications for an award of costs, made by the appellant against the Council, shall be the subject of a separate decision letter.
3. Article 5 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (hereinafter referred as the DMPO) states that, amongst other things, applications for planning permission must be accompanied by plans, drawings and information necessary to describe the development which is the subject of the application and that those plans or drawings must be drawn to an identified scale. Despite the application being validated and subsequently determined by the Council, it appears to be common ground that the proposal subject of the application failed to satisfy the requirements of the DMPO. Indeed, the Council refused planning permission for three separate reasons, with Reason No.3 stating that: "*The submitted plans are insufficient in*

terms of detail, clarity and accuracy and are therefore insufficient to support a positive recommendation of this application”.

4. The appellant’s Statement of Case acknowledges that the plans under which the application was refused were simply ‘*sketches*’ submitted to the case officer to seek general agreement on acceptable dimensions for the buildings. The appellant now seeks to resolve this issue through the amended plans submitted through the appeals process. Indeed, the appellant submits that the amended plans should form the basis of the determination of the appeal, contending that such an approach would not cause injustice and that it would, therefore, be consistent with the principles established through *Bernard Wheatcroft Ltd. v Secretary of State for the Environment* (JPL 1982, P37).
5. However, whilst the appellant is entitled to provide evidence to overcome objections raised at the planning application stage, Section 78(4BA) of the 1990 Act is clear that, once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order. Article 26C of the DMPO goes on to clarify that, for the purposes of Sections 78(4BA) of the 1990 Act, the prescribed circumstance is that where an application to which the appeal relates contains a correctable error. In this case, the amended plans include buildings of a different scale and design to that considered at the application stage and, given the issues with the original drawings, the potential for differences in the exact siting cannot be verified. I am not therefore persuaded that the amended plans simply seek to correct an error on the previous plans.
6. I have fully considered the appellant’s arguments in respect of the issue of prejudice. However, parties not notified of the appeal would not have been alerted to the changes proposed. I have given thought to whether or not accurate plans could be secured through details to be submitted to and approved in writing by the Local Planning Authority (LPA). However, I have not been provided with suggested planning conditions to this effect and, in any event, I am concerned that such an approach would give rise to injustice. Indeed, whilst matters are frequently reserved via a planning condition in the case of an outline planning application, such reserved matters are subject to consultation at the time of a reserved matters application. Details to be submitted to and approved in writing by the LPA would not be scrutinised in the same manner and, given the interested party objections in this instance, I do not consider that such an approach represents an appropriate solution. Notwithstanding this, it is clear that the scheme has been varied since the determination of the application and therefore conflicts with the legislative provisions for planning appeals in Wales. I shall therefore consider the appeal on the basis of the plans used in the determination of the planning application.

Reasons

7. Having regard to the reasons for refusal set out in the Council’s Notice of Decision, I consider the main issues in the determination of the appeal to be: *whether the development would be acceptable in principle, having particular regard to the policy framework; and the effect of the development on the character and appearance of the area.* Given that the submitted plans lack the necessary clarity and detail, I am unable to conclude with any certainty whether there would be any material conflict with the aims of the adopted Monmouthshire Local Development Plan (LDP), or indeed the provisions of national policy. For this reason, and having considered all matters raised, I therefore find that the appeal should be dismissed.

Richard E. Jenkins

INSPECTOR



Costs Decisions

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 11/07/2023

Application A - Costs application in relation to Appeal Ref: CAS-02144-F2P1C5

Site address: Land at High Mass Cottage, Five Lanes North, Five Lanes, Caerwent, Caldicot, Monmouthshire, NP26 5PG

- The application is made under the Town and Country Planning Act 1990, sections 174, 322C and Schedule 6.
 - The application is made by Ms S Connolly for a full award of costs against Monmouthshire County Council.
 - The appeal was against an enforcement notice alleging the unauthorised siting of sheds, outbuildings, mobile homes and freight containers on land together with associated works.
 - A site visit was made by the Inspector on 3 May 2023.
-

Application B - Costs application in relation to Appeal Ref: CAS-02244-P5N1M3

Site address: Land NW of Holly Lodge, Five Lane North, Caerwent, NP26 5PQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Ms S Connolly for a full award of costs against Monmouthshire County Council.
 - The appeal was against the refusal of planning permission for equestrian use including an amended access, a menage, stable block and barn/ store outbuilding.
 - A site visit was made by the Inspector on 3 May 2023.
-

Decisions

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

1. The application for a full award of costs is allowed in the terms set out below.

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

2. The application for an award of costs is refused.

Procedural Matters

3. As set out above, there are two applications for an award of costs at the above site. Whilst I shall consider each application on its own particular merits, to avoid duplication, I

shall report on the cases together in this single document, albeit with separate formal decisions.

4. Significant procedural and substantive issues were raised through both Appeal A and Appeal B. However, for the avoidance of any doubt, and in the interest of fairness, my considerations in respect of the applications for an award of costs are confined to the matters raised in the applicant's written applications.

Reasons

5. The Section 12 Annex: '*Award of Costs*' ('Costs Annex') to the Welsh Government's (WG) Development Management Manual (DMM) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. I shall consider the applications on this basis.

Application A – The Enforcement Appeal

6. The arguments advanced for an award of costs in the case of Application A are wide ranging. However, of particular relevance is the claim at paragraph 3.7 of the written application for an award of costs which notes that the withdrawal of the Enforcement Notice would result in unnecessary expense.
7. I set out in written correspondence my concerns with respect to the Enforcement Notice and this led to its withdrawal. The multiple defects in the drafting of the Notice were not of a minor nature, with the operational development Notice attacking, amongst other things, matters comprising a use of land. The requirements of the Notice also went well beyond the matters constituting the alleged breach of planning control. This was clearly unreasonable and, as it resulted in an appeal being unnecessarily lodged, it resulted in wasted expense being incurred by the parties.
8. As unreasonable behaviour resulting in unnecessary expense has been demonstrated, a full award of costs is justified in respect of Application A. The application for an award of costs should therefore be allowed in the terms set out below.

Costs Order

9. In exercise of the powers under Section 218 of the Planning Act 2008 and Regulation 121 of the Community Infrastructure Levy Regulations 2010 and all other enabling powers in that behalf, it is hereby ordered that Monmouthshire County Council shall pay to Ms S Connolly, the costs of the appeal proceedings described under Application A in the heading of this decision.
10. The applicant is now invited to submit to Monmouthshire County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, an application for a detailed assessment by the Senior Courts Office should be considered.

Application B – The Planning Appeal

11. In the case of Application B, the applicant notes that the Council did not submit an appeal statement and that it failed to meet the deadlines set by Planning and Environment Decisions Wales (PEDW) for responses to concerns raised. However, the Council is not required by legislation to submit a Statement of Case and is entitled to rely on the Notice of Decision and associated Officer's Report. Whilst the other delays in responding to PEDW were frustrating, it has not been satisfactorily demonstrated that such issues led to unnecessary expense being incurred.

12. The applicant makes reference within the application for an award of costs to the planning refusal being unjustified. However, in light of the situation with respect to inadequate plans being submitted, I am not able to consider such matters. I note the fact that the Council proceeded to determine the planning application despite the application failing to satisfy the requirements of Article 5 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012. However, I have not considered such matters within the context of this costs application, not least because it did not form part of the applicant's case and has not therefore been a matter for the Local Planning Authority's (LPA) formal rebuttal.
13. Therefore, on the basis of the foregoing, I find that the terms of the application for an award of costs have not demonstrated unreasonable behaviour resulting in unnecessary or wasted expense. It therefore follows that Application B should be refused.

Richard E. Jenkins

INSPECTOR

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