

# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Monday, 28 October 2024

Notice of meeting:

## Planning Committee

Tuesday, 5th November, 2024 at 2.00 pm  
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 - 4
4.	To consider the following Planning Application reports from the Chief Officer, Communities and Place (copies attached):	
4.1.	Application DM/2023/01341 - Construction of a New Dwelling. 33 Maryport Street, Usk, NP15 1AE.	5 - 16
4.2.	Application DM/2023/01679 - Construction of a building to house munitions assembly, extraction of material from borrow pits for construction of surrounding blast mounds. B A E Systems, Glascoed Rof, NP15 1XL.	17 - 32
4.3.	Application DM/2024/00845 - Proposed rear extension and front porch extension. 4 Tanglewood Close, Abergavenny, NP7 5RJ.	33 - 38
4.4.	Application DM/2024/00985 - Replacement dwelling. Bushes Farm, Chapel Road, Earlswood, Shirenewton.	39 - 52
5.	FOR INFORMATION - The Planning Inspectorate - Appeals / Costs Decisions Received:	
5.1.	Appeal Decision - 17 St Mary Street, Chepstow, Monmouthshire, NP16 5EW.	53 - 56
5.2.	Appeal Decision - Former Whitemill Welsh Water Works, Usk Road, Shirenewton, Monmouthshire, NP16 6BU.	57 - 60

<b>5.3.</b>	<b>Appeal Decision - Land North West Of Holly Lodge (also known as Land at High Mass Cottage and Land at Church View), Five Lanes North, Five Lanes, Caerwent, Monmouthshire NP26 5PG.</b>	<b>61 - 72</b>
<b>5.4.</b>	<b>Costs Decision - Land North West Of Holly Lodge (also known as Land at High Mass Cottage and Land at Church View), Five Lanes North, Five Lanes, Caerwent, Monmouthshire NP26 5PG.</b>	<b>73 - 76</b>
<b>6.</b>	<b>FOR INFORMATION: Appeals received 1st July to 30th September 2024.</b>	<b>77 - 78</b>

**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 Sara Burch	Cantref;	Labour and Co-Operative Party
County Councillor Jan Butler	Goetre Fawr;	Welsh Conservative Party
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

To become a zero-carbon county, supporting well-being, health and dignity for everyone at every stage of life.

## **Objectives we are working towards**

- Fair place to live where the effects of inequality and poverty have been reduced.
- Green place to live and work with reduced carbon emissions and making a positive contribution to addressing the climate and nature emergency.
- Thriving and ambitious place, where there are vibrant town centres and where businesses can grow and develop.
- Safe place to live where people have a home where they feel secure in.
- Connected place where people feel part of a community and are valued.
- Learning place where everybody has the opportunity to reach their potential.

## 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) edition12
- 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 Habitat & Species Regulations 2017

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](mailto:registertospeak@monmouthshire.gov.uk). Please leave a daytime telephone number. Any requests to speak that are emailed through will be acknowledged prior to the deadline for registering to speak. If you do not receive an acknowledgement before the deadline please contact Democratic Services on 01633 644219 to check that your registration has been received.

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

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

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

Once the request to speak has been registered by the Council the speaker must submit their pre-recorded video by midday on Monday before the Committee meeting. The video content must comply with the terms below and be no more than 4 minutes in duration. If the third party does not wish to record a video they will need to submit a script to the Council by the deadline above, that will be read out by an officer to the Committee Members at the meeting. The script shall contain no more than 500 words and shall also comply with the terms below. 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 Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance  
on Tuesday, 1st October, 2024 at 2.00 pm

**PRESENT:** County Councillor Phil Murphy (Chair)  
County Councillor Dale Rooke (Vice-Chair)

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

### OFFICERS IN ATTENDANCE:

Philip Thomas	Development Services Manager
Amy Longford	Development Management Area Team Manager
Paige Moseley	Solicitor
Richard Ray	Paralegal
Richard Williams	Democratic Services Officer

### APOLOGIES:

County Councillor Su McConnel

#### 1. Declarations of Interest

None received.

#### 2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 6th August 2024 were confirmed and signed by the Chair.

<https://www.youtube.com/live/5Yfq1B8CkVE?si=Y-oeosgbAoAoWdjn&t=88>

#### 3. Application DM/2023/01198 - Erection of 2 No. additional poultry units and associated infrastructure on established poultry farm. Coombe Farm, Cwm Mill to Shirenewton, Shirenewton

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report and the revised wording to condition 3 and reason for condition 10, set out in late correspondence.

<https://www.youtube.com/live/5Yfq1B8CkVE?si=Dho9AkWYKde9Rjsv&t=126>

In noting the detail of the application and the views expressed, it was proposed by County Councillor Jayne McKenna and seconded by County Councillor Ann Webb that application DM/2023/01198 be approved subject to the conditions outlined in the report

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee held at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st October, 2024 at 2.00 pm

and the revised wording to condition 3 and reason for condition 10, set out in late correspondence, as follows:

3. All solid waste generated by the development hereby approved shall be exported to an appropriately licensed anaerobic digester facility, and all dirty waters to a licensed wastewater treatment works. No solid waste or wastewater, treated or untreated, shall be spread directly onto any land. Documentary records demonstrating receipt of all exported material by the anaerobic digester facility shall be maintained by the operator of the development hereby approved and be made available to the LPA on request. The development shall comply at all times with the Manure and Dirty Water Plan submitted by Ian Pick Associated Ltd dated June 2023. If any elements of the Manure and Dirty Water Plan change in the future, in particular the final destination of any solid or water waste, a new manure and dirty water management plan must be submitted to the local planning authority and operations in sheds 5 and 6, hereby approved, shall cease until the new management plan is approved in writing by the local planning authority.

Reason: To ensure that the waste from the farm is properly disposed of both now and in the future so as to avoid pollution to the environment.

The reason for condition 10 was omitted in the report (Construction Environmental Management Plan - Biodiversity) and is thus provided here:

Reason: To safeguard habitats and species protected under the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), and Environment (Wales) Act 2016.

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

For approval	-	12
Against approval	-	0
Abstentions	-	2

The proposition was carried.

We resolved that application DM/2023/01198 be approved subject to the conditions outlined in the report and the revised wording to condition 3 and reason for condition 10, set out in late correspondence, as follows:

3. All solid waste generated by the development hereby approved shall be exported to an appropriately licensed anaerobic digester facility, and all dirty waters to a licensed wastewater treatment works. No solid waste or wastewater, treated or untreated, shall be spread directly onto any land. Documentary records demonstrating receipt of all exported material by the anaerobic digester facility shall be maintained by the operator of the development hereby approved and be made available to the LPA on request. The development shall comply at all times with the Manure and Dirty Water Plan submitted by Ian Pick Associated Ltd dated June 2023. If any elements of the Manure and Dirty Water Plan change in the future, in particular the final destination of

## **MONMOUTHSHIRE COUNTY COUNCIL**

### **Minutes of the meeting of Planning Committee held at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance on Tuesday, 1st October, 2024 at 2.00 pm**

any solid or water waste, a new manure and dirty water management plan must be submitted to the local planning authority and operations in sheds 5 and 6, hereby approved, shall cease until the new management plan is approved in writing by the local planning authority.

Reason: To ensure that the waste from the farm is properly disposed of both now and in the future so as to avoid pollution to the environment.

The reason for condition 10 was omitted in the report (Construction Environmental Management Plan - Biodiversity) and is thus provided here:

Reason: To safeguard habitats and species protected under the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), and Environment (Wales) Act 2016.

#### **4. Planning Appeals Received - 1st April to 30th June 2024**

We noted the planning appeals received by the Planning Department for the period 1st April to 30<sup>th</sup> June 2024.

<https://www.youtube.com/live/5Yfq1B8CkVE?si=BVBz3lgvnKhjmDJU&t=2788>

**The meeting ended at 2.47 pm.**

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**Application Number:** DM/2023/01341

**Proposal:** Construction of a New Dwelling

**Address:** 33 Maryport Street, Usk, NP15 1AE

**Applicant:** Tadman

**Plans:** All Proposed Plans PL02 - Rev C, All Existing Plans PL01

## **RECOMMENDATION: Approve**

Case Officer: Ms Kate Bingham

Date Valid: 29.01.2024

**The application is presented to Planning Committee at the request of the co-Ward Member, Councillor Tony Kear**

## **1.0 APPLICATION DETAILS**

### 1.1 Site Description

The application site currently consists of derelict land. A former coach house and office building occupied the area, and have since been demolished under Conservation Area Consent ref DM/2019/01291. The site covers an area of 494m<sup>2</sup>.

The site is in a predominantly residential location with dwellings immediately adjacent to the north, east and west. To the south is a community centre. The site is in a sustainable location within walking distance of Usk town centre and a less than five-minute walk to the nearest convenience store.

The site is accessed via an existing driveway located off Maryport Street. No. 31 Maryport Street and the wider site currently does not have any formal parking but there is land available within the site limits for vehicles to park.

The site is located within the Usk Conservation Area, defended flood plain and within the Nutrient Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC).

### 1.2 Value Added

Initial comments from the Council's Heritage Officer noted the construction of one large dwelling on the site was considered acceptable in principle, however, there were some concerns regarding the mass and design of the proposed building. The previous comments have been taken into account by the applicant and design cues have been taken from the surrounding conservation area.

Further consideration in relation to flooding was also provided.

### 1.3 Proposal Description

This application proposes a single detached dwelling. This follows a previous approval in 2020 for the construction of pair of semi-detached 2-bedroom houses on the site and a subsequent approval for a single dwelling (DM/2021/01696). That application is extant and therefore the principle of residential development on the site is established.

The dwelling is a modestly sized, two-storey dwelling, with the following dimensions:

- o Width: 13.1m
- o Depth: 8.6m
- o Height: 6.7m

The proposed dwelling will be accessed via the existing access to the site via Maryport Street. The proposal includes 3no. off road parking spaces for the new dwelling together with a turning area.

## 2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2019/01021	Demolition of coach house at rear of no.31 and office building at no.33 Maryport Street and construction of 2no. semi-detached town houses.	Approved	26.10.2020
DM/2019/01291	Demolition of coach house at rear of no.31 and office building at no.33 Maryport Street and construction of 2no. semi-detached town houses.	Approved	26.10.2020
DM/2021/01696	Demolition of coach house at rear of no.31 and office building at no.33 Maryport Street and construction of a single new dwelling.	Approved	09.03.2022
DM/2024/00705	Discharge of condition 3 (Level 1 photographic survey/building recording) for planning decision DM/2019/01291.	Approved	14.06.2024
DM/2024/00748	Discharge of condition 6 and 4 in relating to planning decision (DM/2019/01021) - Avon Archaeology Written Scheme of Investigation Archaeological Watching Brief dated: Feb 2021  Condition no.4 - Schedule of External Finishes	Approved	26.07.2024
DM/2024/00903	Discharge of condition no. 4 (written scheme of historic environment mitigation) of Conservation Area Consent DM/2019/01291	Approved	14.08.2024
DM/2024/01171	Construction of 2no. semi-detached houses with on site parking.	Invalid Application	

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

#### **Strategic Policies**

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

#### **Development Management Policies**

H3 LDP Residential Development in Minor Villages  
DES1 LDP General Design Considerations  
HE1 LDP Development in Conservation Areas  
EP1 LDP Amenity and Environmental Protection  
EP5 LDP Foul Sewage Disposal  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development

#### **Conservation Area Appraisal**

Usk 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 12**

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

**Usk Town Council** - Recommend approval.

**Natural Resources Wales (NRW)** - No objection. In summary we recommend the planning authority should only grant permission if the detailed FCA and proposed finished floor levels detailed within it are

included in the condition identifying approved plans and documents on any decision notice.

**Dwr Cymru - Welsh Water (DCWW)** - We have reviewed the information submitted as part of this application and note that the intention is to drain foul water to the public sewer to which we offer no objection in principle. We also note that surface water will be disposed of via sustainable means and welcome this approach.

We can advise that Usk WwTW into which the proposed development site will drain, is meeting the backstop phosphate permit and there is sufficient headroom to accommodate the foul flows.

**Glamorgan Gwent Archaeological Trust (now called Heneb)** - We have reviewed the detailed information contained on your website and can confirm that the proposal requires archaeological mitigation. It is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members. We envisage that this programme of work would take the form of a watching brief during the 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 any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations we recommend that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014.

**MCC Heritage** - The construction of one large dwelling on the site is considered acceptable in principle. Concerns over the mass and design of the building proposed have been addressed with an amended design. If minded to approve this application, we would request that samples of the external render, colour of render, roof covering and ridge tiles are submitted to and approved by the LPA prior to commencement. REASON: to safeguard the character and appearance of the conservation area.

**MCC Highways** - No objections.

**MCC Biodiversity** – Comments made requesting building surveys on the assumption that structures remained on the site but these have been removed already. Enhancements for biodiversity will be required.

**MCC SAB** – SAB consent required.

**SEWBRc Search Results** - No significant ecological record identified.

## 5.2 Neighbour Notification

Three representations received. Object on the following grounds:

- Size of the proposed new home is out of scale with the infill site and as such there will be an over-development.
- No parking space for the existing property on Maryport Street will lead to increased congestion on what is already an area where double parking occurs leading to bottlenecks on a regular occurrence.
- Proposed house will adversely affect residential amenity due to noise, disturbance, overlooking, loss of privacy and overshadowing.
- The flood report submitted by Nene Valley does not include a survey of the full redline application.
- It does also not include levels of surrounding properties that could be affected by displaced flood waters caused by raising the levels of the new property above the flood datum level.
- The two buildings on the site have already been demolished as well as a large garage on the adjoining property, which did not have planning permission as part of the previous two applications.



- The response from the Highways Officer is incorrect. It states that the new dwelling is replacing another, which it is not. The previous two applications for a pair of 2-bed semi-detached properties and a 4 bed detached property both included 2 spaces for 33 Maryport Street.
- This application includes the garden of 29 Maryport Street, which had vehicle access and a garage; therefore resulting in a loss of parking for that 2-bedroom property also. The new application should also include two spaces for this property.
- Both previous Officer Reports stated that "separation distances were limited" between 8 & 10 Church Street and the proposed properties. This application makes the matter substantially worse. Distances are much shorter than the 21m recommended distance between habitable rooms.

Impact on no.8 Church Street:

- The site plan used in the submission is incorrect. It does not reflect the removal of shed or the construction of neighbouring new kitchen.
- A buffer area has now disappeared and the proposed house is now circa 6 metres closer to neighbouring dwelling causing overlooking and affecting enjoyment of amenity space.
- The proposal breaches the 45 degree rule when using my main bedroom window. With the bedrooms of the proposed new home being able to look directly into my bedroom.
- There is also overlooking into my garden, located behind the library.

### 5.3 Other Representations

None.

### 5.4 Local Member Representations

No comments received,

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

## **6.0 EVALUATION**

### **6.1 Principle of Development**

The site is located within the settlement boundary of Usk, which is defined as a Rural Secondary Settlement in the Local Development Plan (LDP). Policy H1 supports development in Rural Secondary Settlements in principle, subject to detailed material planning considerations.

### **6.2 Good Design/Impact on Conservation Area**

The application site lies within the Usk Conservation Area and, therefore, it must be assessed whether the development preserves or enhances the Conservation Area in accordance with Policy HE1 and Policy DES1, which relates to good design.

Initial comments from the Council's Heritage Officer noted the construction of one large dwelling on the site was considered acceptable in principle, however, there were some concerns regarding the mass and design of the proposed building. The previous comments have been taken into account by the applicant and the design was amended, taking references from built forms within the surrounding Conservation Area.

A reduction in a portion of the proposed ridge line provides the appearance of a smaller building that has been extended rather than the construction of an unusually large building within this setting in the Conservation Area. The dropped ridge on the 'extension' is subservient and aids this visual change. Dropping the eaves on the portion of the building forming the 'extension' ensures the roof pitches match and improves the visual impact of the building to better preserve the setting of the Conservation Area.

Previous comments from the Heritage Officer also noted the slightly unusual fenestration on the proposed building. The addition of a flush window above the bay window on the ground floor is welcomed and more in keeping with the Conservation Area. Additionally, the proposed painted render below and roofing to the bay window to match the walls and roofing of the main building is considered more appropriate and acts to reduce the visual impact of the building. Alignment of the ground floor window to the right of the front door with the first-floor window above helps to support the visual change created by the 'extension', reducing the impact of the building on the Conservation Area.

Roof tiles should be natural slate or slate-effect and windows should be timber or powder coated aluminium, not uPVC as shown on the submitted drawings. Samples of the external materials can be secured via condition should Members be minded to approve the application.

As amended, the proposal is considered to comply with Policy DES1 and Policy HE1 of the LDP, preserving the character and appearance of the Conservation Area.

### **6.3 Green Infrastructure**

PPW12 (paragraph 6.2.12) requires all development to consider existing GI assets within and bounding the site (e.g. hedges, trees etc.), how the proposal will avoid and minimise impacts on GI assets and how the proposal will enhance and/or restore GI assets, corresponding with provisions to provide net benefit for biodiversity.

The total area of the site has been calculated at 494m<sup>2</sup>. Having been previously developed and entirely hard surfaced, there are no existing GI assets on the site. The proposed development will result in the creation of 116m<sup>2</sup> of new soft landscaping. Four rainwater planters are also proposed as part of the SuDS scheme. As such, the development will improve the site in respect of GI compared to the existing arrangement.

### **6.4 Historic Environment**

The site lies in an area of archaeological sensitivity. Planning Policy Wales 12 requires development to ensure the protection of archaeological resource.

Information in the Historic Environment Record indicates that the application area is located in an area of archaeological potential, within the Usk Archaeologically Sensitive Area. It is approximately 90m from areas of the Scheduled Monument, Cadw reference: MM155: Usk Roman Site, which relate to the establishment of the fortress during the 1st century AD.

The site is also close to the internal road following the interior of the fortress defences, the Via Sagularis. These roads were also lined by buildings, mainly timber, evidence of which has been found nearby: it is likely the site is within an area of barracks.

As such, an archaeological evaluation was conducted by Avon Archaeology in 2019. The results indicated that Roman and Post-medieval finds and features, including a stone spread, ditch and cobbled surface are located in the development area. The report also notes the unusual depth of the Post-medieval stratigraphy at the site and the apparent lack of medieval remains, which is uncharacteristic of the archaeological resource in the area. The uncharacteristic nature of the archaeological resource on site has been attributed to ground reduction and levelling activity that occurred in the Post-medieval period. However, it cannot be certain that the archaeological remains encountered during the evaluation is typical of the archaeological resource across the remainder of the site. It is possible that further Roman, medieval and Post-medieval remains may be encountered during the proposed development.

Condition 3 below will address this and a written scheme of historic environment mitigation will be required should consent be granted.

### **6.5 Biodiversity**

PPW 12 sets out that the planning system has a key role to play in helping to reverse the decline in biodiversity and increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. It is clear that planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced wellbeing.

The previous application which included the clearance of the site was supported by an Ecology Survey which assessed the buildings for bat potential and surveys were conducted. No bats were identified using the buildings as a roost. There was some low-level foraging and commuting activity in the area by predominantly pipistrelle species. The biodiversity officer assessed the application and ecology survey in 2020 and raised no objections. The site is now clear and is therefore considered to have low ecological value.

The proposed development of the site for residential use will result in the creation of 116m<sup>2</sup> of garden area and sustainable drainage features which will provide new habitat for wildlife. A condition to secure bird/bat boxes on the proposed new house should also be included in the event that Members are minded to approve the application.

## **6.6 Impact on Amenity**

The redevelopment of the site is challenging given its location close to other dwellings. The proposed development is modest in size and scale and has been carefully designed to avoid an adverse impact on neighbouring properties.

The site is in a built-up residential area with existing properties immediately adjacent to the north, east and west of the site and the most likely to be affected are no. 31 Maryport Street and no. 29 Maryport Street to the west and no's 2, 4, 6, 8 and 10 Church Street to the north and east. No. 35 Maryport Street is a community centre located to the south. Compared to the most recent previous approval for a single dwelling, the proposed house has been turned by 90 degrees so the principal elevation now faces towards Maryport Street to the west rather than to the south.

There will be a distance of approximately 13m between 29 and No. 31 Maryport Street and the front elevation of the proposed dwelling. Whilst the separation distance is modest, the proposed dwelling will be located further away from no. 29 and 31 than the previous building that was on the site (the coach house) which had a window on the closest elevation facing towards no.29 and no. 31. Direct overlooking opportunities will therefore be reduced because of the development.

In terms of any potential overbearing impact, the coach house building was 6.4m in height and the proposed dwelling will have an overall height of 6.8m. Whilst this is a 0.4m increase, the dwelling will be positioned further away from no. 29 and 31 than the previous building. The increased separation distance offsets the impact of the increased height of the dwelling and there would not be an adverse overbearing impact on no. 29 and 31 as a result of the proposed development.

Nos. 2 to 6 Church Street are linked dwellings located to the north of the application site. The rear elevations of these dwellings face towards the application site, separated by their own rear gardens and the rear garden of no. 29 Maryport Street. The proposed dwelling would be side-on to the rear of nos. 2 to no. 6 and have a separation distance of at least 12m and there are no windows on the side elevation of the proposed new dwelling that could overlook these existing dwellings.

Nos. 8 and 10 Church Road are located to the north east of the application site. Their relationship with the application site differs to nos.1-6 by virtue of them be positioned closer to the application site. In terms of overlooking, there are 2no. upper floor windows on the rear elevation of the proposed dwelling which serve bedrooms which are approximately 8 to 14.5m away but at an oblique angle. Whilst this distance is limited, the angled relationship limits views and would not result in direct overlooking.

The rear elevation of the proposed dwelling will also face directly towards the rear garden of no. 10 which a separation distance of approximately 8.5m. This distance is limited but the potential overlooking is limited to the end of the garden only. No.10 has a large garden and the overlooking

is not considered likely to affect the overall enjoyment of the rear garden. No.8 Church Street is located to the north-east and is separated from the site by an existing outbuilding within the garden of no.29 Maryport Street. The previous scheme that was approved also had a bedroom window on the eastern elevation with a similar angle of overlooking. Taking into consideration this previous approval and the context of the site being a built-up urban area, the proposed relationship between this existing dwelling and the proposed new one is not considered to be unusual or significantly harmful.

In terms of overbearing impact/loss of light, the previously existing office building, which was 5.6m in height, was located immediately on the boundaries of nos.8 and 10. Whilst the dwelling would have an overall height of 6.8m, the greatly improved separation distance would result in this increase in height having a negligible impact on nos.8 and 10 Church Street.

No. 35 Maryport Street is a community centre/office and, therefore, a less sensitive use in terms of potential impact on amenity. The proposed development is not considered to compromise the amenity of use of no. 35.

On the basis of the above, it is considered that the proposed development will not fail to maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties. It is therefore acceptable under LDP Policies DES1 d) and EP1.

## **6.7 Highways**

The application site has an existing vehicle access and driveway directly onto Maryport Street which is to remain unchanged as part of the application. As part of the proposed development, it is proposed to provide three off-street car parking spaces which is the maximum car parking provision required for a 4-bedroom dwelling under the Monmouthshire Parking Standards. As such, there are no highway grounds to sustain an objection to the application.

## **6.8 Affordable Housing**

Policy S4 requires affordable housing contributions to be made in relation to developments which result in a net gain in residential dwellings. Where the net gain in dwellings is below the threshold for affordable units to be provided on site, which is five or more units in Usk, then a financial contribution is appropriate. The financial contribution is based on the calculation contained in Appendix 3 of the Affordable Housing Supplementary Planning Guidance (July 2019) is (total floor area m<sup>2</sup> x £120) x 58%. In this case this would amount to £15,682.27 although the exact floor area should be provided by the applicant for the purposes of drawing up any legal agreement. On the basis of a Section 106 agreement to secure this, the proposal accords with LDP Policy S4.

## **6.9 Flooding**

The planning application proposes residential development, highly vulnerable development. NRW's Flood Risk Map confirms the application site lies entirely within Zone C1 of the Development Advice Maps (DAM) as contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and is within Flood Zone 2 & 3 - Rivers.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development in such a C1 location is justified. Four tests are set out in section 6.2 of TAN15:

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

The site is in the settlement of Usk and will develop a new home on a currently vacant, previously developed site. The site's redevelopment will support the function of the existing settlement and the viability of Usk town centre.

Or

ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

Not applicable since i) is met – the proposal would be acceptable as part of a strategy under the LDP to accommodate sustainable development in a rural secondary settlement where residential development is normally permitted.

And:

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

The site is previously developed and is in accordance with the definition included in Planning Policy Wales 12.

The final test (iv) is for the applicant to demonstrate through the submission of a Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level. A Flood Consequences Assessment, (hereafter referred to as FCA) and Modelling Technical Note has been prepared to support the application and reviewed NRW. NRW has assessed the potential consequences of flooding in relation to the proposed development and this is discussed in more detail below.

The proposed finished floor level (FFL) of this development is to be set at a minimum of 17.50m AOD. From review of the topographical survey, it was indicated that the site's general topography previously ranged from 17.19m AOD (greatest ground level) along the southern boundary to 16.99mAOD (lowest ground level) towards the east of the site south-west of the office building. This is a difference in ground levels of approximately 0.2m across the site.

#### **1% (1 in 100 year) event**

During the 1% (1 in 100 year) plus climate change event with the additional 5% blockage allowance on the road bridge, the proposed development site and its surrounding area are free from fluvial flood risk. This demonstrates that the site is compliant with the A1.14 requirement of TAN 15.

#### **0.1% (1 in 1000 year) event**

The maximum flood level experienced at the site of the proposed dwelling during the 0.1% (1 in 1000 year) event with the 5% blockage allowance is 17.86m AOD. Therefore the proposed dwelling would flood to a predicted depth of 0.36m. This is within the tolerable limits set out in A1.15. Therefore this aspect of the proposed development is compliant with A1.15 of TAN15.

#### **External Areas**

During the 0.1% (1 in 1000 year) event with the 5% blockage allowance the external areas are predicted to flood to a depth of 700m. Therefore, this aspect of the proposed development is not compliant with A1.15 of TAN15. NRW have also noted that without the blockage on the bridge, the 1 in 1000 year flood level on site may be lower than provided and within the tolerable limits of A1.15.

#### **Access/Egress**

Safe access and egress are available via Maryport Street to the west of the site and is unlikely to experience a rapid water level rise with no prior warning.

#### **Third Party Flooding**

There is no flood risk assessment on flooding elsewhere in the FCA. However, based on the reconfiguration of the site, i.e. from three buildings having been demolished to one dwelling on the site, NRW have confirmed that they are satisfied that the risk of an increase in flood risk elsewhere is negligible during this extreme event and no further assessment on this matter is required.

Within the Section Flood Resilience & Recoverability, the FCA contains details relating to flood resilience and resistant measures, these include occupiers signing up to early flood warnings from NRW and undertaking a flood plan for the site.

On the basis of the above, it is considered that the requirements of TAN15 have been met and the risks of flooding can be managed to an acceptable level.

### **6.10 Drainage**

The development will connect to the local waste water treatments works (WwTW) with an environmental permit that has been reviewed against revised conservation objectives for water quality. The Environmental permit also specifies limits for ammonia. There is capacity in place to accommodate the additional wastewater in compliance with revised permit limits. DCWW have confirmed that the sewer network and associated WwTW has the hydraulic capacity for new connections without leading to an increase in the environmental impact of storm overflows.

Based on the Test of Likely Significant Effect, the project is unlikely to have a Significant Effect on the phosphate sensitive River SAC alone. As such, there is unlikely to be a significant effect on the River SAC and a full Appropriate Assessment is not required.

A Drainage Strategy has been submitted with the application that demonstrates that surface water can be dealt with in a sustainable manner. Formal SAB Consent will also be required.

### **6.11 Planning Obligations**

Financial contribution towards the provision of affordable housing in the local area at a rate of (total floor area m<sup>2</sup> x £120) x 58%. This would be paid upon occupation of the dwelling.

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

The concerns raised by neighbouring occupiers have been addressed above.

### **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 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**

The proposed development meets the requirements of LDP Policy H1 and is acceptable in principle.

The potential risk of flooding has been considered in detail by NRW and the Local Planning Authority as required by criterion iv. of TAN 15. The supporting FCA is comprehensive including an assessment of flood risk with and without the Usk bridge being 25% blocked. The flood scenario with the bridge blockage, so a worst-case scenario, complies with TAN 15 requirements, save for the level of flooding at the access being 100mm over the tolerable limit of 600mm. The access flood levels are deemed acceptable to the LPA. NRW has raised no objection to the application

subject to a condition to raise the floor levels. It is concluded the potential consequences of flooding are acceptable in accordance with criterion iv. of TAN 15 and LDP Policy SD3.

The proposed development is modest in size and scale and has been carefully designed to avoid any adverse impact on neighbouring properties. It is concluded that the development of the site, in comparison to the previous buildings on the site and consent for two dwellings, reduces the footprint of development and repositions the development to a central location to maximise the amenity of all surrounding neighbours. The proposed development has an acceptable impact on amenity in accordance with the provisions of LDP Policy DES1 and EP1.

The proposed dwelling will preserve the special character and appearance of the Conservation Area in accordance with Policy HE1.

The development of the site will result in the creation of new soft landscaping and associated enhancements for biodiversity in accordance with LDP Policies GI1 and NE1.

## **7.0 RECOMMENDATION: APPROVE**

Subject to a 106 Legal Agreement requiring the following:

Financial contribution towards the provision of affordable housing in the local area at a rate of (total floor area m<sup>2</sup> x £120) x 58%. This to be paid upon occupation of the dwelling.

If the S106 Agreement is not signed within 6 months of the Planning Committee's resolution then delegated powers be granted to officers to refuse the application.

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

REASON: To ensure the development meet the terms of the Historic Environment (Wales ) Act 2016, PPW and Technical Advice Note 24 (TAN 24): The Historic Environment.

4 Samples of the proposed external finishes shall be agreed with the Local Planning Authority in writing before works commence and the development shall be carried out in accordance with those agreed finishes which shall remain in situ in perpetuity unless otherwise approved in writing by the Local Planning Authority. The samples shall be presented on site for the agreement of the Local Planning Authority and those approved shall be retained on site for the duration of the construction works.

REASON: To ensure a satisfactory form of development takes place and to ensure compliance with LDP Policy DES1.

5 Finished floor levels shall be no lower than 17.5 metres above Ordnance Datum (AOD) as set out in Technical Note, 33 Maryport Street, Usk, JBA Project Code: 2020s0382, prepared by JBA, dated 25/08/2020 and section 3.1.

REASON: To ensure the proposed development is protected from flooding in accordance with TAN 15 and Policy SD3.

6 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A B C D E F & H of the Town and Country Planning (General Permitted Development)(Amendment)(Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) no enlargements, improvements or other alterations to the dwellinghouse or any outbuildings shall be erected or constructed.

REASON: To protect neighbouring amenity in accordance with Policy EP1.

7 Prior to the commencement of development a scheme of ecological enhancement to provide net benefit to biodiversity shall be submitted to and approved in writing by the local planning authority. This shall include full details of the location and specification of ecological enhancements and the timing of their inclusion. The details shall then be implemented as approved and shall be retained in perpetuity.

REASON: To provide ecological net benefit on the site as required by the Environment (Wales) Act 2016, Planning Policy Wales and LDP Policy NE1.

## **INFORMATIVES**

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

2 The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), CIfA regulations and it is recommended that it is carried out either by a CIfA Registered Organisation or a MCIfA level accredited Member.



**Application Number:** DM/2023/01679

**Proposal:** Construction of a building to house munitions assembly, extraction of material from borrow pits for construction of surrounding blast mounds

**Address:** B A E Systems, Glascoed Rof, NP15 1XL

**Applicant:** Mr Harris

**Plans:** All Drawings/Plans 2309 X500 P51 - , All Drawings/Plans 2309 X500 P52 - , All Drawings/Plans 2309 STW P53 - , All Drawings/Plans 2309 STW P54 - , All Drawings/Plans FIGURE L1 - , GMEF-ALP-A1-00-DR-A-28-101 P01 - , GMEF-ALP-A1-B1-DR-A-28-100 P01 - , GMEF-ALP-A1-M1-DR-A-28-102 P01 - , GMEF-ALP-A1-RF-DR-A-28-103 - , GMEF-ALP-A1-ZZ-DR-A-28-001 P01 - , GMEF-ALP-A1-ZZ-DR-A-28-003 P01 - , GMEF-ALP-A1-ZZ-DR-A-28-201 P01 - , GMEF-ALP-A1-ZZ-DR-A-28-200 P01 - , GMEF-ALP-A1-ZZ-DR-A-28-300 P01 - , GMEF-ALP-A1-ZZ-DR-A-28-503 P01 - , GMEF-AWP-ZZ-XX-RP-C-0003 - , X10473-F1 - , Contaminated Land Desk Study - , Contaminated Land Risk Assessment - , BAE Glascoed Meltcast Building - Ecological Appraisal - , Landscape and Visual Appraisal by ECL - , Noise Impact Assessment by Professional Consult Limited

## **RECOMMENDATION: Approve**

Case Officer: Mr David Wong  
Date Valid: 19.12.2023

**The application is being presented to the Planning Committee for consideration as the threshold of five objections has been met**

## **1.0 APPLICATION DETAILS**

### 1.1 Proposal Description

1.1.1 The site is located in the open countryside within the grounds of BAE Systems Global Combat Systems Munitions Limited in Glascoed (Also known as BAE Systems). The proposed development is the construction of a building for munitions assembly and associated blast mounds. This development supports the long-term provision and protection of employment areas within the region.

1.1.2 The proposed location is vacant land within the site complex. The overall proposed area, including the new building, supporting infrastructure, and earth mounds, spans approximately 2.9 hectares. The highest point of the main structure will be approximately 9.6m above the existing ground level with a footprint of approximately 2000m<sup>2</sup>. Locally sourced materials from the wider BAE Systems site will be used to create the earth mounds.

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

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
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DM/2022/00189	Implementation of a 15m telecommunication tower (excluding antennas) at the centre of the BAE Systems Glascoed site.	Approved	01.03.2022
DM/2022/01713	The proposed development consists of a new Energy Centre consisting of the installation of four dual fuel boilers (natural gas and back up gas oil) located in a purpose-built boiler house building to provide steam for the Munitions Factory Site. The proposed development also includes a separate standalone containerised combined heat and power unit, 5 exhaust stacks of 20m as a rectangular lattice structure and water treatment and other ancillary plant. The associated ancillary equipment includes stand-by diesel banded generator and integral stack and a transformer.	Approved	22.03.2023
DM/2024/00120	Discharge of conditions 4 (Lighting), 5 (Biodiversity Enhancement Scheme), 6 (Landscape), 8 (Schedule of Landscape maintenance) and 10 (Construction Environmental Management Plan) for planning decision DM/2022/01713.	Approved	13.05.2024
DM/2024/00842	EIA Scoping Request - The applicant proposes to develop a new energetics manufacturing facility on vacant land within the eastern part of the existing BAE Glascoed site	Closed	12.09.2024
DM/2024/01034	Non material amendment to planning decision DC/2009/00217 (Revised height, length, width and footprint of consented building).	Approved	09.09.2024
DC/2004/00536	Provision Of Demountable Building For Office Accommodation	Approved	30.09.2004
DC/2015/00149	Installation of 18m high telecoms monopole, 2 no. antennas, 1 no.microwave dish, 3 no equipment cabinets, within a fenced and secured compound, together with associated ancillary development.	Approved	30.03.2015

DC/2007/01183	Demolition of existing buildings and construction of single storey building with associated external works	Approved	29.11.2007
M06534	Over Cladding Existing Flat Roof With A Single Pitch Hipped Roof Using Profiled Metal And Translucent Sheeting.	Approved	30.01.2002
DC/2010/00418	Extension to existing building 6A5. will consist of two blast proof cells with a corridor to join them on to the existing building	Approved	29.09.2010
39222	Construction Of A New Proof Facility.	Approved	29.01.1996
DC/2010/00341	Construction of access roads, hardstandings and associated services to EMDA facility Glascoed (Amounting to 2400sqm in area)	Approved	28.10.2010
DC/2013/00148	Refurbishment & Transformation of main admin building to new BAE systems Headquarters building. New two storey high glazed entrance foyer extension, demolition of existing single storey flat roofed brick building to rear of admin block to be replaced with new glazed orangery for informal meeting/break out area. Landscaping to front & rear of this building.	Approved	28.08.2013
DC/1998/00205	Provision Of Demountable Building For Office Accommodation And Extension To Dog Kennels.	Approved	28.04.1998
DC/2011/00416	Advert		28.02.2012

DC/2014/00234	Refurbishment and transformation of existing security lodge (Bae Ref 10C5) including associated minor buildings (Bae Ref 10C2, 10C7 & 10C8) to new modernised security lodge and visitor reception centre. Proposals include office accommodation for approx. 14 staff, conference/meeting room for 8 persons, new WC facilities for visitors, new changing, shower & toilet facilities (male & female) for staff, mess room & kitchen facilities, visitor reception and waiting area lounge. This application includes for revision of vehicular approach to security booth for incoming and outgoing vehicular traffic.	Approved	27.06.2014
DC/2011/00535	Refurbishment and conversion of existing central stores building to new wellbeing centre including new medical centre	Approved	26.09.2011
DC/2011/00745	Engineering bulk earthworks to form a landscape mound	Approved	21.12.2011
DC/2011/00539	Replacement bat roost, feeding and hibernacular buildings	Approved	20.10.2011
DC/2009/00217	Single storey building with associated external works and process engineering (revised scheme following approval DC/2007/01183)	Approved	16.04.2009
DC/2015/00478	Discharge of condition no. 2 from planning consent DC/2014/00234.	Approved	14.05.2015
DC/1979/00084	New Oil Tank For Boiler House APP_TYP 01 = Full DEV_TYP 03 = Extension MAP_REF = 335155201055	Approved	14.02.1979
DC/1980/00882	2 Temp. Portable Offices APP_TYP 01 = Full DEV_TYP 03 = Extension MAP_REF = 334431201971	Approved	13.08.1980
DC/1980/00915	Tool Cleaning Room APP_TYP 01 = Full DEV_TYP 03 = Extension MAP_REF = 335381201161	Approved	13.08.1980

DC/2011/00948	Refurbishment and transformation of existing engineering centre and refectory building (BAE ref 10C30) to new engineering centre. New engineering centre to be expanded thus providing for:- 1. Additional number of personnel 2. New conference and meeting rooms 3. New Archive 4. Modernisation of existing toilet facilities catering for wheelchair/disabled.	Approved	10.01.2012
DC/2010/01057	Existing building converted from laboratory to new office facility, incorporating office accommodation for 75 members of staff, 3 conference rooms, refurbished male and female toilets and an open courtyard with seating area; includes new hipped roof.	Approved	08.06.2011
DC/2010/00419	Extension to an existing office and welfare facility to provide the same building use.	Approved	06.10.2010
DC/2005/01304	Construction Of Two Industrial Buildings And Associated External Works	Approved	06.06.2006

### 3.0 LOCAL DEVELOPMENT PLAN POLICIES

#### Strategic Policies

S8 LDP Enterprise and Economy  
S12 LDP Efficient Resource Use and Flood Risk  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### Development Management Policies

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  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
MV1 LDP Proposed Developments and Highway Considerations  
NE1 LDP Nature Conservation and Development  
SD1 LDP Renewable Energy

## 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 12

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

**Llanbadoc Community Council** - No response to date.

**UK Health and Safety Agency (UKHSA)** - There is little information on the planning portal and should this be an application that your team considers needs a public health risk assessment in determining the application then we would be grateful if you could provide further information.

**Health and Safety Executive (Chemicals, Explosives, Microbiological Hazards Division)** - Having considered carefully the type and location of the proposed development, we have no comment to make as the proposed development is within the boundary of an HSE licensed explosives facility. As such, the development would be subject to licensing by the Explosives Inspectorate under the Explosives Regulations 2014.

**MCC Landscape and GI** - No objection subject to conditions. The submitted LVA (Landscape Visual Assessment) has appropriately assessed the likely visual impact and impact on landscape character including ZTV (Zones of Theoretical Visibility) calculations, and the likely impact on designated areas of built form and borrow areas disturbance.

**MCC Land Drainage/SAB** - No objection. The site is subject to SAB approval and an application has been submitted. In addition, the submitted FCA is sufficient for the scale of development, therefore we have no objection on flood risk grounds.

**MCC Environmental Health** - Further information and the updated Noise Impact Assessment (NIA) have been provided, I have no objections to the proposed development.

**Natural Resources Wales (NRW)** - We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the recommended conditions to any planning permission granted. In addition, we have reviewed the Appropriate Assessment by the Council; we agree with the Appropriate Assessment and have no further comments.

**MCC Biodiversity and Ecology** - The River Usk SAC and SSSI are located approximately 1 km from the site but are connected to the wider Glascoed site by the adjacent Berthin Brook. There is a pathway to a potential impact during construction phase and this should be assessed via a Habitats Regulation Assessment (HRA).

The Appropriate Assessment has now been agreed by NRW. Therefore, no objection to the proposal subject to conditions.

**Land Quality Advice Service (LQAS)** - No objection. Please ensure that the borrow pits must be restored to the high standard expected of other forms of mineral development.

LREC Search Results - Some ecological records identified in the area.

## 5.2 Neighbour Notification

- Has a comprehensive risk and impact assessment been conducted to evaluate the potential consequences on local infrastructure, the environment, and populations in the event of a catastrophic road traffic accident involving a BAE Systems loaded vehicle?
- Has a comprehensive risk and impact assessment been conducted to evaluate the potential consequences of a terrorist attack on the BAE Systems Glascoed site?
- The proposed development will have an impact on property valuations in the area.
- Has a comprehensive public consultation been conducted to ensure transparency and address any concerns related to these potential impacts?
- Objection to any expansion of an arms producer.
- Object to this application based on ethics and environmental concerns.
- Safety of nearby residents.
- Air quality/pollution.
- Traffic congestion.
- Noise disturbance.
- Environmental impact.
- Aesthetic considerations.

## 5.3 Other Representations

None received.

## 5.4 Local Member Representations

None received.

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

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

## **6.0 EVALUATION**

### **6.1 Principle of Development**

6.1.1 The Monmouthshire Local Development Plan (LDP) has a key role in supporting the Council's vision for an enterprising and ambitious Monmouthshire that engages with and delivers growth in 'economies of the future'. LDP Policy S8 supports the development of existing and emerging key economic sectors and seeks to enable the diversification of the County's business base, especially with regard to the high order economies of the future. No change of use of land is involved with this application. The proposed munitions assembly building and associated works are integral to the well-established business operating at BAE Systems. Therefore, there is no objection in principle subject to detailed material considerations.

### **6.2 Visual Impact/Landscape**

6.2.1 The proposal is a functional building. The site is not within a Conservation Area nor is within the curtilage of a Listed Building. An LVA has been provided that has assessed likely visual impact and impact on landscape character including ZTV calculations and likely impact on designated areas of built form and borrow area disturbance. The proposed development includes main structures, earth bunding, borrow pits to provide earth and landscaping to reinstate borrow pits and grass over proposed bunding.

6.2.2 The Council's Landscape and GI Officer has reviewed the proposal and determined that it is acceptable from a landscape and green infrastructure perspective. The submitted Landscape and Visual Assessment is proportionate and appropriate, having considered the potential visual impacts and likely changes to landscape character at key receptor locations and within the wider landscape.

6.2.3 The site is well-screened by topography and mature woodland. The proposed development would be visible within the context of existing complex structures and infrastructure, with backdrops of woodland and rising land.

6.2.4 The proposal includes plans for new native plantation and wildlife ponds. While these elements are generally acceptable, additional details regarding plant species, quantities, sizes, planting times, pond construction, outfall, wildflower mix, establishment, and aftercare prescriptions would be required. This information can be provided as a condition of approval.

### **6.3 Biodiversity**

6.3.1 A suite of ecological assessments was submitted for consideration. The River Usk SAC and SSSI are located approximately 1km from the site but are connected to the wider Glascoed site via the adjacent Berthin Brook.

6.3.2 A Habitats Regulation Assessment (HRA) was conducted to evaluate potential impacts during the construction phase. NRW was consulted and agreed with the Appropriate Assessment that the proposal is not likely to have a significant effect on the River Usk SAC and SSSI. As a result, they have no further comments.

6.3.3 Planning Policy Wales (PPW) 12 mandates that planning authorities strive to maintain and enhance biodiversity. This means that developments should not result in a significant loss of habitats or species populations, both locally and nationally, and must provide a net benefit for biodiversity. This policy, along with subsequent policies in Chapter 6 of PPW 12, aligns with the Section 6 Duty of the Environment (Wales) Act 2016.

5.3.4 To address this requirement, it is proposed to detail the provision of mitigation and enhancement measures for the site within a Habitat Management Plan. Given the demonstrated opportunities to achieve a net benefit for biodiversity on the site, this approach is considered acceptable.

6.3.5 The plan should outline management prescriptions for the wider site, including the area surrounding the proposed munitions building and borrow pits. This should encompass habitat creation, planting, and aftercare measures. Ground-nesting birds, such as skylarks, should be the primary focus of the plan, while also considering other wildlife, including invertebrates and herpetofauna. A condition is recommended below to address this matter.

### **6.4 Impact on Amenity - Air and Noise**

6.4.1 The assembly process involves the melting and cooling of materials. There are no chemical or combustion processes that could lead to air pollution.

6.4.2 A noise impact assessment was submitted for consideration. The assessment demonstrated that the rated level of noise generated by the site does not exceed the noise criteria specified in the relevant British Standards (BS4142:2014+2019) for daytime periods. Furthermore, for nighttime periods, the calculated internal noise levels fall below the nighttime noise criteria limit for



bedrooms at the worst-affected receptor. As a result, there is no need to consider noise mitigation measures.

6.4.3 The Council's Environmental Health Department has reviewed the submitted information and found it acceptable, raising no objections to the proposal.

## **6.5 Transport**

6.5.1 While the proposed development is expected to result in some additional vehicle movements during the construction period and operation, the highway serving the site is considered capable of accommodating this increased traffic. The site offers ample space for car parking, turning, and material storage. Therefore, the proposed development is not anticipated to have a detrimental impact on the safety or capacity of the immediate highway network.

6.5.2 A standard Construction Traffic Management Plan condition will be imposed to manage traffic during the construction phase. Proposed routing plans will be implemented to ensure that neighbouring properties and the town of Usk are not adversely affected by these movements.

6.5.3 Subject to this planning condition, the proposal is in accordance with Policy MV1 of the LDP.

## **6.6 Flooding**

6.6.1 NRW has reviewed the submitted information and raised no objections to the proposal. To mitigate potential flood risks, particularly on the west side of the site which has not benefited from land raising, the consultant's letter submitted in support of the proposal suggests the following mitigation measures:

- Subscribing to NRW's flood alerts
- Preparing and regularly reviewing a flood warning evacuation plan
- Displaying flood warning notices in communal areas of the building
- Providing emergency refuge above the flood level
- Ensuring emergency access to higher ground, where possible
- Incorporating flood resilience measures into the building design, such as using concrete floors and walls with steel columns.

6.6.2 It is considered that these suggested mitigations are considered beneficial for BAE Systems. Therefore, relevant informative text can be included on the decision notice.

## **6.7 Contaminated Land**

6.7.1 Given the site's history of potentially contaminative land use, NRW has requested that relevant conditions be secured through any planning permission granted to prevent unacceptable risks from contamination.

## **6.8 Surface Water Drainage**

6.8.1 MCC Land Drainage/SAB offered no objection to the proposal. They advised that the site is subject to SAB approval and that an application has been submitted. Furthermore, they determined that the submitted Flood Consequences Assessment (FCA) is sufficient for the scale of development and raised no objections on flood risk grounds.

## **6.9 Foul Drainage**

6.9.1 The application site falls within the catchment of the River Usk SAC. Planning authorities must consider the potential impact of proposed developments on water quality within SAC river catchments due to phosphorus.

6.9.2 An Appropriate Assessment was conducted and has been agreed upon by NRW. As a result, they have no objections to the proposal, subject to certain conditions.

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

6.10.1 Five households objected to this application. The following objections have been raised, along with corresponding responses:

6.10.2 Has a comprehensive risk and impact assessment been conducted to evaluate the potential consequences on local infrastructure, the environment, and populations in the event of a catastrophic road traffic accident involving a BAE Systems loaded vehicle?

Response - BAE Systems operates an Integrated Management System (IMS) that is certified to international standards. The Health and Safety Executive (HSE) department is responsible for implementing the IMS. The HSE (Chemicals, Explosives, Microbiological Hazards Division) has confirmed that the proposed development falls within the boundaries of an HSE-licensed explosives facility. As a result, the development would be subject to licensing by the Explosives Inspectorate under the Explosives Regulations 2014. The question of whether a risk assessment was conducted outside of the BAE Systems complex is not a material consideration for planning purposes.

6.10.3 Has a comprehensive risk and impact assessment been conducted to evaluate the potential consequences of a terrorist attack on the BAE Systems Glascoed site?

Response - While not a material planning consideration, it is the applicant's responsibility to ensure that a risk assessment is conducted in consultation with relevant stakeholders.

6.10.4 The proposed development will have an impact on property valuations in the area.

Response - This is not a material consideration for planning purposes.

6.10.5 Has a comprehensive public consultation been conducted to ensure transparency and address any concerns related to these potential impacts?

Response - The applicant conducted a pre-application community consultation prior to formally submitting the planning application. Given the nature and sensitivity of the proposal, it received significant publicity, both locally and nationally, including coverage in local newspapers. The planning application was publicly advertised to invite interested parties to inspect the documents at County Hall. Due to the five objections received (Scheme of Delegation for Planning Applications), the application is being presented to Planning Committee for determination. This process allows for a transparent consideration of the proposal.

6.10.6 Objection to any expansion of an arms producer based on ethics concerns.

Response - This is not a material consideration for planning purposes. It is not part of the planning process to limit the operation of private businesses. There is no change of use of land involved. This proposal involves the development of a new ancillary building within an existing site. The proposed building and associated works are integral to the operation of an existing business, in this instance, the BAE Systems.

6.10.7 Object to this application based on environmental concerns.

Response - This proposal involves the development of a new ancillary building within an existing site. A suite of environmental assessments have been submitted for consideration. There is no objection from the relevant consultees.

6.10.8 Safety of nearby residents.

Response - Please refer to Section 6 of this report.

6.10.9 Air quality/pollution.

Response - Please refer to Section 6 of this report.

6.10.10 Traffic congestion.

Response - Please refer to Section 6 of this report.

6.10.11 Noise disturbance.

Response - Please refer to Section 6 of this report.

6.10.11 Environmental impact.

Response - Please refer to Section 6 of this report.

6.10.12 Aesthetic considerations.

Response - Please refer to Section 6 of this report.

### **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 The proposal meets national and local planning policy subject to relevant conditions set out below.

### **7.0 RECOMMENDATION: APPROVE subject to 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 Prior to the occupation of development full and comprehensive details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:  
- Soft landscape details for landscaping to include planting plans, specifications including species, size, density, number and location, cultivation and other operations associated with planting and seeding establishment, inclusive of SUDS green engineering.  
REASON: In the interests of visual and landscape amenity; in accordance with Policies DES1 & LC1/5 of the Local Development Plan.

4 All soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. Planting of Trees shall be in accordance with BS8545:2014 Trees: from nursery to independence in the landscape. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority.

REASON: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and ensure the provision afforded by appropriate Landscape Design and Green Infrastructure LC5, DES1, S13, and G11 and NE1.

5 A schedule of landscape maintenance for a minimum period of five years shall be submitted to and approved by the Local Planning Authority prior to works commencing and shall include details of the arrangements for its implementation inclusive of roles and responsibilities. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  
REASON: To ensure the provision of amenity afforded by the proper maintenance of existing and / or new landscape features.

6 No development shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.

1. A preliminary risk assessment which has identified:

o all previous uses

o potential contaminants associated with those uses

o a conceptual model of the site indicating sources, pathways and receptors

o potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

REASON: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

7 Prior to the occupation or operation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

REASON: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 Prior to the occupation or operation of the development, a long-term monitoring plan for land contamination shall be submitted to and approved in writing by the Local Planning Authority. The long-term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken
- Timescales for the long-term monitoring and curtailment mechanisms e.g., a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for x years)
- Timescales for submission of monitoring reports to the LPA e.g., annually
- Details of any necessary contingency and remedial actions and timescales for actions
- Details confirming that the contingency and remedial actions have been carried out

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

REASON: A land contamination long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on the water environment.

9 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

REASON: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

10 No development shall commence until details of foundation design methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The foundation designs shall be implemented in accordance with the approved details.

REASON: Foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

11 No development, including site clearance and ground excavation, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should demonstrate how relevant Guidelines for Pollution Prevent and best practice will be implemented including details of mitigation to ensure no contaminated surface water enters the Berthin Brook during the movement of soil and the construction of the development (including bunds). The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

REASON: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment, including the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) during construction.

12 Prior to its installation, full details of external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan should include:

- Details of any existing external lighting on and immediately surrounding the site
- Details of the siting and type of external lighting to be used on site during construction and operation
- Drawings setting out light spillage and showing lux levels in 2 and 3D that demonstrates no additional light spill onto the known bat roosts in close proximity to the proposal and wooded corridor to the north of the site.

The lighting shall be installed and retained as approved during construction and operation.

REASON: A Lighting Plan should be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of bats.

13 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

Risk assessment of potentially damaging construction activities.

Demonstration of how relevant Guidelines for Pollution Prevention and best practice will be implemented including details of mitigation to ensure no contaminated surface water enters the Berthin Brook during the movement of soil and the construction of the development (including bunds).

Identification of "biodiversity protection zones".

Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on protected species (ground nesting birds, badger, hedgehog, herpetofauna) and protected sites (River Usk SAC & SSSI)

The location and timing of sensitive works to avoid harm to biodiversity features.

The times during construction when specialist ecologists need to be present on site to oversee works.

Responsible persons and lines of communication.

Use of protective fences, exclusion barriers and warning signs.

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

REASON: Safeguarding of protected and priority species during construction works LDP policy NE1 and the Section 7 of the Environment Act (Wales) 2016.

14 No development shall take place (including demolition, ground works, vegetation clearance) until a Habitat Management Plan (HMP) is submitted detailing an appropriate level of ground nesting bird mitigation and demonstrates an overall net benefit for biodiversity in line with the requirements of PPW12. The HMP should detail:

Aims and objectives

Prescriptions for management actions

Plans identifying location and extent of proposed management prescriptions

Annual work schedule capable of being rolled forward

Details of the body or organization responsible for implementation of the plan.

The Plan shall provide for the future management and an implementation timetable. The HMP shall be submitted to and approved in writing by the Local Planning Authority. The development shall only proceed in accordance with the approved plans and shall be retained as such thereafter.

REASON: Reason: To provide biodiversity net benefit and ensure compliance with PPW 12, the Environment (Wales) Act 2016 and LDP policy NE1.

15 Prior to any works commencing on site a Construction Traffic Management Plan (CTMP) shall be submitted to and approved by the local planning authority, which shall include traffic management measures, proposed routing plan, hours of working, measures to control dust, noise and related nuisances, and measures to protect adjoining users from construction works. The development shall be carried out in accordance with the approved CTMP.

REASON: In the interests of highway safety and to ensure compliance with LDP Policy MV1.

## **INFORMATIVES**

1 As of 7th January 2019, all construction work in Wales with drainage implications, of 100m<sup>2</sup> or more, is now required to have Sustainable Drainage Systems (SuDS) to manage on-site surface water (whether they require planning permission or not). These SuDS must be designed and constructed in accordance with the Welsh Government Standards for Sustainable Drainage.

The SuDS Approving Body (SAB) is a service delivered by the Local Authority to ensure that drainage proposals for all new developments of at least 2 properties OR over 100m<sup>2</sup> of construction area are fit for purpose, designed and built in accordance with the National Standards for Sustainable Drainage published by Welsh Ministers.

If you are in any doubt as to whether you require SAB approval, please contact:

[SAB@monmouthshire.gov.uk](mailto:SAB@monmouthshire.gov.uk)

For advice regarding the application process and general enquiries - 01495 768306

For technical advice regarding your SuDS design and meeting the National Standards - 01633 644730

## 2 MCC Landscape and GI:

NESTING BIRDS - Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended).

The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most bird species is between March and September.

BS 5837:2012 Trees in relation to design, demolition and construction to provide further guidance on tree protection

Policy NE1 - Nature Conservation and Development seeks to ensure the protection and enhancement of wildlife and landscape resources by appropriate building design, site layouts, landscaping techniques and choice of plant species.

Planning Policy Wales - Net Benefit for Biodiversity

Planning Policy Wales (PPW) 12 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". This policy and subsequent policies in Chapter 6 of PPW 12 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

## 3 NRW Informative:

Please refer to the letter from NRW (CAS-256661-B1C4) dated 11 June 2024 for more detailed informative, such as Flood Risk, Surface Water Drainage, Protected Species and Foul Drainage.

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**Application Number:** DM/2024/00845

**Proposal:** Proposed rear extension and front porch extension.

**Address:** 4 Tanglewood Close, Abergavenny, NP7 5RJ

**Applicant:** Sue Lenthall

**Plans:** Floor Plans - Proposed BR001 - , Elevations - Existing BR002 - , Floor Plans - Proposed BR003 A - , Elevations - Proposed BR004 B - , Site Plan BR005 A - , Other WINTER SOLSTICE STUDY - , Green Infrastructure Appraisal - , Other SUMMER SOLSTICE STUDY

## **RECOMMENDATION: Refuse**

Case Officer: Alice King Date  
Valid: 09.07.2024

**This application is presented to Planning Committee following referral from the Council's Delegation Panel.**

### **1.0 APPLICATION DETAILS**

#### 1.1 Site Description

This application relates to an end of terraced dwelling located within Tanglewood Close, which is within the Park ward of Abergavenny. The original permission for these dwellings removed permitted development rights in relation to extensions, alterations and enclosures. Whilst the application is not within the Conservation Area, it sits 16m from the boundary of it. The site is also within the River Usk sensitive phosphorus catchment area.

#### 1.2 Value Added

The applicant has provided plans that would see a bat box installed to the eastern elevation. This enhancement is considered to provide for the biodiversity net gain policy as required under PPW12.

#### 1.3 Proposal Description

Planning permission is sought for a proposed two-storey rear extension and front porch extension.

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

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
DM/2024/00845	Proposed rear extension and front porch extension.	Pending Consideration	
DC/2012/01080	Change area of unused land to garden curtilage and relocation of fence	Approved	27.03.2013

### 3.0 LOCAL DEVELOPMENT PLAN POLICIES

#### Strategic Policies

S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S17 LDP Place Making and Design

#### Development Management Policies

DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection  
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 12

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

**MCC Heritage:** No objection.

**HENEB:** unlikely to be an archaeological restraint to the proposed development and there is no requirement for archaeological mitigation.

SEWBRc Search Results - No significant ecological record identified.

#### 5.2 Neighbour Notification

- A site notice was placed near the development site, neighbours within close proximity were also consulted via a neighbour letter. No comments have been received during consultation period.

#### 5.3 Local Member Representations

County Councillor Tudor Thomas – please refer to Delegated Panel as I feel the issue of the oppressive nature of the planned development raised by the MCC planning officer is in doubt and should be reviewed by the Panel.

## **6.0 EVALUATION**

### **6.1 Good Design/ Place making**

Rear Extension:

Due to the location of the application site and its relationship with the existing dwelling, the proposed development would offer limited views within the public realm. The proposed design is not considered to result in any unacceptable visual impact that would be harmful to the amenity or character of the wider area.

The ridge height is 1.2m lower than the existing dwelling which assists the extension as appearing as a secondary and subordinate element. It is considered that the proposal does respect the existing form, scale, siting, massing and layout of its setting and any neighbouring quality buildings.

However, the rear extension proposal fails to comply with criterion d) of the Monmouthshire Local Development Plan (LDP) that states that developments will be required to maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties. This proposal is deemed to cause considerable harm to the amenity of the neighbouring properties by virtue of its siting and orientation and thus cannot be recommended for approval.

Porch:

Due to the nature of the proposed development, the porch would be visible within the public realm but the proposed design is not considered to result in any unacceptable visual impact that would be harmful to the amenity or character of the area. The porch is in-keeping with the appearance of the host dwelling and details such as windows and materials will match the host dwelling. Overall, this element of the proposal is considered to acceptable and comply with Policy DES1 of the adopted LDP.

### **6.2 Historic Environment**

The site is located in close proximity to Abergavenny Pen y Fal Conservation Area. It is not considered that the scheme has a detrimental impact on the setting of the conservation area, nor on views into or out of the Conservation Area.

### **6.3 Impact on Residential Amenity**

Rear Extension:

The extension fails to maintain reasonable levels of amenity for occupiers of neighbouring properties as the first storey is deemed to be unacceptable due to the impact on the property to the east (no. 3). The amenity of this dwelling will be significantly harmed by the proposed two-storey extension by being overbearing, blocking already very limited sunlight and adversely impacting the enjoyment of the use of the rear garden of no. 3. It should be noted that the gardens of Tanglewood Close are small – no. 3 has a garden area of approximately 30m<sup>2</sup>. As this is the only private amenity space for that property, it is considered that disrupting the already limited light to this area would be unacceptable.

It is noted that the applicant submitted amended plans to meet the 45-degree line test. Whilst the 45-degree angles are being met, due to the context of the site (as described above) it is not considered that this would overcome the imposing and overbearing nature of a two-storey extension in such close proximity to the boundary with no. 3.

Thus, it is not considered that this adverse impact could be mitigated by applying a reasonable planning condition and for the reasons detailed the proposal would cause unacceptable demonstrable harm to neighbour amenity.

Porch:

The scale of the proposal and its relationship with neighbouring properties is considered acceptable. It is considered that the proposal would not be overbearing or generally un-neighbourly which would justify concern. The proposed porch is not considered to result in any unacceptable impact upon the living conditions of neighbouring occupiers, and thus would not conflict with LDP Policies DES1 or EP1.

## **6.4 Green Infrastructure**

Chapter 6 of Planning Policy Wales (PPW) 12 highlights that a Green Infrastructure (GI) statement should be submitted with all planning applications and will be proportionate to the scale and nature of the development. The statement which will need to be informed by a GI assessment of the site will describe how green infrastructure will be incorporated into the proposal and how the step wise approach to protecting biodiversity, habitats and GI onsite will be managed. A step wise approach considers what impacts may occur as a result of development activity to any identified biodiversity, habitats and green infrastructure assets and networks that may be present on or bounding a site. The approach then seeks to manage any harm that may occur by (a) avoiding, (b) minimising, (c) mitigation / restoration.

There are no known or identified key wildlife habitats in the vicinity of the property with the south and west of the property being of a very urban nature. To the east are mature trees which would be unaffected by the proposals. There is an existing small conservatory type lean-to extension which opens onto an existing hard landscaped patio area with narrow planted borders; this is where the proposed two-storey extension is to be built. Overall, the green infrastructure within the site will largely be unaffected by the proposals.

## **6.5 Biodiversity**

The roof is tight and when conducting the site visit it was confirmed that the roof was in good condition. It is also in an area where there are high levels of light spill given the high density of properties and the highly urban environment. Therefore, on balance, it is considered that a bat survey is not required for the application.

PPW 12 sets out that the planning system has a key role to play in helping to reverse the decline in biodiversity and increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. It is clear that planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced wellbeing.

The applicant has provided plans that would see a bat box installed to the eastern elevation. This enhancement is considered to provide for the biodiversity net gain policy as set out in PPW12.

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.

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

This application has been screened in accordance with Natural Resources Wales' advice for planning applications within the river Special Areas of Conservation (SACs) catchments (v4 issued 28th June 2024). It is considered that this development is unlikely to increase nutrient inputs.

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

6.6.1 No comments to note.

## **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**

On the basis of the above the two-storey rear extension proposed would not comply with criterion d) of Policy DES1 or Policy EP1 of the Monmouthshire LDP and thus is recommended for refusal on these grounds.

The porch to the principal elevation is considered to respect the existing size, scale, form, massing and materials of the host dwelling and on these grounds this element is recommended for approval.

## **7.0 RECOMMENDATION: SPLIT DECISION**

### **Reasons for Refusal:**

1 By virtue of its scale and mass relative to the boundary with the adjoining property to the north, the proposed two-storey rear extension would fail to maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties. The development is therefore contrary to Policies DES1 d) and EP1 of the adopted Monmouthshire Local Development Plan.

### **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 No development in respect of the construction of the porch hereby approved shall commence until details of ecological enhancement have been submitted to and approved in writing by the Local Planning Authority. The approved means of ecological enhancement shall be implemented in full within 3 months of the porch being brought into beneficial use and retained as such in perpetuity.

REASON: To provide ecological enhancement and ensure compliance with PPW 12, the Environment (Wales) Act 2016 and LDP policy NE1.

**Application Number:** DM/2024/00985

**Proposal:** Replacement dwelling

**Address:** Bushes Farm, Chapel Road, Earlswood, Shirenewton

**Applicant:** Mr Mike Wells

**Plans:** Block Plan 120 B - , Other ELEVATION SECTION COMPARISON - , Other ELEVATION TIMELINE - , Other EXISTING AND PROPOSED VOLUME CALCULATION - , Other PROPOSED BAT BUILDING - , Other RESI CURTILAGE - , Block Plan 257 021 B - , Floor Plans - Existing 257 022 B - , Elevations - Existing 257 028 - , Block Plan 257 031 B - , Elevations - Existing 257 04 - , Floor Plans - Proposed 257 121 B - , Elevations - Proposed 257 132 A - , Floor Plans - Proposed 257 122 - , Elevations - Proposed 257 130 B - , Elevations - Proposed 2024 257 131 A - , Elevations - Proposed 257 133 A - , Location Plan 257 - , Other DRAFT UNILATERAL UNDERTAKING - , Other DESIGN AND ACCESS STATEMENT - , Other NATURE CONSERVATION MANAGEMENT PLAN

## **RECOMMENDATION: Refuse**

Case Officer: Kate Young  
Date Valid: 06.08.2024

**This application is presented to Planning Committee at the request of the local member Councillor Brown**

## **1.0 APPLICATION DETAILS**

### 1.1 Site Description

The site is in open countryside near Earlswood, approximately 3km north of Llanfair Discoed and 4 km north-west of Shirenewton. The application site is on the western side of Chapel Road just to the north of Bushes Farm Bungalow. The land immediately to the north of the site is designated as a Site of Importance for Nature Conservation (SINC, a local designation). The land on the site slopes up steeply from south to north and part of the site has recently been excavated to a depth of approximately 3 metres.

At the time of the officer's most recent site visit (14th August 2024) on the site there was:

- A shed constructed of profiled sheeting, in a poor state of repair and used for storage (outside the red line of the application)
- The footprint of a small concrete block building about 4/5 courses high (outside the red line)
- A recently constructed concrete block building partially faced in natural stone, still under construction and missing a roof
- An unoccupied mobile home
- A stock pile of natural stone
- A shipping container (located to the north of the driveway from the public highway and in the red edge of the application site but outside the proposed curtilage).

There are two vehicular accesses leading to the site, one of which crosses the SINC to the north and is unauthorised.

### 1.2 Proposal Description

The description of development is a 'Replacement Dwelling'. The proposed plans show the erection of a new five-bedroom dwelling, the erection of a bat house, alterations to ground levels, the installation of a package treatment plant and surface water soakaways. The curtilage of building is proposed to be extended into the agricultural field to the north. The new dwelling would have a linear form, being mainly two storey, with a single-storey flat roofed element to the west and a car port to the east. It would occupy roughly the same footprint as the former farmhouse. The blockwork is proposed be faced with the natural stone recovered from the site with some areas of charred timber cladding and the roof would be made up of pantiles.

The following documents were submitted in support of the application  
A Design and Access Statement (referring to alterations and a new bat house)  
Nature Conservation Management Plan  
Updated Bat Survey  
Tree Survey  
Green Infrastructure Assessment Statement.

## 1.2 Planning History

There was a stone built farmhouse on the site as evidenced by a map from 1882. In 1975 permission was granted for a replacement farmhouse on the site which was built sometime later and is known as Bushes Bungalow, immediately to the south of the application site. Bushes Bungalow was the subject of an agricultural worker's occupancy tie. It was a condition of that approval in 1975 that the original farmhouse be demolished or used for agricultural storage. As part of a previous application in 2018 the applicant confirmed that the former farmhouse had been used for agricultural storage.

In 2018 planning application (DM/2018/00128) was submitted for the Rehabilitation of farmhouse to dwelling with an attached car port to the side. That application was considered under Policy H4 of the LDP, Conversion/Rehabilitation of Buildings in the Open Countryside to Residential Use. It was clear at that time that the building was redundant and uninhabitable. The officers report of August 2018 said

*"Bush's Farm, is a two storey stone built former farm house which has been vacant for approximately 40 years and is now derelict and overgrown, part of the roof remains but large parts of the roof are missing. Most of the walls are intact but there is some structural cracking. Some interesting structures remain like the first floor fire place and stair well."*

The officers report also noted *that the building had been used for several years as agricultural storage, after the construction of the bungalow, in accordance with the condition applied in 1975.*

A structural appraisal was submitted with the 2018 application which outlined the level of new build and repair that would be required. It stated that generally the existing walls were straight and free from major cracking. It identified that 3.5 square metres of the front elevation, 3 square metres of the east elevation, 12 square metres of the rear elevation and 3 square metres of the west elevation would have to be rebuilt. There would also have to be some minor repair work to the walls and re-pointing would be needed throughout. The planning permission for the rehabilitation of the farmhouse DM/2018/00128 was approved in August 2018 and the following condition was attached.

*No part of any wall of the existing building other than shown on the approved plans is to be demolished .*

*REASON: This conversion is granted having regard to the Council's policies which relate to the conversion of redundant buildings in the countryside and the information supplied with the application. If substantial demolition and rebuilding are necessary the development may be beyond that which has been permitted.*

In September 2022 it became apparent that the building which was the subject of application DM/2018/00128 was no longer standing; on further investigation it appears that none of the



original structure remains. The applicant was advised to stop work on site relating to the new build structure on the footprint of the former building.

Another planning application, DM/2023/01105 was received in August 2023, with the development description:

*Proposed amendments to previous planning permission ref: DC/2018/00128 to incorporate minor amendments to approved alterations including a side and rear extension, amended bat provision and alteration of ground levels.*

In December 2023 DM/2023/01105 was refused for amendments to previous planning permission. The reasons for refusal of that application were:

- Notwithstanding the description of the proposal on the application form, the application relates to the erection of a new dwelling in the open countryside without justification. This is contrary to Policy S1 of the Monmouthshire Local Development Plan and to national planning policy and guidance within Planning Policy Wales and Technical Advice Note 6.
- This proposal would result in a new dwelling being located within the open countryside without justification. The proposed residential dwelling with the associated curtilage, driveway and parking area would significantly adversely affect the open rural character of the area. The residential curtilage would extend into a former agricultural field which has been designated as a Site of Interest for Nature Conservation (SINC). The change of use of this elevated land and the inevitable domestic paraphernalia would be detrimental to the rural character of the area and would be contrary to policies LC1 and LC5 of the LDP.
- The development fails to secure an affordable housing contribution in line with LDP Policy S4 and MCC adopted Affordable Housing SPG July 2019.

The above application, DM/2023/01105 is currently the subject of a planning appeal lodged with PEDW.

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

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
DM/2018/00128	Rehabilitation of Farmhouse to Dwelling at Bushes Farm, Chapel Road	Approved	31.08.2018
DM/2020/00881	Bushes Bungalow Removal of condition 1 from planning consent 2314 (Date of Decision: 01/09/1975):- Occupation of the proposed bungalow shall be limited to a person employed or last employed wholly or mainly locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or a dependent of such person residing with him.	Approved	05.03.2021

DM/2023/01105	Proposed amendments to previous planning permission ref: DC/2018/00128 to incorporate minor amendments to approved alterations including a side and rear extension, amended bat provision and alteration of ground levels.	Refused and now subject to Appeal	06.12.2023
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### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

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

#### **Development Management Policies**

H5 LDP Replacement Dwellings in the Open Countryside  
SD4 LDP Sustainable Drainage  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development  
EP1 LDP Amenity and Environmental Protection  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations

#### **Supplementary Planning Guidance**

Monmouthshire Local Development Plan: Policies H5 & H6—Replacement Dwellings in the Open Countryside & Extension of Rural Dwellings April 2015  
<https://www.monmouthshire.gov.uk/app/uploads/2024/06/H5-H6-SPG-April-2015.pdf>

Conversion of Agricultural Buildings Design Guide SPG April 2015

LDP Policy H4 (g) Conversion/Rehabilitation of Buildings in the Open Countryside to Residential Use Assessment of Re-use for Business Purposes SPG April 2015:  
[http://www.monmouthshire.gov.uk/app/uploads/2015/07/H4-LDP-Barn-Conversion-SPG-April\[1\]2015.pdf](http://www.monmouthshire.gov.uk/app/uploads/2015/07/H4-LDP-Barn-Conversion-SPG-April[1]2015.pdf)

Affordable Housing SPG  
<http://www.monmouthshire.gov.uk/app/uploads/2015/07/LDP-Policy-H4-g-SPG-April-2015.pdf>

Monmouthshire Parking Standards  
<https://www.monmouthshire.gov.uk/app/uploads/2019/09/Final-Adopted-SPG-July-2019.pdf>  
Monmouthshire Parking Standards (January 2013)  
[http://www.monmouthshire.gov.uk/app/uploads/2015/07/Mon-CC-Parking-Standards-SPG-Jan\[1\]2013.pdf](http://www.monmouthshire.gov.uk/app/uploads/2015/07/Mon-CC-Parking-Standards-SPG-Jan[1]2013.pdf)

National Planning Policies  
Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010):  
<http://gov.wales/docs/desh/policy/100722tan6en.pdf>

## **4.0 NATIONAL PLANNING POLICY**

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

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 12**

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

#### **Shirenewton Community Council – Objects.**

More of the original structure of the old farmhouse has been lost. In applying for its replacement, the applicants appear to accept that the farmhouse is not capable of restoration or renovation. The bungalow which was built as its replacement still exists. The old farmhouse should have been demolished upon construction of the replacement bungalow. It follows that the current application is, despite its title, an application for a new build in open countryside.

1. The proposed new building does not comply with the planning policies of the Welsh Government nor of MCC as to new build in open countryside
2. The size and scale of the proposed building significantly exceeds the original volume of the farmhouse.
3. The size and scale of the proposed building will have a material adverse effect on the local landscape being uncharacteristic of typical Monmouthshire farmhouses.
4. The new building will adversely impact on local infrastructure and amenities particularly transport and schools which are already overstretched.

SCC is surprised that this application has been followed by an appeal against MCC's decision to refuse the proposed amendments in application DM/2023/01105. SCC suggests DM/2024/00985 be referred to MCC's Planning Committee and held in abeyance pending the outcome of the appeal at which point SCC would wish to make further comment.

SCC made further representations reiterating that the old farmhouse should have been demolished once the new bungalow had been built. It follows that the present application is not for the renovation of an old farmhouse but for the construction of a new residential house on the site of the old farmhouse. The application does not assert any farming/agricultural need for the proposed renovation.

SCC propose 2 options:

Require the removal of the bungalow as a precondition of the renovation of the farmhouse or, Consider the application as a new build in the countryside and not a renovation. A large 5 bedroom house would have a detrimental impact on the character of the surrounding area and on local services and amenities.

SCC note they have not been able to view the detailed plans on the website, and may wish to make further comment, however due to the history SCC objects to the application and recommends refusal.

**MCC Highways - No Objection.**

The access arrangements remain unchanged in respect of the current application and will utilise the existing access as proposed under the previous applications.

**MCC Tree Officer - Concerns**

The site is surrounded by mature, semi mature and established trees. There is evidence that trees have been removed and that the RPZ has not been adhered to. Considerable ground removal has been carried out exposing and damaging tree roots. An Arboricultural report will be required to assess the damage done and identify future protection; they may also be a risk to property if stability has been compromised.

There is a large pile of dead trees which have been excavated and seem to have been arranged to burn. It is not clear if it is intended to clear more trees. Initial TPO notifications have been served.

**MCC Building Control - No objection.**

There are many areas where compliance would need to be demonstrated, including, but not limited to, method of fire suppression, structural aspects, ventilation, drainage, access and security, as well as a design sap calculation being required prior to commencement of works on site.

**Lead Local Flood Authority and SuDS Approval Body - Provisional holding objection.**

The proposed development will require SuDS and further information or clarification is required. The application has not demonstrated a means of surface water discharge (rainwater harvesting, infiltration, watercourse, surface water sewer or combined sewer). Without a suitable surface water destination the site may not be lawfully developable.

There are no objections in relation to flood risk.

SuDS officer requests a condition to ensure no development takes place until a SAB application has been approved.

**GI and Landscape Officer - Provisional holding objection - Further information or clarification is required.**

It is not clear from the information provided that compliance with LDP Policy H5 (a) ii has been fully determined.

Further information is required in terms of the potential visual impact of the proposal on the localised landscape character as viewed from publicly accessible receptors, including a photomontage visualisation of the proposal in this context.

The Nature Conservation plan states that the track installed through the SINC to provide access will be reinstated, this is welcomed although this does not appear as being within the red line boundary. Full and comprehensive landscape and management plan will be required to show how the proposed new works, remedial works including a timeline and aftercare will be achieved.

Figure 32 of the DAS indicates native species, however more detail on planting mix is required.

Full details of the proposed works to trees is required, including the need to address the loss of existing trees with suitable and appropriate replanting, which should include betterment.

Further details of the proposed green roof are required.

Further details of the proposed ground levels are also required.

Conditions are also suggested.

**MCC Ecology** – No objection subject to conditions.

**Natural Resources Wales** - No Objections.

NRW note the submission of an updated Bat survey (June 2023) to support the application, which identifies that bats are/were present at the site. They note that the deterioration of the building (roof collapse) and recent building works mean the building has negligible potential to support bats and welcome the introduction of a bat house.

On the basis of this report NRW do not consider the development is likely to be detrimental to the maintenance of the population of the species concerned.

5.2 Neighbour Notification

Letters of objection received from four addresses

This site has been subject to biodiversity devastation, including bats, trees, badgers and harmed the SINC.

There is no original building on site to replace and so there is no policy to support new build in the open countryside.

The original farmhouse was presumably vacated following the construction of the adjacent bungalow. The structure was then left to decay over the subsequent 40+ years and so any historic planning rights would have ceased due to abandonment.

The complete demolition of the remaining structure in 2022 made it physically impossible to comply with the conditions imposed by the 2018 consent, making the consent invalid .

The applicants have failed to comply with planning and environmental constraints.

Misleading information in support of the application.

Failure to refuse this application would set a precedent.

The access track should be removed and the SINC reinstated.

Over-development of the site resulting in additional buildings.

Further comments were more general

That the structural improvements of the building were essential and so this made the collapse understandable.

The focus should now be on improving the housing stock and reinstating the ecology on site.

The proposed building is of good design but is enlarged, a small extension such as the rear corridor to the rear.

A condition or a Section 106 Agreement should be included to restore the SINC.

5.3 Other Representations

None Received

5.4 Local Member Representations

Councillor Louise Brown

I am writing to request that this application DM/2024/00985 is referred to the planning committee for consideration of the national and local planning policy issues raised.

I note that there is also an appeal on the original application DM/2023/01105 in view of the refusal of the application when it was considered by the planning committee last year.

In view of the fact that the outcome of the appeal on the original application DM/2023/01105 is not known, then it would seem appropriate for this application to be considered by the planning committee after that appeal has been determined.

If this application does proceed after the outcome of the appeal decision is known or if the appeal is withdrawn and the time limit for appealing has past but this application is still proceeded with, then I would like the opportunity to comment further.

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 development description states that the proposal is a replacement dwelling. However, it is considered that at the time of writing there is no lawful residential dwelling on the site and therefore it is not possible to consider the replacement of such.

The original farmhouse (residential unit) was replaced by Bushes Bungalow in the 1970's and ceased to be used as a residential dwelling. The residential use was abandoned following the new bungalow being occupied. The old stone farmhouse lay empty for over 40 years and the previous applicant maintained that the former farmhouse had been used for agricultural storage, as per the planning condition applied in 1975. Even before any works had taken place on site in 2022, the building was not habitable and the residential use had been abandoned. Part of the roof was missing, some of the wall had collapsed. In the submitted Design and Access Statement by Hall and Bednarczyk accompanying this current applicant it states that:

"The farmhouse was left vacant for approximately 40 years during which time it fell into a state of disrepair with partial collapse/removal of the walls and roofs, with large sections becoming overgrown with ivy and shrubbery."

The dilapidated former farmhouse, whether demolished or not, had no extant residential use and therefore a new residential dwelling on this site cannot be considered as a replacement.

Policy H5 of the Local Development Plan refers to Replacement Dwellings in the Open Countryside and states that, the replacement of existing dwellings in the countryside will be permitted provided that the original dwelling

- i) is not a traditional farmhouse, cottage or other building that is important to the visual and intrinsic character of the landscape;
- ii) has not been demolished, abandoned or fallen into such a state of disrepair so that it no longer has the appearance of a dwelling.

In this case, had the building not been demolished it would not have complied with Policy H5 as the residential use had been abandoned and the structure was that of a traditional farmhouse that was important to the visual and intrinsic character of the landscape. The proposed development would not meet criterion ii) of LDP Policy H5 as the original building no longer exists and thus, is not a lawful dwelling.

The proposed dwelling which is the subject of this application is considered to be, in policy terms, a new dwelling in the open countryside, and therefore, considered under separate policies and in the same terms as DM/2023/01105.

The application seeks the building of a new dwelling in the open countryside outside of any development boundary. Policy S1 of the LDP states that in the open countryside the only new dwellings allowed are conversion of rural buildings under policy H4 of the plan, subdivisions and dwellings associated with rural enterprise. The building, the subject to this application has been reconstructed in the last 12 months following the loss of the previous building. Therefore, the building cannot be considered as a conversion and the application therefore cannot be considered under Policy H4 of the LDP. The proposal does not relate to the subdivision of an existing dwelling and the applicants have supplied no evidence that the new dwelling is required in association with a rural enterprise.

Paragraph 4.2.24 of PPW11 states that, "In the open countryside, away from established settlements recognised in development plans or away from other areas allocated for development, the fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall

detriment of the character of an area." In this case the proposed new dwelling would be outside of any development boundary and is therefore considered to be in open countryside.

The site of the dwelling itself is not visually prominent although the location of the residential curtilage on a former agricultural field in an elevated position is prominent. The proposed new dwelling and the curtilage, with the inevitable residential paraphernalia, would have a detrimental impact on the rural character of the area. The principle of constructing a new dwelling within the open countryside is unacceptable and would be contrary to National and Local Planning Policies which are in place to protect the rural character of the area. Isolated new houses in the open countryside require special justification and no such evidence has been supplied to suggest there are any exceptional circumstances; therefore the proposal is considered to be contrary to policy S1 the LDP.

The application does not include any robust supporting evidence to suggest why the proposed new build dwelling in the open countryside is justified. New dwellings in the open countryside are only permitted in exceptional circumstances. There is no justification to deviate from national and local planning policies which clearly outline that there is a presumption against new built development in the open countryside. The construction of the new build dwelling is not justified for the purposes of agriculture or forestry and is therefore contrary to the guidance within Planning Policy Wales, Technical Advice Note 6 and Policy LC1 of the LDP. Policy LC1 of the LDP says there is a presumption against new built development in the open countryside unless it is required for rural enterprise, agriculture or tourism and even then it is subject to strict criteria. The principle of constructing a new dwelling within the open countryside is unacceptable and would be contrary to National and Local Planning Policies.

Paragraph 3.60 of PPW12 says that, 'Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation.' This is to protect the rural character of the area. Isolated new houses in the open countryside require special justification. There is no justification to deviate from national and local planning policies which clearly outline that there is a presumption against new built development in the open countryside. Policy LC1 of the LDP presumes against new built development in the open countryside. It is recognised that there may be exceptional circumstances where new built development may be acceptable in the open countryside for the purposes of agriculture, forestry, farm and rural diversification/ enterprise and recreation, leisure and tourism, as justified under national policy and/ or policies S10, RE3, RE4, RE5, RE6, T2 and T3 of the LDP. However in this case there are no exceptional circumstances and the proposal is thus contrary to Policy LC1 of the LDP.

## **6.2 Sustainability**

The LDP and PPW encourage sustainable development. The location of the site is not sustainable given that the residents of the new dwelling would be reliant on a car to access all facilities. The proposed new dwelling at Bushes Farmhouse adopts a range of passive design strategies. The modern construction methods will represent a significant step change in the thermal efficiency, the use of carefully selected and durable materials will create a building envelope that has low embodied CO2 in its composition and helps to create natural habitats for flora and fauna. The design would incorporate a series of measures to increase its thermal performance, which have been facilitated by the new construction. Efficient thermal construction would be incorporated into the build with highly efficient windows, a ground source heat pump together with underfloor heating and low energy internal lighting. In addition, a waste management methodology includes design strategies that provide on-site waste separation enabling recycling and storage for scheduled collection. Dedicated bin stores located in the utility room would facilitate this.

The highly technical specification of the proposed building is welcomed, but it is not considered to be a sufficient justification for allowing a new dwelling in the open countryside in an unsustainable location.

### **6.2.1 Good Design and Place Making**

Policy DES1 of the LDP requires that the development contributes to a sense of place while its intensity is compatible with existing uses. In this case the design of the new dwelling is broadly acceptable, but it is the principle of a new dwelling that is contrary to policy. Moreover, the proposal involves significantly increasing the size of the curtilage by over 100%, well beyond that which was approved under the previous rehabilitation/ conversion application DM/2018/00128. The encroachment of the residential curtilage, especially into the agricultural field which has been designated as a SINC, to the north that occupies an elevated position, would have a harmful impact on the rural character of the area contrary to Policy DES 1.

### 6.3 Landscape

Policy LC1 says there is a presumption against new built development in the open countryside unless it can be justified under national planning policies and/or policies S10, RE3, RE4, RE5 RE6, T2 or T3. There is no such justification in this case. Policy LC5 of the LDP seeks the protection and enhancement of the landscape character.

The site is located in the open countryside and currently consists of a partially re-constructed building (quarter built as per planning statement 2.24), that had been substantially demolished, set on a small landform platform accessed along a short track from the lane to the east. The site is set within north to south sloping land with hedging to boundaries, woodland to the west and grassland in fields to north and south of the site which form part of the Bushes Farm SINC. Immediately adjacent to the east of the building are mature trees also within the SINC. Areas of woodland to the west are ancient and semi-natural woodland.

The Council's Landscape Officer has considered the proposals and concludes that additional information would be required to support the application to enable a full response and has provided a holding objection.

The Officer is concerned that there appears to be a lack of consistency regarding the application boundary area in terms of indicated pertinent works related to the proposal. A photomontage visualisation of the proposal within the context of setting and landform would be appropriate as part of a focussed Landscape Visual Assessment (LVA). This would also provide an indication of the relationship of the proposed architectural form and light spill with landform especially on the north elevation but also on the southern elevation. Further information relating to the relationship of levels with regard to the proposed parking area and retained trees is also required. An appropriate remediation, planting and seeding landscape plan and landscape management plan is considered to be required.

The site lies within a sensitive landscape character area. An analysis of the relevant sensitivity appraisals from LANDMAP information indicates that the LCA has been evaluated as:

Visual & Sensory; 88% High and 12% Moderate

Historic Landscape; 23% Outstanding and 77% High

Cultural Landscape; 98% Outstanding and 2% High

The replacement dwelling proposal seeks approval for part retrospective retention of the existing built form at the point of application and proposed completion of works to construct a building of a similar structure to that of an original dwelling as indicated in the planning statement 3.3 and 3.4. The proposal includes new parking, landscaping, reinstatement works and a proposed bat building to the west of the site.

Materials are indicated as being traditional - stone, timber and pantiles with more contemporary materials on the single storey side extension and barn door infill i.e. glass, a green roof and charred timber cladding. From a policy perspective, LDP Policy LC1 - New Built Development in the Open Countryside - highlights that there is a presumption against new built development in the open countryside, unless justified under national planning policy and/or LDP policies. New built development will only be permitted where all of the criteria a) to d) have been met.

LC5 Protection and Enhancement of landscape character highlights that development will be permitted provided it would not have an unacceptable adverse effect on the special character or



quality of Monmouthshire's landscape in terms of its visual, historic, geological, ecological or cultural aspects.

It is concluded that from a landscape perspective, there is insufficient information to ensure compliance with LDP policies LC1 and LC5.

## **6.4 Biodiversity**

6.4.1 The proposed works are limited to the building to form the new dwelling and the immediate area outside the SINC and thus the SINC should not be impacted by the proposal. The Design & access Statement suggests reprofiling of the land to the rear of the proposed dwelling and thus, to mitigate for any damage, if permission is granted conditions are required for an Ecological Management Plan for the SINC and a Construction Environmental Management Plan (CEMP).

6.4.2 As mitigation for the loss of a bat roost, a purpose-built bat house is proposed west of the dwelling. A new section of hedgerow to improve connectivity is also proposed. Other species identified can be protected via the terms of the required CEMP.

6.4.3 The various measures proposed are considered to provide a net benefit for biodiversity and there are no objections from either NRW or MCC's Ecologist to the proposed development.

## **6.5 Impact on Amenity**

There are two properties close to this site. Bushes Bungalow is approximately 35 metres to the south-east. The garden area of Bushes Bungalow abuts the access drive into the application site. There is also a stone barn approximately 66 metres to the south of the application site that has planning permission for conversion to a residential unit. The new dwelling proposed for this site is sufficiently far from these properties and positioned so that it would not have a significant adverse impact on the privacy, amenity and health of the occupiers of neighbouring properties and therefore accords with the objectives of policies DES1 and EP1 of the LDP.

## **6.6 Transport**

### 6.6.1 Sustainable Transport Hierarchy

PPW refers to the Sustainable Transport Hierarchy where walking and cycling are the highest priority and public transport second with private motor vehicles being the least desirable. In this case the proposed dwelling will not be sited in a sustainable location, being a long way from any defined settlements or facilities. The settlement of Earlswood does have a community facility in the form of a village hall but not a primary school as suggested in the submitted planning statement. The closest Primary school is in Mynydd-bach/ Shirenewton. There is a bus stop on the main B-road about 1 km from the site and the bus, which runs four times a day, provides access to Chepstow, via Shirenewton, and Cwmbran. The location is not considered sustainable for a new build residential unit.

### 6.6.2 Active Travel

No active travel solutions have been proposed as part of this application.

### 6.6.3 Access / Highway Safety

The site has the benefit of an existing vehicular access into the site. The application proposes no amendments that directly or indirectly affect the existing means of access or the adjacent public highway and accords with Policy MV1 of the LDP.

### 6.6.4 Parking

The adopted Monmouthshire Parking standards require one off street parking space per bedroom up to a maximum of three for residential properties. In this case sufficient car parking provision can

be accommodated within the site and therefore the proposal accords with Policy MV1 of the LDP.

## **6.7 Affordable Housing**

The applicants have submitted a draft Unilateral Undertaking as part of the application. The proposed undertaking is between the applicants and the council and the first schedule states:

### Planning Obligation

The Owners will undertake to the council

#### Part 1 Contribution

1. The owner covenants with the council to pay the contribution to the council on or before 28 days from the grant of planning permission.

LDP Policy S4 requires affordable housing contributions to be made in relation to developments which result in a net gain in residential dwellings. Where the net gain in dwellings is below the threshold for affordable units to be provided on site, then a financial contribution is appropriate. In this case the application is seeking a replacement dwelling, if this was the case then no contribution for affordable housing would be required as there would be no net gain in the number of residential units.

If this development was to be allowed as a new dwelling in the open countryside then a financial contribution based on floor area and the calculation contained in Appendix 3 of the Affordable Housing Supplementary Planning Guidance (July 2019) would be required.

## **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 proposed Block Plan Drawing no. 120 shows the position of a package treatment plant. No details of the treatment plant have been included with the submission. 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 SACs. 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.

### 6.9.2 Surface Water Drainage

Surface water will be disposed of via a sustainable drainage system. As the total construction area is above 100m<sup>2</sup> SAB approval will be required. The application has not demonstrated a means of surface water discharge (rainwater harvesting, infiltration, watercourse, surface water sewer or combined sewer). Without a suitable surface water destination the site may not be lawfully developable.

## **6.10 Planning Obligations**

No obligations are required for a replacement dwelling.

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

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

## **6.12 Conclusion**

There is no lawful residential use on the site and thus, there can be no replacement dwelling, there being no residential dwelling to replace. The old, dilapidated farmhouse was replaced by Bushes Bungalow in the 1970's and ceased to be used as a residential dwelling. Even before the structure was demolished in 2022, the residential use had been abandoned and the building was not habitable.

It is a long established principle in national and local planning policy to restrict new build development in the open countryside except in very special circumstances. In this case there are no extenuating circumstances as to why a newly constructed dwelling should be granted permission against this longstanding policy. It is therefore considered that the principle of the development is contrary to Planning Policy Wales, Technical Advice Note 6 and LDP policies S1, LC1 and LC5.

## **7.0 RECOMMENDATION: REFUSE**

### **Reasons for Refusal:**

- 1 The proposed building, by virtue of a lack of an existing lawful residential use on the site, is not considered to be a replacement dwelling. Therefore, the proposals fail to comply with LDP Policy H5. The application relates to the erection of a new dwelling in the open countryside without justification. This is contrary to Policy S1 of the Monmouthshire Local Development Plan (LDP) and to National Planning Policy and Guidance within Planning Policy Wales and Technical Advice Note 6.
- 2 This proposal would result in a new dwelling being located within the open countryside without justification. The proposed residential dwelling with the associated curtilage, driveway and parking area would significantly adversely affect the open rural character of the area and is contrary to policies LC1 and LC5 of the LDP.

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## Appeal Decision

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by C Sweet MPlan

an Inspector appointed by the Welsh Ministers

Decision date: 02/10/2024

Appeal reference: CAS-03602-W8J4H1

Site address: 17 St Mary Street, Chepstow, Monmouthshire, NP16 5EW

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- The appeal is made under Regulation 15 of the Town and Country Planning (Control of Advertisements) Regulations 1992 against a refusal to grant express consent.
  - The appeal is made by Ms Yoon Yee against the decision of Monmouthshire County Council.
  - The application Ref DM/2024/00461, dated 17 April 2024, was refused by notice dated 10 June 2024.
  - The advertisement is described as 'externally illuminated advertisements for restaurant'.
  - A site visit was made on 9 September 2024.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The advertisement is already in place and the appeal therefore seeks retrospective advertisement consent.
3. The Council has referred to policies within the Monmouthshire Local Development Plan (the LDP) which it considers relevant and I have taken these into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. As such, in determining the appeal, the Council's policies have not, by themselves, been decisive.

### Main Issue

4. The parties have not raised public safety as an issue and given the evidence before me, I see no reason to conclude otherwise.
5. The main issue is therefore the effect of the advertisement on the visual amenity of the area, with regard to its location within the Chepstow Conservation Area.

### Reasons

6. The appeal relates to a ground floor restaurant unit close to the junction of St Mary Street and Upper Church Street, within the Chepstow Conservation Area (the CA) and the Chepstow Central Shopping Area as defined by the LDP.

7. St Mary Street has a predominantly commercial character and a traditional appearance derived from the historic buildings along both sides, which are largely town houses with later commercial units inserted at ground floor level. A large proportion of those buildings are listed and make an important and significant contribution to the retained, historic built fabric at this part of the CA.
8. The majority of signage present in commercial frontages at ground floor level along St Mary Street is of a moderate height and scale and, although employing a variety of colour palettes, incorporates largely simple, traditional finishes. Illumination is limited and where present, does not extend the full width of the frontage. These factors serve to limit the visual impact of the signage, preserving the traditional, historic appearance of the street scene and the established character of the CA.
9. Although the appeal building shares a consistent front building line with neighbouring properties, the appeal sign is nonetheless visible within the street scene when approaching along St Mary Street from Beaufort Square and particularly so when approaching from Upper Church Street, where it is viewed in conjunction with the prominent curved frontage of the listed 16 St Mary Street, a notable corner building.
10. I acknowledge the colour palette used in the appeal sign is similar to those used elsewhere along St Mary Street, and that the lettering occupies only a portion of the total area of the sign. However, its substantial height and position, which extends over most of the elevation between the ground and first floor windows, cause it to dominate the frontage of the appeal building at ground floor level and the use of large expanses of acrylic material and multiple projecting aspects give the sign a shiny, cluttered appearance.
11. In combination these factors result in a dominant, unsympathetic contemporary addition that appears incongruous when viewed against the traditional appearance of nearby listed buildings and the wider street scene. These impacts would be exacerbated during nighttime opening hours, when use of the full width illumination would cause the sign to stand out within the street scene to a greater degree.
12. The appellant has indicated a willingness to remove some aspects of the appeal sign. I have considered whether a condition requiring the removal of some of the projecting aspects of the sign and its external illumination would be appropriate. Such a condition would result in a less cluttered appearance and would avoid the visual impact of the sign being exacerbated at night. However, its size, position and the materials used would remain unchanged and the resulting sign would still have a dominant, contemporary appearance. As such, I do not consider such a condition sufficient to overcome the harm I have identified.
13. I therefore find that the advertisement is unacceptably harmful to the visual amenity of the area and fails to preserve or enhance the character or appearance of the CA.
14. I note the appellant's concerns regarding the potential visual impacts that may arise from removal of the appeal sign or the use of an alternative design if consent is not granted. However, such alternatives are not before me and I have nothing to suggest that the appellant's concerns could not be addressed by other, less harmful design alternatives.
15. I also note the appellant's concerns regarding the cost of replacement signage and any necessary renovation, and potential consequential economic impacts but, as noted above, the powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety. Therefore, such issues do not attract weight in my consideration of this appeal.

16. A previous sign of similar design was permitted at the appeal building. However, the full details of that consent are not before me and in any event, its materials and lack of projecting elements were such that it does not provide a meaningful comparison. I have therefore considered the appeal sign on its merits, in the particular and current context of this case.

**Conclusion**

17. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

18. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

*C Sweet*

INSPECTOR

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## Appeal Decision

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by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 21/10/2024

Appeal reference: CAS-03369-Z2B3J6

Site address: Former Whitemill Welsh Water Works, Usk Road, Shirenewton, Monmouthshire, NP16 6BU

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Mike Gibbs against the decision of Monmouthshire County Council.

The application Ref DM/2023/01016, dated 19 July 2023, was refused by notice dated 25 September 2023.

- The development proposed is the part conversion and part redevelopment of buildings to create 3 no. dwelling houses (Use Class C3), with associated parking and landscaping.
  - A site visit was made on 9 September 2024.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. At my request, additional information was provided by the Council and by Natural Resources Wales (NRW) on 1 October 2024 which clarified their position in respect of the submitted evidence.

### Main Issues

3. The main issues are whether the development would be acceptable in principle, having particular regard to the local and national planning policies, and the impact of the proposal on ecology and highway safety.

### Reasons

#### *Development in the Open Countryside*

4. The appeal site is located some distance to the north of the rural settlements of Shirenewton and Mynydd Bach in the Wye Valley Area of Outstanding Natural Beauty. The site comprises a former Welsh Water compound which is currently used for small scale commercial activity and includes 2 no. substantial metal clad industrial buildings, a number of small ancillary buildings and a large concrete hard standing which is used for

the storage of materials and vehicular parking. The site is enclosed, largely, by mature woodland and accessed via a private drive leading directly from B4235.

5. Policies S1, H4, LC1 and MV1 of the adopted Monmouthshire Local Development Plan (2014) (LDP) identify the appeal site as being in the open countryside and seek, amongst other things, to ensure that proposals for development in this location are justified and are of a scale and design that respects the character and appearance of the area and would not have an adverse impact on highway safety.
6. This approach is supported by guidance contained in Planning Policy Wales, Edition 12 (2024) (PPW) which makes clear that “*new building in the open countryside away from existing settlements or areas allocated for development in*” “*plans must continue to be strictly controlled*” (paragraph 3.60).
7. The development proposes the demolition of one of the existing buildings, the conversion and extension of the remaining building to provide 2 no. semi-detached dwellings, and the construction of a large, detached dwelling in the northern section of the site. The dwellings would be of a contemporary design and be finished in a combination of timber and metal cladding.
8. The appellant maintains that: the appeal site is in a sustainable location close to a number of settlements, services, and facilities which can be accessed by a range of modes of transport; the proposal makes provision for the development of new houses on previously developed land; and the development would deliver a tangible package of public benefits, including a betterment to local highway conditions through the reduction of HGV traffic. In addition, the appellant suggest that the additional ecological and transportation information submitted with the appeal demonstrates that the proposal would not have an adverse impact on highway safety or sensitive ecological receptors.
9. Whilst I note the appellants comments, I am mindful the development proposes the construction of a new detached dwelling in a remote location in the open countryside, and that no detailed evidence has been presented that demonstrates the property is required to meet local housing need associated with the provision of either affordable housing or rural enterprise workers dwellings. In the absence of such information, I conclude that this element of the proposal would conflict with the requirements of the LDPs spatial strategy and national planning policy.
10. Similarly, Policy H4 makes clear that the conversion of buildings in the open countryside for residential purposes which are of modern and /or utilitarian design and constructed from materials such as concrete block work, portal framed buildings clad in metal sheeting will not be supported. In this case, the proposal requires the redevelopment of an existing prefabricated, metal clad Industrial building to provide two substantial properties of a modern design. The appellant has not provided any substantive information which demonstrates that there are any material considerations in favour of this element of the scheme or that would otherwise justify the conflict with local policy. Moreover, although I note the scale and design of the existing buildings, I consider that the structural form of the proposed dwellings together with the overtly modern design of the scheme would result in an incongruous form of development that fails to respect the rural character and appearance of the area and wider AONB.
11. With regard to the nature and location of the proposal, I agree that the appeal site constitutes PDL. However, I am mindful that PPW makes clear that PDL may not be suitable for redevelopment if it is in an unsustainable location (paragraph 3.55). In this case the appeal site is situated in a remote location, between 500 metres and 1.7 kilometres away from the nearest settlements which offer commercial services. The limited nature of these services together with their location and the need to travel along

the narrow, unlit private access road that serves the site and the B4235, which is a busy, unsegregated road, to access them, would in my view, deter future residents from accessing these facilities on foot or cycle and would instead promote the use of private cars. As such, I consider that the proposal would result in the redevelopment of a site in an unsustainable location contrary to the requirements of national policy.

12. Taking these matters together, I conclude that the proposed development would not be of a type which finds support in local or national policy for housing in the open countryside and would therefore conflict with the Policies S1, H4 and LC1 of the LDP and PPW.

#### *Ecological and Highway Information*

13. The Council has raised concern that insufficient information has been submitted in respect of highway safety and ecology to allow the proposal to be fully assessed.
14. In respect of highway safety, the Council maintains that in the absence of detailed information in respect of the geometry and dimensions of the proposed access road, site layout and the visibility splay with the B42350 means that it is not able to assess whether the proposal meets current design standards or would be capable of safely accommodating the proposed development. Whilst I note the appellants comments, I share the Council's concerns that in the absence of this information no meaningful judgement can be made about whether the proposal would comply with current standards or have an adverse impact on highway safety. As such, I consider that the proposal is contrary to the requirements of Policy MV1 of the Plan.
15. With regard to ecology, additional information in relation to the ecological impact of the proposed development was submitted by the appellant as part of the appeal process. The information has been assessed by NRW who have confirmed that, subject to a condition requiring the provision of a structure suitable for Bats to use for night roosting and the conditions contained in their letter of the 30 August 2023, they have no objection to the proposed development. I agree with NRW, that that subject to the application of appropriate condition, this matter can be satisfactorily addressed.

#### **Conclusion**

16. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of making our cities, towns and villages even better places in which to live and work.
17. I have also had regard to all the matters raised in support of the scheme. Although I have found that satisfactory ecological information has been provided this is not sufficient to alter my overall conclusions that the proposed development would result in unjustified development in the open countryside and have an adverse impact on highway safety.
18. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Gulley*

INSPECTOR

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## Appeal Decision

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by H Davies BSc (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 10/10/2024

Appeal references: CAS-03076-T1S2G2 and CAS-03099-Z9D3D1

Site address: Land North West Of Holly Lodge (also known as Land at High Mass Cottage and Land at Church View), Five Lanes North, Five Lanes, Caerwent, Monmouthshire NP26 5PG

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### Appeal A reference: CAS-03076-T1S2G2

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act).
  - The appeal is made by Ms S Connolly against an enforcement notice issued by Monmouthshire County Council.
  - The enforcement notice, numbered E21/064, was issued on 28 September 2023.
  - The breach of planning control as alleged in the notice is, unauthorised operational development, including the provision of sheds, outbuildings, freight container, stable block, timber gates/fencing, hard surfacing and installation of septic tank.
  - The requirements of the notice are to:
    - i. Remove all sheds (labelled A, C, D & E in Appendix B) from the site.
    - ii. Remove the outbuilding (labelled B in Appendix B) from the site.
    - iii. Remove the freight container from the site (labelled I in Appendix B) from the site.
    - iv. Remove the stable block (labelled F in Appendix B) from the site.
    - v. Remove all hard surfacing materials deposited on the site within the area edged in yellow in Appendix A and specifically labelled H in Appendix B (this extent of the hard surfacing is marked via yellow line in Appendix B). Return the land to grassland as evidenced in Appendix C.
    - vi. Reduce the height of all fencing/gates adjacent to the highway (labelled G in Appendix B and extend shown in purple in Appendix A) to 1m or under or remove in their entirety.
    - vii. Remove the septic tank (within the area edged in green in Appendix A) from the site and return the land to grassland as evidenced in Appendix C.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (c) and (g) of the Act.
  - A site visit was made on 24 September 2024.
-

**Appeal B reference: CAS-03099-Z9D3D1**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act), against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Ms S Connolly against Monmouthshire County Council.
  - The application reference DM/2023/01042 is dated 24 July 2023.
  - The development proposed is a change of use from agriculture to land for the keeping of horses (retrospective), proposed erection of stable block for 5 horses, erection of ancillary storage building, construction of manege.
  - A site visit was made on 24 September 2024.
- 

**Decision - Appeal A**

1. It is directed that the notice is corrected as follows:
    - In schedule 1, remove the words ‘attached plan’ and replace them with ‘plan attached in Corrected Appendix A’
    - In schedule 2 (allegation), remove the word ‘provision’ and replace it with ‘erection’;
    - Remove ‘Appendix A’ attached to the notice and substitute it with the ‘Corrected Appendix A’ which is attached to this decision letter.
  2. It is also directed that the notice is varied, to reflect the partial success of the appeal on grounds (c) and (g), by removing the content of schedule 4 (what you are required to do) in its entirety and replacing it with the following text:
    - i. ‘Remove all sheds (labelled A, C, D & E in Appendix B) from the site.
    - ii. Remove the outbuilding (labelled B in Appendix B) from the site.
    - iii. Remove the stable block (labelled F in Appendix B) from the site.
    - iv. Remove all hard surfacing materials deposited on the site within the area edged in yellow in Corrected Appendix A and specifically labelled H in Appendix B (this extent of the hard surfacing is marked via yellow line in Appendix B). Return the land to grassland as evidenced in Appendix C.
    - v. Reduce the height of all fencing/gates adjacent to the highway (labelled G in Appendix B and extent shown in purple in Corrected Appendix A) to 1 meter or under or remove in their entirety.
    - vi. Remove the septic tank (within the area edged in green in Corrected Appendix A) from the site and return the land to grassland as evidenced in Appendix C.
- Time for compliance:
- The period for compliance with requirements i, ii, v and vi (sheds, outbuildings, gate/fence and septic tank) is 3 months from the date of this decision.
  - The period for compliance with requirements iii and iv (stables and surfacing) is 6 months from the date of this decision.’
3. Subject to the above corrections and variation, appeal A is dismissed and the enforcement notice is upheld.

## **Decision - Appeal B**

4. The appeal is allowed and planning permission is granted for change of use from agriculture to land for the keeping of horses (retrospective), proposed erection of stable block for 5 horses, erection of ancillary storage building, construction of manege, at Land North West Of Holly Lodge (also known as Land at High Mass Cottage and Land at Church View), Five Lanes North, Five Lanes, Caerwent, Monmouthshire NP26 5PG, in accordance with the terms of the application, reference DM/2023/01042, dated 24 July 2023, subject to the conditions set out in the schedule attached to this decision letter.

### **Applications for costs**

5. Under both appeals, an application for a full award of costs has been made by Ms S Connolly against Monmouthshire County Council. These applications are the subject of separate decisions.

## **Background**

6. The application for planning permission referred to the site as Land North-West of Holly Lodge. The enforcement notice referred to the site as Land at High Mass Cottage. In the appeal forms the site is referred to as Land at Church View, which is also on the site gate. Despite these different names for the site, the location is the same and is identified with sufficient clarity in plans.
7. There is a range of unauthorised operational development at the site which is subject to the enforcement notice considered under Appeal A. The planning application subject to Appeal B seeks permission for new development at the site and does not seek permission to retain the existing unauthorised development.

## **Appeal A (s174 appeal)**

### *The Notice*

8. I have a duty to get the notice in order and s176(1) of the Act grants powers to (a) correct any defect, error or misdescription in the enforcement notice, and/or (b) vary the terms of the notice, provided it would not result in injustice to the appellant or the Council.
9. The term 'provision' is not listed in the Act as being an act of operational development. However, the breach is clearly defined as being unauthorised operational development as well as stating which items it relates to. It is clear from the appeal submissions that the appellant understood what the notice related to. Notwithstanding this, the breach would be more precisely worded if 'provision' were replaced with 'erection'.
10. The plan originally submitted as Appendix A of the notice was a poor reproduction. A corrected version has since been provided. While the quality is still quite poor, it is sufficient to identify the site edged red as well as the areas indicated by the other colours. In combination with Appendix B and C this is sufficient to identify the site and the items referred to in the notice requirements. Despite this issue, it is clear from the submissions that parties understood the area and the matters which the notice related to. I attach the corrected plan to this decision as 'Corrected Appendix A'. I am satisfied that I can make the above corrections without causing injustice.

### *Preliminary Matter*

11. No appeal has been made on ground (a), which is that planning permission ought to be granted for the matters stated in the notice. Consequently, under this appeal, the planning merits of the existing unauthorised operational development is not for consideration and planning permission cannot be granted for it.

*The Appeal on Ground (c)*

12. An appeal on ground (c) is that the matters alleged do not constitute a breach of planning control. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control. The appellant raises ground (c) only in relation to the container and the fence and gates.
13. As established by case law, size, permanence and attachment need to be considered to determine if something is a building. The container is a modest size. I saw no evidence of it having been moved regularly. However, it could be moved relatively easily as it is a single, solid, unit which is not attached to the ground. On this basis, I do not consider it to be a building. The container is used to store tools and equipment for the maintenance of the land. As such, I consider the container to be a portable storage unit, part and parcel of the lawful use of the land and not a breach of planning control.
14. A close boarded fence and gates has been erected at the site entrance, where there was previously hedging and typical field gates. Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as Amended in Wales) (the GPDO) relates to the erection of a gate or fence. To be permitted development, the height of a new gate or fence cannot exceed one metre above ground level where adjacent to a highway used by vehicular traffic, or 2 metres elsewhere.
15. The gate/fence clearly exceed 1 metre, but do not exceed 2 metres. The matter for consideration is therefore whether the gate/fence are adjacent to a highway used by vehicular traffic. The road from which the access is formed is narrow and quiet, but is a highway used by vehicular traffic. I acknowledge that the gates/fence are set back from the road and are erected on private land. Notwithstanding this, the area between the road and the gate/fence is not extensive and seems designed only to allow vehicles to pull off the road while the gates are used. There is no intervening different use of the land, the setback is modest and the gate/fence forms the boundary between the highway and the site. Both functionally and visually I consider the gate/fence to be adjacent to the highway. Therefore, the gate and fence have been erected adjacent to a highway used by vehicular traffic and exceed 1 metre in height. Consequently, they do not benefit from permitted development rights so are a breach of planning control.
16. I conclude that the container is not a breach of planning control and the appeal on ground (c) succeeds to this extent. I will vary the requirements of the notice so that the container does not have to be removed. However, the gate and fence do constitute a breach of planning control and the appeal on ground (c) fails in this regard.

*The Appeal on Ground (g)*

17. An appeal on ground (g) is that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The notice specifies a time for compliance of 3 months after the notice takes effect. The appellant raises ground (g) only in relation to the stables, shed and outbuildings, as well as the removal of hard surfacing materials and land remediation.
18. At the time of my site visit, there was one horse and two donkeys at the site. I acknowledge that for the welfare of these animals, suitable arrangements will need to be made to ensure they have shelter and can continue to be cared for, which may take some time to arrange. It is therefore reasonable to allow 6 months for the removal of the stables. However, given the small number of animals, and the retention of the container (as set out above) which can provide some storage in addition to the stables, I see no need to retain the sheds and outbuildings for longer than 3 months.



19. I acknowledge that removing hard surfacing and undertaking grass restoration could be difficult during the winter months. Given the timing of this decision, it is reasonable to allow 6 months, which takes the period for compliance into the spring when conditions are likely to be more conducive to such works.
20. I conclude that the appeal on ground (g) succeeds in relation to the stables and surfacing but fails in relation to the shed and outbuildings. I shall uphold the notice but exercise my powers under s176(1)(b) of the Act to vary the notice accordingly, by extending the time for compliance to 6 months for the relevant elements, as set out in the decision.

#### *Conclusion on Appeal A*

21. I shall uphold the notice, but with variations to reflect the partial success of the appeal on grounds (c) and (g).

#### **Appeal B (s78 appeal)**

##### *Preliminary Matters*

22. I have determined Appeal B on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council did consider the application at planning committee and resolved to refuse it, but an appeal against non-determination had already been made and the period for dual jurisdiction under the appeals process had ended. Notwithstanding this, the Council provided a copy of their officer report, along with their committee report which sets out the reasons why planning permission would have been refused, had the jurisdiction to determine the application remained with the Council. I have had regard to these in setting out the main issues.
23. I note that a previous application for equestrian use of the land, with a manege, stables and store was refused and a subsequent appeal dismissed. However, the appeal was dismissed on the basis that the plans lacked the necessary clarity and details to allow the inspector to conclude whether there would be any material conflict with policy. The plans provided with the application subject to this appeal provide the necessary detail to allow an assessment of the planning merits to be made.

##### *Main Issues*

24. The main issues are:

- Whether the development is acceptable in a countryside location;
- The effect of the development on the character and appearance of the site and the surrounding area;
- The effect of the development on Highway safety; and
- The effect of the development on biodiversity.

##### *Reasons – Countryside Location*

25. The site is a field, outside of the settlement boundaries as defined by the Monmouthshire Local Development Plan (LDP) so is within the countryside. LDP Policies LC1 and RE6 allow for the provision of leisure facilities in the countryside, including equestrian uses, provided certain criteria are met. As set out in the following sections, the proposed development is small scale; has a form and layout which safeguards the character and appearance of the area; assimilates satisfactorily into the landscape; and has no unacceptable adverse impact on the landscape or biodiversity. Consequently, it meets the requirements of LDP policies LC1 and RE6 so, in principle, can be considered acceptable development in the countryside.

*Reasons – Character and Appearance*

26. The majority of the site boundary is defined by hedgerow. A public right of way (footpath) (PROW) crosses the site. The site slopes down from the road and the access, which is in the south, towards the woodland, in the north. Fields to either side of the site are open and appear to be in use for the keeping of horses. The field to the west contains a stables and small barn located along the hedge boundary with the road. They are of a similar scale and location to those proposed under this appeal. In the surrounding area there are a number of other examples of modest wooden or wooden clad structures located close to the road.
27. There are a number of individual dwellings along the road, with a small cluster to the southeast of the site. The dwellings and any associated development sit relatively close to the road, forming a dispersed but primarily linear pattern of development.
28. The proposed stable building is modest in scale, and appropriate for the proposed number of horses and the size of the site. The storage building is commensurate in size to its proposed functions. The structures are of a simple design and finish that is common in a rural setting such as this. I note concerns regarding the structures being constructed in blockwork clad in wood. I do not consider this to be an issue in terms of character and appearance, provided the cladding is installed, which can be secured by condition. The stables and storage building would be located close to the hedge line with the road, reflecting the linear development form and layout of the area.
29. The manege/equestrian area is a modest size, commensurate with a small-scale private use. Its design and finish are appropriate to its context and function. Visibility of it from outside the site would be limited.
30. The boundary hedgerow would provide significant screening for much of the development, especially when viewed from the road. However, the proposal would be highly visible from the PROW which crosses the site as well as being seen above the hedge from the road. Notwithstanding this, as outlined above, the proposal is in keeping with the surroundings so this visibility does not result in harm.
31. Overall, the scale, finish and location of the proposed stables and storage building are in keeping with the surroundings. I therefore conclude that the development would not cause unacceptable harm to the character and appearance of the site or the surrounding area. As such, the development complies with LDP Policies DES1 and LC5. Together, amongst other things, these policies seek to ensure that development is well designed, respects the local character and distinctiveness and protects landscape character.

*Reasons – Highway safety*

32. The vehicle access to the site is from an unclassified highway known as Five Lanes. The road is narrow but on the evidence of my site visit, it is also quiet. The access is suitable to serve the needs of the proposed use without impacting on the surrounding roads.
33. The equestrian use of the site is proposed as being private use only, which can be secured by condition. On this basis, the proposal would not generate traffic movements significantly different in frequency or vehicle type to that which would be expected of its established agricultural use.
34. I conclude that the development would not cause harm to highway safety. As such, the development complies with LDP Policy MV1. Amongst other things, this policy seeks to prevent development which would significantly and unacceptably increase traffic or fail to provide safe access for road users.

*Reasons – Biodiversity*

35. I acknowledge that a section of hedgerow has previously been removed near the access, but that matter does not form part of this appeal. The proposal subject to this appeal includes significant new hedgerow planting within the site, which can be secured by condition. Once established, the new planting will enhance the biodiversity of the site and improve the connectivity of the surrounding green infrastructure.
36. The woodland to the north is a Site of Importance for Nature Conservation (SINC). However, it is outside of the site and well away from the area of the proposed development. The proposed development is small scale and I have no reason to believe it would have any detrimental impact on the SINC, subject to controlling lighting, which can be secured by condition.
37. I conclude that the development would not have a detrimental impact on ecology and once the new hedgerow is established it would result in biodiversity net gain. As such, the development complies with LDP Policy S13 which, amongst other things, seeks to maintain the character and quality of the landscape and enhance biodiversity and the connectivity of green infrastructure.

*Other Matters*

38. I have had regard to the matters raised by third parties, most of which have been considered in the main issues. The existing unauthorised structures are not the subject of Appeal B, so their impact has not been part of my consideration of the proposed development. Sufficient detail has been submitted to allow assessment of the impact of the proposal.
39. Concerns have been raised regarding the planning committee process. Such matters are not for consideration under this appeal. Moreover, this appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. Therefore, the jurisdiction to determine the application transferred to the inspector.
40. The proposal necessitates diverting the PROW so it runs around the edge of the site, which requires the granting of a separate Order. Covenants are subject to separate legislation. Neither of these matters fall to be considered under this appeal.
41. Given that the horses will be fed supplementary feed rather than relying purely on the site for grazing, I have no reason to conclude that the site is insufficient in size to support the proposed 5 horses.

*Conditions*

42. I have considered the need for conditions in light of the advice in Welsh Government Circular 016/2014 "The Use of Planning Conditions for Development Management". Both parties have had the opportunity to make representations on suggested conditions. I have amended some of the suggested conditions in the interests of clarity and precision, while retaining their purpose.
43. The council proposed a hedge planting condition as well as soft landscaping implementation and maintenance conditions. In the interest of brevity I have combined these conditions into one. I have imposed a separate condition for hard landscaping.
44. Sustainable Drainage Systems (SuDS) on new developments, where applicable, must be designed and built in accordance with the Statutory SuDS Standards published by the Welsh Ministers. SuDS Schemes must be approved by the local authority acting in its SuDS Approval Body (SAB) role before construction work begins. Therefore, imposition of a SuDS condition is unnecessary as it would duplicate other legislation.



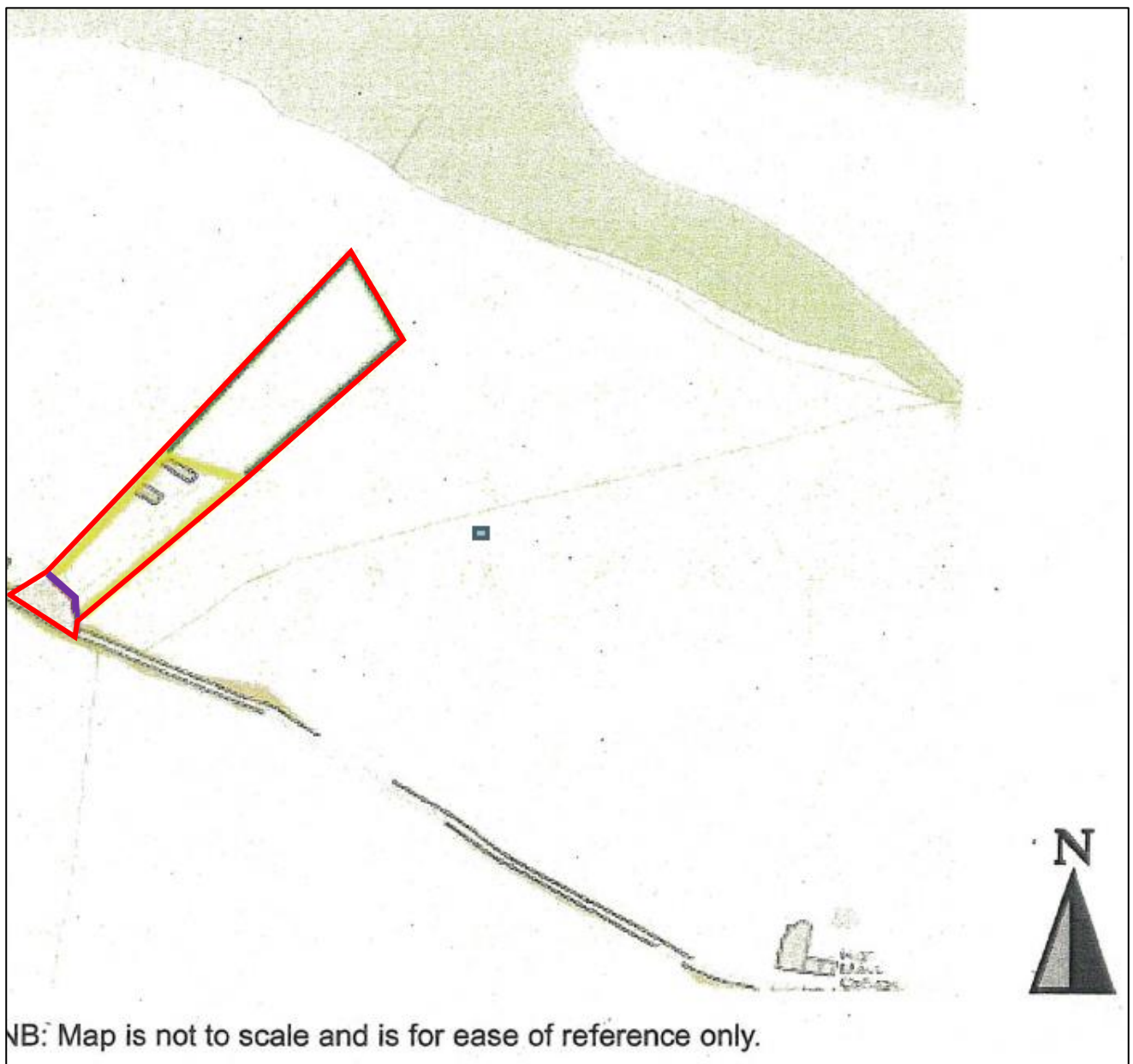
*Conclusion on Appeal B*

45. For the reasons given above and having regard to all other matters raised, I conclude that Appeal A should be allowed.
46. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

*H Davies*  
INSPECTOR

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**CORRECTED APPENDIX A – APPEAL A**



## **SCHEDULE OF CONDITIONS – APPEAL B**

- 1) The development shall begin not later than five years from the date of this decision.

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 following approved plans and documents:

- Site location plan
- Site Plan as Existing and Proposed – PLN-02
- Proposed plans (barn) – PLN-03
- Proposed plans (stables) – PLN-01
- Supporting Planning Statement
- Design and Access Statement
- Riding Area Construction Guide
- Preliminary Ecological Appraisal
- Waste Management Strategy – 25/10/23
- Soakaway drainage destination and manege details – 14/11/23
- Green Infrastructure Statement

Reason: To ensure the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.

- 3) No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9 and LDP Policy S13.

- 4) Prior to their implementation on site, details of any hard landscaping shall be submitted to and approved in writing by the local planning authority. Any hard landscaping / surfacing shall be carried out in accordance with the approved details and maintained as such thereafter.

Reason: In the interests of visual amenity and to safeguard the special character of the countryside, in accordance with LDP Policies RE6, LC5 and DES1.

- 5) The development hereby approved shall not come into beneficial use until the wooden cladding, as shown on the approved plans, has been applied and completed. The cladding shall be retained thereafter.

Reason: In the interests of visual amenity and to safeguard the special character of the countryside, in accordance with LDP Policies RE6, LC5 and DES1.

- 6) The development shall be operated in accordance with the approved waste management plan dated 25.10.23 and in line with the DEFRA codes of good agricultural practice at all times that the site is in beneficial use.

Reason: To protect the living conditions of neighbouring occupiers, in accordance with LDP Policy EP1.

- 7) The hedge planting shown on the approved proposed site plan shall be planted during the first planting season immediately following first beneficial use of any part of the development hereby approved. The hedge planting shall consist of hawthorn 50%, blackthorn 25%, field maple 10%, hazel 10% and holly 5%. Plants shall be 450-600mm height Br (bareroot) in a double staggered row 300mm between rows. The plants shall be suitably protected (biodegradable spirals, fencing, mulch). Any hedge plants that, within a period of five years after planting, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.

Reason: In the interests of ensuring the provision, establishment and maintenance of a reasonable standard of landscaping and green infrastructure, in accordance with LDP Policies LC5, DES1 and S13.

- 8) No surface water shall be permitted to drain from the site onto the adjoining highway or into the highway drainage system.

Reason: To ensure no surface water drains onto the highway and impacts on highway safety, in accordance with LDP Policy MV1.

- 9) Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no lighting or lighting fixtures shall be installed within the site until an appropriate lighting plan has been submitted to and agreed in writing by the Local Planning Authority. Any such plan would need to include the detail of lighting type, positioning and specification for low level PIR lighting, which ensures that foraging/commuting habitat for bats is protected from light spill. Any lighting installed shall be in full accordance with the approved details and retained as such thereafter.

Reason: To safeguard foraging/commuting habitat of Species of Conservation Concern in accordance with Section 6 of the Environment Act (Wales) 2016 and LDP Policies EP3 and NE1.

- 10) The development hereby approved shall be for personal use only and shall not be used for commercial purposes, including livery use.

Reason: In the interests of highway safety and to protect the living conditions of neighbouring residents in accordance with LDP Policies MV1 and EP1.

END OF SCHEDULE

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## Costs Decision

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by H Davies BSc (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date:

Cost application in relation to appeals reference: CAS-03076-T1S2G2 and CAS-03099-Z9D3D1

Site address: Land North West Of Holly Lodge (also known as Land at High Mass Cottage and Land at Church View), Five Lanes North, Five Lanes, Caerwent, Monmouthshire NP26 5PG

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### Costs application in relation to Appeal A - Ref CAS-03076-T1S2G2

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 174, 175(7), 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 unauthorised operational development, including the provision of sheds, outbuildings, freight container, stable block, timber gates/fencing, hard surfacing and installation of septic tank.
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### Costs application in relation to Appeal B - Ref CAS-03099-Z9D3D1

- 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 a failure to give notice within the prescribed period of a decision on an application for planning permission, for proposed change of use from agriculture to land for the keeping of horses (retrospective), proposed erection of stable block for 5 horses, erection of ancillary storage building, construction of manege.
- 

### Decisions

1. The application for an award of costs is refused in regard to Appeal A and Appeal B.

### Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Welsh Government Development Management Manual (Section 12.3 and Annex 12: Awards of Costs) advises that costs may be awarded against a party who has behaved unreasonably, and unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

*Matters Relating to Appeal A*

3. The applicant claims there was a lack of precision in drafting the enforcement notice; imprecise terms specified for site remediation; a lack of interest in resolving matters through negotiation; and insufficient investigation.
4. In schedule 3 of the notice the Council set out their reasons for issuing the notice. These are sufficiently detailed and clear and linked to relevant development plan policies. As set out in my appeal decision, while the breach of planning control would have been more precisely worded by replacing the term 'provision' with 'erection', the breach is clearly defined as being unauthorised operational development as well as stating which items it relates to. I corrected the allegation to improve precision, but it was clear from the appeal submissions that the appellant understood what the notice related to.
5. The Council concluded, on the basis of a site visit, that both the container and the gate/fence were in breach of planning control. As can be seen from my decision, I disagreed with regard to the container. However, such considerations are a matter of fact and degree and the Council sufficiently explained the reasons for reaching their conclusion.
6. With regard to site reinstatement, the notice does not require reprofiling, just that it be returned to grassland. Appendix C simply shows the site prior to the unauthorised development to illustrate that it was undeveloped and set to grass. The requirement to return the site to grassland is sufficiently clear and precise.
7. I cannot comment on any discussion which may have happened on site for which I have no evidence. The Council are not obliged to negotiate before serving a notice. Notwithstanding this, from the timeline of events provided by the Council it seems that issues relating to unauthorised development at the site were raised as early as March 2021, with site meetings on at least 2 occasions (March 2021 and August 2022), along with other communications. This indicates ongoing and prolonged contact between the parties prior to the notice being issued.
8. The appellant suggests that removal of unauthorised development could have been achieved through the imposition of a planning condition attached to the grant of permission for the proposed stables and storage building. Even if the permission had been granted, imposition of such a condition would not have been in line with guidance on the need for conditions set out in Welsh Government Circular 016/2014 "The Use of Planning Conditions for Development Management". In addition, the operational development enforced against is distinct from and different to the operational development proposed in the planning application. It was therefore reasonable for the Council to deal with the unauthorised development separately to the application and serve a notice seeking to remedy the breach.
9. The photographs attached to the notice are not dated, although the Council state they were taken in July 2023, shortly before issuing the notice. They are evidence of at least one full and detailed site visit. The photos are also commensurate with what I observed during my site visit. I have been presented with no information which would lead me to conclude that there was insufficient investigation prior to issuing the notice.

*Conclusion - Appeal A*

10. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not justified. Consequently, this application for costs is refused.

*Matters Relating to Appeal B*

11. The applicant claims that the Council behaved unreasonably in failing to determine the application within the statutory time limits, where it was clear there was no substantive reason to justify delaying the determination of the application. They also claim the Council prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and failed to substantiate the impact of the proposal.
12. I note that officer recommendation was to approve the application, with additional details to be secured by condition. Planning committee reached a different conclusion, which they are entitled to do. The planning committee minutes from the meeting of 3<sup>rd</sup> October 2023 show there was discussion of a number of concerns which the committee felt had not been adequately addressed. This included waste management, drainage, landscaping, surfacing and ecology. Concerns also continued to be raised by third parties. Committee concluded that the number and type of unresolved issues were too significant to rely on conditions to resolve them. I consider that some, if not all, of the issues could have been resolved by conditions, but it was not unreasonable in this case for the committee to have proceeded as they did.
13. Additional information was requested to see if committee concerns could be overcome. The subsequently submitted information necessitated re-consultation. The final decision was therefore deferred to a later committee meeting. While I appreciate the frustration of the appellant at this delay, the procedure outlined is not unusual and does not constitute unreasonable behaviour. The additional information provided (which formed part of my consideration of the s78 appeal) would need to have been provided at some stage anyway to enable the development to proceed.
14. The application was returned to planning committee in January 2024, with three suggested reasons for refusal. These reasons are clear, precise and linked to relevant planning policy. I acknowledge that the reasons for refusal are not backed up by a full report or a detailed explanation, but they do outline the harm which planning committee felt would result from the development.
15. Notwithstanding the above, an appeal was made on 10 November 2023, on the basis that the Council had failed to give its decision on the application for planning permission within the appropriate period. Planning committee did subsequently resolve to refuse the application at a meeting in January 2024, but this was after the period for dual jurisdiction under the appeals process had ended. Consequently, the jurisdiction to determine the application was no longer with the Council. As a consequence, the lack of detail to support the suggested reasons for refusal is of little account, given that the decision sat with the appointed inspector.

*Conclusion - Appeal B*

16. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not justified. Consequently, this application for costs is refused.

*H Davies*

INSPECTOR

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Appeals received 1<sup>st</sup> July to 30<sup>th</sup> September 2024

Application / Enforcement case reference	Location	Development proposal	Appeal type	Appeal method	Date received
E23/143	1 Monnow Keep Monmouth Monmouthshire NP25 3EX	Engineering works to raise the ground so that it is level with the domestic garden of No 1 Monnow Keep, with associated retaining wall and timber fence above. Change of use of riverbank to residential use of the land shown edged blue within Appendix B in association with the dwelling known as 1 Monnow Keep	Appeal against Enforcement Notice Material Change of Use	Written Representations	30-Jul-24
DM/2024/00461	17 St Mary Street Chepstow Monmouthshire NP16 5EW	External illuminated advertisements for restaurant	Appeal against Refusal	Written Representations	13-Aug-24
DM/2023/01105	Bushes Farm Chapel Road Earlswood Shirenewton Monmouthshire NP16 6RH	Proposed amendments to previous planning permission ref: DC/2018/00128 to incorporate minor amendments to approved alterations including a side and rear extension, amended bat provision and alteration of ground levels.	Appeal against Refusal	Written Representations	21-Aug-24
DM/2023/01093	The Boat Inn The Back Chepstow NP16 5HH	Retention of existing marquee erected on the riverbank in the autumn of 2020 in conformity with the then existing Covid pandemic operating requirements applicable to clubs and restaurants	Appeal against Refusal	Public Inquiry	02-Aug-24

DM/2024/00285	1 Monnow Keep Monmouth Monmouthshire NP25 3EX	Raised first floor rear extension and change of use to end of garden.	Appeal against Refusal	Written Representations	30-Jul-24
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