

Public Document Pack



County Hall
Rhadyr
Usk
NP15 1GA

Monday, 25 July 2016

Notice of meeting:

Planning Committee

Tuesday, 2nd August, 2016 at 2.00 pm,
The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA

AGENDA

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**Paul Matthews
Chief Executive**

MONMOUTHSHIRE COUNTY COUNCIL

THE CONSTITUTION OF THE PLANNING COMMITTEE IS AS FOLLOWS:

County Councillors:

R. Edwards
P. Clarke
R. Chapman
D. Blakebrough
D. Dovey
D. Edwards
D. Evans
R. Harris
B. Hayward
J. Higginson
P. Murphy
M. Powell
B. Strong
P. Watts
A. Webb
A. Wintle

Public Information

Any person wishing to speak at Planning Committee must do so by registering with Democratic Services by no later than 12 noon the day before the meeting. Details regarding public speaking can be found within this agenda or is available here [Public Speaking Protocol](#)

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

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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

Sustainable and Resilient Communities

Outcomes we are working towards

Nobody Is Left Behind

- Older people are able to live their good life
- People have access to appropriate and affordable housing
- People have good access and mobility

People Are Confident, Capable and Involved

- People's lives are not affected by alcohol and drug misuse
- Families are supported
- People feel safe

Our County Thrives

- Business and enterprise
- People have access to practical and flexible learning
- People protect and enhance the environment

Our priorities

- Schools
- Protection of vulnerable people
- Supporting Business and Job Creation
- Maintaining locally accessible services

Our Values

- **Openness:** we aspire to be open and honest to develop trusting relationships.
- **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

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.

Main policy context

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 (adopted March 2016)
- 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)

National Planning Policy

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

- Planning Policy Wales (PPW) Edition 8 (January 2016)
- PPW Technical Advice Notes (TAN):
- TAN 1: Joint Housing Land Availability Studies (2015)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Town Centres (1996)
- TAN 5: Nature Conservation and Planning (2009)
- TAN 6: Planning for Sustainable Rural Communities (2010)
- TAN 7: Outdoor Advertisement Control (1996)
- TAN 8: Renewable Energy (2005)

- TAN 9: Enforcement of Planning Control (1997)
- TAN 10: Tree Preservation Orders (1997)
- TAN 11: Noise (1997)
- TAN 12: Design (2016)
- TAN 13: Tourism (1997)
- TAN 14: Coastal Planning (1998)
- TAN 15: Development and Flood Risk (2004)
- TAN 16: Sport, Recreation and Open Space (2009)
- TAN 18: Transport (2007)
- TAN 19: Telecommunications (2002)
- TAN 20: The Welsh Language (2013)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)
- Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)
- Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)
- Welsh Government Circular 016/2014 on planning conditions

Other matters

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

Planning (Wales) Act 2015

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

Section 31 of the Planning Act clarifies that considerations relating to the use of the Welsh language can be taken into account by planning authorities when making decisions on applications for planning permission, so far as material to the application. The provisions do not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the local planning authority, and the decision whether or not to take Welsh language issues into account should be informed by the consideration given to the Welsh language as part of the LDP preparation process. Section 11 requires the sustainability appraisal, undertaken as part of LDP preparation, to include an assessment of the likely effects of the plan on the use of Welsh language in the community. Where the authority's current single integrated plan has identified the Welsh language as a priority, the assessment should be able to demonstrate the linkage between consideration for the Welsh language and the overarching Sustainability Appraisal for the LDP, as set out in TAN 20.

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

Environmental Impact Assessment Regulations 2016

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

Conservation of Species & Habitat Regulations 2010

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

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

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.

Who Can Speak

Community and Town Councils

Community and town councils can address Planning Committee. 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.

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 can 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 letters of objection/support or signatures on a petition have been submitted to the Council from 5 or more separate households/organisations. The Chair may exercise discretion to allow speaking by members of the public where an application may significantly affect a sparse rural area but fewer 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, address Committee. 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.

Registering Requests to Speak

To register a request to speak, objectors/supporters must first have made written representations on the application. They must include in their representation their request to speak or subsequently register it with the Council.

Applicants, agents and objectors 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 whether the application is to be considered by Planning Committee by contacting the Planning Office, who 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 below.

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. 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.

Speakers must do this as soon as possible, between 12 noon on the Wednesday and 12 noon on the Monday before the Committee. Please leave a daytime telephone number.

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

Procedure at the Planning Committee Meeting

Persons registered to speak should arrive no later than 15 minutes before the meeting starts. An officer will advise on seating arrangements and answer queries. 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.
- The representative of the community or town council will then be invited to speak for a maximum of 4 minutes by the Chair.
- The Chairman will then invite the applicant or appointed agent (if applicable) to speak 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 speak for a maximum of 5 minutes.
- 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.
- Planning Committee members will then debate the application, commencing with the local member of Planning Committee.
- Response by officers if necessary to the points raised.
- Immediately before the question being put to the vote, the local member will be invited to sum up, speaking for no more than 2 minutes.
- The community or town council representative or objector/supporter or applicant/agent may not take part in the member's consideration of the application and may not ask questions unless invited by the chair.
- Where an objector/supporter, applicant/agent or community/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 or a member of the Committee, may at the Chair's discretion, occasionally seek clarification on a point made.
- The Chair's decision is final.
- When proposing a motion whether 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. 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 particular 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.

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.

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Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held
at The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA on Tuesday, 5th July,
2016 at 2.00 pm

PRESENT: County Councillor P. Clarke (Vice-Chairman)

County Councillors: D. Blakebrough, R. Chapman, D. Dovey,
D. Edwards, D. Evans, J. Higginson, P. Murphy, M. Powell,
B. Strong, A. Webb and A. Wintle

ALSO PRESENT: County Councillors: A. Easson, R.P. Jordan, J. Prosser and V. Smith

OFFICERS IN ATTENDANCE:

Mark Hand	Head of Planning, Housing and Place-Shaping
Philip Thomas	Development Services Manager
Paula Clarke	Planning Applications and Enforcement Manager
Robert Tranter	Head of Legal Services & Monitoring Officer
Richard Williams	Democratic Services Officer

APOLOGIES:

Councillors R. Edwards, R. Harris and B. Hayward

1. Declarations of Interest

County Councillor A. Webb declared a personal and prejudicial interest pursuant to the Members' Code of Conduct in respect of planning application DC/2016/00532 due to her knowledge of the applicant. She left the meeting taking no part in the discussion or voting thereon.

2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 7th June 2016 were confirmed and signed by the Chairman. In doing so, the Head of Planning Place and Enterprise informed the Committee that the amendments to the Planning Committee Public Speaking Protocol have been agreed by individual Cabinet Member decision. The new protocol will be in force for the August 2016 Planning Committee meeting.

3. PLANNING APPLICATION - DC/2015/01136 - PROPOSED GLAMPING PODS WITH UTILITIES AND SERVICES BLOCK. FAIROAK, RUMBLE STREET, MONKSWOOD, NP15 1QG

We considered the report of the application which was recommended for approval subject to the 13 conditions, as outlined in the report. Late correspondence was also received in respect of this application.

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

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- There are single traffic roads to the site making it unsuitable for the proposed development.
- Campers frequently tow trailers. There can be no control regarding the type and size of vehicles arriving at the proposed site.
- There are no amenities within easy walking distance.
- In the event of the business ceasing, concern was expressed regarding the use of the new services block because that is a substantial permanent dwelling.
- Dwr Cwmru is keeping a watching brief regarding the septic tank.
- The twice yearly moving of the pods is unsuitable but by doing so, the application will comply with the policy. The local Member was not sure this was the right way to be undertaking such planning matters.
- How will such movements be monitored?
- The site has potential for expansion.
- Rumble Street is a short cut to Goytre. It is acknowledged that Rumble Street is a narrow rural lane with limited passing places and is signed as not being suitable for heavy vehicles.
- The Traffic and Development Manager considered the potential traffic volume increase and is of the view that there is no longer grounds to sustain an objection on highway safety grounds. However, the traffic department will not provide school transport for Monmouthshire's children along this lane. The lane is considered unsuitable to take a school bus along this route. School children walk this route every day.
- If the application is approved, it will further endanger children and local residents.

Mr. P. Fletcher, representing objectors to the application, attended the meeting by invitation of the Vice-Chair and outlined the following points:

- Residents of Rumble Street object to the application on road safety grounds, loss of amenity and believe that the application does not comply with polices T2 and EP1.
- Rumble Street is complex. It has unique characteristics and can only be appreciated by people who have lived there for a while.
- Commercialising the lane will change it with the detriment to most households for the financial benefit of one person.

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- The lane is already straining under the existing demands put upon it due to traffic throughput, drainage and structural integrity. The lane is one car wide with steep verges in places.
- School children, cyclists, dog walkers, horse riders and elderly people walk the lane. Large agricultural vehicles with livestock also use the lane.
- The 60mph speed limit encourages non-local people to drive much faster than is considered to be safe.
- An increase in vehicle numbers will incur an increase in risk.
- There are no amenities or organised activities within walking distance of the site. Therefore, regular car journeys are essential.
- Noise intrusion will occur contrary to information contained within the report of the application.
- The services block will be a permanent feature.
- There will be a risk to health and safety with the potential for open fires.
- Poor access exists for emergency service vehicles.

The applicant's agent, Mr. M. McLaughlin, attending the meeting by invitation of the Vice-Chair, outlined the following points:

- Monitoring of the site with regard to it only being occupied during the allocated months will be easy to achieve.
- The Traffic and Development Manager has no objections to the application.
- Policy RE6 allows for the provision of the service block.
- Material considerations have been answered by the application case officer.
- National Policies, not mentioned in the report of the application, i.e., Planning Policy Wales, provides support for the application at this site.

Having considered the report of the application and the views expressed, Members considered that the proposed scheme was, on balance, a good scheme which promoted tourism within the County.

It was therefore proposed by County Councillor P. Murphy and seconded by County Councillor R.J. Higginson that application DC/2015/01136 be approved subject to the 13 conditions, as outlined in the report.

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

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For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2015/01136 be approved subject to the 13 conditions, as outlined in the report.

4. PLANNING APPLICATION - DC/2013/00474 - A FIRST FLOOR EXTENSION TO 5 & 5A CHIPPENHAMGATE STREET TO PROVIDE A SINGLE, ONE BEDROOM DWELLING WITH THREE PARKING SPACES AT GROUND LEVEL.5 & 5A CHIPPENHAMGATE STREET, MONMOUTH NP25 3D

We considered the report of the application which was recommended for approval subject to six conditions, as outlined in the report. Late correspondence was also received in respect of this application.

In noting the detail of the application, Members expressed their support for the application but expressed concern regarding the proposed materials. It was considered that there was a need to change the external wall and roof materials and that white render should be provided with a slate roof.

It was therefore proposed by County Councillor A.M. Wintle and seconded by County Councillor D.L.S. Dovey that consideration of application DC/2013/00474 be deferred to the next meeting to allow officers to liaise with the applicant with a view to changing the external wall and roof materials and that white render should be provided with a slate roof.

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

For deferral	-	12
Against deferral	-	0
Abstentions	-	0

The proposition was carried.

We resolved that consideration of application DC/2013/00474 be deferred to the next meeting to allow officers to liaise with the applicant with a view to changing the external wall and roof materials and that white render should be provided with a slate roof.

5. PLANNING APPLICATION - DC/2015/00832 - APPLICATION FOR REVISED WORKS CARRIED OUT TO BARN CONVERSION INCLUDING ENLARGEMENT OF RESIDENTIAL CURTILAGE. CARROW HILL FARM, CARROW ROAD, CARROW HILL, CAERWENT NP26 3AU

We considered the report of the application which was recommended for approval subject to the one condition, as outlined in the report.

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In noting the detail of the application, Members were informed that the barn conversion had been presented to Planning Committee and approved in 2014. However, the barn conversion had not been carried out in accordance with the approved details. The application submitted is to regularise the breach of planning control. The main issue is the boundary wall and it had been recommended that this be reduced, as outlined in the condition to the report.

The local Member for Caerwent, also a Planning Committee, stated that he was in agreement with the application as it currently stands with the boundary wall remaining at its current height.

Having considered the application and the views expressed by the local Member, it was proposed by County Councillor P. Murphy and seconded by County Councillor D. Evans that application DC/2015/00832 be approved with the removal of the one condition, as outlined in the report.

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

In favour of the proposal	-	10
Against the proposal	-	0
Abstentions	-	2

The proposition was carried.

We resolved that application DC/2015/00832 be approved with the removal of the one condition, as outlined in the report.

6. PLANNING APPLICATION - DC/2015/00890 - LAND TO REAR OF BEDFONT COTTAGE, NEWTOWN ROAD, GOYTRE. FOUR BEDROOM DWELLING ON GARDEN LAND TO THE REAR OF BEDFONT COTTAGES

We considered the report of the application which was recommended for approval subject to the six conditions, as outlined in the report. Late correspondence had also been received in respect of this application.

In noting the detail of the application, Members were informed that the applicant would be willing to remove the dormer aspect of the application following concerns raised. An amended plan would be submitted incorporating this change. The Head of Planning, Housing and Place-Shaping informed the Committee that a condition could be added to remove permitted development rights to retain control over future development that might cause harm to local amenity. In addition, it was agreed that there would be a need to agree by condition the finished floor level of the approved dwelling so that its height and impact could be kept to a reasonable level having regard to the amenity of adjacent neighbours.

Having considered the application and the views expressed it was proposed by County Councillor D.L.S. Dovey and seconded by County Councillor P. Murphy that application DC/2015/00890 be approved subject to the six conditions, as outlined in the report and subject to an additional condition that permitted development rights be removed. In

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addition, it was agreed that there would be a need to agree by condition the finished floor level of the approved dwelling so that its height and impact could be kept to a reasonable level having regard to the amenity of adjacent neighbours.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2015/00890 be approved subject to the six conditions, as outlined in the report and subject to an additional condition that permitted development rights be removed. In addition, it was agreed that there would be a need to agree by condition the finished floor level of the approved dwelling so that its height and impact could be kept to a reasonable level having regard to the amenity of adjacent neighbours.

7. PLANNING APPLICATION - DC/2015/01210 - PROPOSED RESIDENTIAL DEVELOPMENT CONSISTING OF THREE DWELLINGS ADJACENT TO 21 FOUR ASH STREET. LAND ADJACENT 21 FOUR ASH STREET, USK

We considered the report of the application which was recommended for approval subject to the seven conditions, as outlined in the report. Late correspondence had also been received in respect of this application.

The local Member for Usk, also a Planning Committee Member, expressed his support for the application.

Having considered the report of the application and the views expressed by the local Member, it was proposed by County Councillor B. Strong and seconded by County Councillor R.J. Higginson that application DC/2015/01210 be approved subject to the seven conditions, as outlined in the report.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2015/01210 be approved subject to the seven conditions, as outlined in the report.

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**8. PLANNING APPLICATION - DC/2016/00444 - TO PROVIDE A DIGITAL SCREEN
WITHIN A SECURE FRAME SITED ON EXISTING CIVIC SOCIETY NOTICE
BOARD. PUBLIC OPEN SPACE, CROSS STREET, ABERGAVENNY**

We considered the report of the application which was recommended for approval subject to the six conditions, as outlined in the report.

The local Member for Grofield, also a Planning Committee Member, expressed his support for the application.

It was noted that Abergavenny Town Council supported the application.

Having considered the report of the application and the views expressed, it was proposed by County Councillor D.L. Edwards and seconded by County Councillor M. Powell that application DC/2016/00444 be approved subject to the six conditions, as outlined in the report.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2016/00444 be approved subject to the six conditions, as outlined in the report.

**9. PLANNING APPLICATION - DC/2016/00494 - CHANGE OF USE OF HOTEL
WITH C1 USE TO A1, A2 AND A3 USE ON THE GROUND FLOOR WITH B1 USE
TO THE FIRST AND SECOND FLOORS. THE SWAN HOTEL, CROSS STREET,
ABERGAVENNY, NP7 5ER**

We considered the report of the application which was recommended for approval subject to the four conditions, as outlined in the report. Late correspondence had also been received in respect of this application.

Concern was expressed that as Abergavenny Town Council had not responded to the application, consideration of the application by the Planning Committee should be deferred until such comments have been received.

It was noted that Planning Officers had emailed the application and also sent a copy by post to the Clerk to Abergavenny Town Council in order for the application to be considered by the Town Council's Planning Committee. However, it was noted that the Town Clerk had been on sick leave and it appeared that this matter had not been presented to the Town Council's Planning Committee.

It was therefore proposed by County Councillor D.L. Edwards and seconded by County Councillor M. Powell that consideration of application DC/2016/00494 be deferred to the

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next Planning Committee meeting to allow Abergavenny Town Council's Planning Committee time to consider the application and to submit comments to Monmouthshire County Council's Planning Department.

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

For deferral	-	12
Against deferral	-	0
Abstentions	-	0

The proposition was carried.

We resolved that consideration of application DC/2016/00494 be deferred to the next Planning Committee meeting to allow Abergavenny Town Council's Planning Committee time to consider the application and to submit comments to Monmouthshire County Council's Planning Department.

**10. PLANNING APPLICATION - DC/2016/00529 - PROVISION OF RAISED
TIMBER DECK TO ACCOMMODATE TIMBER SUMMER HOUSE IN GARDEN. 4
TOYNBEE CLOSE, OSBASTON, MONMOUTH, NP25 3NU**

We considered the report of the application which was recommended for approval subject to the two conditions, as outlined in the report.

In noting the detail of the application, it was proposed by County Councillor P. Murphy and seconded by County Councillor M. Powell that application DC/2016/00529 be approved subject to the two conditions, as outlined in the report.

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

For approval	-	12
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2016/00529 be approved subject to the two conditions, as outlined in the report.

**11. PLANNING APPLICATION - DC/2016/00532 - 2.3M X 3M GREENHOUSE -
EARTH BASE INSIDE. 3M X 3.7M GARDEN SHED TO STORE WOOD AND
COAL. TO ALSO PROVIDE SOME SHELTER TO GREENHOUSE FROM
EXPOSURE OF HIGH WINDS. ROCKMON VIEW, ROCKFIELD, MONMOUTH**

We considered the report of the application which was recommended for approval subject to two conditions, as outlined in the report. Late correspondence had also been received in respect of this application.

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In noting the detail of the application, it was proposed by County Councillor R.J. Higginson and seconded by County Councillor P. Murphy that application DC/2016/00532 be approved subject to the two conditions, as outlined in the report.

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

For approval	-	11
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DC/2016/00532 be approved subject to the two conditions, as outlined in the report.

12. Castle Oak, Usk, Monmouthshire NP15 1SG.

We received the Planning Inspectorate report which related to an appeal decision following a site visit on 14th June 2016, site Castle Oak, Usk, Monmouthshire NP15 1SG.

The appeal had been dismissed.

13. Old Shop Cottage, Star Hill, Llanishen, Monmouthshire, NP16 6NT.

We received the Planning Inspectorate report which related to an appeal decision following a site visit on 24th May 2016, site Old Shop Cottage, Star Hill, Llanishen, Monmouthshire NP16 6NT.

The appeal had been dismissed.

14. Appeals received - May to June 2016.

We noted the appeals received between May and June 2016.

The Head of Planning, Housing and Place-Shaping informed the Committee that the Welsh Government has asked for volunteers for a pilot that involves ward Members in pre-application discussions. This is a 12 month trial commencing in September 2016. The Head of Planning, Housing and Place-Shaping has put Monmouthshire County Council forward as a volunteer authority. This will allow Members to be involved in the process at a much earlier stage.

The meeting ended at 4.20 pm

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DC/2013/00474

A FIRST FLOOR EXTENSION TO 5 & 5A CHIPPENHAMGATE STREET TO PROVIDE A SINGLE, ONE BEDROOM DWELLING WITH THREE PARKING SPACES AT GROUND LEVEL.

5 & 5A CHIPPENHAMGATE STREET, MONMOUTH NP25 3D

RECOMMENDATION: APPROVE

Case Officer: Jo Draper
Date Registered: 23/06/2015

This application was presented to Planning Committee on the 5th July 2016 with a recommendation for approval; it was deferred to look at changing the contemporary materials and replacing these with more traditional materials. Also there was a requirement to provide a closer detail of the external horizontal louvres required for screening purposes.

Revised plans have been submitted and these have shown the changes requested by Planning Committee, the timber boarding proposed to the walls have been replaced with a smooth white render the main dwelling, the modern metal roof is to be replaced by a slate roof.

A section has been provided of the horizontal louvres, this has been presented as a 1:100 and 1:20 scale. The horizontal louvres have been positioned so that there can be no overlooking of the neighbouring garden to the rear.

This application is re-presented to Planning Committee with the recommendation of approval. The original report, including the conditions, is attached below for information.

PREVIOUS REPORT

1.0 APPLICATION DETAILS

- 1.1 The application site relates to an area that is currently used for parking for flats 5 and 5a Chippenham Gate Street. This application proposes to formalise this car parking area to provide 3 spaces to serve the existing dwellings with an additional space for the proposed dwelling. This application proposes a one bedroom flat to be constructed above the parking area.
- 1.2 The application site is bounded by Chippenham Gate Street to the north, it is adjoining a residential property to the east, and there are gardens to the south that serve a neighbouring property with a neighbouring property to the west. The north elevation is open fronted to Chippenham gate Street and allows vehicular access to the site.
- 1.3 There have been many design changes with this scheme, the existing dwelling which this proposal is also included. It is proposed to modernise this building frontage with new contemporary windows, a smooth render and the entrance treated with a modern up to date entrance point. The new build sits slightly lower in eaves and ridge to this building (0.7m lower than the ridge and eaves on the existing building). The proposed new build has a footprint that measures 9.3m by 5m, the treatment is contemporary and comprises of vertical coated aluminium windows at first floor level with horizontal timber cladding, a modern metal roof is proposed. The rear elevation has contemporary external horizontal timber louvres proposed to part of the rear of the building. This not only serves to provide privacy to the neighbouring gardens immediately to the rear but also encloses the external staircase proposed to access this first floor flat. The only window not covered by louvres is a narrow modern horizontal window that serves the kitchen/living room.

- 1.4 The site is situated within the Monmouth development boundary the Conservation Area and an Archaeologically Sensitive Area and within a Zone C1 Flood Area.

2.0 RELEVANT PLANNING HISTORY

None

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S1 – Spatial Distribution of New Residential Development
S2- Housing Provision
S4- Affordable Housing Provision
S12- Efficient Resource Use and Flood Risk
S13 – Landscape, Green Infrastructure and the Natural Environment
S17 – Place Making and Design

Development Management Policies

H1 – Residential Development in Rural Secondary Settlements
H5 – Replacement Dwellings in the Open Countryside
DES1 – General Design Considerations
EP1 – Amenity and Environmental Protection
NE1- Nature Conservation and Development
G11-Green Infrastructure
HE1- Development in Conservation Areas
MV1- Proposed Development and Highway Considerations
SD3- Flood Risk

4.0 REPRESENTATIONS

4.1 Consultations Replies

Monmouth Town Council: Refused

- Not in keeping with the Conservation Area
- Wrong materials
- Design not in keeping with street scene

Natural Resources Wales:

The application site lies entirely within Zone C1. The site is within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Monnow, a designated main river. Our records show that the area around the proposed site has also previously flooded from the River Monnow.

We have reviewed the flood consequences assessment (FCA).

The flood levels at the site, stated in the FCA, are as follows:

- 1 in 100 year plus climate change: 18.41m AOD
- 1 in 1000 year: 19.91m AOD

The proposed finished floor level for the first floor extension is stated in the FCA as 20.08m AOD and the level for the undercroft car parking level is 17.42m AOD.

The 1 in 100 year plus climate change flood level (18.41m) is below that of the proposed habitable floor level (20.08m). Therefore, this part of the development is predicted to be flood free in the 1% plus climate change flood event as advised by A1.14 of TAN 15. It is also predicted to be flood free in the 1 in 1000 year flood event.

However, the proposed undercroft parking is predicted to flood to a depth of up to 1.0m in the 1 in 100 year plus climate change flood event, and as such is contrary to the advice at A1.14 of TAN15. The undercroft parking is predicted to flood to a depth of 2.48m during

the 1 in 1000 year flood event. This is 1.88m in excess of the indicative tolerable conditions set out at A1.15 of TAN15.

It is noted that this area is already currently used as a hard standing for car parking. Should your Authority be minded to grant permission, and as such accept the consequences of flooding, we advise that an Emergency Flood Plan is undertaken by the owner/occupier and that they sign up to our flood warning service.

MCC Highways: No objection

- The proposed new dwelling is to be attached to the adjoining dwelling and upgrading the access, parking and facilities at the side of the existing site.
- The proposed parking will be in a car port provision and three in number.
- This is the maximum number of parking places that can be provided on site.
- As this is a town location, a relaxation would be required for this development to proceed. Three spaces currently available.

Gwent Glamorgan Archaeological Trust: Recommend a condition requiring the applicant to submit a detailed programme of investigation for the archaeological resource

Welsh Water: Recommend conditions relating to surface water and land drainage

4.2 Neighbour Notification

3 representations have been received, the following issues have been raised.

- Whilst no objection to an extension, the front and back elevations are entirely unsuitable for a Conservation Area.
- The proposed layout with the upper floor extension and underlying car parking area is out of character in this part of the Conservation Area.
- Inappropriate development within a group of Listed Buildings
- There is a planning history of refusals
- The ground is unstable and the existing building is structurally unsound – further building could exacerbate this problem

4.3 Other Representations

None received to date

4.4 Local Member Representations

None received to date

5.0 **EVALUATION**

5.1 The site is located within the Monmouth Town Development Boundary, the development of this site meets the requirements of Strategic Policy S1 and Policy H1 in principle subject to detailed planning considerations. The main issues that arise in the consideration of this application are the following:

Impact upon the setting of the Conservation Area
Neighbour Amenity
Flooding

5.2 Impact upon the setting of the Conservation Area

5.2.1 This application has gone through a number of amendments before being finalised to the scheme that is now being presented to Planning Committee. The existing site does not currently enhance this part of the Conservation Area, the form, design and materials associated with the existing dwelling and the hardstanding which forms the site for the new build has little architectural merit. Therefore, it is not appropriate in the case for the extension to try and compliment or reflect the design of the existing dwelling. Indeed

Policy HE1 of the Local Development Plan states that “*Where development is acceptable in principle it should complement or reflect the architectural qualities of adjoining and other nearby buildings (unless these are harmful to the character and appearance of the area) in terms of its profile, silhouette, detailing and materials. However, good modern design may be acceptable, particularly where new compositions and points of interest are created.*”

5.2.2 The latest revised scheme now embraces the existing building, the modern proportions of the existing dwelling has resulted in the new build being contemporary in design and form with contemporary materials proposed. The existing dwelling is being given a modern facelift with clean contemporary materials and detailing used to enhance the frontage of the existing building. The resultant scheme therefore does not seek to reflect the traditional design and form of some of the surrounding dwellings, which would be inappropriate in this case, it does as a whole represent a significant improvement to the existing development and complies with Policy HE1 in this case.

5.3 Neighbour Amenity

5.3.1 The new development does introduce new windows at first floor level that is situated less than 21m from the first floor windows of the properties opposite. This however is characteristic of this area and reflects the built form with dwellings sited close to the road frontage, this coupled with the narrow vertical emphasis windows on both the existing neighbouring properties opposite and the proposed new development limits the viewpoints between properties. The neighbour impact is not considered to be significant in this case.

5.3.2 There is potential to immediately overlook the neighbouring gardens to the rear, this garden area is however currently overlooked from the highway as an open viewpoint can be achieved across the hardstanding area. There are three rear windows at first floor level and an external staircase that potentially increases overlooking as people can linger by the 1st floor access door and immediately overlook the garden area. This has been addressed within the design of the scheme with the provision of an external horizontal timber louver screen, this screens viewpoints from the two 1st floor windows and the upper floor landing. The only window not screened that serves the kitchen/living space is both narrow and horizontal and provides only a very limited viewpoint across into this private amenity space. The proposal has been innovative in the approach to protecting neighbour amenity and the scheme will not have an adverse impact upon neighbour amenity.

5.4 Flooding

5.4.1 The site is located in Zone C1 floodplain, Strategic Policy S12 and supporting development management Policy SD3 relating to Flood Risk is therefore of relevance. Strictly speaking the proposal is contrary to Policy SD3 as the residential development is located above an existing car parking area, it does not relate to the conversion of existing upper floors. It is necessary to consider whether the proposal satisfies the justification tests outlined in Welsh Government Guidance in TAN15.

5.4.2 In this respect the proposal represents a ‘windfall’ brownfield development within the existing settlement boundary that contributes to meeting the housing targets set out in LDP Policy S2 and thereby assists in achieving the objectives of the Local Development Plan strategy. Furthermore the Conservation Area Policy seeks to preserve and enhance the character or appearance of the area and its landscape setting; Where development is acceptable in principle it should complement or reflect the architectural qualities of adjoining and other nearby buildings (unless these are harmful to the character and appearance of the area). In this case the proposal improves the existing dwelling raising the standard of the existing development as a result of this proposed development and as concluded above the proposal represents a significant improvement in the overall street scene within this part of the Conservation Area, hence meeting a further LDP strategy. The proposal therefore satisfies the justification tests outlined in TAN 15. This

when balanced with the conclusions that the upper floor will not be at risk in the 1 in 1000 year flood event, with the ground floor parking area predicted to flood to a depth of 2.48m during this event which can happen now, it is acceptable to over-ride SD3 and S12 in this case. It is recommended that there is a note to applicant within the informative advising that an Emergency Flood Plan is undertaken by the owner/occupier and that they sign up to our flood warning service

6.0 Response to the Representations of the Community/ Town Council

Addressed above

7.0 RECOMMENDATION: Approve

Conditions:

1	Standard Five year limit
2	Development to be carried out in accordance with the approved plans.
3	No development shall take place until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
4	No development shall commence until samples of external materials have been supplied and agreed with the Local Planning Authority and retained in perpetuity thereafter.
5	Prior to occupation of the new unit the external timber louvers detailed on drawing reference AL.0.31 'Proposed Elevations' shall be fully in place and retained in perpetuity thereafter.
6	No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

DC/2015/01336

PROPOSED CHANGE OF USE TO THE STORAGE AND REPAIR OF LIGHT MOTOR VEHICLES. STORAGE AND REPAIR OF UP TO TWO HGV MOTOR VEHICLES AND A TRAILER. RETENTION OF ANCILLARY PARKING AREAS (REVISED SCHEME)

LAND AND EXISTING WORKSHOPS, NEW BARN WORKSHOP SITE, ST ARVANS, CHEPSTOW, NP16 6HE

RECOMMENDATION: APPROVE

Case Officer: Philip Thomas

Date Registered: 9th November 2015

- 1.1 This application is a revised proposal following the Council's refusal of planning application DC/2013/00456 for the retention of broadly the same uses now proposed. That application was refused for the following reason:

'The development, which can be clearly seen from a public right of way that leads to and from the Piercefield Park historic parkland, includes the external storage of utilitarian equipment and vehicles of variable condition, and features utilitarian entrance gates and fencing of a significant scale, that, without substantial green infrastructure / landscape mitigation (that is not offered as a part of this planning application), cause unacceptable harm to the local landscape, which forms part of the Wye Valley Area of Outstanding Natural Beauty (AONB). The development is therefore contrary to Policies S11, S13, S17, LC4, LC5, GI1, RE2 and DES1 of the adopted Local Development Plan (LDP).'

- 1.2 The current proposal differs from the earlier, refused scheme because:
- i) The wheel wash area previously proposed has been omitted;
 - ii) There has been more extensive landscaping (green infrastructure) proposed to mitigate the effects of the proposed use on the surrounding landscape, including the areas formerly occupied by the builders' storage area and the area between the workshop building and the stone boundary wall to the historic Piercefield Park to the south-east of the building.
- 1.3 The site has a long history of applications, the most recent being application DC/2013/00456 which, as referred to above, was refused by the Council having been remitted back to the Council to re-determine following the decision of the High Court to quash the planning permission granted on 4th October 2013.
- 1.4 There was also a separate planning application DC/2012/00613 for change of use of the land to the west of the workshops to the storage of building materials. That application was withdrawn by the applicant in August 2015, having been recommended for refusal by the Council owing to its adverse impact on the landscape which is part of the Wye Valley AONB. An enforcement notice has since been served to cease the builders' storage use, remove the large metal gates and the building materials and equipment and to green up the area. The notice has been partially complied with, the use having ceased and the metal gates removed, although at the time of writing this report there is one storage container still on site and the site has not yet been greened up. Further action is pending in relation to these outstanding matters.
- 1.5 The current application has been screened for the need to submit an Environmental Impact Assessment. The Council's decision was that the proposal would not be likely

to have significant environmental effects by virtue of factors such as its nature, size or location, so that an EIA was not required in this instance.

2.0 RELEVANT PLANNING HISTORY

N.B. The applications below relate to both the application site and the adjacent site for the storage of building materials:

A21850 – erection of a garage for a commercial vehicle. Approved 08.02.1985 subject to a s.52 (now known as s.106) agreement.

DC/2011/00697 – Change of use of existing workshop and adjacent land, to now include for the maintenance of motor vehicles and storage of building materials, in addition to the commercial vehicles granted consent under ref A21850. Approved 14/12/2011 Decision Quashed by the High Court of Justice

DC/2012/00243 – Revision to previous consent (ref DC/2011/00697) to allow the storage of metal containers and amendment to operating hours within the area designated for the storage of building materials. Introduction of an office unit for use in conjunction with the workshops and installation of new gates and landscaping. Withdrawn

DC/2012/00445 – Proposed change of use for existing workshop and adjacent land, to now include for the maintenance of motor vehicles and storage of building materials and equipment, in addition to the commercial vehicles granted consent under ref A21850 – Withdrawn

DC/2012/00594 – Certificate of Lawful Use of land for vehicle repairs. Withdrawn

DC/2012/00613 – Change of use to allow for the storage of builders materials, construction machinery and equipment, including metal storage containers and retention of security gates. Decision to approve by the Council was quashed in July 2014 by the High Court of Justice; withdrawn by applicant during August 2015.

DC/2012/00886 – Variation of condition 11 of planning permission A21850. Approved on 06/02/2013; Decision quashed by the High Court of Justice; remitted back to Council to determine but later withdrawn by applicant.

DC/2013/0456 - Change of use to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of vehicle washing area and ancillary parking. Refused 7/10/2015.

3.0 STATUTORY OBLIGATION RELATING TO THE AONB

Section 85 of the Countryside and Rights of Way Act 2000 states:

“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

4.0 LOCAL AND NATIONAL DEVELOPMENT PLAN POLICIES

MONMOUTHSHIRE ADOPTED LOCAL DEVELOPMENT PLAN 2011-2021

The main relevant policies are: S8 (Enterprise & Economy); S11 (Visitor Economy); S13 (Landscape, Green Infrastructure & Natural Environment); S16 (Transport); S17

(Place Making & Design); DES1 (General Design Considerations); NE1 (Nature Conservation); LC1 (New Built Development in the Open Countryside); LC4 (AONB); LC5 (Protection and Enhancement of Landscape Character); GI1 (Green Infrastructure); EP1 (Amenity and Environmental Protection); EP3 (Lighting); Policy RE2 (Conversion or Rehabilitation of Buildings in the Open Countryside for Employment Use); Policy M2 (Minerals Safeguarding Areas)

PLANNING POLICY WALES (JANUARY 2016)

With regard to AONBs, the current edition of PPW states:

“5.3.5 The primary objective for designating AONBs is the conservation and enhancement of their natural beauty. Development plan policies and development management decisions affecting AONBs should favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas. Local authorities, other public bodies and other relevant authorities have a statutory duty to have regard to AONB purposes.

5.3.6 National Parks and AONBs are of equal status in terms of landscape and scenic beauty and both must be afforded the highest status of protection from inappropriate developments. In development plan policies and development management decisions National Parks and AONBs must be treated as of equivalent status. In National Parks and AONBs, development plan policies and development management decisions should give great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of these areas.

5.3.7 The duty to have regard to National Park and AONB purposes applies to activities affecting these areas, whether those activities lie within or outside the designated areas.”

AONB MANAGEMENT PLAN

The Wye Valley AONB Management Plan 2009-2014 is not part of the statutory development plan. Instead, it is a material consideration.

This plan sets a vision and a policy framework for the protection and enhancement of the natural beauty of the AONB. The Plan sets out that the purposes of the AONB designation are:-

- The primary purpose of designation is to conserve and enhance natural beauty
- In pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry, and other rural industries, and of the economic and social needs of local communities.
- Particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment
- Recreation is not an objective of designation, but the demand for recreation should be met so far as this is consistent with the conservation of natural beauty and the needs of agriculture, forestry and other uses.

Draft Wye Valley AONB Management Plan 2015-2020

The draft AONB Management Plan 2015-2020 has been finalised and is awaiting adoption by the four constituent local authorities. The draft management plan states that most of the issues in the 2009-2014 Plan are still relevant, and the emerging version aims to build on and develop the approach of the previous one, updating and

making changes where necessary, and setting out current priorities and actions. The Strategic Objectives in the last Plan have been reviewed and in some cases updated or refined. An Action Plan is also produced to ensure that these Strategic Objectives are implemented.

The Plan 'is intended to provide guidance and strategic objectives, giving support and direction to help steer positive landscape change, particularly to those bodies that make up the Wye Valley AONB Joint Advisory Committee and the wider AONB Partnership. It also provides guidance to the many landowners, residents and visitors in the area. The Management Plan is thus for all the bodies and individuals whose actions affect the AONB and who can play an important part in helping to conserve and, where appropriate, enhance the outstanding landscape of the lower Wye Valley, for the benefit of both current and future generations. However this Plan does not provide all the answers for the next five years. It addresses the implications for the conservation and enhancement of the natural beauty of the area. Meanwhile it complements a range of plans, strategies and programmes that cover other aspects in the administrative areas covering the Wye Valley AONB. In this context it articulates the value of the landscape and the added value brought by the designation and the role of the partners in the AONB in supporting society's needs through an integrated approach to land management.'

Par. 2.2.1 of the draft plan provides 'a 20 year vision and remains a true encapsulation of how we want the AONB to be in 15 years' time and beyond:

The Wye Valley Area of Outstanding Natural Beauty (AONB) will be a landscape

- that continues to evoke inspiration in a wide range of people
- where some degree of change is accepted and its impacts accommodated through positive management including effective adaptation to and mitigation of climate change
 - where the distinctive mix of steep valley sides and rolling hills, covered with ancient and semi-natural woodland, mixed farmland, and scattered settlement dominate the landscape along with the meandering river
 - where the natural and historic assets are in good order, in fully compatible uses, and not denigrated by unsuitable change
 - with a robust mosaic of inter-connected semi natural habitats for native wildlife, particularly around grassland, wetland and woodland
 - providing functioning services and resources for society, including flood storage, food, timber, tourism and minerals
 - which provides work for local people, who make good use of the varied resources the area has to offer
 - where both visitors and residents are able to enjoy the area, particularly for sustainable tourism, recreation and informed appreciation of the historic and natural environment, with minimal conflict or disturbance from other users
 - where association with the Wye Valley continues to benefit the surrounding villages, market towns and counties
 - supported by the good will, pride and endeavour of local people, visitors, and the public, private and voluntary sectors
 - worthy of its designation as an internationally important protected landscape.'

5.0 REPRESENTATIONS

5.1 Consultations Replies

- 5.1.1 St Arvans Community Council – Approve. NB. If consent is given with conditions, the Community Council would expect
- strict enforcement of those conditions.
 - consultation should application be made to discharge or change them in any way.
- 5.1.2 MCC Public Rights of Way Officer – The applicant’s attention should be drawn to Public Footpath No 32 in the community of St Arvans which runs through the site of the proposed development.
The alignment of Footpath No 32 is wrongly depicted on the revised application drawing (drawing no. 1123/702D) and is currently obstructed. Countryside Access is however in receipt of an application and is currently processing an order that would resolve this issue.
Importantly, public path orders are not guaranteed to succeed and if unsuccessful it is possible that Countryside Access will require that the legal alignment of the path is made available.
- 5.1.3 Natural Resources Wales (initial response – December 2015). We have no objection to the application providing that suitable conditions are imposed on any planning permission granted in respect of site drainage, landscape and lighting.
Otter Hole Geological Conservation Review Site (GCR)
The application site lies adjacent to the Otter Hole Geological Conservation Review Site (GCR); a nationally important cave that is due to be considered for notification to be designated as a Site of Special Scientific Interest.
Otter Hole is also a Regionally Important Geodiversity Site (RIGS No. 574), the boundary of which, is identical to that of the GCR. This is a local designation that your Authority should consider in accordance with 5.5 of TAN 5.
Our maps indicate there is no cave directly below the application site. However, water infiltrating in the area of the site will drain into the limestone below. There is no evidence whether or not these karstic pathways connect into the Otter Hole cave system, however a cave only a few hundred metres away (NW) is considered to be connected, and it would be consistent with the synclinal cave development pattern.
Therefore, our concern is the potential for pollution from the site to enter the cave system (fuel, oil, dirty water etc.,) in particular, from the vehicle wash area. Effluent and run-off from vehicle washing and cleaning activities have potential to damage the water environment and the cave system. They are classed as trade effluent and should be kept separate from surface water.
Given the proximity of the cave, the bedrock of the site and the potential risk of pollution from the development site, our advice is that the proposed development will be acceptable providing the following measure is implemented and secured by way of a planning condition on any permission granted.
Condition
The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water run-off and trade effluent has been submitted to, and approved in writing by, the local planning authority. This shall include a drainage plan of the site. The scheme shall be implemented as approved.
Reason - To prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.

Further Advice

We note from the Site Plan Drawing No 1123/702E, dated July 2012 that run-off from the vehicle wash area is to go via an interceptor pit, with water to a soakaway and that the residue will be cleared periodically. In view of the risk to the cave system from pollution from the site, we recommend that there should be no discharge to ground. We also advise that effluent containing detergents from the washing process should be discharged to a sealed system (we understand that no mains sewer is available)

and tankered away to a licensed site. However, the details of any scheme should be put forward by the applicant.

Alternatively the applicant could provide information which demonstrates that there no karstic pathways connecting into the Otter Hole cave system.

We refer you and the applicant to the attached pollution prevention guidance contained in the attached Planning Advice Note. We refer the applicant in particular to our pollution prevention guidelines (PPGs). PPGs 13, 8 and 18 are of particular relevance for this development and should be adhered to.

Protected Landscape

The site is located within the Wye Area of Outstanding Natural Beauty (AONB), which is a national landscape designation. We note and welcome that a revised landscape appraisal by Anthony Jellard Associates, dated October 2015 has been submitted in support of the application together with the Green Infrastructure plan drawing No 2392/10, dated 21 October 2015. In our opinion the proposal is not likely to have a significant adverse effect on the Wye Valley AONB of the setting of the Piercefield Historic Landscape.

However there are likely to be some adverse effects locally, which could be mitigated in the long term by a landscape and ecological scheme. Therefore, the following condition should be imposed on any permission your authority is minded to grant:

Condition -

No development shall take place until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved. Any subsequent variations shall be agreed in writing by the local planning authority.

Reason - To ensure that effective screening is maintained in the long term and that planting does not cause damage to other important historic landscape features such as the stone wall.

We advise that the landscape management plan be ongoing and should be reviewed every five years.

The proposals should adhere to the Development Strategic Objectives within Section 6 of the Wye Valley Area of Outstanding Natural Beauty Management Plan 2009-2014.

Protected Species

The proposed site is in close proximity to the Wye Valley Woodlands Special Area of Conservation (SAC). The Lesser horseshoe bat is a designated feature of the SAC and also a European Protected Species. This species of bat is light sensitive and inappropriate lighting can have a negative effect on both flight-lines and foraging behaviour. There should be no external lighting without the written permission of the Local Planning Authority. We, therefore, request the imposition of a suitably worded condition for a lighting plan.

Local Biodiversity

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species.

Additional Comments

All waste generated must be disposed of under the Duty of Care Regulations to licensed sites/contractors as appropriate. All storage of material must not cause pollution of land, groundwater or surface water.

NRW Subsequent response (8 February 2016) – notes the removal of the vehicle wash facility and advises that the previous comments (above) remain, except those relating directly to the vehicle wash.

5.1.4 AONB Officer – no response received to date. Any received in the interim will be reported as late correspondence.

5.1.5 MCC Biodiversity – (response in relation to EIA screening opinion request): I note that this application is for retention of the existing use and development has already occurred at the site.

The site is very near to the Wye Valley Woodlands SAC. It is not considered that there is a mechanism for direct or indirect impact upon this site.

There should be no further lighting (further to that illustrated on lighting plan and photographs dated Nov 2013) without written approval of the Council. Please secure this through an appropriately worded planning condition.

5.1.6 The Ramblers Association – No comments received.

5.1.7 MCC Highways – agrees that their previous comments still apply - I would offer no adverse comments to this proposal and therefore have no highway objections subject to the following conditions:

The application site outlined on plan 1123/702 [now updated by plan Rev. F] shall hereby be required to retain visibility splays for the benefit of the existing vehicle access off the A466 connecting into the applicant's site. Nothing which may cause an obstruction to visibility shall be placed, erected or grown in the visibility splay areas.

The application site outlined on plan 1123/702E [now rev. F] shall hereby retain vehicle access via the existing A466 access connecting into the applicant's site. A suitable turning area immediately south of the application site access, within ownership of the applicant, shall be retained free from obstruction to ensure all vehicles that enter the site are able to turn and access the County highway in forward gear

5.1.8 MCC Environmental Health – Having reviewed the above application whilst some noise from vehicle repairs and vehicle movements on and off the site has the potential to be audible at the nearest residential property, I am not in a position to substantiate a level of problems on which to base an objection.

In order to minimise any disturbance at the nearest residential property I would recommend that any approval is subject to the following conditions:

1. The hours of operation shall be limited to:

- For the repair of motor vehicles:

08.00 to 19.00hrs Monday to Friday

08.00 to 13.00hrs Saturdays

No operating on Sundays or Bank Holidays.

- For the movement of heavy goods vehicles on and off the site:

06:00 to 19.00hrs Monday to Friday

06:00 to 13.00hrs Saturdays

2. To prevent potential odour nuisance at the nearest residential property I would recommend the following condition:

- No paint spraying shall be carried out within the site at any time.

3. To prevent potential smoke nuisance at the nearest residential property I would recommend the following condition: - No fires shall be lit on the site at any time including the use of any solid fuel appliances.

4. To minimise noise nuisance at the nearest residential property I would recommend the following condition: - Operations including the maintenance and repair of motor vehicles shall be restricted to within the garage building.

EHO additional comments:

This department has investigated a number of complaints of alleged noise nuisance from the site over the past few years. Investigations, which have included the use of noise monitoring equipment set up at the nearest residential property have not provided sufficient evidence of noise nuisance to warrant formal action under the statutory nuisance provisions of the Environmental Protection Act 1990. The proposed development does not indicate a significant change in operations from what has existed during that time. I am therefore not in a position to object the application.

5.1.9 Open Spaces Society – No comments received.

5.1.10 Cadw - Cadw's role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments or registered historic parks and gardens. It is a matter for the local planning authority to then weigh Cadw's assessment against all the other material considerations in determining whether to approve planning permission, including issues concerned with listed buildings and conservation areas.

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance. PPW explains that the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or not. Furthermore, it explains that where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that this means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. The proposed development is located within the vicinity of the scheduled monuments known as The Cold Bath: Piercefield (MM281), St Arvan's Church Cross – slab (MM355) and The Giant's Cave, Piercefield (MM282).

This advice is given in response to a consultation from Monmouthshire County Council regarding a revised planning application (including landscape works to be undertaken), following the quashing of an earlier planning consent, for the use of the site to allow the storage and maintenance of commercial vehicles, the storage and repair of light motor vehicles, storage and repair of up to two HGVs and a trailer, retention of a mobile office, washing area and ancillary parking.

MM335, a medieval cross-slab is located within the churchyard of St Arvan's Church. Views to and from the application area are interrupted by the village of St Arvans. In our opinion, the proposed development will have no physical impact on the monument or impact upon its setting.

MM281 and MM282 are features within Piercefield Park. They are located within thick woodland on slopes overlooking the Wye Valley to the east. There are no views towards the proposed development and, in our opinion: the proposed development will have no physical impacts on the monuments or impacts upon their settings.

From previous experience of the area and from an assessment of the supporting documentation submitted by the applicant, it is concluded that the proposed development will have no impact on the designated assets listed above.

The proposed development is located adjacent to the grade I registered historic park and garden at Piercefield Park PGW (Gt)40 and the Wyndcliffe, an outstanding example of an eighteenth century designed landscape and an essential part of the 'Wye Tour'.

The amended application includes a Landscape Appraisal by Anthony Jellard Associates, which includes an assessment of the impact of the proposals on the setting of the adjacent registered parkland. To mitigate any potential visual impact, the amended application includes a scheme of landscaping works to plant mixed native trees (mix B on the Green Infrastructure Plan by Anthony Jellard Associates) to screen the development site from the registered park. Care should be taken that the proposed works, including tree planting and site use does not impact on the historic boundary wall to Piercefield Park, which appears to share a boundary with the development site. In our view, having read the supporting documents to the application, the revised proposals will not have a significant impact on the registered historic park at Piercefield.

The application area is located outside of the Registered Lower Wye Valley Landscape of Outstanding Historic Interest HLW (Gt) 3 The Lower Wye Valley. There will be limited, local views of the application area from the edge of the registered landscape. In our opinion, these views will be interrupted by existing vegetation and proposed planting.

In our opinion, from previous experience of the area and from an assessment of the supporting documentation submitted by the applicant, it is concluded that the proposed development is unlikely to have a substantial negative impact on the Registered Lower Wye Valley Landscape of Outstanding Historic Interest.

- 5.1.11 MCC - Principal Landscape & Countryside Officer - The application represents a significant step forward from the initial application in relation to the restoration of the area previously identified as a proposed storage area (DC/2013/00456) and this is to be welcomed.

As clarified previously the site is situated within the Wye Valley AONB and is identified as being of outstanding value for its visual and sensory and cultural aspects and of high value for its historical and geological aspects and moderate value for its landscape habitats. It is also situated within the Piercefield Historic Park and Garden, [N.B. In fact the site is adjacent to, but outside the Historic Park and Garden] and on the edge of the lower Wye Valley Landscape of Outstanding Historic Interest.

The site is further highlighted in the Landscape sensitivity and capacity assessment 2010, (LLCA ST02) as of "High" sensitivity and "Low" capacity for development due to location and proximity to the historic park and garden being situated on rising open ground, abutting the Conservation Area and within the AONB.

It is clear therefore that the site is a sensitive one situated on an open rising backcloth to the settlement of St Arvans with mature trees of woodland on the skyline defining the edge of views north east out of the settlement, located within and adjacent to a plethora of landscape and historical designations.

In terms of the Landscape Appraisal submitted it appears that the same report has been submitted and my outstanding comments made on 25th March 2015 and 14th July 2015 still stand in relation to the conclusions of this report. However the removal of the builders' yard and the submission of the GI Plan helps to offsets these impacts

the report should be updated to reflect these changes as they are positive to the application.

Turning to the submission there is some confusion in relation to plan titles for example the amended site plan refers to the Landscape plan? I presume this means the GI Plan?

As stated above the Green Infrastructure Plan this is to be welcomed, however the plan represents a mixture of elements which requires clarification and separation, I would therefore suggest that the following will need to be addressed;

1 The GI Plan should simply be an indicative masterplan indicating the broad structure of the planting. In my previous comments on the last application I had requested that a GI assets and opportunities plan be submitted – this has not been done – therefore I recommend that this can be incorporated in the indicative “GI masterplan” and references to detailed planting be removed.

2 A detailed Landscape Plan be submitted clearly setting out hard and soft details – planting details should include species sizes, numbers, and distances.

3 A GI management plan should be submitted for a 20 year period covering the following;

Green Infrastructure Management Plan shall be for the whole site submitted to, and be approved in writing by, the local planning authority prior to the completion of the development. The content of the Management Plan shall build upon the principles submitted in the GI Masterplan and include the following; Description and evaluation of Green Infrastructure assets to be managed. b) Trends and constraints on site that might influence management. c) Aims and objectives of management. d) Appropriate management options for achieving aims and objectives. e) Prescriptions for management actions. f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period). g) Details of the body or organization responsible for implementation of the plan. h) Ongoing monitoring and remedial measures. J) Monitoring and maintenance of nesting bird and roosting bat provision

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the Green Infrastructure Management Plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning Green Infrastructure objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Further response of the Council’s Principal Landscape & Countryside Officer:

Broadly I am happy with the submission my points 2, 3 and 4 from my earlier memo dated 26th April 2016 have been fully addressed. Point 1 regarding clarification of regraded levels is still outstanding and the suggestion to condition this seems acceptable.

Below is a suggested condition;

DETAILS OF EARTHWORKS / MOUNDING / CONTOURING

Before any works commence on site, details of earthworks shall be submitted to and approved by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform.

Reason: In the interest of maintaining the amenity value of the area and in support of policies LC5 Landscape and GI 1 Green Infrastructure.

5.1.12 MCC Planning Policy - I refer to the above application for a revised scheme at the New Barn Workshop Site in St. Arvans which includes the following:

- Proposed change of use to storage and repair of light motor vehicles
- Storage and repair of up to two HGV motor vehicles and a trailer
- Retention of vehicle washing area and ancillary parking [N.B. now omitted from the proposal]

Strategic Policy S8 relating to enterprise and economy provides some support in principle for the proposal subject to detailed planning considerations.

The site is not allocated as an identified employment site under Policy SAE1 of the Monmouthshire LDP.

The proposal cannot be considered under Policy E2 as this Policy is aimed at new, non-speculative, single-site users that cannot be accommodated on existing or proposed industrial or business sites within the County. The site is located in the open countryside where Policy LC1 contains a presumption against new-build development although identifies those type of developments involving new build that might be acceptable if justified in policies S10, RE3, RE4, RE5, RE6, T2 and National Planning Policy. None of these policies appear to be applicable. Policy LC1 also contains a number of detailed criteria that should be considered.

Policy RE2 relates specifically to the conversion or rehabilitation of buildings in the open countryside for employment use, the policy contains a number of detailed criteria that must be complied with. Criterion (c) in particular notes that design requirements [with regard to new door and window openings, extensions and means of access, service provision and curtilage] will be more stringent for more isolated and prominent buildings, particularly if the site is located in the Wye Valley AONB – to which this site is. Policies EP1 and DES1 should also be taken into consideration in relation to Amenity and Environmental Protection, and, General Design Considerations respectively.

Strategic Policy S13 relating to Landscape, Green Infrastructure and the Natural Environment must be considered. As noted above, the site is located in the Wye Valley AONB, as a consequence Policy LC4 must be referred to along with Policy LC5 relating to the Protection and Enhancement of Landscape Character. Policy G11 relates to Green Infrastructure, it is noted a green infrastructure plan has been submitted, colleagues in the GI team will no doubt provide comment on the details included in this GI Plan. Strategic Policy S11 relating to the visitor economy is of relevance, the second part of the policy refers to development proposals that would have an unacceptable adverse impact on areas of tourism interest and their settings, as this site is located adjacent a key vehicular route into the heart of the AONB and public rights of way also run through/adjacent the site, it must be considered whether the proposed landscaping/GI scheme is sufficient.

Further to this it should be noted that the site is located in a minerals safeguarding area as designated in Policy M2. There is however a need to provide a buffer to protect existing residential dwellings in the locality from the impact of minerals working, as a consequence, minerals extraction would not be feasible in this location. The development would not sterilise land beyond the existing buffer zone site as the proposal does not relate to a residential use. In any event this application is largely for a change of use and will not sterilise any potential mineral deposits, there is therefore no conflict with Policy M2.

Finally the site is located immediately adjacent the Piercefield Historic Park and Garden, as there is no specific local planning policy in relation to this designation it is important to ensure Strategic Policy S17 relating to place making and design is considered along with supporting policies DES1 and EP1 as noted above. Chapter 6 of Planning Policy Wales relating to Conserving the Historic Environment must also be considered.

4.2 Neighbour Notification

Two individual emails/ responses from a local resident citing, inter alia, inaccuracies in the submitted Design & Access Statement that refer to previous uses on the site that were not lawful, the successful challenges at the High Court regarding the Council's previous decisions to approve similar proposals at the site, non-compliance with planning policies, adverse impact on the AONB and historic parkland, as well as adverse impacts on the health and well-being of the neighbour and her property from noise, light pollution, general disturbance, breach of opening hours and smoke from fires at the site.

The responses are copied as Appendices to this application.

One email from a former local resident that refers to representations made to the previous applications DC/2012/00613 and DC/2015/00456 that he wishes to be represented. These are made up of fourteen separate grounds of objection on: Policy S13 (LDP), Other Policies, Transport, LDP Policy DES1, Existing Use, Ecology, Environmental Health, Tourism, Policies, Landscape Assessment, Public footpaths, Residential Amenities and St Arvans Community Council representations; for ease of reference these have been reproduced in full as an appendix to this report. That resident also submitted an email referring to a video link of the unauthorised development. (It is understood that this former resident retains a legal interest in an adjacent property, but in any case the issues raised should be taken into consideration insofar as they relate to material planning conditions).

4.3 Local Member Representations - application to be presented to Planning Committee.

4.4 Other Representations – seven emails/ letters from caving organisations/ individuals raising a concern over the provision of suitable catchment facilities for the run off or potential pollutants from the repair garage and associated hardstanding, particularly from the vehicle washing area [N.B. the latter is now omitted from the proposal]. It is queried whether any consideration been given to long term monitoring to ensure that this run off does not enter the underground water courses and subsequently enter and pollute Otter Hole Cave that lies in very close proximity to the site. Water from the cave discharges into the River Wye [which is a Special Area of Conservation]. Otter Hole is a major cave system of national importance containing a network of 3.5km of natural passages with stalactites, gigantic stalagmite bosses and walls of calcite of spectacular size and colours.

5.0 **EVALUATION**

The main issues relating to this application are:

- Planning History
- Visual impact upon the Wye Valley Area of Outstanding Natural Beauty(AONB) including Development Plan and Green Infrastructure issues
- Residential Amenity
- Public Footpath, access and parking
- Other issues
- Socio-economic considerations
- Previous judicial reviews

5.1 Planning History

5.1.1 Much of the wider site (which encompasses the current application site and adjoining land edged blue on the application site plan that includes the site of the area used to store building materials as well as land to the south of the access driveway to the site off the A466) was originally granted permission in February 1985 under A21850 for a commercial garage / workshops for the storage and repair of vehicles solely owned by the applicant at the time and any successors in title. Any wider use for vehicles not owned by the applicant would have required the permission of the Planning Authority. A section 52 agreement (now s.106 of the 1990 Act) was signed to ensure an existing non-conforming use of a building at Parkfield, St Arvans for commercial vehicle storage and repair ceased and the building could only be used for storage of up to two private motor vehicles, and be used as a domestic garage in relation to the dwelling, Parkfield, once the building permitted on the current application site was completed. In later years it is evident from aerial photography (2000 and 2005) that the wider application site was used as a bus / coach depot, although this was not authorised. It is evident that uses have changed over time and the land is no longer in use for the purpose it was granted planning permission in 1985. The workshop building (and related stone walls) on the site has been in place since the 1980s and is therefore lawful as operational development in planning terms. The builder's yard was created by the levelling of land and the erection of the industrial style metal gates in 2012. Previously, aerial photography suggests this area was largely undisturbed but was used casually to store a vehicle upon, and later a storage container was located on the part of the site nearer the workshop building (as seen in a 2010 aerial photo). It is also apparent that the historical planning permission granted in 1985 did not envisage this area being developed but being maintained as a largely green space serving as screening for the approved workshop use (A21850), although it is appreciated that the applicants carried out the work to form the builders' yard as part of planning application DC/2011/00697, initially approved by the Council and then quashed. There was also evidence of a non-metalled track crossing the site. The conclusion is that there is no lawful use subsisting on the land, while the workshop building, areas of hardstanding and stone walls relating to the application DC/2013/00456 are immune from enforcement action owing to the passage of time.

5.2 Visual impact upon the Wye Valley Area of Outstanding Natural Beauty (AONB) including Development Plan and Green Infrastructure issues

5.2.1 Having regard to the adopted Local Development Plan (LDP), Strategic Policy S8 provides broad support for business development that supports sustainable economic growth, but includes the caveat that all proposals will be considered against detailed planning considerations including the need to protect natural and built heritage, which itself bring benefits for the economy, tourism and well-being. The site is not allocated for employment use in the Plan and is in the open countryside where Policy LC1 contains a presumption against new-build development, although it identifies those types of developments involving new build that might be acceptable if justified in policies S10, RE3, RE4, RE5, RE6, T2 and National Planning Policy. None of these policies appear to be applicable. In this instance, the proposal is for a change of use of land and building, not new built development and thus Policy LC1 is not applicable. Moreover, the re-use of existing building in the countryside for employment purposes is supported in general by Policy RE2 of the LDP, subject to compliance with specified criteria, including that the form, bulk, general design of the proposal respect the rural character and design of the building; and the more isolated and prominent the building the more stringent will be the design requirements with regard to new door and window openings, extensions and means of access, service provision and curtilage, especially if located within the Wye Valley AONB. In this case the proposal, including its curtilage and access, is in scale and sympathy with the surrounding landscape and does not require the provision of unsightly infrastructure and ancillary buildings.

- 5.2.2 Policy LC4 states that within the AONB, any development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area. A list of criteria is included in the policy including considering the long term effect of the proposal and the degree to which its nature and intensity is compatible with the character, purpose and overall management of the AONB, and the degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and built heritage.
- 5.2.3 Policy LC5 lists a range of criteria against which proposals would be considered in relation to their landscape impact. Development would be permitted provided it would not have an unacceptable adverse effect on the special character or quality of the County's landscape by, inter alia, causing visual intrusion, significant adverse change in the character of the built or natural landscape, or by being insensitively and unsympathetically sited in the landscape or by introducing or intensifying a use which is incompatible with its location.
- 5.2.4 Policy GI1 states that development proposals will be expected to maintain, protect and enhance Monmouthshire's diverse green infrastructure network by:
- a) Ensuring that individual green assets are retained wherever possible and integrated into new development. Where loss of green infrastructure is unavoidable in order to secure sustainable development appropriate mitigation and/or compensation of the lost assets will be required;
 - b) Incorporating new and /or enhanced green infrastructure of an appropriate type, standard and size. Where on-site provision of green infrastructure is not possible, contributions will be sought to make appropriate provision for green infrastructure off-site.
- 5.2.5 In broad terms, the principle of re-using the building and associated land for employment is acceptable under Policy RE2 subject to considering the impact of the proposal upon acknowledged interests such as the need to conserve and enhance the natural beauty of the AONB, neighbour amenity, access being acceptable and safe, and biodiversity interests being safeguarded. Surface water run-off and effluent/pollution control measures should also be acceptable.
- 5.2.6 One of the main issues, indeed it is a statutory duty, is to consider the visual impact the retention of this change of use and related development would have upon the natural beauty of the Wye Valley Area of Outstanding Natural Beauty (AONB).
- 5.2.7 The AONB Office commented on the application previously and recommended that the application be refused unless additional tree and hedge screening could be guaranteed through conditions attached to any planning permission that may be granted. The updated comments of the AONB Officer will be reported as late correspondence. However, planning officers consider that this issue has now been satisfactorily addressed.
- 5.2.8 This is a retrospective application so that the situation can be seen on site (with the exception of the proposed landscaping). Site inspections have been carried out many times, most of which were unannounced visits without the company of the applicant and the agent in order to gain some insight into the nature of the proposal. During the site inspections, the access / public path leading to the site was kept clear of building materials and vehicles. The building is set back with a surfaced courtyard area to the front bounded by stone walls. The forecourt gates are generally open in the day, as are the workshop doors, so that the site is clearly visible from the public footpath. In previous visits the forecourt has been generally empty with few cars within it relating

to the repair garage, although the latest tenants are parking a greater number of cars in there, suggesting a higher level of activity is taking place. The area to the east of the workshop, separated by a palisade fence, is a triangular area, hard surfaced and bounded to its east by the stone wall to Piercefield Park, that is being used to park cars (and is proposed for parking purposes in this application, subject to a reduction in area and modification by the Green Infrastructure Plans submitted by AJA for the applicants). This triangular area does not appear to have been included within the original limits of the planning approval under A21850 although it has been hard surfaced for many years and the engineered surface would be immune from enforcement action.

- 5.2.9 Along the eastern boundary of the commercial garage site is a row of recently planted trees to provide a screen when mature, although some of these saplings appear to have failed and the screening is ineffective at present. The proposal seeks to replace this planting with a much more comprehensive landscape screen (including oaks, field maple and pine) ranging between 6 and 10m wide. The forecourt gates of the workshop themselves are bare metal and are of a utilitarian, industrial character that does not sit well within this sensitive landscape in the AONB. The proposed landscaping would 'wrap around' the frontage of the site and soften this edge of the development close to the public right of way. In addition, the existing metal gates to the workshop and yard are proposed to be clad in timber panels.
- 5.2.10 As well as the above, the site of the area formerly used to store building materials to the west of the workshop is to be restored and planted up to provide additional green infrastructure (GI) in relation to this proposal. This includes removal of the hardstanding and the grading out of the bunds, as well as the removal of the inappropriate conifer planting and its replacement with a wider grass verges either side of the access and fresh native species planting including hazel, dogwood and holly. The main part of the area that had been used to store building materials is proposed to be planted with native species including field maple, oak, hazel, hawthorn and wild cherry. Either side of the entrance off the A466 the existing roadside vegetation is proposed to be retained. The removal of the inappropriate conifer planting would open up limited views into the site until the new planting has become established, however the extent of this short term increased exposure is considered to be low and outweighed by the wider green infrastructure benefits from the new landscaping.
- 5.2.11 To the south of the access/ public right of way, the areas of hardstanding are proposed to be rationalised and additional native species planting is proposed to contain this area, adding green infrastructure to this part of the wider site which is in the applicant's ownership.
- 5.2.12 The Council's Landscape Officer previously objected to application DC/2013/00456 on the basis that the previously proposed fresh planting / landscape mitigation were 'insufficient to overcome the intensification / industrialisation of use in combination with the garage/workshop and car parking areas that have incrementally spread across this site.... The proposal will have an impact on a small scale...through a creeping urbanising effect – the effects are local in scale but this should not diminish the significance of their impact.'
- 5.2.13 The Council's Landscape Officer notes the site's sensitive location in the AONB and adjacent to the historic Piercefield Park and Garden as well as being on the edge of the lower Wye Valley Landscape of Outstanding Historic Interest. In respect of the revised, current proposal which features more comprehensive green infrastructure mitigation than the earlier refused application, the Landscape Officer comments that the removal of the builders' yard and the submission of the GI Plan helps to offset the

negative impacts of the development. The proposed use would now be softened and framed by extensive GI and any adverse impacts would be very localised, primarily involving views from a short section of the public right of way to the immediate south of the workshop and yard. The significant landscaping now proposed is considered sufficient to overcome the previous landscape concerns of the Council's expert landscape officer and provided the GI that is proposed is implemented and managed in accordance with the submitted GI Management Plan then it is considered that there would no longer be grounds to argue that the use proposed would conflict with the overriding objective to conserve the natural beauty of the AONB and thus, the proposal would no longer conflict with Policy LC4 of the adopted LDP. It would also be compliant with LDP policies S11, S13, LC5 and GI1 in providing extensive GI mitigation.

5.2.14 In relation to LDP Policies S17 and DES1 the use of the workshops, provided it is heavily mitigated as proposed, would not harm local character and would not fail to contribute towards a sense of place or respect the existing form, scale, siting, massing, materials and layout of its setting.

5.3 Residential Amenity

5.3.1 The only residential property in close proximity to the application site is the dwelling known as Mistletoe Cottage. Within the curtilage of that dwelling there is an established commercial cattery business along with a horse walker, manege and stables adjacent to the boundary of the application site.

5.3.2 There has been a long history of complaint about the operation of both the former builders' yard and the vehicle repair workshop from the neighbouring householders including noise, disturbance, smoke (from an unauthorised flue – since removed from site), breach of working hours, car breaking, lighting of fires and so on.

5.3.3 MCC Environmental Health (EH) has been consulted on the application and commented that having reviewed the application, whilst some noise from vehicle repairs and vehicle movements on and off site has the potential to be audible at the nearest residential property, it is not in a position to substantiate a level of problems on which to base an objection.

5.3.4 In order to minimise the level of disturbance at the nearest residential property EH recommend that the following conditions are applied:

The hours of operation shall be limited to between the hours of:

For the repair of motor vehicles:

- 08:00 – 19:00 Mondays to Fridays
- 08:00 – 13:00 on Saturdays
- No operating on Sundays or Bank Holidays;

For the movement of heavy goods vehicles on and off site:

- 06:00 – 19:00 Mondays to Fridays
- 08:00 – 13:00 on Saturdays
- No operating on Sundays or Bank Holidays.

5.3.5 Additional conditions are also recommended to prevent paint spraying (to prevent odour problems), no fires to be lit on site at any time and that noise is contained to an appropriate level by ensuring that operations, including the maintenance and repair of motor vehicles is restricted to the inside of the garage building. These are considered reasonable given the proximity of the nearby residential property, except for the lighting of fires which can be controlled under separate legislation. Commercial bonfires are

controlled by the Clean Air Act 1993. It is an offence to produce dark or black smoke from a bonfire at commercial premises.

- 5.3.6 Given the impact of the use of the site as a vehicle repair workshop so far, there would not appear to be grounds to base an objection to its retention owing to any significant adverse effects on residential amenity. Any nuisance reported by the neighbour to the EHO relating to the effects of smoke from the unauthorised flue at the workshops was resolved with the removal of the flue.
- 5.3.7 It is thus considered that subject to careful control of the hours of operation of the business alongside other planning conditions relating to prevention of paint spraying and limiting vehicle repair work to being carried out inside the building only, there would not be likely to be significant harm caused to residential amenity by the proposed development.
- 5.3.8 In addition, the GI proposals feature significant block planting alongside the boundary to Mistletoe Cottage that would help to mitigate any adverse impacts and would in time form a very effective and substantial visual screen between the residential curtilage and the repair garage site.
- 5.3.9 In relation to hours of operation, the applicant has requested that for the storage and repair of light motor vehicles the operating hours of the site should be restricted to 08.00 to 19.00 Monday to Friday; 08.00 to 13.00 Saturdays with no operating on Sundays or Bank Holidays. For the movement of motor vehicles owned by Mr Peter Stephens (i.e. the HGV vehicles and his private vehicles) the hours of operation should be restricted to 06.00 to 19.00 Monday to Friday and 06.00 to 13.00 Saturdays, with no operating on Sundays or Bank Holidays and the maintenance and repair of vehicles owned by Peter Stephens restricted to 08.00 to 19.00 Monday to Friday and 08.00 to 13.00 Saturdays with no operating on Sundays and Bank Holidays (as per the general repair garage use). Environmental Health has advised that the proposed hours of operation, which differentiate between the different uses within the site, would protect local residential amenity having regard to all material considerations such as proximity of the adjacent property, and the nature of the uses at the site. However, from a planning perspective it would seem reasonable to reduce the scope of hours applied for to more reasonable hours having regard to the amenity of the area, including the impression of the site (albeit fleeting) from the nearby public right of way, and the amenity of the occupiers of the neighbouring dwelling. As such it is considered that the uses should be controlled to finish by 18:00 hours (Monday - Friday) rather than 19:00 hours. The earlier start allowable for Mr Peter Stephens' vehicles (the application proposes a start from 06.00) is only considered acceptable in the light of the very limited scale and nature of this element of the use of the site. However, having said that, it is considered that a start from 07:00 is more reasonable in this context, near an existing dwelling. In permitting this earlier start it is acknowledged that the site is adjacent to a busy 'A' road, the A466 which will generate a degree of noise from road traffic in any case. The operating times considered appropriate are set out in condition 7.

5.4 Public Footpath, Access and Parking

- 5.4.1 It is proposed to utilise the existing vehicular access to serve the proposed vehicle repair use. It is considered that there is reasonable visibility at the access onto the A466 together with ample space within the site for turning and parking. A condition is recommended below that would secure visibility splays of 4.5m x the site frontage which would achieve acceptable visibility. Highways' request for an on-site turning area is readily available on site already, and so it would not be necessary to condition this

requirement. There is a public footpath that shares the existing access driveway to the application site off the A466 and has done for many years and the route would remain unaltered and would therefore be open for use and free from obstruction. However, the route of this footpath is shown on the definitive map as crossing the former (unauthorised) yard for the storage of building materials rather than along the access driveway that is within the current application site. There is a current application to divert the footpath lodged with MCC that may resolve the issue but until such time that the order is confirmed the legally recorded alignment will remain obstructed if consent is granted. The grant of consent would not authorise any such obstruction. Public path orders are not guaranteed to succeed and PPW states that local authorities should seek to protect and enhance the rights of way network as a recreational and environmental resource. If the diversion application is unsuccessful MCC would need to consider how best to protect and promote the public's right to use the legal alignment of the path.

5.4.2 In terms of impact of the proposed development on users of the public footpath, this would be limited to the short section immediately in front of the workshops. The proposed mitigation offered by the green infrastructure and timber cladding of the gates would green up the immediate area and reduce any urbanising effects of the use, confining views of the development to a brief section of the path. The effects would be limited and not significant to such users, and following the maturity of proposed planting belt the site would be screened as the path runs on eastwards into the historic park. Similarly the impact of noise on such users would be brief, sporadic and insignificant, especially given the proximity to the A466, which would have its own capacity to generate noise.

5.5 Other issues

5.5.1 The Council has been pressed by objectors to take enforcement action against both the unauthorised vehicle repair use and the storage of building materials. The applicants have the right to apply retrospectively to regularise the use of the site. Since the application has been submitted and is under consideration it has been considered to be inappropriate and unreasonable to take enforcement action before the determination of this application. However, enforcement action is being pursued in relation to the former builders' yard to restore it as a green space, notwithstanding that it is also proposed to be regraded and planted up as GI in association with the present application for the retention of the repair garage.

5.5.2 As regards concerns about biodiversity matters, the Council's Biodiversity and Ecology Officer has noted the proposal is for the re-use of an existing building and storage (parking) areas at the site. While it is noted that the site is very near to the Wye Valley Woods SAC (Pierce, Alcove and Piercefield SSSI) it is not anticipated that this scheme will have an impact on this site or any of its interest features. The Biodiversity Officer recommends a condition to control any additional lighting should consent be granted. NRW, agrees on the need to control lighting at the site. A condition is set out below.

5.5.3 This proposal is located immediately adjacent to the historic park and garden known as Piercefield Park and the Wyndcliffe, which is included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. Although the application area is located immediately adjacent to this grade I registered historic park, it is not in any of the identified essential views. The application area would not be visible, or will be screened from view by the topography, a stone wall and existing vegetation from the majority of the registered park, although close views are possible. The impact, therefore, is likely to be no more than local and is not considered to harm the registered park itself. Cadw confirms that there will be limited, local views of the

application area from the edge of the registered landscape but considers that these views will be interrupted by existing vegetation and proposed planting. The substantial planting proposed would further mitigate any existing limited impact and thus, the proposal would be acceptable in this regard.

5.5.4 The application area is also located outside the Registered Lower Wye Valley Landscape of Outstanding Historic Interest (HLW (GT) 3 The Lower Wye Valley). There will be limited close views of the application area from the edge of the registered landscape but in Cadw's opinion these will be interrupted by existing and proposed vegetation and constitute, at most, a local impact that would not cause significant harm. Planning officers agree with this conclusion.

5.5.5 In respect of drainage / surface water matters raised by NRW and pollution concerns referred to by caving organisations in relation to maintaining the integrity of the nationally important limestone cave, The Otter Hole, NRW notes, 'Therefore, our concern is the potential for pollution from the site to enter the cave system (fuel, oil, dirty water etc.) in particular, from the vehicle wash area. Effluent and run-off from vehicle washing and cleaning activities have potential to damage the water environment and the cave system. They are classed as trade effluent and should be kept separate from surface water.

Given the proximity of the cave, the bedrock of the site and the potential risk of pollution from the development site, our advice is that the proposed development will be acceptable providing the following measure is implemented and secured by way of a planning condition on any permission granted.

Condition

The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water run-off and trade effluent has been submitted to, and approved in writing by, the local planning authority. This shall include a drainage plan of the site. The scheme shall be implemented as approved.

Reason - To prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.'

5.5.6 It should be noted that the vehicle wash area has now been removed from the proposed development, although trade effluent may remain an issue to be resolved. Although it is debateable whether the current, unauthorised use may be the source of the pollution (given the proximity of other potential sources including the A466 and the Chepstow Racecourse parking areas) it is accepted that it would be reasonable to apply a condition to control this element of the development. An appropriate condition is therefore proposed below. In this respect the proposal is considered to comply with Policy EP1 of the LDP.

5.6 Socio-economic considerations

5.6.1 The overriding necessity in the AONB is to conserve the natural beauty of the area. The AONB Management Plan refers to other subsidiary purposes: 'in pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry, and other rural industries, and of the economic and social needs of local communities.' The AONB designation in itself does not preclude employment uses such as this proposal. The acceptability of the proposal will be dependent on the impact of the proposed development and its longer term effects. These have been considered above and it has been concluded that, accepting that the building and walls are lawful on the site, the proposal can be sufficiently mitigated by significant landscaping that would effectively screen the impact of parked cars and outside storage of materials such as vehicle parts and tyres. It is considered that there would as a result be no greater harm to the natural beauty of the AONB with the proposed green infrastructure

in place than if the site were vacated and the lawful building and walls were left in situ. The proposal would provide limited benefits in relation to local employment opportunities, although it is acknowledged that this carries less weight than the need to protect the landscape.

5.7 Previous judicial reviews

- 5.7.1 As Members will recall, the previous applications, DC/2013/00456 and DC/2012/00613 were originally recommended for approval subject to conditions, under the local policy framework provided by the then Unitary Development Plan (now superseded by the adopted LDP – February 2014). Since then the application decisions were successfully challenged under the judicial review process by a third party, who was also successful in relation to two earlier decisions regarding this site. The challenges were successful in that the Council relied on two key areas that were legally flawed, namely, it was argued by the Council there was a fall-back position concerning the area relating to the builders' yard whereby this area could be used for agricultural storage without the need for planning permission (this view wrongly set the bench mark for the acceptability of a storage use on the two sites too low, especially in such a sensitive location) and secondly that there was a flawed reliance on structures being lawful on the builders yard site i.e. the storage containers (the Court judgement found, 'the activities on the site during the relevant period did not have the degree of permanence and/or fixed relationship with the land itself so as to be regarded as building operations. It was therefore a 10 year as opposed to a 4 year period for enforcement action which needed to be considered.... I consider, having regard to the location of this land, within the area of outstanding natural beauty, and the planning policies against which these applications fell to be judged, that the taking into account of such an erroneously identified baseline of itself necessarily involved the taking into account of an immaterial consideration of sufficient significance to dictate the quashing of *both the grants of permission* [my italics] by which the consideration of such an erroneous baseline is in fact tainted.' This meant the planning authority set the baseline too low in assessing the acceptability of both the builders' yard and the fresh use of the workshop building and associated land for a different use to that originally granted on this site, particularly in the context of the site's location in the AONB.
- 5.7.2 For the avoidance of doubt in the determination of this application, Planning Committee is advised that:
- 1) there is no agricultural storage 'fall back' position;
 - 2) the storage containers on the builders' yard area were not immune from enforcement action under the 4 year rule.
- It should be noted that an Enforcement Notice has since been issued requiring the unauthorised builders' yard use to cease, the containers removed, the gates removed and the site restored.
- 5.7.3 Since those original decisions the LDP policies have come into force and are different to the previous UDP policies and in particular Policies S13, LC4, LC5 and G11 provide the development plan framework against which development should be considered and where appropriate, mitigated, to be rendered acceptable. In this instance, the site is in a particularly sensitive location but the offer of extensive mitigation in the form of green infrastructure to soften and screen the development is now considered sufficient to integrate the currently unauthorised use of the site into the landscape. This includes the complete removal of the area for the storage of building materials and its restoration and planting as a more natural setting for the current proposal at the workshops, which are lawful buildings. Planning conditions to control the hours of use as well as operational issues would also enable the proposed use to be carried out

without unacceptable harmful effects on amenity. It is concluded that the proposal is acceptable and accords with the adopted Monmouthshire Local Development Plan.

6.0 RECOMMENDATION: APPROVE

Conditions

1. The development shall be carried out in accordance with the list of approved plans set out in the table below.
Reason: To ensure the development is carried out in accordance with the approved details, for the avoidance of doubt.
2. The Green Infrastructure (GI) shall be implemented in accordance with the Green Infrastructure Management Plan (by AJA, revised version, 11th May 2016) and associated drawings contained in the Management Plan. The GI shall be carried out within six months of the date of this planning permission.
Reason: To ensure the required GI mitigation is provided in a timely manner, in the interests of landscape protection and amenity.
3. Prior to the Green Infrastructure works referred to in condition 2 above commencing on site, the finished levels of the area to be restored to the west of the application site, formerly occupied by the unauthorised area for the storage of building materials, shall be agreed in writing with the Local Planning Authority. The levels shall be carried out in accordance with the approved details and shall be completed so as to enable the overall GI scheme to be implemented as set out in condition 2.
Reason: to ensure adequate detail is provided, in the interests of landscape protection and amenity.
4. A scheme to dispose of surface water run-off and trade effluent for the development shall be implemented within six months of the date of this permission in accordance with details to be submitted to and approved by the Local Planning Authority. The submitted scheme shall include a drainage plan of the site. The surface water drainage and trade effluent disposal methods, as implemented in accordance with the approved details, shall be retained thereafter in perpetuity.
Reason: to prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.
5. The Green Infrastructure/ landscaping shall be maintained in accordance with the GI Management Plan referred to in the list of approved documents in the table below.
Reason: To ensure that effective screening is maintained in the long term in the interests of landscape protection and amenity and that planting does not cause damage to other important historic landscape features such as the stone wall.
6. The premises shall be used for the storage and repair of light motor vehicles and for the storage and repair of up to 2 heavy goods vehicles owned by the co-applicant Mr P Stephens only, and for no other purpose (including any other purposes in Class B2 of the schedule to the Town and Country Planning (Use Classes) Order 1987) without the prior written approval of the Local Planning Authority.
Reason: to protect local residential and visual amenity.
7. The hours of operation of the use, hereby approved, shall be limited to between the hours of:
For the repair of motor vehicles (other than heavy goods vehicles), and including the movement of vehicles associated with that use:
08:00 – 18:00 Mondays to Fridays
08:00 – 13:00 on Saturdays
No operating on Sundays or Bank Holidays;

For the movement of up to two heavy goods vehicles, owned by the co-applicant Mr P. Stephens only, on and off site:
07:00 – 18:00 Mondays to Fridays

08:00 – 13:00 on Saturdays
No operating on Sundays or Bank Holidays;

For the repair of up to two heavy goods vehicles owned by the co-applicant Mr P Stephens only:

08:00 – 18:00 Mondays to Fridays

08:00 – 13:00 on Saturdays

No operating on Sundays or Bank Holidays.

Reason: to protect local residential amenity.

8. No paint spraying shall be carried out within the site at any time.
Reason: to protect local residential amenity.
9. Operations including the maintenance and repair of motor vehicles shall be restricted to within the existing garage building. No repair or maintenance of motor vehicles shall take place outside that building.
Reason: to protect local residential amenity.
10. The vehicle wash shall not be used at any time.
Reason: to prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.
11. Notwithstanding the site plan 1123/702F, this permission does not include the mobile office unit marked on that plan.
Reason: for the avoidance of doubt and to clarify the extent of this permission.
12. No more than two heavy goods vehicles shall be kept on site at any time and no heavy goods vehicle shall be kept on site that is not solely owned and operated by Mr P Stephens, co-applicant.
Reason: in the interests of residential and visual amenity.
13. No additional external lighting at the site shall be provided without the prior written permission of the Local Planning Authority.
Reason: in the interests of nature conservation.
14. The access shall be maintained with visibility splays of 4.5m x the site frontage at all times.
Reason: in the interest of highway safety.
15. The existing gates to the site shall be clad in timber within three months of the date of this permission in accordance with details to be submitted to and approved by the LPA prior to those cladding works being carried out.
Reason: in the interests of visual amenity.

Informative:

It appears that the legal alignment of Public Footpath No 32 may be unavailable at the site of the proposed development. Public Right of Way No 32 must be kept open and free for use by the public at all times, or alternatively, a legal diversion or stopping-up Order must be obtained, and confirmed prior to any development further impacting on the availability of the path and/or to remove any existing problems.

Hacker, Tracey L.

From: Thomas, Philip
Sent: 28 June 2016 14:49
To: Hacker, Tracey L.
Subject: FW: St Arvans Garage & Site Enforcement Required

Hi Tracey – could you please add this to the application DC/2015/01336 as an objection on IDOX.

Thanks,

Phil

From: Michelle Hatcher [REDACTED]
Sent: 12 June 2016 18:40
To: Thomas, Philip [REDACTED]
Cc: Ben Garbett [REDACTED] Matthews, Paul [REDACTED]
Subject: Re: St Arvans Garage & Site Enforcement Required

Dear Mr Matthews

Why has enforcement taken place on this site since my last email to you?

This is a complaint now for the following:

1. Lack of action on the Judicial Review number 3 in 2014 where upon MCC was required to make a decision on this site and as yet it has not done so nearly two years later. I understand there is one complaint in with the Ombudsman about it and I am going to make another.
2. They are working all day on Saturdays now, I was disturbed yesterday till 17:00 by tyre fitting noise - which is loud and other engineering works. The Three Judicial Reviews that MCC has lost have been very clear about the impact of amenity on my property; I am being impacted again now at weekends. I am requesting you take immediate action and rectify this situation.
3. Please add this correspondence to any further planning applications that you currently hold on this site.
4. Please confirm to me by return, that you have updated your Planning Committee Members of this latest expansion of this illegally operating site.
5. Please confirm to me by return, that you have updated St Arvans Community Council of the latest disturbances to my amenity regarding the working at weekends. They were happy to vote approval for the site based on the fact that you would enforce any breaches and protect this property. This is a clear breach and I have not seen any enforcement despite my several emails to you now.

Please note my solicitor has been fully briefed on this matter.

I await your responses.

Yours Sincerely

Ms M Southgate

On Sun, Mar 20, 2016 at 5:35 PM, Michelle Hatcher [REDACTED] wrote:

Mr Thomas

This is yet another complaint about the site next to my home where St Arvans Garage workers were on site last night working till 20:30 hours. The noise was vehicles mis-firing and the sound of a pneumatic drills which I believe is used to replace tyres as well as the roller doors making the racket that they do. It disturbed me and my horses and I wish it to be dealt with immediately please.

Complaint 2: St Arvans Garage is advertising and working on Saturdays. I discovered this when two weeks ago my dog escaped and ran into their garage. The mechanic Chris told me they have planning permission and Peter Stephens said it was ok for him to work on Saturdays till 13:00 then shut the roller doors and work till 14:00 when he must leave the site. I informed him this is incorrect information.

As you know, they don't have planning permission granted for any use on the site. They also haven't been leaving the site till 14:30 and yesterday 20:30.

The noise is awful and I have a right to a peaceful weekend in my country home.

The Mechanic Chris informed me he could wash his cars inside the garage, I said he couldn't due to the sensitive nature of the location and he informed me that he "doesn't care about what's outside, just about earning money".

And it is this attitude which indicates why garages are not in Internationally Protected Areas of Outstanding Natural Beauty, SACs and SSSIs.

Complaint 3: St Arvans Community Council voted at their December 2015 meeting to approve the application: DC/2015/01336 "Change of Use for the site" - as you all know the site does not have any use approved on it, therefore a new development application should have been submitted, and you should be going back to them to remind them of their duty. They already have this information so the bias is clear.

Mr Tranter has informed my legal team that the application will be back at Planning Committee either in April or May, which is it please and why has this been allowed to progress when MCC has lost three Judicial Reviews and you haven't actually dealt with JR3 granted July 2014?

Complaint 4: Planning Committee Councillor Ann Webb was present at the SACC meeting and is fully aware of the planning status of this site, so why didn't she inform them that it is not a change of use? This is a dereliction of her duty of care as the Ward of St Arvans Councillor and as a PC member. Breaching her duties is serious and I would like a clear response as to why she didn't provide the up to date correct information to SACC.

Complaint 5: St Arvans Garage have installed a new wooden office inside the building. This is new development and therefore requires a new application yet it has been included in the latest Change of Use application for a site which has no planning permission on it.

Complaint 6: Mechanic Chris told me that a planning officer had been down around the week of the 26th February 2016 and had viewed the broken down black metal washing machine, the piles of tyres stacked up where they were stacked in 2011 when the Env Agency made MCC remove them because it is illegal to store tyres on this site. I refer you to the paperwork already held in your records on this matter.

Which planning officer undertook the site visit? I would prefer not to waste everyone's time going down the FOI route so please meet my request.

Complaint 7: Served Enforcement Notice - I requested the date when the Enforcement was due to be completed, still not received, but I do believe the six months is up. The metal gates are still in place, the shipping containers are on site. The rubbish, broken chairs, toilets etc are still on site.

SACC commented that as long as conditions were in place the application could be approved - There have been over 250 breaches on this site and you do not enforce your conditions.

Placing the onus on me personally and this property to monitor the site next door is irrational and in breach of my rights to a quiet life. It is clear that you cannot enforce your own conditions and that you never have had any intention of enforcing them so please ask SACC and your PC members to stop mocking the planning process and implying that Conditions are a way to control the site.

Remedial Action Required Please

Please enforce the Enforcement Notice.

Please inform St Arvans Garage and the site owners that they do not have any planning permission on the site, therefore they should not be retrospectively operating a business, and they should not be working after 17:00 or at Weekends affecting the residential amenity of my property. I refer you to the three Judicial Reviews.

Please provide the date of when DC/2015/01336 will be placed in front of Planning Committee as my solicitor and I need to be in attendance.

Please advise why as the Head of Planning you have allowed DC/2015/01336 to be accepted when you know it is the same application as the three JRs have dealt with and quashed and it has new development held within it.

This will be the seventh time that this application has been placed in front of Planning Committee in 4 years. Please be specific in your answer to this question. I really would like to understand your reasoning.

regards

Ms M Southgate (formerly Hatcher)

Mae'r neges e-bost yma a'r ffeiliau a anfonir gyda hi yn gyfrinachol ac fe'i bwriedir ar gyfer yr unigolyn neu gorff y'u cyfeiriwyd atynt yn unig. Gall gynnwys gwybodaeth freintiedig a chyfrinachol ac os nad chi yw'r derbynnydd bwriadedig, rhaid i chi beidio copïo, dosbarthu neu gymryd unrhyw gamau yn seiliedig arni. Os cawsoch y neges e-bost yma drwy gamgymeriad hysbyswch ni cyn gynted ag sydd modd os gwelwch yn dda drwy ffonio 01633 644644. Cafodd y neges e-bost yma sgan firws Microsoft Exchange Online Protection. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. It may contain privileged and confidential information and if you are not the intended recipient, you must not copy, distribute or take any action in reliance on it. If you have received this email in error please notify us as soon as possible by telephone on 01633 644644. This email has been virus scanned by Microsoft Exchange Online Protection. Mae'r Cyngor yn croesawu gohebiaeth yn Gymraeg, Saesneg neu yn y ddwy iaith. Byddwn yn cyfathrebu â chi yn ôl eich dewis. Ni fydd gohebu yn Gymraeg yn arwain at oedi. The Council welcomes correspondence in English or Welsh or both, and will respond to you according to your preference. Corresponding in Welsh will not lead to delay.

I strongly object to this Planning Application: DC/2015/01336 based on factual evidence corroborated by the previous three Judicial Reviews that Monmouthshire County Council has lost in their attempts to illegally grant planning permission to this site over the past five years.

My objection is based on the legal grounds that its content has been Refused by MCC Planning Committee previously and Refused at three Judicial Reviews.

This Application should not have been accepted by Head of Planning, Mr Philip Thomas in the first instance; and he should have directed the Applicants to lodge an Appeal to the Welsh Government in relation to DC/2013/00456 which was Refused at MCC Planning Committee on the 07.10.15, over one year after MCC lost their case at the High Court, which refused the same application based on the facts that the site directly contravenes the following Local Development Plan Policies:

- 1 S8 LDP Enterprise and Economy
- 2 S11 LDP Visitor Economy
- 3 S13 LDP Landscape, Green Infrastructure and the Natural Environment
- 4 S16 LDP Transport
- 5 S17 LDP Place Making and Design
- 6 DES1 LDP General Design Considerations
- 7 LC1 LDP New Built Development in the Open Countryside
- 8 LC4 LDP Wye Valley AONB
- 9 LC5 LDP Protection and Enhancement of Landscape Character
- 10 GI1 LDP Green Infrastructure
- 11 EP1 LDP Amenity and Environmental Protection
- 12 EP3 LDP Lighting
- 13 RE2 LDP The Conversion or Rehabilitation of Buildings in the Open Countryside for Employment Use
- 14 M2 LDP Minerals Safeguarding Areas
- 15 NE1 LDP Nature Conservation and Development

Planting some additional trees (already inadequately undertaken in 2012) is not going to address the above major issues, and I would remind all concerned that this site does not have Planning Permission granted in any form, so the misquote again, of 'change of use' is incorrect and I refer you to read the three Judicial Reviews which clearly addresses this point, as a point of Law.

All Consultees on the current application DC/2015/01336 have had dealings in all of the previous failed Planning Applications, referenced in the table below for clarity, and thus their

commentary has also been Judged and found wanting at Judicial Review and by MCC, so should be discounted in relation to the current Application:

Application Date	Application Number	Outcome
3 rd August 2011	DC/2011/00697	Refused at Judicial Review
12 th July 2012	DC/2012/00594	Refused at Judicial Review
19 th July 2012	DC/2012/00613	Refused at Judicial Review
12 th October 2012	DC/2012/00886	Refused at Judicial Review
5 th June 2013	DC/2013/00456	Refused at Judicial Review then MCC Refused the application
29 th October 2015	DC/2015/01336	Awaiting Decision

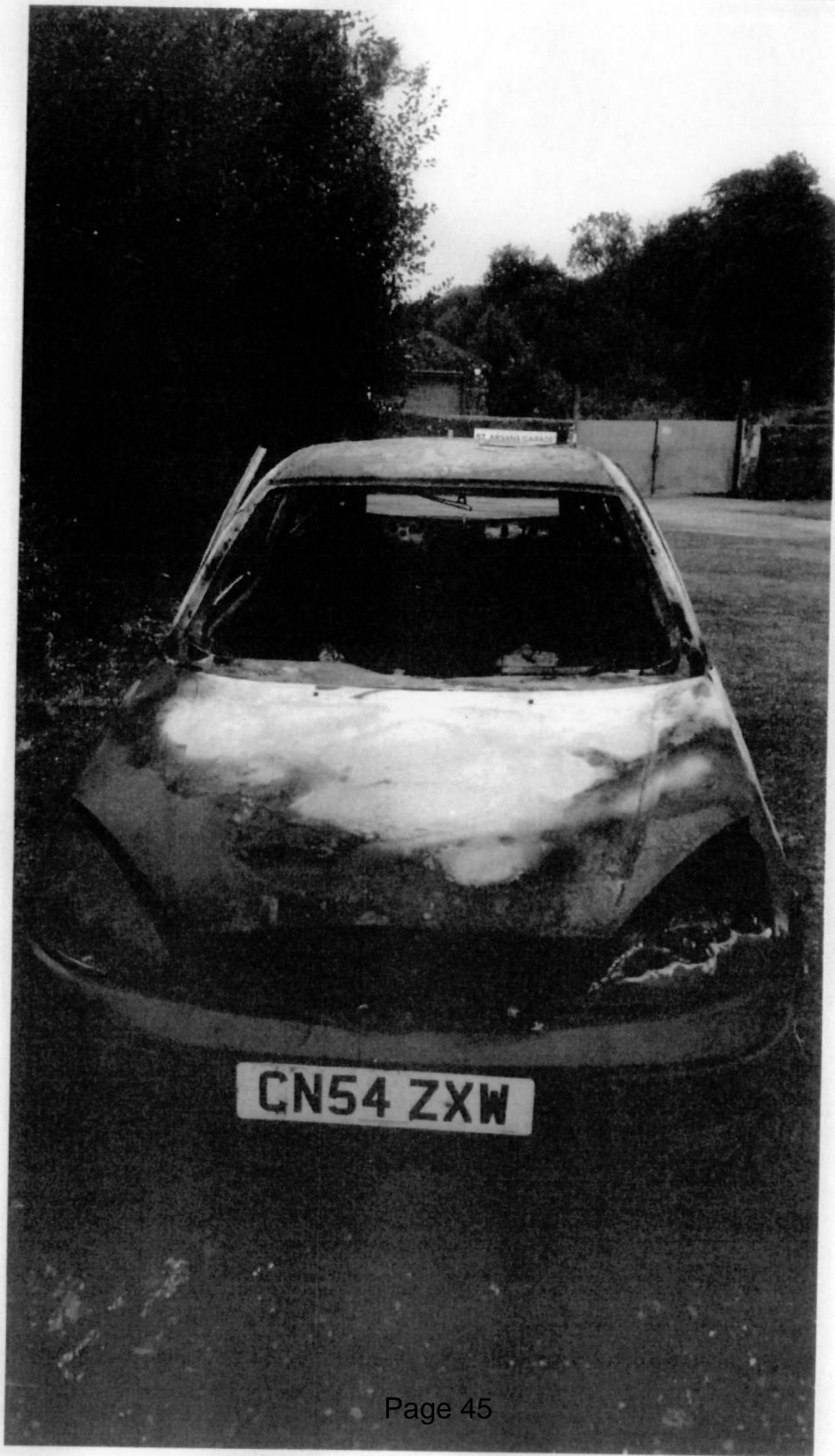
It is astonishing that once again MCC is behaving in this manner by accepting this Application; their Planning Refusal Notice clearly states that the Applicants can Appeal so Mr Thomas has failed in his duty of care to remind the Applicants of this, and is, once again, not following the Planning Laws set down by Government and not following due process by drawing the Applicants attention to the Appeal process.

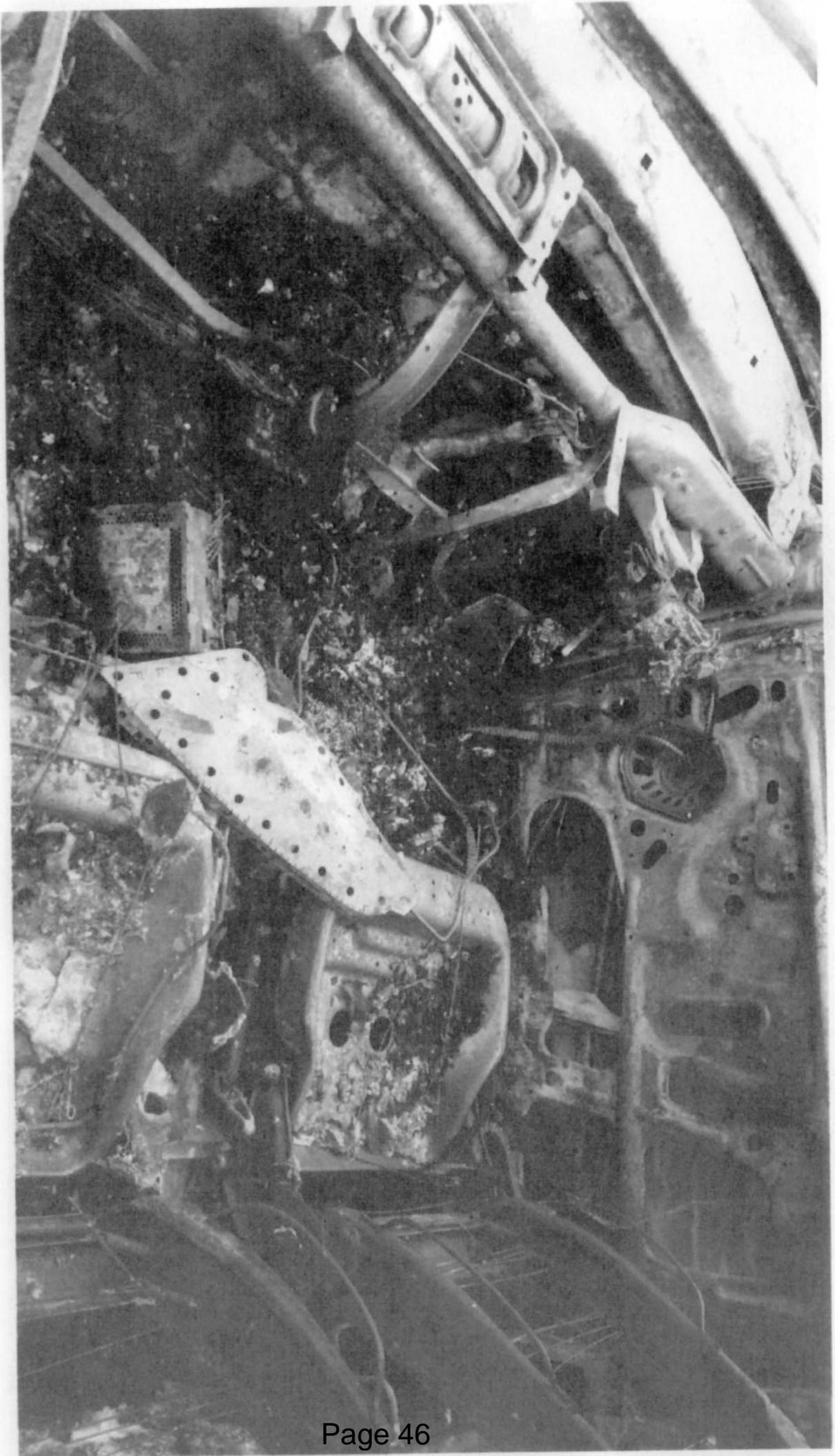
The Applicants are within their rights to Appeal the Refusal Decision set down by MCC on the 7th October 2015 and should therefore not be allowed to attempt to circumvent the system by Mr Thomas, wasting yet more rate payers money and MCC staff time and potentially leading MCC into a fourth Judicial Review.

An Enforcement Order was served on the site on the 11th November 2015 and promptly removed by Mr Peter Stephens on the 12th November 2015 as witnessed by myself, and at the time of writing the Conditions of the Order have not been complied with.

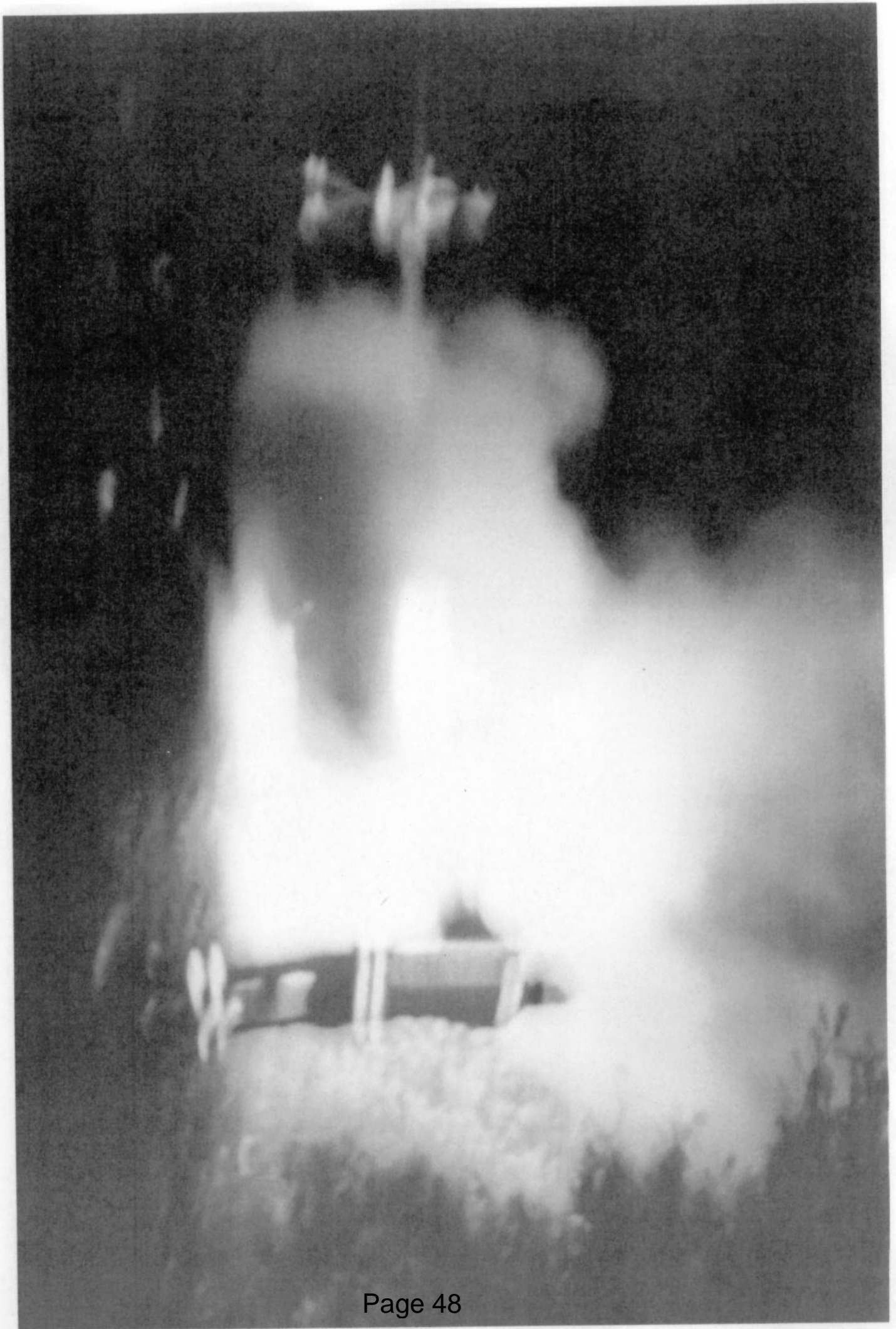
A serious vehicle fire took place at mid-night on the 26th August 2015 whereupon I had to call the fire brigade; this is not the first fire on the site and it shows that this type of illegal development is detrimental to the quiet country residential property next door, as well as the surrounding AONB and associated wildlife. I have a full set of photographs of the incident and ask they are also taken into consideration should this farce be allowed to continue.

http://www.southwalesargus.co.uk/news/13629730.Firefighters_tackle_car_fire_after_reports_of_explosions/









Amandla House ,
Marcross,
Vale of Glamorgan
CF611ZG
01656 895005

12th August 2015

Dear Mr Mathews,

This is a formal and urgent complaint.

The planning committee meeting on the 4th August 2015, particularly in regards to application DC/2013/00456 was in breach of the Planning Codes of Conduct (PCC) for Monmouthshire. These were not adhered to, and the principles of fairness constancy and objectivity were not met. The PCC states:

1.1 *"Monmouthshire County Council will seek to adopt best practice in its administration of the planning process. It recognises that the general public expects the Council to subscribe to the principles of fairness, consistency and objectivity. Members of the Planning Committee have a key role in ensuring that these principles are followed and the Council has stated that the Planning system must be fair and open. Elected Members are critically important in arbitrating between competing arguments."*

1.2 *The town and country planning system involves the Council taking decisions about private proposals for the development and use of land, but in the public interest. Planning law requires that all planning applications be determined in accordance with the adopted development plan unless material planning considerations indicate otherwise. The Council must also take account of representations made by members of the public, in as far as they relate to material planning considerations.*

At the committee meeting for this application there was no discussion at all about the relevant UDP policies. I wrote a huge amount detailing the relevant UDP polices and nothing was said about any of these in breach of the above.

PCC 1.3 *"As planning affects people's lives and private interests it can be very contentious. It is therefore important that members of the public understand the system and has confidence in its integrity and transparency, and that Members and Officers avoid impropriety or even the suspicion of impropriety."*

Please take time to review the planning committee meeting of the 4th August 2015. There was a fair amount of mirth going on during the determination of these applications,

considering this planning committee and officers had got the law wrong on 4 separate occasions. The members were trying to find ways to pass this application, rather than deal with them objectively. Why wasn't policy looked at and discussed at all? I certainly was given the impression of impropriety, as would the average man in the street.

PCC 2.1 Planning Committee Members

Planning Committee members should:

- *act fairly and openly and avoid any actions which would give rise to an impression of bias*
- *approach each planning application/issue with an open mind*
- *carefully weigh up all relevant planning issues before making a decision*
- *make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. In this respect, while Committee Members have a special duty to their Ward constituents, including those who did not vote for them, their over-riding duty is to the whole community.*
- *ensure that the reasons for their decisions are clearly stated*

The members certainly did not act fairly and certain gave the impression of Bias.

Clearly these applications were not approached with "an open mind" nor were all the relevant planning issues weighed up at all. The planning grounds were not discussed at all.

The reasons for deferment were not clearly given. The planning reasons for this deferment were not discussed. Indeed Councillor Murphy made a valid point when he said "*if we refuse it (DC/2013/00456) the applicant can come up with a fresh scheme which may be successful we will have to see on its merits. So if we are in any doubt we don't defer we refuse it.*"

The application as put before the planning committee was recommended for refusal, the application should have been refused. The applicant could then choose to put forward an alternative application. Or go to appeal. Ill remind you these applications have remained undetermined, and with no enforcement since the permissions we quashed in July 2014.

The applicant has had over 4 months since the landscape officer comments were made to change his application, the determinations were held up all this while whilst he prepared a response. Why has he been granted a deferment to alter this scheme yet again? You could do this with all applications, but the committee does not. Bias has therefore been shown in favour of this application.

3.0 *In considering applications and in advising Members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, Planning Officers shall: -*

- *act fairly and openly and avoid any actions which would give rise to an impression of bias*
- *approach each planning application/issue with an open mind, avoiding pre-conceived ideas*
- *carefully weigh up all relevant planning issues*
- *make decisions purely on planning grounds having regard to the development plan and other material considerations*
- *give professional, objective and consistent planning advice*
- *provide a comprehensive and accurate analysis of the planning issues*
- *abide by the Royal Town Planning Institute's Code of Professional Conduct*

And:

9.0 Officers' Reports to the Planning Committee

9.1 *All Planning matters considered by the Planning Committee will be the subject of full evaluation by officers and will include a recommendation. Such reports shall be comprehensive, but succinct in setting out the key planning (and legal) issues to be considered (in terms of the provisions of the development plan and other material planning considerations), the substance of any representations received and any relevant planning history.*

The following are serious flaws in the planning report nor brought up by officers nor members at the committee meeting:

The fundamental aspect that is not taken into account in the planning report nor at the committee meeting is that developments are for B2 use.

B2 use is not is not permitted next door to residential properties.

This has not been addressed at all, no mitigating factors have been offered that mitigate this.

This is clearly set out in Policy, the definition of B2 Use :*"General Industrial. B2 building use is for the carrying on of an industrial process other than one falling within class B1 above or within classes B3 to B7 below."*

The relevant section this refers to here is: *"B1 (c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."*

If the activities were permitted next door to a residential property, and these activities are directly on the border of our residential property, the class would be B1 but it is not, it is B2.

Mr Thomas accepted this at the meeting I had with him, Mr Tranter and Councillor Webb when he admitted B2 use should not be next door to a residential property because of the harm it does to the amenity. Again I point out very clearly how close our property is.

<https://www.youtube.com/watch?v=7bJlrdKZEoU>

The assessment done in regards to the detrimental impact this development would have upon the residential property is also therefore seriously flawed.

In regards to the comments from the Environmental Health Officer, it is totally irrational that the recommendation for hours to prevent disturbance, can be altered for the same operations with no other change in circumstance.

In the grounds for the Judicial Review ruled upon by the High Court, it was stated:

"It was irrational to impose weaker planning conditions to protect against potential harm to the AONB and to Mr and Mrs Hatcher as neighbours than had been placed on the earlier, quashed, consents"

The EHO previously stated: *"Although I am not in a position to object to the development in principle, given the proximity of the neighbouring property to this development I do anticipate noise to emanate from activities associated with repair and maintenance of vehicles to cause a level of disturbance likely to result in complaints of noise nuisance to this department"*

The first Judicial Review expands upon the noise impact:

"The EHO's advice was that noise nuisance complaints were likely so the proposal would generate significant levels of noise. ENV6 required the developer to submit information prepared by a suitability qualified person on the likely noise impact. That was not done and the committee were not aware that this part of the policy was breached. Indeed, there was no technical assessment of noise impacts at all. The committee lacked the necessary information to assess the noise impacts. They also failed to take into account the test for determining whether the application should be refused because of noise impacts."

There has still been no noise impact assessment done to date. Therefore the noise impact has not been assessed. Reliance on the EHO is not sufficient. For the EHO to act he must personally observe a level of noise likely to cause a "statutory nuisance". This is a certain

level of noise over a prolonged period. Not a level of disturbance. This assessment should be made in planning applications by the planners, they cannot rely on the EHO. He is only interested in Statutory nuisance. A completely different standard compared to the harm on the amenity. This is a rural peaceful location, introduction of industrial B2 use will by definition cause significant disturbance. A huge number of disturbances have been reported to MCC in regards to these sites. these cannot be ignored. In regards to the comments from the Environmental Health Officer, it is totally irrational that the recommendation for hours to prevent disturbance, can be altered for the same operations with no other change in circumstance.

There is no mention in these Environmental Health Officers reports in regards to protecting the amenity of the AONB. This is of particular significance considering that a Public Right of Way goes through both sites and the users of those footpaths would be considerably impacted by the activities on site.

It is stated to prevent disturbance that the hours of operation including vehicle movements, for DC/2012/00613 restricted to 0800-1800 Monday-Friday and 0800-1300 on Saturdays.

Bizarrely the Environmental health Officer, considers differently the hours for DC/2013/00456, the site directly next door to DC/2012/00613 and that shares the same access and which is as close to the property.

For this site he considers that hours 0600-1900 Monday-Friday and 0600-1300 on Saturdays are acceptable for HGV vehicle movements.

This is simply not rational nor consistent.

For previously quashed permissions for the same operations, to prevent disturbance the condition was placed that "The premises shall not be used for the approved purposes outside the following times; 08.00 - 18.00 Monday to Friday and at no time on a public holiday."

These needed to be the recommendation now.

It was also previously recommended that servicing of vehicles only occurs within the garage buildings and that the doors are kept shut whilst work is carried out. Also that there is no burning of any material on site, a condition the EH Officer admits has been blatantly ignored by the applicant.

These previous recommendations cannot now be ignored. There is an inconsistency between what the EHO says between these 2 sites, he stresses on the Builders site that the hours include any vehicle movements. Then he irrationally allows an HGV to enter and leave the site well outside of those hours, if as he states disturbance will be caused by vehicle

movement, as these sites share an access road the same must apply to both sites.

However the operations proposed, cause an unacceptable amount of disturbance to the residential property next door irrespective of hours of use, conditions cannot mitigate this.

This is supported by the classification given to these activities of B2 use.

This should have been the conclusion in the planning report.

The report also concluded: that although complaints have been received regarding noise disturbance, insufficient evidence has been provided to officers in the Council's Environmental Health team to substantiate the complaints and support any enforcement action involving cessation of the unauthorised use on amenity grounds. Moreover, no significant noise disturbance was witnessed by officers during their numerous unannounced visits to the site.

The disturbance was observed at the site at the site visit I had with Mr Thomas Mr Tranter and Councillor Webb Further the lights were pointed out, the dust from the hard surfaces and the spray from the pressure washer.

<https://www.youtube.com/watch?v=7bJlrdKZEoU>

Since 2011 to date in 2015, there has been only six other unannounced site visits. Based on this Monmouthshire has stated that it has not witnessed any excessive noise or disturbance.

And yet it has received detailed statements from me and my wife, including the evidence to support the statements, which demonstrate the disturbance and harm being done by these breaches. I can provide the breaches we have reported these shows the huge extent of the harm being done.

The conclusion implied by Monmouthshire Council, *"that there is no excessive noise or disturbance"* is a simply untrue.

The six other site visits are at the end of this complaint some detail:

Footpath

There is also serious flaws in the way the public footpath issue is dealt with. The report contradicts itself several times. It is a legal duty placed upon the Council to keep public highways free of obstruction. It is an obligation that planning applications show the correct line of the foot path. Monmouthshire Rights of Way Improvement Plan says:

"There are approximately 100 paths in Monmouthshire where development has not taken into account public rights of way and have subsequently encroached upon or obstructed them. All such paths now require enforcement action. Rights of way guidance is required to ensure planners and developers are aware of their responsibilities and the issues involved in

developing on or near to a public path. The Local Access Forum and others have said that the achievement of an up to date and accessible Definitive Map and Statement should be a high priority"

There is the maxim "*once a highway, always a highway*"

Once a highway has come into being by whatever means it continues indefinitely no matter whether it is used or not.

Mr Justice Joyce said in the case of *Harvey v Truro RDC* :

"Mere disuse of a highway cannot deprive the public of their rights. Where there has once been a highway no length of time during which it may not have been used will preclude the public from resuming the exercise of the right to use it if and when they think proper".

The planning policy regarding this has not been used in this report:

Planning permission and public rights of way ROW circular 9

"7.1 Proposals for the development of land affecting public rights of way give rise to two matters of particular concern: the need for adequate consideration of the rights of way before the decision on the planning application is taken and the need, once planning permission has been granted, for the right of way to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed."

The report states *"Also, it is advised that MCC Countryside Access is in receipt of an application and is currently processing an order that may resolve the issue but until such time that the order is confirmed the legally recorded alignment will remain obstructed if consent is granted."*

Where is this application? It should be on the planning report.

The report goes on: "Public path orders are not guaranteed to succeed. If unsuccessful it is possible that MCC would require that the legal alignment of the path is made available."

Therefore until it is moved it must be considered as being as existing.

History

The report is again seriously flawed, this has been dealt with before in the Judicial Reviews accepted by the council. So this mistake should simply not be happening again.

The reports states

"Much of the wider site (which largely encompasses the sites under DC/2012/000613 and DC/2013/00456) was originally granted permission in February 1985 under A21850 for a commercial garage/ workshops for the storage and repair of vehicles solely owned by the

applicant at the time and any successors in title"

This is not true at all. The site granted permission was for a mere 0.08 hectares, considerably less than stated here. It was a private garage for commercial vehicles not a commercial garage, further it was granted as a personal permission for the applicant only, no one else and hence no successor, and for no other business, which included no storage.

Mr Thomas stated that the 1985 permission included the use "*solely owned by the applicant at the time and any successors in title*" This has been dealt with at Judicial review. The permission was a personal permission for the applicants at the time only. That's it, no successor in title for the application site.

DC/2012/00456

The report also erroneously states for DC/2013/00456 "A 2m high fence to the north of the site has been constructed and forms a reasonable screen to Myrtle(SIC) Cottage's curtilage".

No it doesn't, this is wrong there is no fence by this site. This was clearly pointed out to Mr Thomas, Mr Tranter and Councillor Webb, on the site visit on the 28th February 2015 (this video has been referred to earlier) just how very close this development is to our property showing them the hedge, as the border which was explained to him was not in the control of the applicant. He could clearly see the elevated position of the residential property compared to that of the workshop site, this should have been taken into consideration in this report.

Other policies brought up but not referred to by the report nor at committee meeting:

ENV 14 lighting, Policy S16 - Transport, Policy S11 – Visitor Economy Policy NE1 – Nature Conservation and Development Policy DES3 – Advertisements

In the committee report Mr Thomas assesses the effect the proposal will have on the historic landscape, he quotes, without reference part of a report from CADW:

"This proposal is located immediately adjacent to the historic park and garden known as Piercefield Park and the Wyndcliffe, which is included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. Although the application area is located immediately adjacent to this grade 1 registered historic park, it is not in any of the identified essential views. The application area would not be visible, or will be screened from view by the topography, a stone wall and existing vegetation from the majority of the registered park, although close views are possible." (This differs from what the landscape officer wrote.)
"The impact, therefore, is likely to be no more than local and is not considered to harm the registered park itself, although for the reasons set out above, there would be localised harm to the AONB as a result of the development's proximity to the public right of way."

What he does not make clear is that this report was written by CADW when asked about the need for an Environmental Impact Assessment. Not for an assessment the site would have upon the historic landscape. The report says:

"Cadw's role in the planning process is not to oppose or support planning applications but to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled ancient monuments or Registered Historic Parks and Gardens.

It is a matter for the local planning authority to then weigh Cadw's assessment against all the other material considerations in determining whether to approve planning permission. The advice set out below relates only to those aspects of the proposal, which fall within Cadw's remit as a consultee.

Our comments do not address any potential impact on the setting of any listed building, which is properly a matter for your authority. These views are provided without prejudice to the Welsh Government's consideration of the matter, should it come before it formally for determination. Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance. PPW explains that the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or not. Furthermore, it explains that where nationally archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that this means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains.

This advice is given in response to a screening request as to the need for an environmental impact assessment to be produced to accompany a planning application for retrospective planning consent for the proposed change of use of the site to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of vehicle washing area and ancillary parking."

6.0 Lobbying of Members of the Planning Committee

6.1 *Lobbying is the process by which applicants and their agents, neighbours, non-Committee Members and other interested parties seek to persuade Councillors on the Planning Committee to come to a particular decision. It is a legitimate part of the planning process for them to approach Members of the Planning Committee as these discussions can help Members to understand the issues and concerns. As stated in the Nolan Committee*

Third Report: "it is essential for the proper operation of the Planning system that local concerns are adequately ventilated"

6.2 *In responding to approaches of this kind, Committee Members shall follow the 9 principles outlined in Paragraph 2.1 above and may wish to make a record of the discussion, but may also: -*

Explain the potentially conflicting position they are in if they express a final opinion on a proposal before consideration at the Committee/by the Corporate Director

Explain the procedures by which representations can be made; that the public can speak at the Committee (subject to a number of conditions being met), should the application come to the Committee for decision, and that a decision will be taken only when all relevant planning considerations have been taken into account

Explain the kinds of planning issues that the Council can take into account

Report issues raised to the Officers or direct the public to the Officers so that their views can be considered

Advise the public to contact non-Committee Members who may be able to represent local views with less restraint

6.3 *Where a Committee member feels that he/she has been unreasonably or excessively lobbied on a particular proposal he/she shall make a declaration at Planning Committee on that application that he/she has been lobbied. However, that member shall still be able to speak and vote on the application if the guidance in Section 2 is adhered to.*

I lobbied my local councillor, councillor Webb, she attended a meeting with me and Mr Thomas and Mr Tranter, (please see the video of this meeting url above). At no time during this meeting nor before or after did Mrs Webb ever explain she has a conflict of interest in regards to this site. Yet at the planning meeting she declared an interest and left.

So this "*legitimate part of the planning process*" was denied me. But I did not know this until the meeting itself. I would like to know what interest Mrs Webb declared so as not to be present.

"it is essential for the proper operation of the Planning system that local concerns are adequately ventilated"

My concerns were clearly not adequately ventilated.

10.0 ***Procedure at Planning Committee***

Planning Committee members will then debate the application, commencing with the local member if a member of Planning Committee

- *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. The names of the proposer and seconder shall be recorded.*
- *An officer shall count the votes and announce the decision*

My local member as shown above declared an interest and ducked out of the meeting.

The motion was not stated clearly, no member proposed the motion and no member seconded the motion. The chair therefore did not identify anyone. No Officer appeared to count the decision. No one knew why they were deferring Councillor Haywood said "we don't give a reason why we are deferring "

This is in serious breach of the codes of conduct.

12.0 *Planning Committee Decisions Contrary to Officer Recommendation*

12.2 It is important that full clear and convincing reasons are set out when any planning decision is made. Where an application is determined in accordance with the officer recommendation the officer report meets this requirement. However, when members determine against officer recommendation the only record of the debate is the minutes. It is therefore essential that members' reasons are recorded and that the minutes of meeting incorporate a full, clear and convincing statement of the reasons.

The reasons for going against the planning Officers recommendation were not clear at all (see above) It is hinted it maybe to give the applicant a chance to mitigate the visual impact now DC/2012/00613 has been refused(although at this point it had been voted to be refused but had not been refused) As Phillip Thomas says in his e-mail of the 10th August "The applicant have since withdrawn the application DC/2012/00613 which means they will not now be appealing the Committee decision, as the formal decision notice had not been issued before the withdrawal."

If the formal decision notice had not been issued, the reason for deferring "because it had been refused" is not relevant.

More importantly there was no planning reason that, because DC/2011/00613 had been refused, it would have any effect on mitigating the already assessed impact of

DC/2013/00456. As was clearly seen by Mr Thomas Mrs Webb and Mr Tranter, at the site visit of the 28th February, (<https://www.youtube.com/watch?v=7bJlrdKZEoU>) the visual impact of the site cannot be mitigated by planting, due to the topography, position of the footpaths, need for access and land not in control of the applicant. This was also the conclusion of MCC's Landscape Officer. He should have made this very clear to the committee members. The views from the West (the site of DC/2012/00613) were not significant on the impact upon the AONB for application DC/2013/00456

12.3 *Where planning permission is refused contrary to officer advice, members should be aware of the risk of an award of costs being made against the Council at a subsequent appeal. Advice on the award of costs is contained in Welsh Office Circular 29/93. Paragraph 9 of Annex 3 is relevant.*

"Planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers, or received from statutory bodies or consultees. But they will be expected to show that they had reasonable planning grounds for taking a decision contrary to such advice; and they were able to produce relevant evidence to support their decision in all respects. If they fail to do so, costs may be awarded against the authority."

The planning Officers recommendation was to refuse simply there was no planning reason not to do this.

Enforcement

There has been no enforcement upon this site since the permissions were quashed in July 2014. I have complained about this constantly. In my complaint to the ombudsman, the reasons for not perusing enforcement was this report, submitted to the ombudsman by MCC this was for both sites as late as July 2015. See appendix 2

Now read the planning reports. These completely contradict the reasons given in the enforcement report for not taking enforcement action. The enforcement report is biased in favour of the applicant.

Further harm is clearly identified to the AONB by these sites as they stand. Therefore immediate enforcement should have been taken, this should have been brought before the committee before any decision was made. The failure to do so is in clear breach of the PCC.

Chris Hatcher

Appendix 1 The 6 site visits in detail:

1. 6th March 2012 by Guy Delemare;; *"At the time of my visit I noted one person on site, a Mr Good who was operating a JCB to clear the area at the side of the workshops and was in the process of laying down a tarmac surface in this area.*

I firstly stated to him the concerns that have been raised about the hours of operation on this site. He informed me that initially he was unaware of these conditions, but would now not undertake any work before 8am and stated that he would normally be finished by 4.30-5pm

Turning to the issue of the containers, at the time of my visit I noted 2 freight containers within the area he was working in, both of which I was informed contained building materials. One of these was within the hatched area on the marked plans and one of which was not. I have requested that the container outside this area be removed as soon as possible.

Shortly after returning to this office I received a phone call from the site owner, Mr John Stephens regarding my visit. Again I have asked him to the remove this container nearest to the boundary and also informed him of the requirements of the breach of condition notice that was served earlier this year and indeed the conditions that were attached to the original planning consent."

2. 2nd April 2012 by Paula Clarke;; *"Visited site 2 April, the BCN has not been complied with, all the materials have not been moved to approved area and landscaping not done. Advised owner and Mr Hatcher that the Council would commence prosecution proceedings for non-compliance."*

This was never done, as the applicant applied for a new planning permission and no action was therefore taken.

3. 12 February 2013 by Paula Clarke; *"There was no-one on site at the builders yard. There was a worker in the office of the car repair garage however no work was being undertaken either in the garage or outside.*

Builders yard – there were no builders materials stored outside of the approved area; no materials stored in excess of 2 metres in height; the shipping containers were within the approved area. There were 4 vehicles in the yard however there was no indication that these were not in connection with the use as a builders yard."

Vehicles had no permission to be there, they were not construction machinery nor building materials, the shipping containers were outside of the double hatched area and there were materials over 2m in height. I had photographic proof of this.

"Car repair garage – there was no evidence of a car wash facility on the site."

This was an outright lie. On the latest application the applicant has applied to retain the very wash facility Mrs Clarke claims is not there. I had photographic evidence of it in situ and video of it being used.

"There were 2 vehicles being offered for sale in the premises, this is considered to be ancillary to the main use of the site and does not constitute a material change in use requiring planning permission"

Again this is a factually wrong. The selling of vehicles is a separate activity.

"There were no vehicle repairs being done outside the building. The landowner has been advised of the need for planning permission for the small office building and has stated his intention to submit an application for its retention."

Therefore the office building had no planning permission.

"The landowner has advised that the container on the land to the east of the repair garage has been there for many years and is now lawful, it does appear to have been in situ for many years. It is the landowners intention to show that the container is lawful and immune from enforcement action."

The certificate of lawful use failed. The container is outside of the area for which planning has been applied. We proved this container(the rear half of a van) had not been there for 10 years with photographic evidence. The applicant has never proved the container is lawful and immune from enforcement. And yet it is still not enforced against to date.

"With regard to the hours of operation, the owner of the repair garage has stated that his normal hours are 8.45 till 5.00. However one of the landowners keeps his vehicle on the site which is collected around 7am. I have been advised that the applicant intends to appeal against the hours of operation imposed on both sites to allow for continuation of these practices"

So by the applicants own admission the hours conditions, set to preserve the amenity of our property against disturbance, were being broken. Remember the council has stated that the applications can be made acceptable by imposing conditions, therefore not enforcing them causes recognised harm.

"Furthermore I understand you have applied for judicial review to seek the quashing of the recently approved planning permissions therefore any enforcement action is unlikely to be taken until the resolution of these courses of action."

We had not applied for Judicial Review at this point but only sent a pre-action protocol to which the council had not responded. The pile of earth referred to on the map as "noise

bund" is not in the location shown on the map. This had given a much larger area for the storage of building materials than was given permission. This is very clearly visible to Mrs Clarke on her site visit but not mentioned.

4. 18th February 2013- site visit by Paula Clarke;: *" I visited the site unannounced again on 18th February however no breaches of conditions were found at the builders yard site which was locked up. No materials were seen outside of the approved area, the containers were within the approved area and no materials were stored higher than 2 metres."*

See above the breaches here were very clear to see.

"A vehicle was being worked on in the garage building, there were no vehicles being maintained outside of the building. The photograph stated to be attached to your email of 17th February was not attached, however I saw no "development" on site which would require the benefit of planning permission."

And yet the applicant applied for permission at a later date for the wash facility Mrs Clarke said she could not see.

"The container appears to have been sited in excess of 4 years and is now lawful, the container is visible on the Council's aerial photograph in 2000."

It is up to the applicant to prove the container has lawful use(see above where it is stated by Mrs Clarke this will be done). Mrs Clarke now lies about this container, the requirement is for it to have been sited for 10 years not 4 years as Mrs Clarke as a qualified Planning Officer should have been very aware of. It could only be considered as being 4 years if they are *"by virtue of their size, permanence and physical attachment to the land are considered to be operational development"* There is no possible way the rear end of a van can fall into this description, therefore it is clearly 10 years.

"I wrote to the landowner on 14th February requiring the removal of the tyres and car parts from this area. This area has been used for the parking of vehicles in excess of 20 years, as evidenced by the Council's aerial photographs dating back to 1991 and is not within the area covered by the recent permissions."

Yet again Mrs Clarke is lying. She wrote the CLUED report so knows full well that this area does not have lawful use. She states it is outside of the current area applied for. So why is enforcement action not taken? An area with no permission and none applied for.

"I have found no evidence of any breaches of the conditions at the site. However, as stated previously your agent has written to the Council requiring it to consent to the quashing of the permissions. Any further claims of breaches of the conditions must be accompanied by firm evidence in order to justify further site visits."

Firm evidence has been supplied by photographs, video and witness statements, including admissions by the applicants themselves. Mrs Clarke chooses to ignore all this evidence.

Indeed in response to Mrs Clarkes e-mail I responded thus;(Exb.8): *"I have evidence of these breaches, all on video since the permissions were granted.*

This is of course a massive size of file, would the edited high lights be suffice? How do I get this to you?

The size of the building storage area is there awaiting measurement, it is much larger than that granted permission. But I have photographs too.

The Office is clearly in sight when you visited but is also on the video and in photographs.

The owner of the site admitted to breaching the time conditions, but I can still provide video proof. There are clearly vehicles in the builders storage area that are not "construction machinery" they were there when you made your visits. However I'll include photographs of these too."

5. 15th March 2013 Paula Clarke: *"I undertook a further unannounced site visit on Friday however there was no noise whatsoever emanating from the building or the site; one vehicle was being worked on inside the building. The site was clean and tidy however there was a pile of stone outside the gate of the builders yard which I have required to be removed."*

I reported the following breaches on the 15th March 2013 with video evidence):

"15th March 2013 Friday

0639 on site

0646 HGV leaves site

0732-0749 Builders storage area in use."

Also on the 15th March I met and walked the site with the AONB Officer , I responded to Mrs Clarke observation thus(Exb.8): *"You claim on your visit on Friday that the site was "clean and tidy".*

I too visited the site on Friday with the AONB officer, I think I'd beg to differ, there is junk throughout the Builders Yard, clearly visible through the hedge and hole in the gate.

I showed him where they are cleaning cars, the cars for sale, the Office, the areas being used without permission, all clearly in view from the Public footpaths.

Why on your site visit have you not noticed these?

There was indeed a pile of stone this is a breach as are the piles of building materials to the South on an area not included in the Permission."

6. 9th April 2014 Mrs Clarke;(Exb.8) *" I would advise you that I visited the site yesterday and spoke with the occupier of the garage workshop. He advises that he attended the site Monday evening to drop a car off, he did not go into the workshop and the garage was not open for business. This does not constitute a breach of condition which would require enforcement action."*

The hours conditions are very clear, this was use of the site outside of those hours.

"I would remind you that I advised you that the container on the eastern side of the workshops was lawful in my email to you dated 20 February 2013."

Appendix 2

ENFORCEMENT REPORT

Non-Publication

This report contains information which, if disclosed to the public would reveal that the Authority proposes to give under any enactment a Notice under or by virtue of which requirements are imposed on a person (Paragraph 13(a) of Schedule 12A to the Local Government Act, 1972).

LO CASE DETAILS

There has been a series of planning applications and permissions relating to this site which has resulted in two planning consents granted in February 2013 under ref DC/2012/00613 and DC/2012/00886 being quashed by the High Court and remitted back to the Council to redetermine. Application DC/2012/00886 has been withdrawn by the applicant and a new application ref DC/2013/00456 has been submitted.

DC/2012/00613 relates to the "Change of use to allow for the storage of builders materials, construction machinery and equipment, including metal storage containers and retention of security gates".

DC/2013/00456 relates to "Proposed change of use from the storage and maintenance of commercial vehicles to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of a portable office, vehicle washing area and ancillary parking."

The site is currently being used for the previously approved purposes, however as the permissions have been quashed the uses are currently unauthorised and in breach of planning control.

2.0 PLANNING HISTORY

A21850 Erection of a garage for storage and maintenance of commercial vehicles - Approved 08/02/85 Section 52 agreement.

DC/2011/00697 Change of use of existing workshop and adjacent land, to now include for the maintenance of motor vehicles and storage of building materials, in addition to the commercial vehicles granted consent under ref A21850 - Permission granted but quashed by the High Court and remitted back to the Council to redetermine. Withdrawn 05/09/12

EI 3/023 Use of land for builders yard, storage of metal containers and gates; storage and repair of lights motor vehicles, 2 HGVs and trailer, office, wash area and ancillary parking.

Land at New Barn Workshops, St Arvans, Monmouthshire St Arvans E12/014 Breach of conditions imposed on planning permission DC/2011/00697.

BCN served 25/01/2012 however planning permission quashed and notice fell away.

DC/2012/00243 Revision to previous consent (ref DC/2011/00697) to allow the storage of metal containers and amendment to operating hours within the area designated for the storage of building materials. Introduction of an office unit for use in conjunction with the workshops and installation of new gates and landscaping Withdrawn

16/05/12

DC/2012/00445 proposed change of use for existing workshop and adjacent land, to now include for the maintenance of motor vehicles and storage of building materials and equipment, in addition to the commercial vehicles granted consent under Ref A21850 - Withdrawn 11/12/12

DC/2012/00594 Certificate of Lawful Use of land for vehicle repairs Withdrawn 25/10/12

DC/2012/00613 Change of use to allow for the storage of builders materials, construction machinery and equipment, including metal storage containers and retention of security gates. Permission granted but quashed by the High Court, remitted back to the Council to redetermine.

DC/2012/00886 Variation of condition 11 of planning application 21850 Permission granted but quashed on appeal, remitted back to the Council to redetermine but withdrawn on 03/06/13

DC/2013/00456 Proposed change of use from the storage and maintenance of commercial vehicles to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of a portable office, vehicle washing area and ancillary parking. Current application

GUIDANCE

Procedural guidance on the use of various powers available to local planning authorities is provided in Welsh Office Circular 24/97 Enforcing Planning Control. National guidance on planning enforcement is provided in Planning Guidance (Wales): Planning Policy and supplemented by Technical Advice Note (Wales) 9 Enforcement of Planning Control.

Responsibility for determining whether unauthorised development should be allowed to continue or should be enforced against rests with the local planning authority. In considering whether enforcement action should be taken, the decisive issue for the local planning authority should be whether the breach of planning control would unacceptably affect public amenity. Enforcement action should be commensurate with the breach of planning control. The effect on public amenity is considered at Para 5.0.

Paragraph 12 of TAN 9 states that "where a LPA considers that an unauthorised development could be made acceptable by the imposition of conditions it should invite the owner or occupier of the land to submit an application for planning permission". In this case the owners have submitted planning applications in an effort to gain the necessary permissions which are now being considered by the Council.

Paragraph 23 of TAN9 states that "where a LPA considers that an unauthorised development is causing unacceptable harm to public amenity, and there is little likelihood of the matter being resolved through negotiations or voluntarily, they should take vigorous enforcement action to remedy the breach urgently, or prevent further serious harm to public amenity". In this case the owners of the site have submitted planning applications in an effort to gain planning permission for the use of the site. In line with the above guidance it is the Council's usual practice not to take enforcement action whilst a planning application for the unauthorised development is being considered by the Authority. (

0 PLANNING POLICY

The relevant policies are:RE1

Proposals for the conversion or rehabilitation of existing buildings in the open countryside to employment use will be permitted provided that all conditions are met.

C2 Within the Wye Valley AONB any development must be subservient to the over-riding necessity to conserve the natural beauty of the area.

ENV1 General development considerations.

ASSESSMENT

In this case, as can be seen from the above planning history, conditional planning permission has previously been granted for the current uses on the site, albeit that these consents have been quashed by the High Court. From discussions with Counsel it is considered that the buildings on the site are lawful, however there is no current lawful use of the buildings or site. The site itself has been in use for many years for various uses such as coal yard; bus depot and storage and maintenance of commercial vehicles which is a material consideration. The site is currently split into 2 separate uses. The western part of the site is occupied as a builder's yard and is used for the storage of builder's materials and containers.

The buildings to the east of the site and its yard areas is in use as a car repair garage. Complaints have been received from the occupiers of the dwelling to the north regarding early morning vehicle movements; vehicles being maintained outside the buildings; the existence of a wash area and office building and breaches of conditions imposed on the quashed permissions. It is claimed that the uses on the site give rise to noise nuisance and disturbance.

Evidence has been provided by the owners to show that an operator's licence for 2 vehicles and 1 trailer has been in existence since at least 1993. Currently 1 lorry is being collected from the site around 7am returning in the evening, this practice appears to have been carried on for many years. Unannounced site visits have been carried out by officers who have not witnessed any excessive noise or disturbance emanating from the site. The advice from the environmental health officer is that whilst some noise disturbance from the development is likely from time to time, he does not envisage a level of problems on which to base an objection. Given the proximity of the nearest property he recommends suitable conditions be imposed. No alterations to the buildings are intended or have been earned out. It is considered that provided suitable conditions are imposed the use of the buildings and the site would not cause harm to the residential amenity of the neighbouring property and therefore comply with policies RE1; ENV1 and DES1.

With regard to the impact upon the Wye Valley AONB. the site is well screened from the A466 by mature tree planting. There is an existing mature row of vegetation along the northern boundary; substantial planting to the south and new planting has been undertaken along the eastern boundary. Public Footpath no. 32 runs through the site and when the gates to the builder's yard are open the site is visible to members of the public using the footpath. However the site is not readily visible in the wider setting of the AONB and the

degree of visual impact is considered to be localised. It is considered that provided suitable conditions are imposed the development would not be contrary to Policy C2.

5.0 RECOMMENDATION

In conclusion of the above, it is considered that the unauthorised development can be made acceptable by the imposition of conditions, therefore in line with Government advice, enforcement action is not expedient at present whilst the current planning applications are outstanding and remain to be determined.

ENF REPORT EI 3/023

PC/10/07/2013

OBJECTION to DC/2012/00613 and DC/2013/00456

This application must be considered as if it is a new application on the site, in this case on a site in open countryside in the AONB.

Retrospective applications

Retrospective planning applications have to be handled in exactly the same way as any other application. In considering retrospective applications, the Council should not normally be swayed in either direction by the fact that the development has already taken place. Permission should not be refused just because the development was unauthorised and permission should not be granted just because the development is already there and would be expensive to remove or alter. They have to be judged only on their planning merits against adopted planning policies and other material planning considerations.

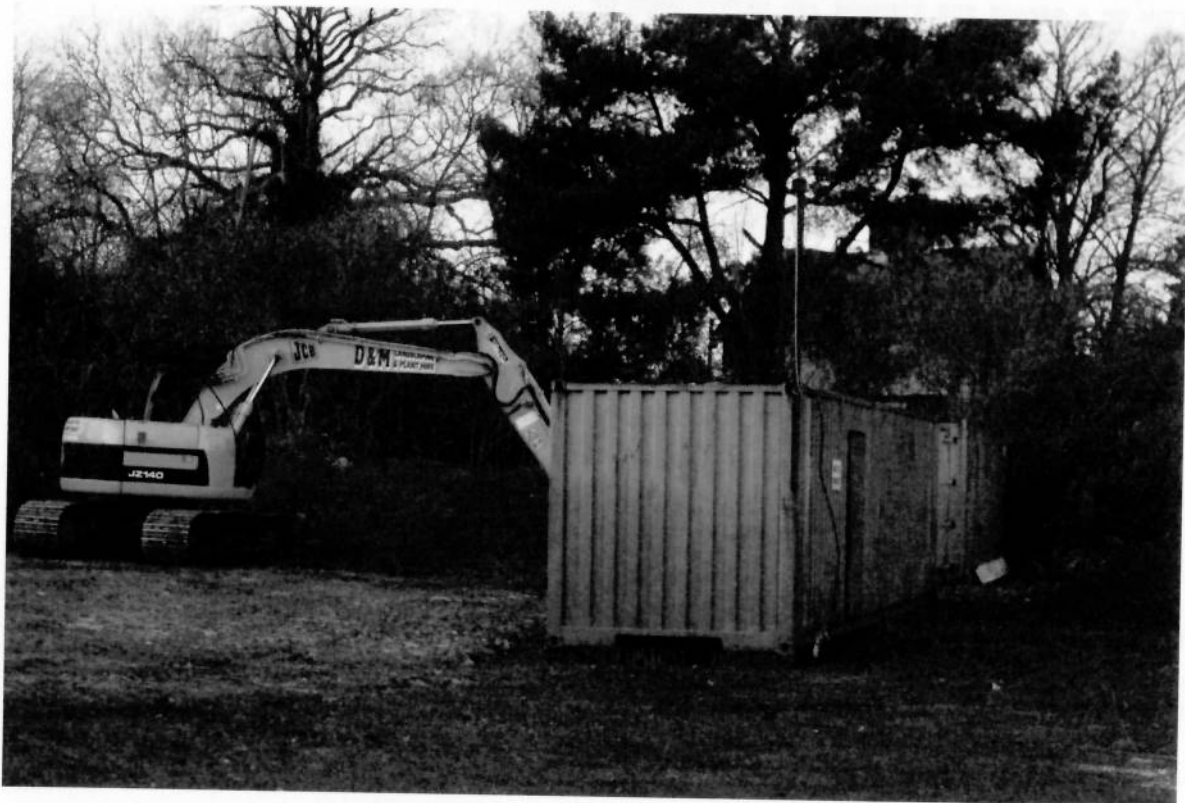
The fact this development exists should have, in law, no bearing at all on how it is determined.

This development has been illegal for many years, it has been further developed without permission and the owner has benefited financially from this illegal activity.

Welsh Office Planning Policy Guidance:

"If people ignore or flout laws and regulations designed to protect the public from serious harm, they should be properly punished, and the punishment should take account of the resulting profits or savings..."

Field being dug up and piled into banks at the side. Note the proximity of the residential dwelling and the Scots Pine which has a Tree Preservation Order upon it.



This site has only had permission temporarily for 13 weeks from the 18th May 2012 when the permission was quashed, and prior to that from December 2011 until that was too was quashed in May 2012.

It only had permissions this long due to the long Court processes.

So for many years, since at least 1990, this site has had planning permission for only some 7 months and yet it has been allowed to be developed further by Monmouthshire County Council, why?

Because MCC planners and planning committee have gone directly against Regional, National and European Legislation, this site has lost 2 Judicial Reviews taken at High Court.

MCC planners are trying to force this permission through to the extent they are breaking policy and their own rules.

There have been 6 applications on this site over the last 2 years. This has meant that an application has been in place or awaiting to be quashed, for over 2 years now.

Multiple applications should not be permitted; this is an unfair burden upon those who have to continually object and have to suffer the non-enforcement. The Council Enforcement Officers have stated they will not enforce whilst an application is being determined, and hence there has been no enforcement on this site, since an Enforcement Notice was issued in February 2012 but never actioned.

Welsh Office Planning Policy Guidance:

"During consideration of the Bill in Parliament, amendments to impose a general duty on LPAs to ensure compliance with planning control were proposed. Although these amendments were not accepted (because the Government considers that enforcement action should remain within the LPA's discretion), the Government's view is that the integrity of the development control process depends on the LPA's readiness to take effective enforcement action when it is essential. Public acceptance of the development control process is quickly undermined if unauthorised development, which is unacceptable on planning merits, is allowed to proceed without any apparent attempt by the LPA to intervene before serious harm to amenity results from it."

So this site has continued to be developed without valid permission for the last 2 years, the applicants have lied on their applications and yet MCC have failed to take any action, to the detriment of the amenity of the area, AONB, our home and life.

MCC need reminding of their: **Community Strategy**

The Vision of the existing Monmouthshire Community Strategy is:

'By 2019 Monmouthshire will be a happy, developing, prosperous, just, caring, healthy and tolerant community where:

- Everyone living in Monmouthshire is engaged, valued and takes an active role in the future of their community and the talents within the community are nurtured for the benefit of all.*
- All community members have full and equal access to a comprehensive, first class range of services in which they have confidence. Where appropriate, these services are delivered through effective partnerships.*
- People live without fear of crime in their communities where anti-social behaviour is not tolerated.*
- There is a vibrant, confident economy that encourages investment.*

• *We have a clean, healthy and sustainable environment that all people, businesses and organisations value and take responsibility for maintaining and enhancing.'*

The Strategy is supported by actions based on five broad themes:

- *Improving our health and well being*
- *Valuing and enhancing the environment*
- *Making our communities stronger and feel safer*
- *Developing a sustainable local economy*
- *Creating learning opportunities for all*
- *Social justice – working for a just society which treats individuals and groups, fairly in which no-one is socially excluded, and where equality of outcomes is sought for all.*
- *Social cohesion – to build communities that are supportive and able to work together to meet needs and accommodate differences.*
- *Localisation – ensuring that wherever possible that public services are provided as close to where people live and that institutionalised forms of services are minimised.*

The photographs provided at the planning committee on the 5th February and 6th of December did not reflect the true nature of this development.

The ones on this Objection should be included to show the true nature of this site.

And this is before it has permission.



History

This site, a Courtyard with high stone walls on four sides with a height between 2 and 4 meters, was used without planning permission back in the 1980's, it failed 2 times to get permission, for housing and garaging, (application numbers 12348, 14476) until it was granted permission in "exceptional circumstances" in 1985.

The application was for a garage to house the applicant's lorry, the applicants were Mr DJ and A Stephens. It is clearly stated on the application form this is for outline planning permission for garaging the applicant's lorry and not for, industrial, office, warehousing, storage or retail. The total area is given as 0.08 ha.

It is also stated very clearly **no storage** will take place on site and a condition is placed stating exactly this.

Exert from the 1985 application, showing the area of the site applied for.

Application No _____

1. Type of Development
 Type of Application: _____
 Outline please give site area 0.08 *ha/acres
 Full or Approval of Reserved Matters:
 Residential please give no. of dwellings _____ *m²/ft²
 Other buildings please give floorspace _____ dwellings
 If proposal includes residential and non-residential m²/ft²
 development please give no. of dwellings and non- *ha/acres
 residential floorspace: _____
 Plant or machinery please give site area: _____
21850
 See Scale of Fees

2. Is the application for approval of reserved matters relating to:-
 (a) the design and/or external appearance of a building(s); or
 (b) the siting of buildings or means of access or landscaping?
 *YES/NO
 See Scale of Fees
 Fee £40

3. Is the application for an extension or other minor development within the curtilage of an existing dwellinghouse?
 If YES - is it intended to improve access, health, safety or comfort of a disabled person. Please provide certificate.
 *YES/NO
 Fee £20
 No Fee

4. Is the application for the renewal of a temporary permission?
 *YES/NO
 No Fee

5. Has a previous application submitted by you/the applicant for the same development on this site been withdrawn or refused in the last 12 months? If YES - please give Code No.
 *YES/NO
 No Fee

6. Is the application required specifically because the right of permitted development under Article 3, Schedule 1 of the General Development Order 1977 has been removed, e.g. by a condition of a planning permission?
 *YES/NO
 No Fee

7. Have you/has the applicant submitted an application for the same development and on the same site within the last 28 days?
 *YES/NO
 Fee - 25% of full fee

8. Is the application made by or on behalf of a sport or recreation organisation for the use of land as, or operations ancillary to, a playing field.
 *YES/NO
 Fee £40

9. Fee submitted with application Cheque/~~P.O.~~/~~Cash~~ for the sum of £ 47.00 (Cheques, etc., should be made payable to Monmouth District Council except for applications within the Brecon Beacons National Park where cheques should be made payable to the Brecon Beacons National Park Committee).

Signed: R Stephens

* Delete as appropriate



In the covering letter from the applicant's agent for A21850 it explains how the current site for the applicant's lorry is unsuitable and suggests this as an alternative.

It states that there is a 2 to 4 meter high stone wall around the property forming a courtyard, and that there is to be no storage on site of any materials.

It was recommended for refusal by the County Planning Officer, (doc 3) the County Surveyor (doc 4) and the Borough Planning Officer (doc 5), who all objected strongly pointing out it would be a serious breach of policy(s).

However the planning committee went against their own experts, and voted it for approval subject to;

- A. New access to the A48
- B. A Personal Permission to Mr Stephens only
- C. Mr Stephens enters a Section 52 planning agreement.

The approval given was a personal permission for the applicant for a single garage with a high stone wall on all sides, for him to store and maintain his lorry subject to conditions and to a planning obligation being agreed to.

A section 52 agreement was drawn up and signed. This is a legally binding contract and stated that the site was for a single garage for the applicant's own vehicles only and that the site in the village would cease use once the new site was operational.

This agreement nor the planning permission have been adhered to.

Two garages have been built, not one doubling the size of the permitted development, the stone wall protecting views from the Piercefield side were removed and a metal fence put in instead.

The elevations were conditioned to be rendered and painted.

The roof was supposed to be below the height of the rear wall, Mr Stephens insisted the pitch wouldn't be enough and it was agreed it could go slightly higher. (doc 8) On the second garage built with no permission, it's hidden below the height of the wall with a lesser pitch.

The line of the footpath was moved without consent.

They allowed other businesses to use the site; this was against planning permission and the Section 52.

Application DC/2011/00697

This was a retrospective application to gain permission "a proposed change of use for existing workshop and adjacent land to now include for the maintenance of motor vehicles and storage of building materials in addition to the commercial vehicles granted consent under Ref A2180"

This permission was subject to a Judicial Review and quashed in July 2012 after the Council refused to contest the illegality of it.

A new application DC/2012/00243 (another retrospective application) "proposed change of use to allow the storage of metal containers, within the area designated for the storage of building materials. Introduction of an office unit for use in conjunction with the workshops and installation of new gates. Plus a change in operating hours." also had to be withdrawn.

The site however continued to operate and in fact to develop further.

An application for extant use was made on the site on the 11.07.2012 (DC/2012/00594) "The existing use of the workshop buildings and associated land includes the maintenance, servicing and repair of all classes of motor vehicles including commercial vehicles, motor cars and agricultural machinery."

This remained undetermined until it was withdrawn by the agent on the 25th October 2012.

However a report was written recommending "refusal", having been checked over by the legal team at MCC and then dated 22nd October 2012.

In the meantime another retrospective application DC/2012/00613 ("Proposed change of use to allow the storage of builders' materials, construction machinery and equipment and the storage of metal containers and the security gates") was made on the 13/07/2012.

On the 12/10/2012 an application DC/2012/00886 was made for the removal of a condition.

Both of these latest applications were determined by committee in December 2012 and again on the 4th February 2013. Both of these applications were subject to a Judicial Review and the Council having chosen not to contest agreed to quash the permissions.

These permissions were quashed by consent order on the 23rd May 2013.

Judicial reviews

There have been 2 judicial reviews on this site, resulting in the quashing of 3 planning permissions and the withdrawal of a further application.

The Judicial Reviews need to be read and acted upon by everyone in the planning process for future applications. They cannot be ignored as MCC would appear to be doing. This is at a significant cost to the ratepayer, but more importantly they are seriously undermining the rule of law, and that of fairness.

MCC claim to hold fairness very highly. This is not reflected in how they have dealt with this and many more applications, Councillors you have a public duty to do.

This is a quote from the bar association in regard to amendments to the Judicial Review system:

"Finally, as part of this Overview, we express concern at the Consultation Paper's assertion that, even where the claim is successful, it may only result in a "pyrrhic victory" when the matter is remitted to the decision-making body. That assertion does not reflect the full position. Oral rehearings act as a useful check by judges. Even more importantly, the public law decision-maker will be bound to take a fresh decision in accordance with the law as declared by the court. An unfair decision will need to be taken again fairly. A decision based on irrelevant factors will need to be taken again based only on relevant factors. There cannot be – and must not be – any foregone conclusion that the decision will be the same. Moreover, it is inherently in the public interest that public authorities take fair and lawful decisions. The scrutiny imparted by judicial review proceedings serves to ensure high standards of public decision-making generally and permits public confidence in the decision-making process. The public interest in lawful decision-making goes above and beyond the eventual outcome for any particular claimant. "

Applications

Validation

Monmouthshire has set criteria for Validation of Planning applications.

This application does not meet these requirements and should therefore be rejected.

S3 Block Plan of the Site

The existing site plan should be drawn to a scale of 1:500 or 1:200 and should accurately show:

- a) The direction of North.*
- b) The existing development in relation to the site boundaries and other existing buildings on the site, with written dimensions including those to the boundaries.*
- c) All the buildings, roads and footpaths on land adjoining the site including access arrangements.*
- d) All public rights of way crossing or adjoining the site.*
- e) The position of all existing trees on the site and those on adjacent land that could influence or be affected by the development.*
- f) The extent and type of any hard surfacing.*
- g) Existing boundary treatment including walls or fencing.*

The proposed site plan should be drawn at a scale of 1:500 or 1:200 and should accurately show:

- a) The direction of North.*
- b) The proposed development in relation to the site boundaries and other existing buildings on the site, with written dimensions including those to the boundaries.*
- c) All the buildings, roads and footpaths on land adjoining the site including access arrangements.*
- d) All public rights of way crossing or adjoining the site.*
- d) The position of all trees on the site, and those on adjacent land that could influence or be affected by the development.*
- e) The extent and type of any hard surfacing.*
- f) Boundary treatment including walls or fencing where this is proposed (new or altered).*

The applicant has failed to show an existing block plan at all and failed on the proposed on points b,c, d ,e ,f and g

The applicant has failed to show the line of the footpath as it leaves his property, failed to include dimensions, buildings, position of trees, hard surfacing and boundary treatment. Failure to include this is material to this application and failure to show this is deliberately misleading.

The plan shows the site for DC/2012/00613, a different size to that that has been constructed; this again is false and deliberately.

S4 Existing and Proposed Elevations

These should be drawn to a scale of 1:50 or 1:100 and show clearly the proposed works in relation to what is already there. All sides of the proposal must be shown and these should indicate, where possible, the proposed building materials and the style, materials and finish of windows and doors. Blank elevations must also be included; if only to show that this is in fact the case.

Where a proposed elevation adjoins another building or is in close proximity, the drawings should clearly show the relationship between the buildings, and detail the positions of the openings on each property.

Written dimensions of the overall length, width and height of the development should be stated. It is not necessary to indicate all detailed dimensions of every element of the work.

None have been provided.

S5 Existing and Proposed Floor Plans

These should be drawn to a scale of 1:50 or 1:100 and should explain the proposal in detail. Where existing buildings or walls are to be demolished these should be clearly shown. The drawings submitted should show details of the existing building(s) as well as those for the proposed development. New buildings should also be shown in context with adjacent buildings (including property numbers where applicable).

Written dimensions of the overall length, width and height of the development should be stated. It is not necessary to indicate all detailed dimensions of every element of the work.

None have been provided.

S6 Existing and Proposed Site Sections and Finished Floor and Site Levels

Such plans drawn at a scale of 1:50 or 1:100 should show a cross section(s) through the proposed building(s) and include written dimensions. In all cases where a proposal involves a change in ground levels, illustrative drawings should be submitted to show both existing and finished levels to include details of foundations and eaves and how encroachment onto adjoining land is to be avoided.

Full information should also be submitted to demonstrate how proposed buildings relate to existing site levels and neighbouring development. Such plans should show existing site levels and finished floor levels (with levels related to a fixed datum point off site) and also show the proposals in relation to adjoining buildings. This will be required for all applications involving new buildings. In the case of householder development, the levels may be evident from floor plans and elevations, but particularly in the case of sloping sites it will be necessary to show how proposals relate to existing ground levels or where ground levels outside the extension would be modified. Levels should also be taken into account in the formulation of design and access statements.

None have been provided. Despite this being a sloping site.

S8 Certificate of Ownership (Not necessary for Reserved Matters)

Under section 65(5) of the Town and Country Planning Act 1990, read in conjunction with Article 7 of the GDPO, the local planning authority must not entertain an application for planning permission unless the relevant certificates concerning the ownership of the application site have been completed. All applications for planning permission must include the appropriate certificate of ownership. An ownership certificate A, B, C or D must be completed stating the ownership of the property.

For this purpose an 'owner' is anyone with a freehold interest, or leasehold interest the unexpired term of which is not less than 7 years.

This site is owned by 3 people they have not been included, the Council are well aware of this and yet have allowed these applications to be validated. A false declaration is an offence, but no action has been taken.

S11 Design and Access Statement (unless exempt)

The Design element of the Statement is required on all applications except:

engineering or mining operations;

material changes of use (see note at foot for Access Statement requirement on certain types of change of use).

The Design element must address the following aspects of design:

accessibility;

environmental sustainability;

character (to include amount, layout, scale and appearance of the development and any landscaping compromised in it);

movement to, from and within the development;

community safety.

The statement will need to explain the design principles and concepts applied to these aspects, and also how the physical, social, economic and policy context of the development has been taken into account. The level of detail is dependent on the scale or complexity of the application.

The Access element of the statement must address inclusive access. It does not include vehicular and transport links. In general it should explain how the proposed scheme enables all users to have equal and convenient access to all buildings and spaces, regardless of age, disability, ethnicity or social grouping. The level of detail is dependent on the scale or complexity of the application.

The primary issues that are to be considered within the Access element are:

o Ensuring paths are firm and level

o Ensuring acceptable gradients

o An explanation of how any specific issues, which might affect people's access to the development have been addressed

o Detail how obvious problem areas such as raised thresholds at entrances are designed

Avoiding obstacles on 'pathways' (e.g. service equipment).

The Access element of the statement is required on applications for material changes of use where access by an employee or the provision of services to the public is involved.

For both of these applications the Design and access statements and not sufficient in detail, both contain falsehood and are both misleading, this is dealt with in detail later.

D3 Biodiversity Survey and Report

D3A General

Where proposals are being made for mitigation on wildlife and biodiversity, information should be provided on existing biodiversity interests and possible impacts on them to allow full consideration of those impacts.

Where proposals are being made for mitigation and/or compensation measures information to support those proposals will be needed. Where appropriate, accompanying plans should indicate any significant wildlife habitats or features and the location of habitats of any species protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994 or the Protection of Badgers Act

1992. Applications for development in the countryside that will affect areas designated for their biodiversity interests are likely to need to include assessments of impacts and proposals for long term maintenance and management. This information might form part of an Environmental Statement, where one is necessary.

Where proposal are likely to affect a protected site (SSSI, SAC, etc) applicants should contact the Countryside Council for Wales to discuss proposals and ascertain whether any specific specialist surveys may be necessary.

Certain proposals which include work such as the demolition of older buildings or roof spaces, removal of trees, scrub, hedgerows or alterations to water courses may affect protected species and will need to provide information on them, any potential impacts for them and any mitigation proposals for such impacts. Government planning policies for biodiversity are set out in Planning Guidance (Wales) TAN 5 Nature Conservation and Planning.

UDP DES8 DES9 NC1, NC2, NC3, NC4, NC5 and NC6

None have been provided.

DB3 Bats in Buildings

The Council has specific requirements where development affects buildings where bats may be present.

1. A completed Bat Survey (checklist) assessment, which determines if the structure subject to a planning application is likely to be used by bats.

2. Photographs of the structure.

3. If triggered by the checklist, an appropriate bat survey must be undertaken and a report submitted before the application is registered by the council.

UDP DES8 DES9 NC4

None have been provided.

D4 Economic Statement:D4A Commercial Development

A supporting statement may be necessary of any regeneration benefits from the proposed development, including: details of any new jobs that might be created or supported; the relative floorspace totals for each proposed use (where known); any community benefits;

and reference to any regeneration strategies that might lie behind or be supported by the proposal. The loss of existing business sites or premises may also require justification

UDP E2 E3

None have been provided.

D5 Environmental Statement

The Town and Country Planning (Environmental Impact Assessment) Regulations (SI 1999/293), as amended, set out the circumstances in which an Environmental Impact Assessment (EIA) is required. EIA may obviate the need for other more specific assessments.

Where an EIA is required, Schedule 4 to the regulations sets out the information that should be included in an Environmental Statement. The information in the Environmental Statement has to be taken into consideration when the local planning authority decides whether to grant planning consent. It may be helpful for a developer to request a 'screening opinion' (i.e. to determine whether EIA is required) from the local planning authority before submitting a planning application. In cases, where a full EIA is not required, the local planning authority may still require relevant environmental information to be provided.

None have been provided.

D6B B Drainage Strategy

Proposals for the disposal of surface water and the treatment of any existing land drainage arrangements must be shown. On larger schemes the Council expects Sustainable Urban Drainage Systems to be used. At the very least on smaller schemes proposals should indicate how water drainage to the ground can be slowed down such as through the use of porous surfaces. Guidance on SUDS is given in Planning Policy Wales TAN 15 (Appendix 4).

UDP ENV10 ENV15

None have been provided.

D7B B Non Mains Drainage

Where connection to the mains sewer is not practical, then the foul/non-mains drainage assessment will be required to demonstrate why the development cannot connect to the public mains sewer system and show that the alternative means of disposal are satisfactory. Guidance on what should be included in a non-mains drainage assessment is given in WO Circular 10/99 and Building Regulations Approved Document Part H and in BS6297.

Details of the siting, specification and capacity of any means of foul drainage that does not connect to the mains - Guidance on private means of foul drainage is available in an Environment Agency publication "Treatment and disposal of sewage where no foul sewer is available: PPG4" and can be obtained from the Council (paper copy) or Environment Agency web site.

If the proposed development results in any changes/replacement to the existing system or the creation of a new system, scale plans of the new foul drainage arrangements will also need to be provided. This will include a location plan, cross sections/elevations and specification. Drainage details that will achieve Building Regulations Approval will be required. If connection to any of the above requires crossing land that is not in the applicant's ownership, other than on a public highway, then notice may need to be served on the owners of that land. If developers follow a sewer requisition route under the provisions of S98-101 of the WIA, the statutory undertaker has statutory powers to lay pipes through third party land.

UDP ENV13

Given the nature of the proposed development and the resultant significant increase in foul sewage disposal the applicant should be required to submit full details and calculations given the sensitive location of the proposed development and the anticipated increases in-demand on site.



D8 Heritage Statement

The scope and degree of detail necessary in a Heritage Statement will vary according to the particular circumstances of each application. Applicants are advised to discuss proposals with either a planning officer or a conservation officer before any application is made. The following is a guide to the sort of information that may be required for different types of application.

For applications either related to or impacting on the setting of heritage features a written statement that includes plans showing historic features that may exist on or adjacent to the application site including listed buildings and structures, historic parks and gardens, historic battlefields and scheduled ancient monuments and an analysis of the significance of archaeology, history and character of the building/structure, the principles of and justification for the proposed works and their impact on the special character of the listed building or structure, its setting and the setting of adjacent listed buildings may be required.

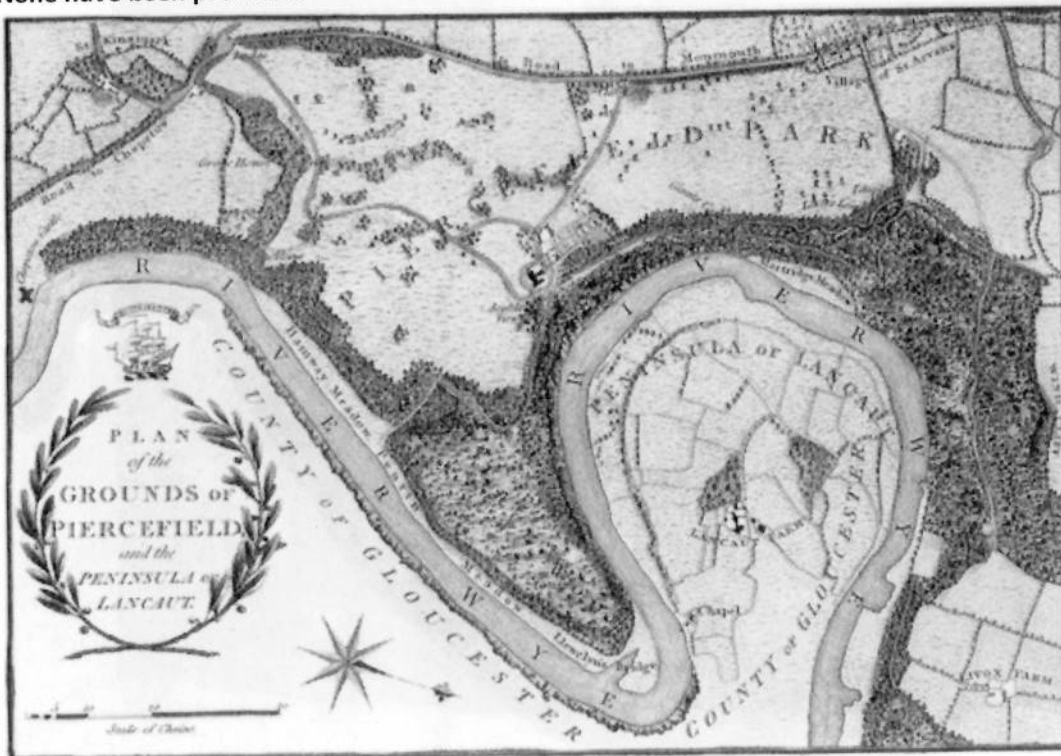
For applications within or adjacent to a conservation area, an assessment of the impact of the development on the character and appearance of the area may be required. This can be part of the Design and Access Statement.

For all applications involving the disturbance of ground within an Archaeologically Sensitive Area, as defined in the Development Plan, and all applications for new buildings or significant infrastructure works an applicant may need to commission an assessment of existing archaeological information and/or archaeological evaluation (trial excavation) and submit the results as part of the heritage statement. Applicants are strongly advised to contact the archaeological planning service of the Glamorgan-Gwent Archaeological Trust (telephone 01792 655208 e-mail planning@ggat.org.uk) to discuss their proposals.

Guidance is available from Glamorgan Gwent Archaeological Trust.

UDP CH1-13 DES1

None have been provided.



D11 Landscape Appraisal

Where development has an impact on the wider landscape the applicant must demonstrate through a strategic landscape assessment the capacity of the natural environment to absorb the proposal. The appraisal should also provide a broad context for decisions on appropriate scale, form and layout and determine which landscape features need to be protected or enhanced. Detailed site appraisal may provide information on hydrology, microclimate, soils, plant communities, historic features and all visual qualities including views and vistas. Design solutions should demonstrate clearly how the strategic assessment and site appraisal have informed the detailed design of development and planting proposals.

The Council has assessed the relative qualities of the local landscape through the LANDMAP landscape quality assessment method in terms of geology and geomorphology, vegetation and habitats, visual and sensory quality and historic and cultural quality. Applicants should have regard to the LANDMAP assessment in preparing their assessments.

UDP ENV1 DES1 DES5 DES6 DES7

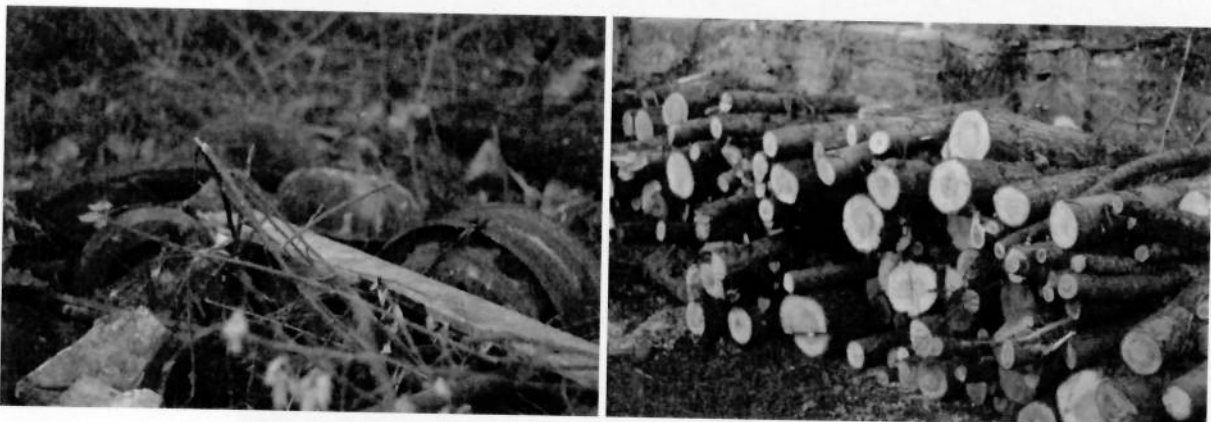
None have been provided.

D12 Landscaping details

Applications may be accompanied by landscaping details and include proposals for long term maintenance and landscape management. There should be reference to landscaping and detailed landscaping proposals which follow from the design concept in the Design and Access Statement, if required. Existing trees and other vegetation should, where practicable, be retained in new developments and protected during the construction of the development.

Landscaping details will normally be required where applications are for larger scale development such as new residential or employment estates. They will also be required for developments that are judged to be in sensitive landscape locations. Where landscaping is submitted the details should indicate the position, size and species of new planting and trees and hedges that are to be retained. (See D26 for further information on retention of trees).

UDP ENV1 DES1 DES5 DES6 DES7





Trees cut down rubbish dumped the trees planted are too close to this wall, and too thinly planted to make any difference, it will take some 50 years plus for these trees to mature.

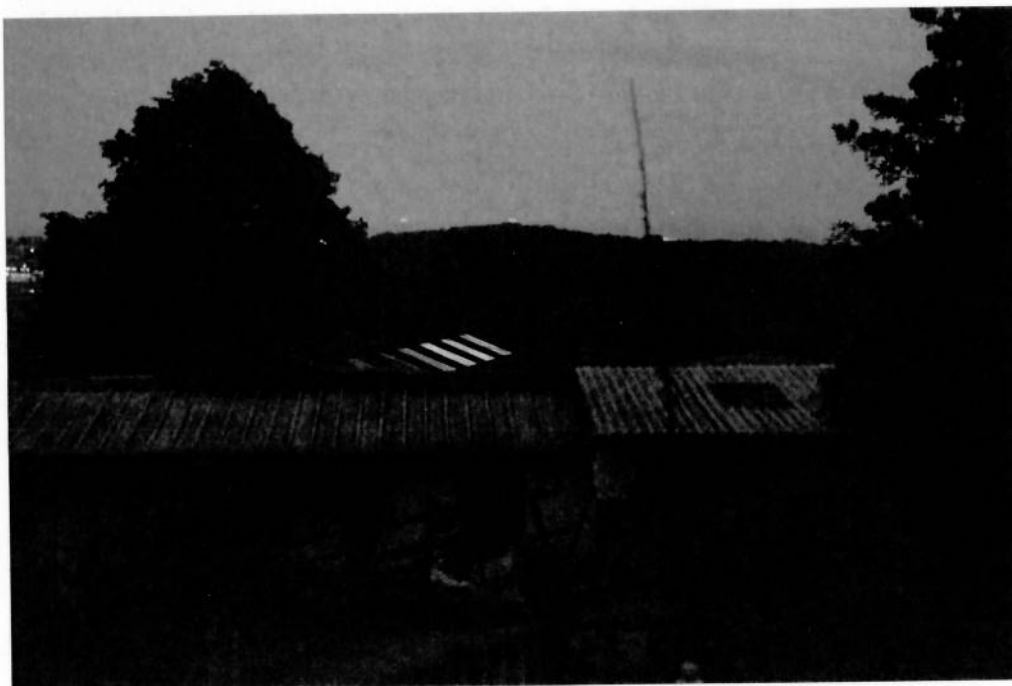
D13 Lighting assessment

Proposals involving the provision of publicly accessible developments, in the vicinity of residential property, a listed building or a conservation area, or in open countryside, where external lighting would be provided or made necessary by the development, should be required to be accompanied by details of external lighting and the proposed hours when the lighting would be switched on. These details shall include a layout plan with beam orientation and a schedule of the equipment in the design. Lighting in the countryside:

Towards good practice (1997) is a valuable guide for local planning authorities, planners, highway engineers and members of the public. It demonstrates what can be done to lessen the effects of external lighting, including street lighting and security lighting. The advice is applicable in towns as well as the countryside.

UDP ENV14

None have been provided.



Workshops in use until Midnight, viewed from our patio. Our horses stabled at night in the adjoining stables were disturbed, as were we due to noise. This also demonstrates the light pollution from the use of these workshops.

D14 Noise assessment

Applications for developments that raise issues of disturbance by noise to the occupants of nearby existing buildings, and for developments that are considered to be noise sensitive and which are close to existing sources of noise should be supported by a noise assessment prepared by a suitably qualified acoustician. Further guidance is provided in Planning Policy Wales TAN 11

UDP ENV6

None have been provided. This is for a development which has and is likely to generate a considerable amount of noise. It is in a noise sensitive area, adjacent to a residential property, equine property, SSSI, and in an AONB.

D17 Planning Obligation – Draft Head(s) of Terms

Planning obligations (or “section 106 agreements”) are private agreements negotiated between local planning authorities and persons with an interest in a piece of land (or “developers”), and are intended to make acceptable development which would otherwise be unacceptable in planning terms.

UDP H9 RL3

None have been provided. No declaration of the Planning obligation on this site has been made by the applicant. This is lying by omission.

D18 Planning Statement

A planning statement identifies the context and need for a proposed development and includes an assessment of how the proposed development accords with relevant national, regional and local planning policies. It may also include details of consultations with the local planning authority and wider community/statutory consultees undertaken prior to submission.

None have been provided. This should be provided given the sensitive location of this development.

D19 Public Right of Way Diversion Statement

Where a public right of way is to be diverted as the result of the proposed development indicative proposals of the proposed diversion shall be submitted with the application.

UDP MV4

None have been provided. The public footpath has been diverted.

D22 Structural Survey

A structural survey of the existing building by a qualified structural engineer for all barn and other rural building conversion applications.

UDP H7 RE1

None have been provided.

D26 Tree survey/Arboricultural implications

Where there are trees within the application site, or on land adjacent to it that could influence or be affected by the development (including street trees), information will be required on which trees are to be retained and on the means of protecting these trees during construction works. This information should be prepared by a qualified arboriculturist.

Full guidance on the survey information, protection plan and method statement that should be provided with an application is set out in the current BS5837 'Trees in relation to construction – Recommendations'. Using the methodology set out in the BS should help to ensure that development is suitably integrated with trees and that potential conflicts are avoided.

UDP DES5 DES6 DES7

None have been provided. There are trees adjacent which have TPO's, a large number of trees were removed in the creation of the DC/2012/00613 site, see details further on in this objection.

D28 Ventilation and Extraction Statement

Details of the position and design of ventilation and extraction equipment, including odour abatement techniques and acoustic noise characteristics, will be required to accompany all applications for the use of premises for purposes within Use Classes A3 (i.e. Restaurants cafes, the sale of food and drink for consumption on the premises, drinking establishments – use as a public house, wine-bar or other drinking establishment), Hot food takeaways – use for the sale of hot food for consumption off the premises), B1 (general business) and B2 (general industrial). This information (excluding odour abatement techniques unless specifically required) will also be required for significant retail, business, industrial or leisure or other similar developments where substantial ventilation or extraction equipment is proposed to be installed.

None have been provided.

Requirement of Accurate Completion

The local planning authority should see to it, in the public interest that questions on the application forms and design and access statements are answered in sufficient detail to enable the true nature of the proposal to be understood. The applicant has failed to complete the application form with sufficient' diligence and the answer to some questions is incomplete or simply inadequate.



View from the footpath to the East of the Workshops.

A washing facility has also been applied for, with no information as to how the waste water will be dealt with.

This same washing facility applied for retrospectively that Mrs Paula Clarke, failed to see when investigating Enforcement on the site earlier this year:

From: Clarke, Paula Sent: Thursday, February 14, 2013 9:26 AM

Dear Mr Hatcher

I would advise that an unannounced visit was undertaken to the premises on 12 February 2013.

There was no-one on site at the builders yard. There was a worker in the office of the car repair garage however no work was being undertaken either in the garage or outside.

Builders yard – there were no builders materials stored outside of the approved area; no materials stored in excess of 2 metres in height; the shipping containers were within the approved area. There were 4 vehicles in the yard however there was no indication that these were not in connection with the use as a builders yard.

Car repair garage – there was no evidence of a car wash facility on the site. *There were 2 vehicles being offered for sale in the premises, this is considered to be ancillary to the main use of the site and does not constitute a material change in use requiring planning permission. There were no vehicle repairs being done outside the building. The landowner has been advised of the need for planning permission for the small office*

building and has stated his intention to submit an application for its retention. The landowner has advised that the container on the land to the east of the repair garage has been there for many years and is now lawful, it does appear to have been in situ for many years. It is the landowners intention to show that the container is lawful and immune from enforcement action.

With regard to the hours of operation, the owner of the repair garage has stated that his normal hours are 8.45 till 5.00. However one of the landowners keeps his vehicle on the site which is collected around 7am. I have been advised that the applicant intends to appeal against the hours of operation imposed on both sites to allow for continuation of these practices. Furthermore I understand you have applied for judicial review to seek the quashing of the recently approved planning permissions therefore any enforcement action is unlikely to be taken until the resolution of these courses of action.

I trust this is of assistance to you

Paula Clarke

Planning Control Manager

Despite me providing Mrs Clarke with a photograph and statements that this is in use, and that there is a notice saying "washing down area" she still failed to acknowledge its existence.

Perhaps now the applicant has applied for it to have permission Paula Clarke will acknowledge its existence?



Photo of "Wash Area" note this is outside of the area granted permission in 1985.

The design and access statement is wrong, on both these applications and should be removed.

They provide false and misleading information, biased directly in favour of the applicant.

It is claimed for application DC/2012/00623 that it is for a change of use from B2 to B8, the land it is on does not have B2 permission, it has no permission at all. This application is therefore flawed from the outset and should not have been accepted, I am requesting its withdrawal.

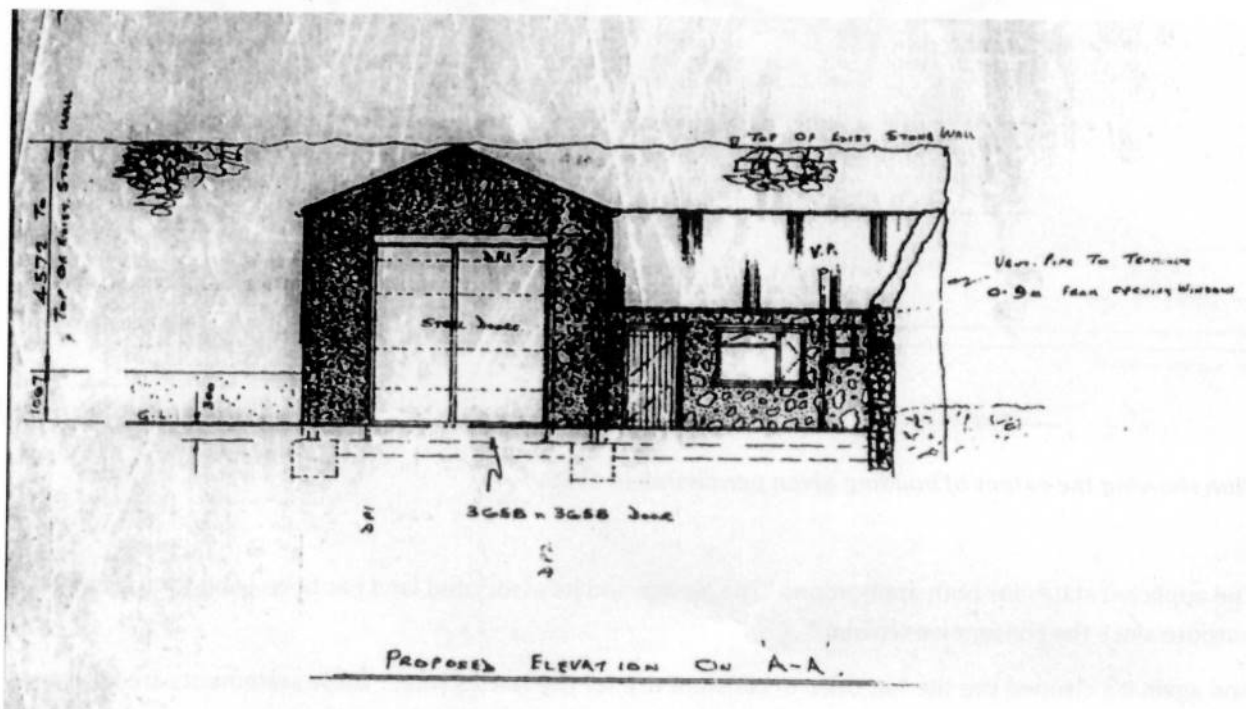
The decision isn't between B2 and B8 use but from "no use" to B8.

This is completely unacceptable in an AONB; this is unacceptable next door to a residential property, who has been disturbed ever since this illegal activity started 2 years ago.

It is claimed for both applications "Planning consent Ref A21850 granted on 8th February 1985, gave consent for "The erection of a garage for storage and maintenance of commercial vehicles.""

This was for a garage, singular, **one garage** (see picture from the original application below) and for only a small area of the land **0.08 Hectares**, even then it was a **personal permission limited to the vehicles owned by Mr DJ Stephens only**.

Not for the whole site as has been claimed, the site for DC/2012/00613 is not part of this at all.



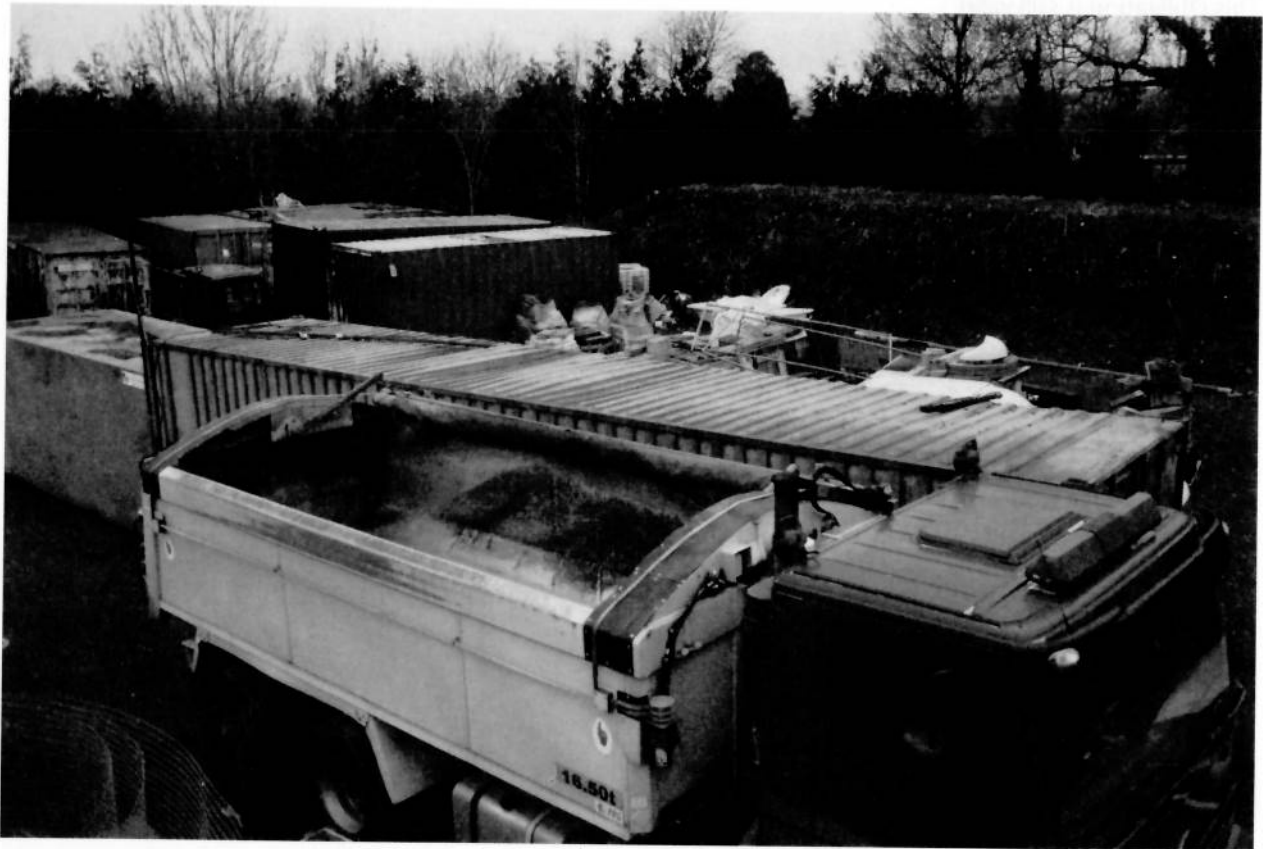
Elevation showing the extent of buildings given permission in 1985

The majority of DC/2013/00456 is also not included in this.

The second garage has been erected without permission, and the stone wall to the East which protected the views into the site from the historic Grounds of Piercefield House, (and was there when permission was granted) has been removed, and replaced by an open metal fence, which offers no screening at all.

With the lack of that stone wall the site is open to views from the East, including from the footpath, Wye Valley walk, racecourse, and wider landscape.

Mr Peter Stephens has got no permission to store or maintain his lorry on this site.



DC/2013/00456 the applicant says

"In this case the scheme as proposed, will not impact unreasonably on the one adjoining residential property, which has existed alongside the workshops etc for many years, without creating any nuisance issues and any resident of the adjoining dwelling, is living there in the full knowledge of the lawful use of the workshop site, which has been carried out since 1985."

This Statement is fundamentally untrue, yet again the applicant has lied in an attempt to mislead.

The workshops as proven above were granted very restrictive permission for a personal use of the applicant at the time only, and a section 52 agreement entered. The applicant knows this as he was present at the time.

There has been continuous disturbance of our residential property, under the applications, which were quashed by the High Court, the conditions were constantly broken. We have submitted almost daily log of all the instances of these breaches. This proves the unsuitability of this kind of development in a residential area. As the resident next door I can assure you we have suffered.

Environmental Health has been called on many occasions, we have compiled numerous noise logs and an Odour abatement notice served.

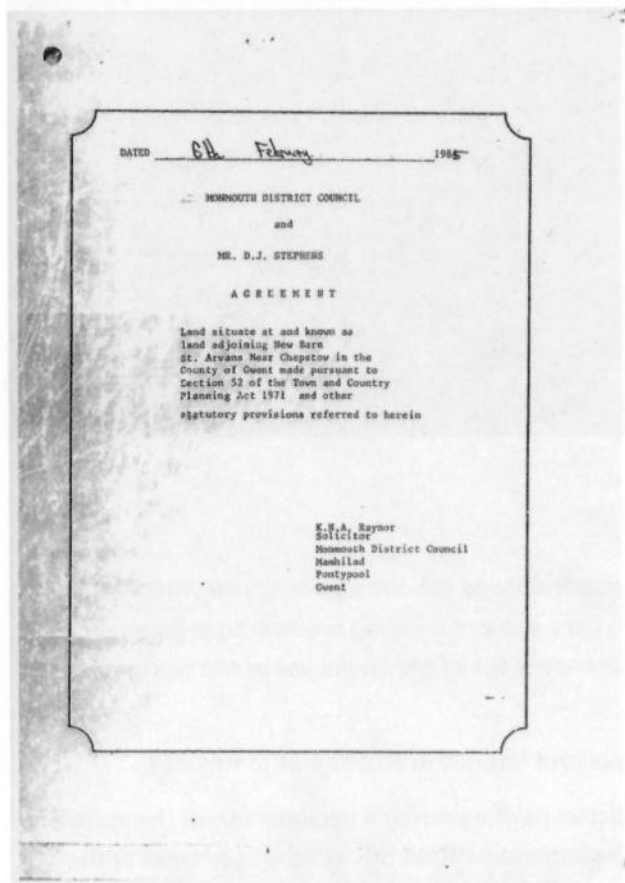
The 1985 permission was a **Personal Permission** applicable to the applicant, Mr D.J Stevens, only and as such a Planning Obligation was entered to that effect.

This Obligation is still valid.

Section 52 was repealed when the Town and Country Planning Act 1990 came into force, and although the section 52 agreement still binds the land no specific legislation exists to vary it.

Although the use of a property becomes lawful under planning legislation, if it can be established that it has been used for the existing purpose for over 10 years, a Section 52 agreement is on-going and is not immune from enforcement after 10 years.

Therefore although the buildings have been here for over 10 years those outside of the section 52 agreement should be removed and the land re-instated.



The Planning Permission ceased to be valid when Mr D.J Stevens no longer used the site.

The 1985 permission, A 21850 is no longer valid. This has been clarified at Judicial Review.

This site and the whole site including the workshops have **no planning permission**.



The public footpath runs through this site and adjacent to it too. The line of the footpath has been moved without permission despite informatives to do so over the last 2 years, nothing has been done about this.

There is not the space on the driveway for 2 vehicles to pass, and not enough space for pedestrians to pass large vehicles. Add into this the reversing of lorries across the footpath into the site, and there is certainly a conflict between the safety of walkers and potential users of this site.



This whole site is a complete eyesore, shipping containers and rubbish are dumped into this yard, and old vehicles are left. This site is in full view from the adjacent footpath, the applicant has lied that it is well screen it is not. The metal gates are not rural in nature nor of a high design, they are themselves industrial and ugly and detrimental to the AONB. Being metal they bang about in the wind causing a noise nuisance, 24 hours a day.



This site is in plain view from our property, as we are elevated in relation to this site. A 2m high fence will make no difference to the visual impact nor the impact from noise.



Above, the view of the site from our garden

The site can be seen from the race course, A466, the surrounding countryside, footpaths and Wye Valley Walk.

This is detrimental to the AONB and to Tourism.

This site does not need to be in the AONB, the builders work mostly in Chepstow/Caldicot they have to travel extra miles into the AONB this is not environmentally beneficial.



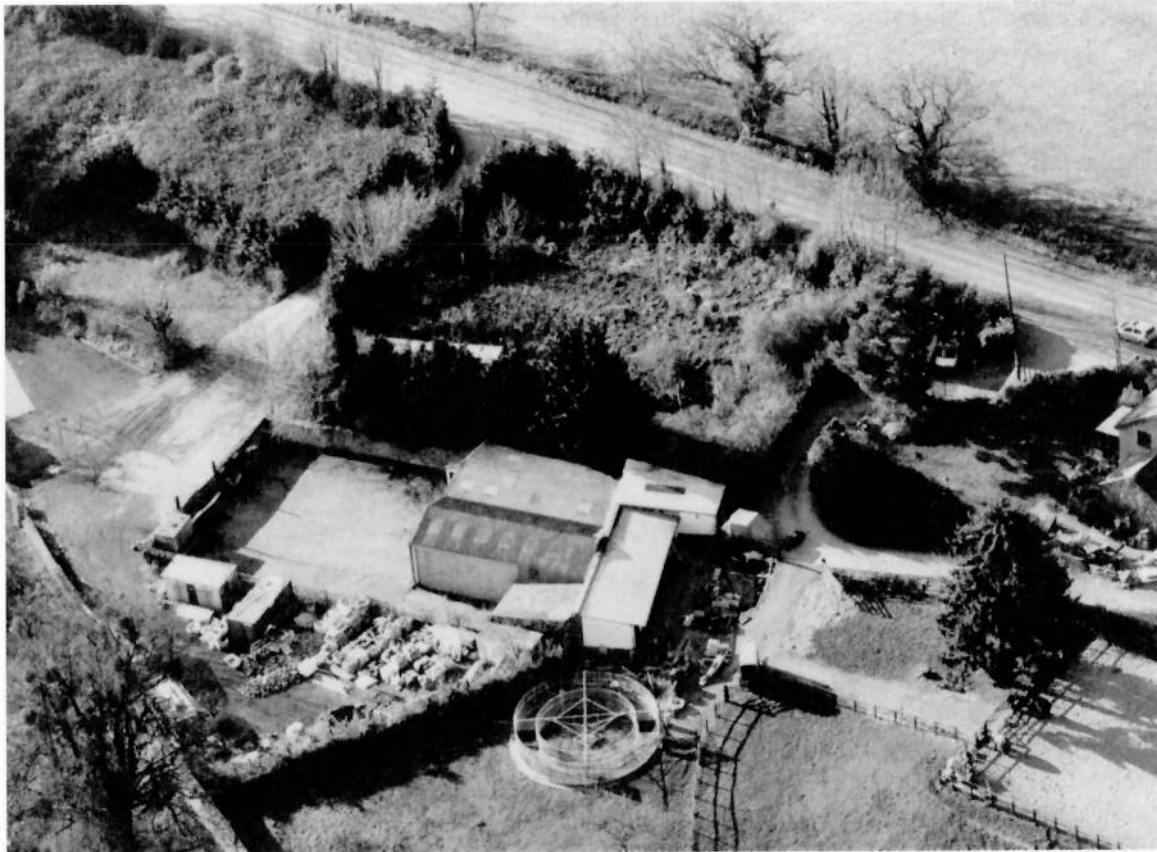
Above the site from our garden

11.3 WYE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY

"C2 Within the Wye Valley Area of Outstanding Natural Beauty, any development must be subservient to the over-riding necessity to conserve the natural beauty of the area. In considering an application for development the planning authority will have regard to:

- (a) the long term effect of the proposal, and the degree to which its nature and intensity is compatible with the character, purpose and overall management of the AONB;*

This is for a NEW application, albeit retrospective, however this should be treated in law as a new application on this land, please see the photograph below, taken February 28th 2012 to show the site as the field it was. Permission should be refused and the field reinstated.



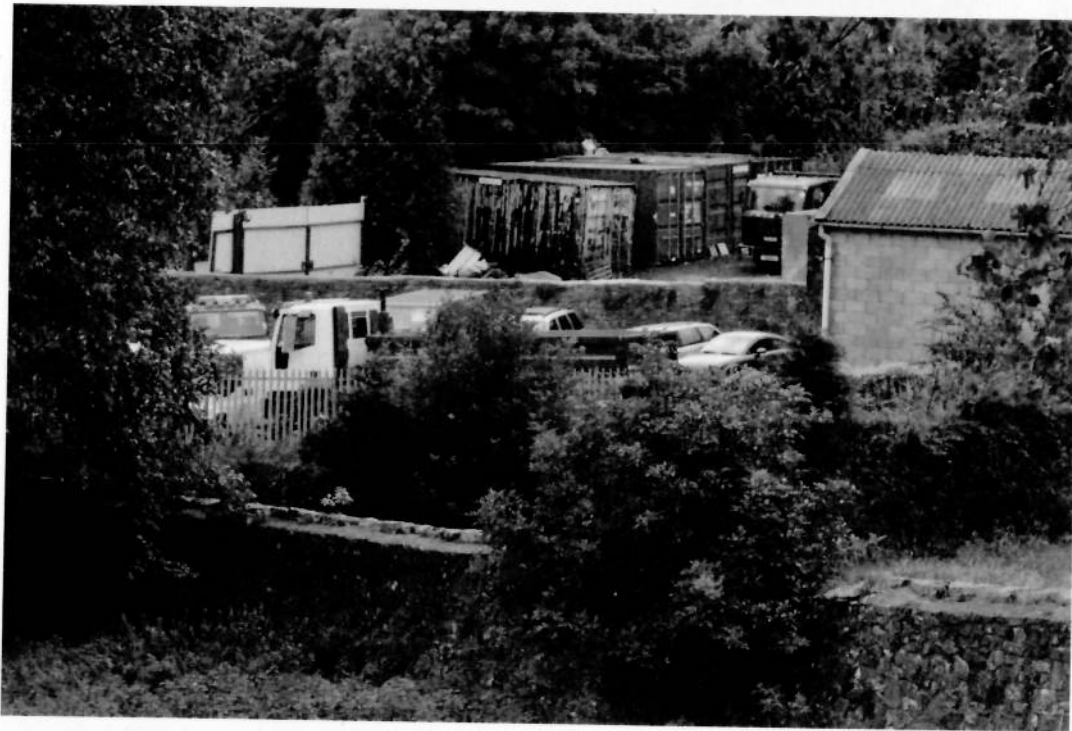
Above photo taken 28th February 2012 note the field to the top of the workshops this is now the "Builders Storage Area"

This development has a major detrimental impact on the AONB it is not remotely subservient to the overriding necessity to conserve the natural beauty of the area, it's a rubbish dump, old fridges, broken chairs, dumped vehicles, old tyres and loads of rubbish, a total mess and that is in the short time it's been there. It's noisy and is spreading rubbish over the AONB too.

(b) the degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and its built heritage;



Shipping containers, metal doors, lorries and builders rubbish are not appropriate in the AONB they do not harmonise with the surrounding landscape no effort has been made at all do so.(see photo)



They have bulldozed the field into banks of earth, and dumped hard core as a floor. The historic stone walls have been knocked down. The new planting is so close to the Piercefield Ground's walls it will destroy them. Again the field should be reinstated.

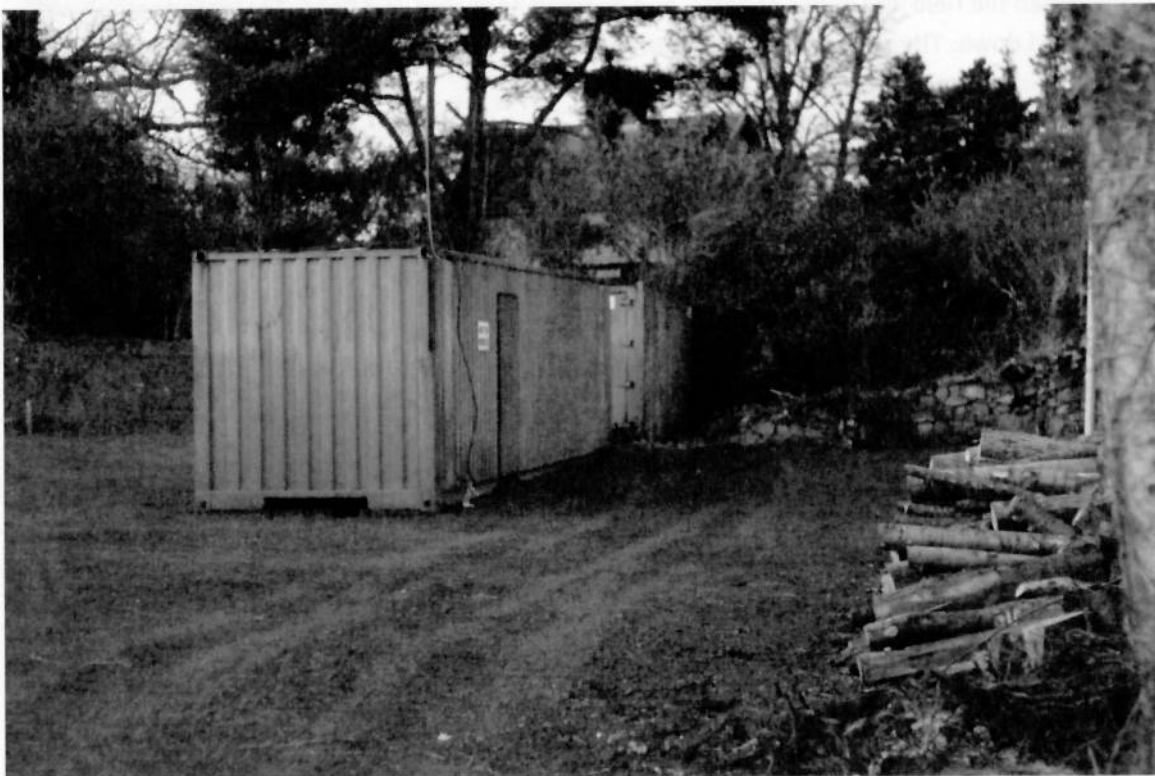


(c) the extent of landscaping proposed;

This site was well screened but the applicant cut down the 40 foot trees shown below:



The ground bulldozed into banks and hard core then crushed tarmac put down, over a much larger area than permission was ever granted for.



(d) the extent to which a proposed new building or use will generate additional traffic and the requirement for improvement of existing roads and lanes, including the surfacing of green lanes; and

(e) the impact of the proposed development upon nature conservation interests.

There was no environmental impact done on this site before it was developed, considering it is within a couple of hundred meters of an Site of Special Scientific Interest and the extent of environmental concern shown by the CCW about the site next door, this was a major oversight by the Councils Planners. To help preserve the nature conservation this site should be reverted back to a field.

Further recreational, tourism or other development will be permitted only where consistent with the conservation objectives and to improve facilities for the benefit of people living within or adjoining the AONB.

This development is clearly not improving facilities for the benefit of people living within the AONB; indeed it is detrimental to tourism, one of the most important economic sectors in the AONB. It does nothing for conservation, the opposite in fact.



Major development should take place in the Wye Valley AONB only when proven national interest and lack of suitable alternative sites can justify an exception.

There are many suitable sites for this type of operation outside of the AONB and nearer to where the tenants operate.

Any construction or restoration should be carried out to high environmental standards.

This is clearly not the case with this application.

Development proposals that are outside the AONB but would detract unacceptably from its setting will not be permitted.

Therefore those detrimental to its setting should definitely not be allowed with in it!

Some more policy from the AONB

11.3.1 The Wye Valley was designated as an Area of Outstanding Natural Beauty in 1971, the main purpose of its designation, as outlined in the National Parks and Access to the Countryside Act 1949, being to

conserve and enhance 'natural beauty', which includes protecting flora, fauna and geological as well as landscape features. Due to its national importance, it is essential that this area is protected from unsuitable development to maintain its character. National planning guidance relating to AONBs and National Parks now states that an equal level of landscape protection should be given to each designation.

This development is clearly outside of these guidelines, the applicant has made no justifications otherwise, and therefore this application should be refused.

11.3.2 The special character of the Wye Valley Area of Outstanding Natural Beauty was re-appraised in a 1992 'Wye Valley Study' and in 1996 in the 'Wye Valley Landscape' a joint CCW/Countryside Commission document. Both of these reports have been accepted by the AONB Joint Advisory Committee and commended for inclusion in the Wye Valley AONB Management Plan. These reports assessed the topographic, land use, ecological and historic components of the landscape to identify zones or components sensitive to change or deterioration. The essential landscape qualities which made the area distinct and 'outstanding' are identified so that the fine qualities can be safeguarded. This will necessitate higher than average design and control standards being applied to development proposals affecting the AONB, including alterations and extensions as well as new build. The major landscapes of the AONB include the Wye Gorge from Monmouth to Chepstow and the more open Trellech Plateau.

This application is within the major landscapes as described. This means the application should come under the highest scrutiny. It simply does not meet the criteria of higher than average design; it is detrimental to the whole AONB. Look at the gates and landscaping does this look like the highest standard of design to you?

11.3.3 Applications for all such development must be subject to the most rigorous examination.

Consideration of applications for major development should include an assessment of:

- 1.the need for the development, in terms of national considerations, and the impact of permitting it or refusing it upon the local economy.
- 2.the cost of, and scope for, developing elsewhere outside the area or meeting the need for it in some other way.
- 3.any detrimental effect on the environment and the landscape, and the extent to which that could be moderated.

11.3.4 Reference should also be made to the draft Landscape Study Volumes 1-6 and the Draft Design Guide supplementary planning guidance which encompasses and offers guidance on the quality of landscape and design within the AONB and informs the Management Plan.

The applicant has failed to address any of these points, why does this sort of development need to be in the AONB? Simply it does not, there are many sites in Chepstow and Bulwalk which are suitable to this sort of industrial urban development, and therefore this simply should not be here. There is a garage just outside the AONB by the racecourse roundabout that has been for rent for months, this could be used instead of this new development and the AONB protected.



Landscape; MCC's Issues and Vision Report

"Landscape protection was seen as a priority, of designated areas and the countryside in general"

Rural Environment

"Monmouthshire is largely a rural county and has major biodiversity and landscape resources that require protection and enhancement."

ENV1 Development, including proposals for new buildings, extensions to existing buildings and advertisements, should:

- (a) pay regard to existing building densities, whilst encouraging higher densities especially near public transport nodes or corridors well served by public transport;*
- (b) be of a good standard of design;*

This is clearly not be designed at all let alone be of good design it's a dumping ground with shipping containers dumped at random, outside of the area given by the permissions, now quashed by the High Court

(c) incorporate appropriate energy efficiency features;

(d) have regard to the privacy, amenity and health of occupiers of neighbouring properties, where applicable;

No regard has been made at all for the privacy amenity nor health of the neighbouring properties.

We have been disturbed all hours of the day, from 0600 until gone midnight, all days of the week including bank holidays, we are an equestrian property and our animals have also been constantly disturbed.

Conditions placed upon the applicants are completely ignored; a breach of condition has already been served on this site. Metal gates and doors on the metal containers make a lot of noise, in this otherwise peaceful rural location. Hard surfaces are noisy also and the builders' dump scaffolding, and building materials out of lorries, making a lot of noise causing a large disturbance, including lorry reversing alarms.



We have complaints about breaches on a daily basis.

- (d) have regard to the additional traffic generated by the development in relation to the capacity of the existing road network and provide a safe and easy access without causing harm to the safety and convenience of road users;*

The driveway is not wide enough for pedestrians and lorries to pass each other safely. The movement of vehicles across the footpath is dangerous, particularly when they are being reversed perpendicularly across the footpath.

- (e) incorporate appropriate crime prevention measures;*

We have had much police activity to the site, it has been broken into this is because of its isolated position, it's vulnerable to crime.

- (f) take into account biodiversity considerations;*

See notes above in regard to the field and trees.

- (g) not prejudice the qualities of the countryside, in particular any qualities that have resulted in areas being designated as having special nature conservation, landscape, geological or historic importance;*

This certainly does prejudice the qualities of the countryside and it is within an AONB!

- (i) ensure that adequate infrastructure and services, including water, sewerage, sewage treatment, transport, electricity and gas exist or can be readily and economically provided;*

- (j) maintain and, where appropriate, improve and/or develop the existing public rights of way network;*

This increasing use of the site is detrimental to the enjoyment and safety of those using the rights of way network.

(k) make appropriate provision for access and use by all potential users including those with restricted mobility;

(l) incorporate appropriate landscaping that takes into account and where appropriate retains existing trees, hedgerows and other important landscape features; and

Please see the comments in the AONB section about the removal of trees and the field.

(m) have regard to the operational, safety and security requirements of the railway operators in respect of development adjoining or in close proximity to railway lines.

Proposals that would result in significant adverse effects are unlikely to be acceptable and should be supported by a detailed justification.



Foot path blocked by vehicles

3.2 General Design CONSIDERATIONS

DES1 All development should be of a good standard of design and respect the qualities of the character of its context. It will be required to:

(a) Ensure a safe, secure, pleasant, and convenient environment that is accessible to all members of the community.

This site is not a secure nor pleasant environment, it's noisy dangerous and full of rubbish.

The structures are industrial in look and hence intimidating, as are the banging of metal against metal.

(b) Contribute towards sense of place whilst ensuring that the amount of development and its intensity is compatible with existing uses.

There is no "sense of place" in this proposal, there is no vernacular used, the whole site is industrial at best and a dump at worst.

The applicant claims "No new development is proposed" this is **new development**, it maybe retrospective but it need to be treated as new development.

(c) Respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings.

Considering all the neighbouring buildings are stone the metal is incongruous, the scale of the site is well out of keeping with a rural location.

(d) Maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties where applicable;

Please see the comments above, in the AONB section.

(e) Respect built and natural views and panoramas where they include historical features and / or attractive or distinctive built environment or landscape.



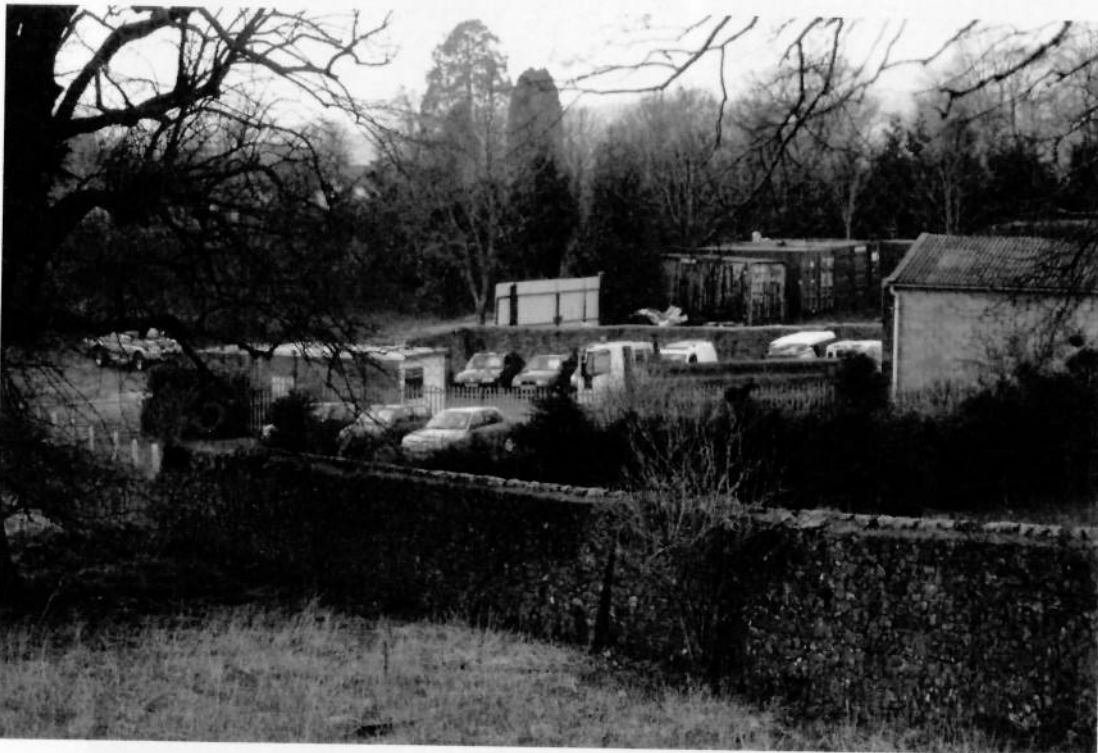
Blocked access to the footpath

This site is in a very prominent position, it can be seen from many vantage points. The natural views have been harmed greatly by this development, it uses materials not in harmony with the surroundings, and parking of vehicle in open countryside detracts from the rural nature of that countryside. The banking up of earth is artificial, the gates are very industrial in look, and no attempt has been made to harmonise anything in this development to the surrounding area. The storage of building materials is congruous to the rural outlook.

Metal storage containers are ugly and totally out of keeping in the AONB.

Rubbish is being dumped in full view, old fridges, tyres, plastic bits of wood all of which is not in keeping and has the potential to migrate into the greater landscape.

The historic grounds of Piercefield Park and landscape of the AONB have equally been harmed.



Area of Outstanding Natural Beauty.

(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.

This clearly had not been adhered too. Just a mishmash of whatever was about or cheapest.

The result is simply poor. Please see the next 3 photos:



Purely utilitarian shipping contains and incongruous surface treatment.



Poorly executed and utilitarian metal gates more akin to a junk yard.



(h) Incorporate existing features that are of historical, visual or nature conservation value, and use the vernacular tradition where appropriate.

On the contrary historical stone walls have been demolished, mature trees removed and the vernacular ignored.

(i) 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.

See note regarding tree and field removal

(j) Make the most efficient use of land compatible with the above criteria.

This development is incongruous to the criteria above, it should be refused and the field and trees reinstated.

The application should be determined in accordance with the Development Plan; in this case the Monmouthshire County Council Adopted Unitary Development Plan, unless material considerations indicate otherwise. That is that the statutory test for deciding any planning application and is set out in section 38(6) of the Planning and Compulsory Purchase Act 2004.

Hours of use

Hours conditions were applied recently to the quashed applications DC/2012/00613 and DC2012/00886 to protect the amenity of the residential property, with advice given from the Environmental Health department.

The applicant has stated on these new applications, this is unworkable and requests hours well outside of these, thereby directly affecting the residential amenity of my property, this proves the unsuitability of these applications, and therefore they need to be refused and prompt enforcement action finally taken.

Planning Policy Wales

1.1 Chapter 7 of PPW 'Supporting the Economy'

The applicant has quoted this policy and yet provided no further information.

This site does not provide employment, the builders can store their materials elsewhere, Mr Stephens can store and maintain his lorry elsewhere, as he has done before, the garage proposed can operate out of other premises. However this development is detrimental to Tourism, the third most important sector in Monmouthshire. This site is in a prominent position seen in the background Horse Racing, not a good advertisement for the Wye Valley, nor the Race Course. We run a cattery business next door this business does and will greatly affect ours and we do employ 2 local people and hope to expand further.



Racecourse with development site in the background. This is detrimental to the tourist trade in advertising Monmouthshire's Wye Valley.

The primary reasons within the AONB however should not be economic. Policy states that everything should be for the benefit of protecting and enhancing the natural beauty of the AONB, this development certainly does not. Please refuse these permissions and protect the AONB for future generations.

Landscape

Land Map Assessment

This site is under the highest classification for Key Characteristics and Sensitivity of LLCAs.

This is classified as "High"

High Key characteristics of landscape are very vulnerable to change and/or have significant value as a landscape resource. Development should not be taking place in these areas.

The Character Capacity is the lowest possible being that of "low"

This means that any development will have a high impact upon the landscape.

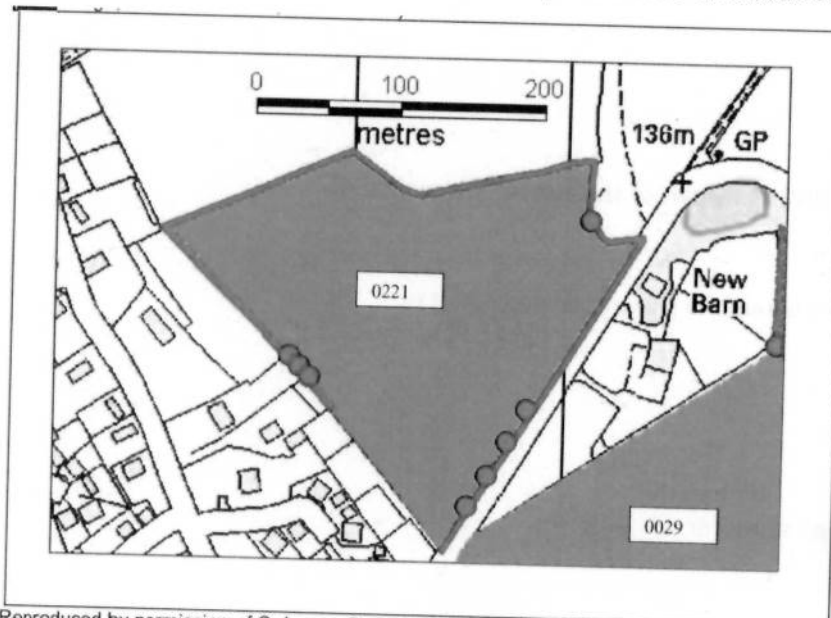
Ecology

The Ecology report written by MCC is somewhat at odds with the ecology report written for the racecourse CS/0029 and the assessment done on our property, both of which adjoin this site and the assessment of the field adjacent to the A466 directly opposite the site CS/0221

The evidence from the surrounding areas shows that this is an ecologically sensitive area and there should be no development of this sort here at all. Extra surveys have been requested, bat surveys particularl should have been carried out **BEFORE** development, this not being done is unforgivable at best possibly criminal.

The removal of a field in such an important area and the laying down of so much hard standing is totally at odds with the policies set out and should be refused and as it's a retrospective application, the owner should be made to reinstate it all. This is simply not acceptable.

The fact this site has already been developed should not prevent an assessment based upon the surrounding countryside being made. I have provided the reports on the areas surrounding this site below.



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CS/0029

Site General Information

Name: Chepstow Racecourse

Location: Chepstow

Grid Ref: ST 5257895640

Site Area (ha): 149.6

Proposed Development: Hotel & Exhibition

Hall/Conference Centre

Current Use: race course complex

General Features:

- semi-improved species rich grassland
- semi-improved species poor grassland
- improved grassland
- unimproved grassland
- arable land
- amenity grassland
- deciduous woodland
- standing dead wood
- veteran and mature trees
- pond
- scrub and tall herb
- buildings/hard standing

Note: propose extension to existing SINC. Only part of site due to be developed.

Identified Biodiversity Value: Medium

Are biodiversity constraints significant enough to prevent development of:

The whole site? No

Part of the site? Yes

Protected Species

Are there European Protected Species issues for this site? Yes

List Species:

SEWBRc record	Potential to be present on site (habitat and location mean that it is likely)
Greater horseshoe bat	Bats
Lesser horseshoe bat	Dormouse

Myotis bat (unspecified species)

Great crested newt

Soprano pipistrelle

Common pipistrelle

Natterer's bat

Brown long-eared bat

Whiskered bat

Noctule

Are there issues for species protected under UK legislation (not included above)? Potential.

SEWBRc record

Potential to be present on site (habitat and location mean that it is likely)

Bluebell

Badger

Common frog

Breeding birds

Slow worm

Grass snake

Are there records for UK or Wales Priority Species (not included above)? Potential.

SEWBRc record

Potential to be present on site (habitat and location mean that it is likely)

Pretty chalk carpet

Hedgehog

Skylark

Brown hare

Tree pipit

Harvest mouse

True fox-sedge

Polecat

Hawfinch

Common toad

Common cuckoo

UKBAP invertebrates

Lapwing

UKBAP fungi

Yellowhammer

Common kestrel

Spotted flycatcher

Curlew

Dunnock

Marsh tit

Wood warbler

Bullfinch

Scarce hook-tip

Song thrush

Lesser spotted
Woodpecker
Narrow-leaved
Helleborine

Are there records for Monmouthshire LBAP Species (not included above)? Potential

SEWBReC record Potential to be present on site (habitat and location mean that it is likely)
Lapwing Silver- Washed fritillary

Designated Sites

Is the site within or adjacent to an International or European Designated Site?
(Special Area of Conservation) **Directly Adjacent/Within 250m Buffer**

Is the site within or adjacent to a Nationally Designated Site?
(Site of Special Scientific Interest) **Directly Adjacent/Within 250m Buffer**

Is the site within a Locally Designated Site?
(Site of Importance for Nature Conservation) **Within and Directly Adjacent/Within 250m Buffer.**

SAC: River Wye.

SAC: Wye Valley Woodlands.

SSSI: Pierce, Alcove and Piercefield Woods.

SSSI: River Wye.

SINC: Chepstow Racecourse.

SINC: Wyndcliffe Wood Meadow

SINC: see below

Is the whole site or part of the site of SINC (Local Wildlife Site) quality?
(underline whole or part as appropriate)? **YES**

To be verified by SINC panel (proposal to extend existing SINC)

Qualifying criteria; **H1 Woodlands**
 H2 Parkland, veteran trees
 H16 Standing Open Water
 Other features – anthills
 Potential for bats

The application site is next to the area marked **high** for Site Habitat Value

Does the site have any connectivity value to either adjacent habitat or the wider landscape? **Yes**

Conclusions

What additional ecological surveys/assessments will be required?

Ecological survey of pond.

Bat survey of mature/dead trees and any buildings.

General ecological survey prior to development.

Assessment of woodland for potential for dormice.

Depending on development details, Habitat Regulations Assessment may be required due to proximity to the Wye Valley Woodlands SAC and River Wye SAC.

Summary of biodiversity features to be considered

Notable species identified

Pond

Mature and veteran trees

Woodland

Species-rich grassland

Adjacent habitats

Connectivity feature

SAC: River Wye

SAC: Wye Valley Woodlands

SSSI: Pierce, Alcove and Piercefield Woods

SSSI: River Wye

SINC: Chepstow Racecourse

SINC: Wyndcliffe Wood Meadow

Candidate SINC

Recommended measures

Trees

Protect retained trees during construction according to BS 5837.

Grassland

Fence off areas of species-rich grassland prior to and during construction.

Wetlands and Watercourses

Retain habitat on either side of watercourses and fence off prior to and during development.

Control pollution from development site.

Retain area around pond as a buffer and fence off during development.

Connectivity

Development should retain or increase linear features (such as hedgerows and watercourses).

Development should retain or create semi-natural habitat as ecological corridors or stepping stones (see connectivity study).

CS/0221

Site General Information

Name: Land adjoining Tintern Road

Location: St. Arvans

Grid Ref: ST 5188696720

Site Area (ha): 4.46

Proposed Development: Residential with open space and landscaping

Current Use: general agricultural, 1 field

General Features:

- improved grassland
- species-rich hedgerow
- mature/veteran trees
- dead standing Oak tree

Identified Biodiversity Value: **Medium**

Are biodiversity constraints significant enough to prevent development of:

The whole site? **NO**

Part of the site? **YES**

.

• **Protected Species**

Are there European Protected Species issues for this site? **Potential**

List Species:

SEWBRc record

Potential to be present on site (habitat and location mean that it is likely)

Lesser horseshoe bat

Bats

Soprano pipistrelle bat

Dormouse

Common pipistrelle bat

Brown long-eared bat

Natterer's bat

Are there issues for species protected under UK legislation (not included above)? Potential

List Species:

SEWBRcC record

Potential to be present on site (habitat and location mean that it is likely)

Bluebell

Breeding birds

Slow worm

Badger

Are there records for UK or Wales Priority Species (not included above)? Potential

SEWBRcC record

Potential to be present on site (habitat and location mean that it is likely)

List Species:

Skylark

Polecat

Tree pipit

Hedgehog

Hawfinch

Harvest mouse

Common cuckoo

Lapwing

Yellowhammer

Common kestrel

Spotted flycatcher

Curlew

Marsh tit

Wood warbler

Duncock

Bullfinch

Song thrush

Scarce hook-tip

Lesser spotted

woodpecker

Are there records for Monmouthshire LBAP Species (not included above)? No

Designated Sites

Is the site within or adjacent to an International or European Designated Site?

(Special Area of Conservation) **Directly adjacent/within 250m buffer.**

Is the site within or adjacent to a Nationally Designated Site?

(Site of Special Scientific Interest) **Directly adjacent/within 250m buffer.**

Is the site within a Locally Designated Site?

Site of Importance for Nature Conservation **Directly adjacent/within 250m buffer**

SAC: Wye Valley Woodlands

SSSI: Pierce, Alcove and Piercefield Woods

SSSI: Blackcliff-Wyndcliff

SINC: Wyndcliff Wood Meadow

SINC: Lover's Leap and Piercefield Cliff Woods

Conclusions

What additional ecological surveys/assessments will be required?

Bat survey of mature/dead trees.

General ecological survey prior to development.

Assessment of hedgerows for potential for dormice.

Depending on development details, Habitat Regulations Assessment may be required due to proximity to the Wye Valley Woodlands and River Wye SAC.

Summary of biodiversity features to be considered

Notable species identified

Connectivity feature

Hedgerow

Mature and veteran trees

SAC: Wye Valley Woodlands

SSSI: Pierce, Alcove and Piercefield Woods

SSSI: Blackcliff-Wyndcliff

SINC: Wyndcliff Wood Meadow

SINC: Lover's Leap and Piercefield Cliff Woods

Recommended measures

Hedgerows and Trees

Protect retained hedgerows and trees during construction according to BS 5837.

Species

48

Species mitigation may be required depending on the results of further surveys.

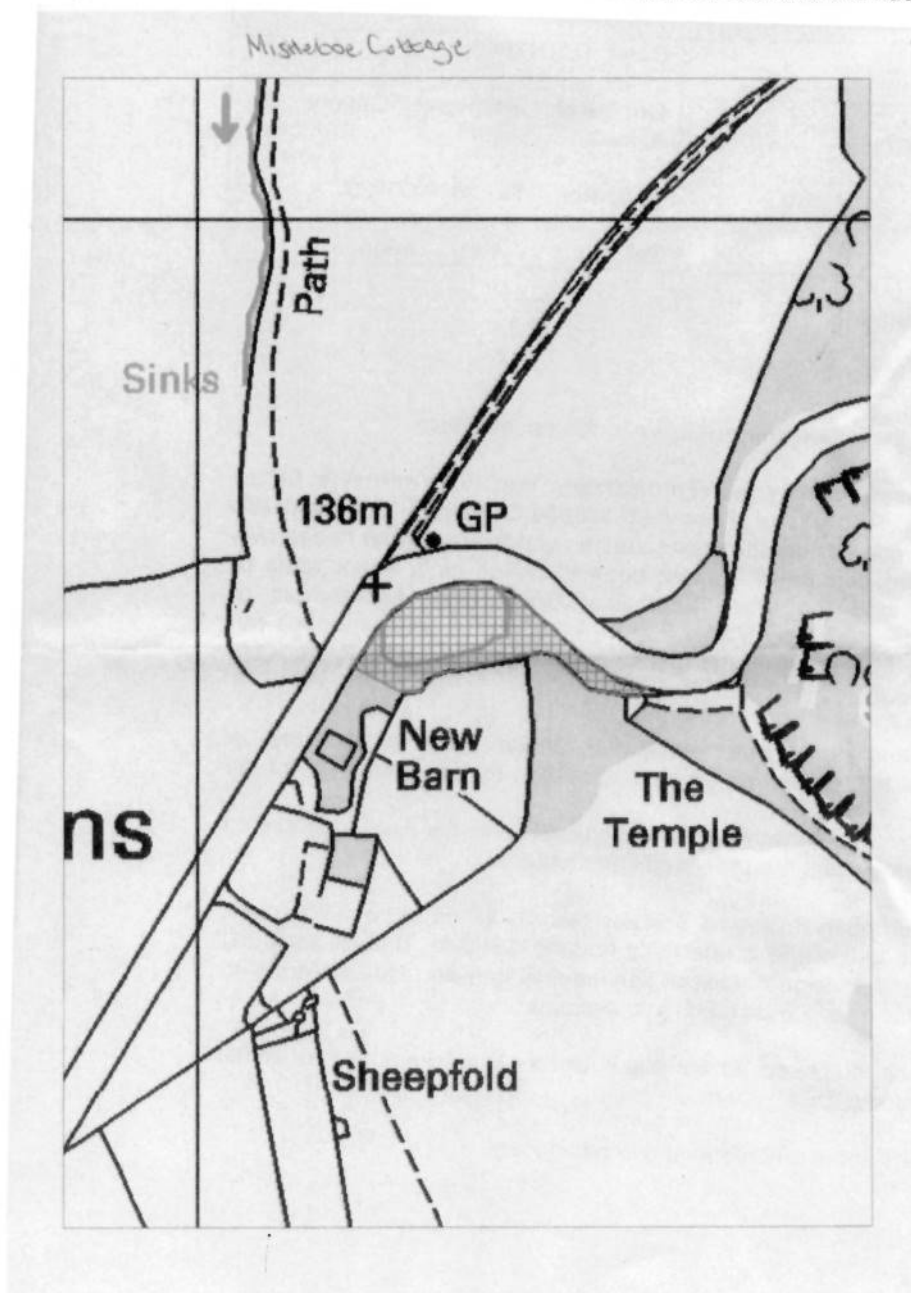
Connectivity

Development should retain or increase linear features (such as hedgerows and watercourses).

Development should retain or create semi-natural habitat as ecological corridors or stepping stones (see connectivity study).

Mistletoe Cottage

In November 2012 we had an assessment done on a part of our land the hatched area shown below.



This has been recognised as a Local Wildlife Site, which forms part of Monmouthshire's Natural Assets Project.

I have also included the report form MCC's Biodiversity and Ecology Officer when we applied for the cattery.

As can be seen our site is considered part of a major route of habitat connectivity through the area, surely the same must be true of the proposed site next door.

MONMOUTHSHIRE COUNTY COUNCIL Regeneration Environment and Resources Directorate MEMORANDUM	
To: David Wong	Date: 17/05/2010
From: Danielle Fry Biodiversity and Ecology Officer	Our Ref: Proposed Cattery, St. Arvans Your Ref: DC/2010/00120 Tel. No. Ext. 4963

RE: Proposed cattery building

Dear Dave,

Please accept my apologies for the late response to this consultation.

The proposal lies in close proximity to (approximately 1km from) the Wye Valley Woodlands SAC, Pierce, Alcove and Piercefield Woods SSSI and the Wyndcliffe Wood Meadow SINC. These designated sites together with the trees and hedgerows surrounding the proposed new building have been identified as a major route of habitat connectivity through the area (Ecological Connectivity Assessment of Settlements in Monmouthshire Report, May 2010). Although the proposal does not directly impact on these features, there is the potential to do so indirectly and this should be taken into account.

Local policy DES7 states that "*trees must be fenced prior to the start of construction...to enclose and protect an area not less than the branch spread of the trees...*"

It is not clear from the plans whether this is achievable in the space proposed between the trees, hedgerow and the proposed construction.

There are numerous European Protected Species records in the surrounding area. Many of these will make use of the connectivity feature identified. Bats in particular could be impacted by any additional artificial lighting spill in such close proximity to this feature and again this needs to be taken into account.

The design and materials proposed do not allow for any biodiversity enhancement features to be incorporated (DES9).

If you have any questions about any of the above please ask.

Kind Regards

Danielle Fry
Biodiversity and Ecology Officer
For Corporate Director Regeneration, Environment and Resources

Monmouthshire County Council Bias.

The grounds for judicial Review have not been put onto the website.

The quashing orders have not been put on the website.

The applicant was allowed to appeal the conditions when the council had already signed the quashing order.

The applicants reasoning's for the appeals are on the website and the objections are not.

Monmouthshire planners have withheld the information about the failed applications.

Monmouthshire planners have withheld the information about the Planning Obligation.

Monmouthshire planners have withheld the information about the breach of condition notice.

The planning enforcement officer and the agent been allowed to conspire to prevent enforcement.

Mr Wong in his planning reports has ignored the views from the footpath to the East, views from which were very important in our application next door by the same officer.

Applications have been validated when it is clear they should not have been.

The applicant has not been reported for the false statements on all of his applications.

Monmouthshire planners have erred in law throughout all these applications and lack of enforcement since March 2011.

Monmouthshire planners has erred in law relying on the fall back position of existing use, and they have allowed the applicant to repeat this on these applications, despite being fully aware of the Judicial Reviews decisions.

The Council has allowed multiple applications, 7 in the last 2 years, which has resulted in the Council refusing to take any enforcement action. Not when the site has permissions and it breaks the conditions or indeed when it has no permission at all.

The Highways have claimed on previous applications that the driveway is wide enough for 2 vehicles to pass this is not the case with the size of Lorries on site.

The Ecology report written by MCC is at odds with the ecology report written for the racecourse CS/0029 and the assessment done on our property, both of which adjoin this site and the assessment of the field adjacent to the A466 directly opposite the site CS/0221

The senior planning officer
Planning department
Monmouthshire County Council
PO box106
Caldicot
NP26 9AN

Your ref:
Our ref: BG/HAT5/1
DD: 020 7152 6550
Email: ben.garbett@keystonelaw.co.uk

01 October 2013

Dear Sir,

**Site at New Barn Garages, A466, St Arvans NP16 6HE – planning application
references: DC/2012/00613 and DC/2013/00456
Objections on behalf of Christopher and Michelle Hatcher**

The latest report recommending approval is littered with errors, and, to any impartial observer, would appear biased. It is significantly misleading in the way it presents the planning issues on this site.

For example, how can it be seriously concluded that the impacts from a commercial car servicing operation, coupled with expanded use of the site as a builder's yard, would be acceptable despite any landscape and visual impact evidence? Despite any evidence on traffic impacts in an otherwise quiet rural location? Current national policy puts protection of the AONB on equivalent status to that of a National Park, as underlined by the particular requirements of UDP policy (e.g. policy C2).

Before Members of the committee are effectively duped into granting consent we ask them to reflect on the fact that the original recommendation for approval (DC/2011/000697) was made on the false belief that there was permission for the current site activities. Also, contrary to the conclusion in the current report, the unsightly metal storage containers have been present on the site for less than 4 years, as documented by my client¹. This development is not lawful, and should be removed, as the council officer himself concluded previously too.

The two judicial review cases (our client was successful in both), together with the applicant's failure to obtain a certificate of lawful use (this was withdrawn to avoid a refusal) demonstrates that there is nothing special about the characteristics of this rural site. How can officers and members therefore believe that granting approval would not lead to a very harmful precedent being set, which would weaken the council's resistance against similar harmful developments elsewhere? How does this achieve fairness, transparency and consistency in public decision-making?

¹ The only long-standing container was originally hidden from view, but was recently moved to a new location and so should be regarded as new unauthorised development

For example, biodiversity may well have been destroyed by the current unlawful site uses but this does not mean that the site has no long term conservation potential, a requirement of UDP policy C2(e) which has been ignored. Granting consent would surely encourage any future applicants to start development without first obtaining consent simply in order to overcome a potential reason for refusal?

The text of policy C2(b) emphasises the importance of good design where "*higher than average design and control standards*" shall be applied. How then does the council not find objection to industrial sheet metal gates concreted to the floor, close to a public footpath?

Further, the proposed use is commercial and industrial not agricultural. Those matters are very different in their nature and effect, as reflected in planning policy decisions across the UK. Why does this officer think differently?

To give another recent example, at the 06 August planning committee meeting Members refused a development for a commercial garage because "*the garage/workshop use will lead to an increase in traffic using the single access road to and from the site as well generating additional noise and disturbance from the activities within the building which will harm local residential amenity, contrary to Monmouthshire Unitary Development Plan Policies ENV1 d) and e) and DES1 d).*"²

There is no special reason for allowing this development to happen. Other non-AONB locations are available which would be able to meet any perceived need for this type of employment development. The proposal would conflict with the council's own development plan – such development would normally have to be refused unless that conflict is outweighed by other material considerations. None have been put forward, except the false basis that the 1985 provided a relevant fall-back. There are no reasons why the section 52 agreement restrictions should be relaxed.

Planning conditions

If conditions are to be fit for purpose (as specifically demanded by the statutory consultees), then fencing and screening needs to be preserved for all time; there should be absolutely no room for expansion or intensification of uses; so too, there needs to be consistency in terms of how previous decisions have responded to these issues; conditions should not be phrased to allow essential requirements to be waived by private agreement e.g. "*unless otherwise agreed in writing*".

In any event the startling evidence is that conditions are ineffective - they have not been complied with in the past e.g. the fence shown on plan 1123/501B was never erected; a previous breach of condition notice was simply ignored; these applications are for retrospective development. The applicant has not observed ordinary town and country planning requirements, but simply does as he pleases.

Conclusion

The courts will always have a role to play in cases where the national policy interest would effectively be overridden in this way. How much more money does the council wish to waste on

² Application DC/2011/01240†* - Change of Use from Egg Production Unit to Workshop and Commercial Garage Ty'r Pwll Farm, Hardwick, Abergavenny

making poor planning decisions? We sincerely hope, therefore, that our client's objections are given the seriousness they deserve this time. It has already taken two successive court victories in order to highlight previous errors. The Council still owes our client more than £20,000 for those victories, on top of the £21,000 already paid (or agreed to be paid).

There are really no defensible grounds for approving these applications, whilst a planning refusal would still leave the applicant with a right of appeal. If that were to happen then it would also provide a fair and transparent arena in which to have these matters finally decided.
Yours faithfully,

Keystone Law

Objection to DC/2013/00456 and DC/2012/00613

St Arvans Community Council Planning Representations.

Please see

These sites DC/2012/00613 and DC/2013/00456 should be considered as a single site. This was indicated by the third Judicial Review. The design and access statements are the same. The activities are shared by both sites. The facilities are shared by both sites as is the access road. The owners of the sites are the same. The impact of the sites is compounded.

Please see these videos to provide a visual commentary and evidence of the comments I have made here:

<http://youtu.be/fW7O9UxnlBo>

<https://www.youtube.com/watch?v=ocvVWntCyqc>

St Arvans Community Council have not addressed the judgements of the Judicial Reviews in these responses at all, nor given any policy that supports their conclusions.

"DC/2013/00456

Proposed change of use to the storage and repair of light motor vehicles and a trailer. Retention of vehicle washing area and ancillary parking. Land including existing workshops. New Barn Workshop Site, St. Arvans NP16 6HE.

Please find below some observations and/or recommendations regarding the above application, which the Council would be grateful if you would take into account when considering the application.

IT IS RECOMMENDED THAT THE APPLICATION BE *Approved*

It was unanimously agreed that the recommendation to MCC be Approval as there have been only minor changes to this application since the previous submission. The Council considers its original comments still valid.

If this application is approved, the Council requests that it be advised of any conditions made and it would expect that any such conditions would be strictly enforced due to the history of these applications."

And for DC/2012/00613

"IT IS RECOMMENDED THAT THE APPLICATION BE *Refused* *It was unanimously agreed that the recommendation to MCC be Refusal.*

There have been only minor changes to this application since the previous submission. It was therefore decided that the Council should recommend Refusal, as before, and that its previous comments should be taken into account"

It is highly significant that St Arvans Community Council have stated that it considers it's original comments still valid.

These are laid out below and need to be considered when determining these latest applications.

SACC appear not to be aware of public footpaths that run from this site. Footpath 329/32/4 is not on their footpaths map on the St Arvans Community Council website and yet the visual impact of these sites is significant from this.

10th July 2013 St Arvans Community Council made this comment

"Taking into account the business proposed on the site, MCC Planning Department should apply appropriate hours of use restrictions"

And for the application for this site DC/2012/00886 the SACC had said:

13th November 2012

Whilst recommending approval, please note the following observations:

- 1) *The original application had no conditions of hours of usage. It is recommended that suitable hours of use be appended to the application e.g. 7.00am to 18.00pm weekdays, 7.00am to 13.00pm Saturdays and excluding Bank Holidays.*

And for the same site on the application prior to this DC/2011/00697 St Arvans Community Council recommended **refusal** and this was at a time St Arvans Community Council and indeed Monmouth County Council believed the site has existing use. This was before this was proved false by the subsequent Judicial Reviews and when the Certificate of Existing use application DC/2012/00594 failed to establish existing use.

Date: 9th October 2012:

Application No: DC/2012/00613 Change of Use of New Barn Workshops to Include Storage of Builders Materials etc. Date: 9th October 2012

IT IS RECOMMENDED THAT THE APPLICATION BE Refused

The Community Council makes the following observations on the Application:

- 1) *The applicant does not make clear how many containers may be stored in the yard nor does there appear to be any height restriction.*
- 2) *In the paragraph on Environmental Sustainability it implies that work will be carried out on the site without describing its nature. This would appear to be an additional activity to the "storage" of materials.*
- 3) *Without clear conditions on the future management of this section of the yard, it is difficult to see how the development fits in with the requirements of the AONB.*
- 4) *The site can be seen from footpath 379/21*
- 5) *Whilst the footpath leading down the drive of the yard has been established for many years and will now be a right of way, the definitive path runs slightly to the north within the boundary of the site. The applicant may therefore need to consider an extinguishment of this section of the path before proceeding as under section 5 of the MCC planning pro-forma.*

- 1) St Arvans Community Council has recommended refusal of this site throughout.**
- 2) They are concerned over the number of containers and that there is a height restriction.**
- 3) They are concerned about activities other than storage on this site.**
- 4) That this application does not meet the policies that protect the AONB**
- 5) The site can clearly be seen from the public footpath 379/21**
- 6) And that the footpath currently runs through the site and that this should be extinguished before proceeding.**

DC/2011/00697 SACC said:

"IT IS RECOMMENDED THAT THE APPLICATION BE Refused

The Community Council has a number of comments to make on this application:

The workshops have been used for motor vehicle maintenance and not commercial vehicle maintenance for a few years, and as such, there was little concern, and would therefore be no further concern if this activity was continued.

More recently, the workshops appear to have been used as a dumping ground for building waste, and have been the subject of complaint from neighbours reference the burning of noxious materials on the site. The application is therefore factually inaccurate on a number of points:

- *para 3 'Has the building, work or change of use already started?' should read Yes, not No.*
- *para7 should read Yes on both questions given that the application is for storage of waste material.*
- *para 17 should read Yes as above*
- *para24 The Community Council would seek assurance that no hazardous materials are to stored given a neighbour's recent complaint ref the burning of substances unknown which gave off noxious/unpleasant fumes*
- *para 25, the site is clearly seen from the footpath that essentially runs through the property, and at present is very unkempt "*

This application includes both current application sites.

- 1) SACC originally refused this application including the site for DC/2013/00456**
- 2) They did not want a commercial operation from these sites.**
- 3) They object to the building material storage.**
- 4) They state the site can clearly be seen from the public footpath that runs through the property.**
- 5) That the site is very "unkept".**
- 6) That they have serious concerns over the hazardous substances on site.**

Hazardous substances are highly prevalent within the motor industry, these are on site.

Oil, brake and clutch fluid, antifreeze, batteries, tyres, paint, welding gas, de-greasers and cleaning fluids etc.

The breaking of vehicles, which has occurred several times on this site also releases harmful substances.

Other items have been scrapped here too, old caravans, televisions, fridges, ovens and goodness knows what else.

What is contained within these shipping containers? It could be anything.

The building industry also uses a great many hazardous substances.

What exactly is on site?

And what will be permitted can be on site?

There have been several fires on site these should not be permitted at all.

There has been paint spaying of vehicles on site. (to the extent this became a statutory nuisance and Environmental Health served them a notice)

A wood burning stove was installed very recently, this had no planning permission and did not meet building regulations. this caused hazardous substances to escape and cause considerable nuisance and upset to the residential property next door.

A fire not correctly fitted can cause death.

20 JAN 2015

Objections to DC/2012/00613 and DC/2013/00456 Attn of:

Ref No:

Policies

These sites DC/2012/00613 and DC/2013/00456 should be considered as a single site. This was indicated by the third Judicial Review. The design and access statements are the same. The activities are shared by both sites. The facilities are shared by both sites as is the access road. The owners of the sites are the same.

Scrap Yard.

This site has been used as a scrap yard, even in the period after having the permissions quashed. See this video to show the harm this does:

<https://www.youtube.com/watch?v=ocvVWntCyqc>

Jon Bladon, the current occupier of the "workshops" said "*just what is needed a good scrap yard in the chepstow area*"

This gives a good indication of the intent of the current occupier and the messages given to him from the owners.

Retrospective Applications

It is abundantly clear that the applicants have shown very little regard for the planning process from the outset. The Council ought to remind itself that, for very good reasons of public policy, the planning system requires applicants to seek permission before development is commenced, whereas this applicant has at each and every step chosen to implement his plans prior to submitting retrospective applications. This serves purely private interests wholly at the expense of the AONB, the ecological environment and is detrimental to residential amenity and other lawful third party interests.

Section 52

The site still has a section 52 upon it. This is a legally binding contract, the applicant has ignored this throughout. It is a material consideration, can the section 52 be added to the planning report.

Judicial Reviews

These have made significant impacts upon how this site should be determined.

They are a material consideration and should be added to this application.

Including all the grounds and the decisions.

THIS AGREEMENT is made on the 6th Day of February

One thousand nine hundred and eighty five **BETWEEN MONMOUTH DISTRICT COUNCIL** of Mamhilad Pontypool in the County of Gwent (hereinafter called "the Council") of the one part and **MR. DENNIS JAMES STEPHENS** of The Highlands St. Arvans Near Chepstow in the County of Gwent and **WILLIAM ALLAN STEPHENS** of 2 Laburnum Cottage St. Arvans aforesaid (hereinafter called "the Owners") of the other part

WHEREAS:-

- (1) The Council are the local planning authority for the purposes of the Town and Country Planning Act 1971 for that part of the Monmouth District which is not contained within the Brecon Beacons National Park
- (2) Mr. R.G. Hopton Architect/ of Ellinsyde Gower Lane Woodcroft Near Chepstow Gwent acting as agent for the Owners did by a planning application referenced under number 21850 and dated the seventh day of February One thousand nine hundred and eighty-four apply to the Council for planning permission for the construction of a garage on a plot of land adjoining New Barn St. Arvans near Chepstow aforesaid being land within the ownership of the owners all which said parcel of land is situate at and known as land adjoining New Barn St. Arvans Near Chepstow aforesaid (hereinafter referred to as "the application site") in the County of Gwent which said area of land is more particularly shown edged red on the plan annexed to this agreement (hereinafter called "the said plan")
- (3) The Owners are inter alia seised in fee simple absolute in possession of all the land more particularly shown edged green on the said plan annexed to this agreement all which said land is under the full control of the Owners and situate outside the Brecon Beacons National Park The
- (4) Council have requested that upon *the* completion of the works relating to the erection of the proposed garage in the location shown coloured orange on the land shown encompassed by the red line on the said plan being the application site the existing garage shown coloured yellow and encompassed by the blue line on the said plan being the central site shall cease to be used as a commercial garage
- (5) The Council have also requested that once the use of the existing garage on the land shown coloured yellow on the said plan has ceased then the said garage shall henceforth only be used as a garage for the storage of a maximum, of two private motor vehicles and the said garage shall be restricted to use as a domestic garage appurtenant to the private residential dwelling house known as Parkfield St. Arvans Near Chepstow aforesaid
- (6) The Council have also requested that the proposed garage to be erected on the land shown coloured orange on and encompassed by the red line n the said plan being the application site shall be used as a commercial garage only comprising

the storage and repairing of commercial vehicles owned and used by the Owners of the said garage and their successors in title lessees or occupiers for the time being and for no other purpose whatsoever

(7) The Council have also requested that certain landscaping works shall be undertaken on the site and that the plants duly planted pursuant to the approved scheme shall be retained and maintained to the satisfaction of this Council.

(8) The Council have requested that certain work should be undertaken on the site in accordance with the conditions hereinafter contained in the Schedule hereto.

(9) The Council is satisfied that the proposed development applied for disclosed by the plan specifications and particulars deposited is such as may be approved by the Council under the Town and Country Planning Act 1971

(10) The Council are minded to grant planning permission for the development applied for subject to certain conditions hereinafter contained provided the Owners covenant in manner hereinafter appearing

NOW THIS AGREEMENT WITNESSETH as follows:-

1(a) This agreement is made pursuant to the provisions of Section 52 of the Town and Country Planning Act 1971 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 Section 11 of the Monmouthshire County Council Act 1970 Section 111 of the Local Government Act 1972 and all other powers enabling the Council and the owner to enter into the agreement and in consideration of the covenants hereinafter contained

(b) Nothing in this agreement is or amounts to or shall be construed as a planning permission or approval

(c) The County Court in whose district the land is situate shall have full jurisdiction to hear and determine any proceedings arising from or relating to this agreement or for the enforcement of its terms or anyone of them.

2. The Owners with intent to bind the total area of land which is encompassed by the green line on the plan annexed hereto being the land comprised within the ownership of the Owners together with the land encompassed by the red line on the said plan (being "the application site") and the land encompassed by the blue line on the said plan (being "the central site") which said areas of land are subject to the provisions of this agreement into whosoever hands the same may fall whether wholly or partly jointly and severally covenant with the Council as

follows-

(a) that upon the completion of the works relating to the erection of the proposed garage in the location shown coloured orange on the plan and is shown land shown encompassed by the red line on the said being the application site adjacent to New Barn then the existing garage shown coloured yellow on the land encompassed by the blue line on the said plan being the central site shall immediately cease to be used as a garage for commercial vehicles including the parking storage or repairing of the said commercial vehicles.

(b) that the Owners and their successors in title shall not cause or permit the said building shown coloured yellow and encompassed by the blue line on the said plan being the garage located on land adjacent to Parkfield St. Arvans aforesaid to be used as a garage for the storage or repairing of commercial vehicles being vehicles owned and used by the said Owners or by the successors in title lessees and occupiers from the date referred to in paragraph (a) hereinbefore contained being the date when the Owners complete the construction of the garage on the application site)

(c) :That the Owners and their successors in title shall ensure that the said building shown coloured yellow and encompassed by the blue line on the said plan being the garage located on land adjacent to Parkfield At. Arvans aforesaid shall be used as a private domestic garage only ancillary to the use of the dwelling house situate at and known as Parkfield St. Arvans near Chepstow aforesaid and for no other use whatsoever from the date referred to in sub-clause (a) hereinbefore contained upon which said date the Owners complete the construction of the garage on the application site shown encompassed by the red line on the said plan)

(d) that when the works relating to the erection of the proposed garage in the location shown coloured orange on the said plan have been completed the said building shall not be used as a commercial garage or for any other purposes whatsoever until the use of the existing garage shown coloured yellow and located within the land encompassed by the blue line on the said plan being the central site has ceased in accordance with the terms of sub-clause (b) hereinbefore contained

(e) that when the use of the existing garage shown coloured yellow on the said

plan as a garage for commercial vehicles has ceased the proposed garage shown coloured orange on the said plan shall henceforth be used only as a garage for commercial vehicles and for no other use whatsoever

(f) for the purpose of the provisions of this instrument the words "use as a garage for commercial vehicles" shall be construed as being limited to the storage and repair of commercial vehicles owned and used by the Owners and their successors in title lessees and occupiers of the said application site and those commercial vehicles owned by the said Owners and their successors in title lessees and occupiers for the time being of the site

(g) that the Owners shall construct and provide a reversing bay on that part of the land shown encompassed by the blue line on the said plan being the central site which is located between the existing garage shown coloured yellow on the said plan and the public highway in order to ensure that motor vehicles may gain access to and egress from the site in a forward gear at all times all such works to be completed within a period of three months from the date upon which the commercial use of the garage ceases

(h) that notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1972 the proposed garage shown coloured orange on the said plan shall not be used for any purpose other than the use described in sub-clause (e) hereinbefore contained stated in Class III or Class IV to the said Order

(i) for the purpose of the provisions of this instrument the words 'domestic garage' shall be construed as being limited to the storage and repair of a maximum of two private motor-vehicles owned and used by the owner of the dwelling house situate at and known as Parkfield St. Arvans near Chepstow aforesaid or his successors in title lessees or occupiers

(j) that they will jointly and severally observe and perform all conditions which are imposed in a planning permission issued by the Council pursuant to the planning application referenced under numbers 21350 hereinbefore recited and which said conditions are contained in the schedule hereto

(k) that on the land encompassed by the red line on the said plan being the application site a landscaping scheme which is duly approved by the Council shall be commenced in the first planting season following the substantial completion of the development of the site or fiat part of the site to which the landscaping relates

and duly completed to the satisfaction of the Council and all plants planted in accordance with the said scheme shall be staked maintained retained (and replaced in the case of failed growth) and shall comply strictly with the provisions of the approved scheme.

3. This agreement shall be null and void if for any reason the Council decides not to grant planning permission for the development proposed by the Owners hereinbefore recited.

4. The Owners with intent to bind the total area of land which is encompassed by the red line on the said plan being 'the application site'¹ and the total area of land encompassed by the blue line on the said plan being 'the central site'¹ which said areas of land are subject to the provisions of this agreement into whosoever hands the same may fall whether wholly or partly hereby jointly and severally covenant with the Council not to make any claim for compensation nor serve any Purchase Notice pursuant to the provisions contained in the Town and Country Planning Act 1971 on the Council in consequence of any refusal of permission to develop the said land in a manner which inconsistent with the covenants contained herein or of any conditions which may be attached to any subsequent permission for any development which are consistent with the covenants contained herein.

IN WITNESS whereof the Council has here unto caused their common seal to be affixed and the owners have here unto set their hands

and seals the day and year first before written

THE SCHEDULE

Conditions intending to apply to planning permissions

1. the development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications with the exception of the matters referred to in condition 2.
2. The east and west elevation shall be finished with smooth sand/cement render colour washed white or cream.
3. The proposed stonework shall be of local natural stone, properly dressed and coursed.

4. No refuse shall be disposed of by burning on the site.
5. There shall be no storage of materials, products or waste on land on the site outside the buildings hereby approved.
6. The driveway(s) shall be formed to a gradient not exceeding 1 in 8.
7. Nothing which may cause an obstruction to visibility nor any structure exceeding 0.9 m in height shall be placed within the visibility splay of 3 by 125 m notwithstanding the provisions of the Town and Country Planning General Development Order 1977-81..CP3
8. None of the buildings hereby permitted shall be occupied until a service road has been constructed to a standard as may be agreed with the Local Planning Authority
9. A turning space shall be provided within the site o enable vehicles to enter and leave the site in a forward direction.
10. The development hereby permitted must be begun not later than the expiration of five years beginning with the date on which the permission is granted.
11. The premises shall be used for the storage and rep-air of vehicles solely owned by the applicant and for no other purpose (including any other purpose in Class IV of the Town and Country Planning (Use Classes) Order 1972/ without the prior approval of the Local Planning Authority
12. The proposed new access shall be constructed in accordance with drawing No. 460/1A to the detailed retirements and satisfaction of the Local Planning Authority
13. The existing access shall be permanently closed off at its junction with the proposed access and shall not be used in connection with the proposed garage.
14. The hedge shall be replanted behind the visibility splays of 3 x 125 m within 3 months of the occupation of the proposed garage.

THE COMMON SEAL of MONMOUTH DISTRICT COUNCIL

was hereunto affixed

in the presence of:-

Chairman -

Head of.-Administrative & Legal Services

SIGNED SEALED AND DELIVERED) / by the said DENNIS JAMES
STEPHENS) (• in the presence of:-)

SIGNED SEALED AND DELIVERED) by the said WILLIAM ALAN
STEPHENS) in the presence of)

Planning Sub Committee 18th April, 1984.

Present
Cllr. K. Reece - Chairman
N. Price J. Lewis
D.W. Edwards L.
Biggs. L. Jones L.M.
Mr. Dixon C.C.

P.O.
D.C.C.
Mr. Hopton Agent.
Mr. Foxwell Agent
Mr. Stephens Snr and 2 sons.
Mr. Woodrow Gwent C.C.
Mr. Sunderland C.C.

D.C.O. did introductions and outlined the application

Hopton I don't think the scheme needs much enlargement. Mr. Hanson has explained it. It is not trying to enlarge Mr. Stephens' empire but to move it out from the village and tidy that up and this will be beneficial to the village. The garage in the village has had quite a few near misses with accidents. This is an enclosed area and will not be seen and I would think we are going back to what it must have been.

At this stage I went to car to look for notes for J.H.

D.C.O. I did not know that it was your intention to close the premises in the village? if you opened up here.

Applicant Yes that is my intention.

Biggs Are you prepared to enter into an agreement to that effect.

Applicant Yes.

Edwards Would you be prepared to alter the entrance to make it right angles with the road?

Agent There is a legal right of way from the farm gate to the road.

J. Lewis The lorries when they go out stay out all day do they?

Applicant Yes it would be 4 times in and 4 out.

Reece Do you only do minimum repair work here?

Applicant Yes, it would all be done here except major things and these would go to the garage as at present.

Mr. Woodrow You have mentioned exit to the right angle to the road. There is not very good visibility. We would want 95% and you could only get 45%. Cars tend to put their foot down on the straight road after being stuck behind lorries. I would agree the access at your existing premises is more dangerous than this one and if the other premises were closed and no similar activity carried on there we would withdraw our objection.

D.C.O. I did point out that if this was known it could be covered by a Section 52 agreement, this is a legal agreement (at this point P.O. requested information off file).

Jones The white lines could be extended on the corner if you are worried about people overtaking.

D.C.O. Have you any plans for extending the business in the future?

Applicant Not really, perhaps 1 or 2 vehicles in a few years but it would only be within this wall.

Reece You would have to put in a further application if that arose.

D.C.O. Once you gave permission in principle it is difficult to refuse.

Agent The vehicles are parked here and they come down to the village for maintenance and repair and they find this a bit of bother especially on Saturdays. It would be better if it was all up here.

Edwards Would you retain the wall and tidy the site up here?

C.S. If the access could be squared up it could be brought up further onto the straight part of the road.

Chairman If the Committee was to approve it that is something that could be discussed with the C.S. and applicant. Chairman thanked the applicant agent etc for attending and they left the meeting.

P.O. We seem to be getting off the right track. It is the principle of development in this area of A.O.N.B. and not the access that we object to. It is the County Surveyor who objects to that.

Lewis I would not agree there is an established use on the site.

D.C.O. No it is an unauthorized development.

Lewis I think the main question is an access here.

Reece I can remember lorries here since I was a boy certainly since 1962.

C. C. Mr. Sunderland C.C. are behind the application most of the buildings will be behind the wall and the trees and it will get rid of the garage in the village* I have seen some very narrow misses

D. C.O. I think you see it as the lesser of two evils.

C. C. Certainly it is a problem.

Mr. Woodrow If this entrance can be conditioned it would be very beneficial.

Edwards If he takes the other building down it would tidy that site up.

P.O. But it would be creating another building in the area of O.N.B and it is spreading out and is a precedent.

Lewis I don't think he needs to go higher than the wall. He could drop the ground level.

D.C.O. You might undermine the wall.

P.O. You will see it from the road.

Reece It could have green tiles.

D.C.O. It is repair of existing buildings and as you can see there is only one left and that is not capable of repair, so they will all be new buildings. We will be having plans in for those.

Mr. Woodrow (See letter on file from Gwent County Surveyor)

P.O. The former Gwent County Council and us have refused this site for housing and lorry depot before. The County Planning object on this application also.

This is open countryside in an are of outstanding natioanl beauty should we be even considering recommending approval of this type of development in this area.

D.C.O. If you are considering approval of this development, I would ask you to

- a. Approach the applicant that the development should be dept to this site and not spread out to their other land in their ownership.
- b. Screening
- c. Existing access to go across field and land access to be made onto road at that point.

Mr. Woodrow I think the squared up access would be beneficial the vehicles have to turn through 120 130 o coming up from St. Arvans and I think respectable radius that could be avoided.

D.C.O. If the other premises were closed you would think it would be an overhaul benefit and you would withdrawn your objections.

Mr. Woodrow Yes that is so.

Lewis If you put the road in there it would leave a little patch, what would they do with that.

Reece They could plant trees.

Price What will they put on the roof, I think P.O. wants to stipulate that he should. (Inspection of the site of the suggested access took place). !

L.M. I would prefer to have the access where it is at the moment than alter it because people always put there foot down on that straight bit. If you extend the white lines it would be different.

Mr. Woodrow I would have to speak to a colleague of mine on that.

Lewis' I would recommend approval subject to the access being sorted out and a section 52 .

D.C.O. There is objections from the County Planning and the Highways. If they don't agree to the new access you will sustain the objection and issue a directive.

Woodrow We would have to consider this.

DCO Personal to Mr. Stephens business and Section 52 agreement to keep the existing premises closed and look into having the existing building pulled down and subject to new access.

1. New Access
2. Personal to Stephens Business.
3. Section 52.

P.O. You are creating a very serious precedent here.

J.Lewis Look at the top of the Star Pitch. ,

Price I think this site has been established on this site for years you can't see it here and I think we should encourage these businesses.

P.O. Read out officers recommendation for refusal and reasons.

J.Lewis You won't change our minds.

P.O. I must read it and stress you're breaching a policy that has rarely ever been breached.

Proposed Approval subject to 2nd by Cllr. N. Price.

- A. Personal to Mr. Stephens business.
- B. New Access if possible.
- C. Section 52 and demolish the existing premise.

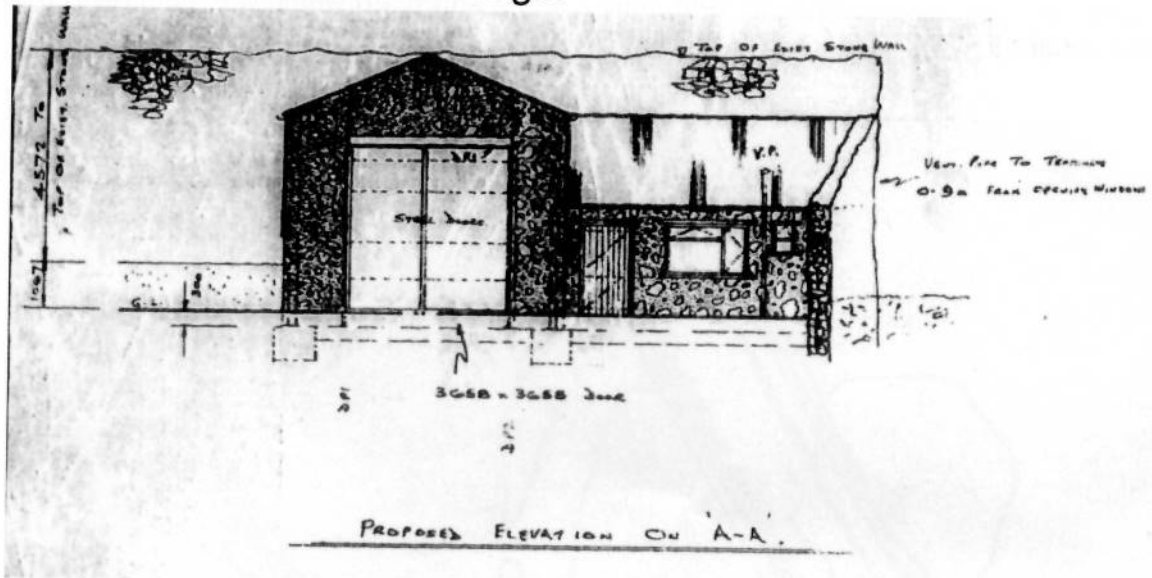
P.O. There will be no hedge left if you have a new access.

Chairman We can ask him to plant some more trees.

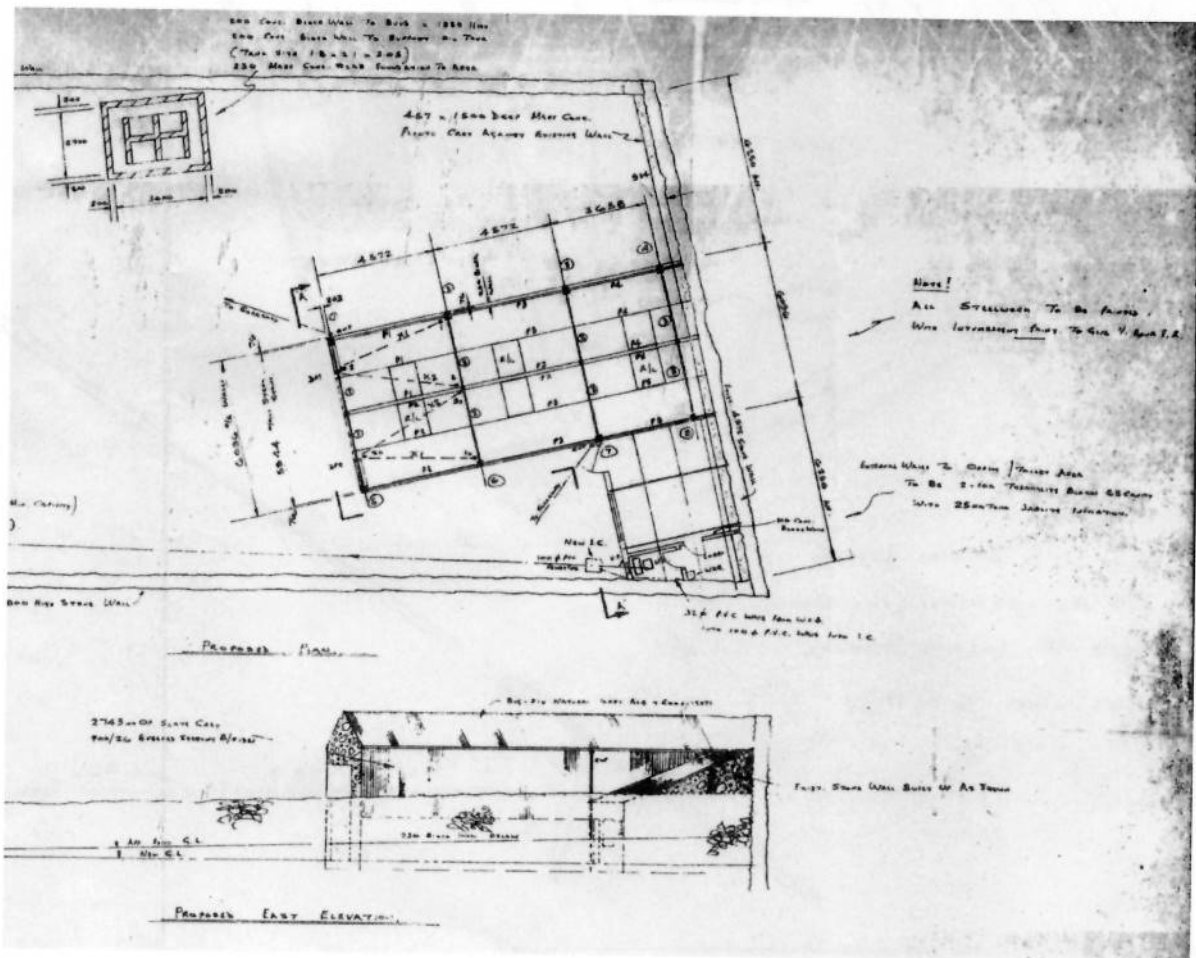
Resolved approve subject to the above.

Unanimous.

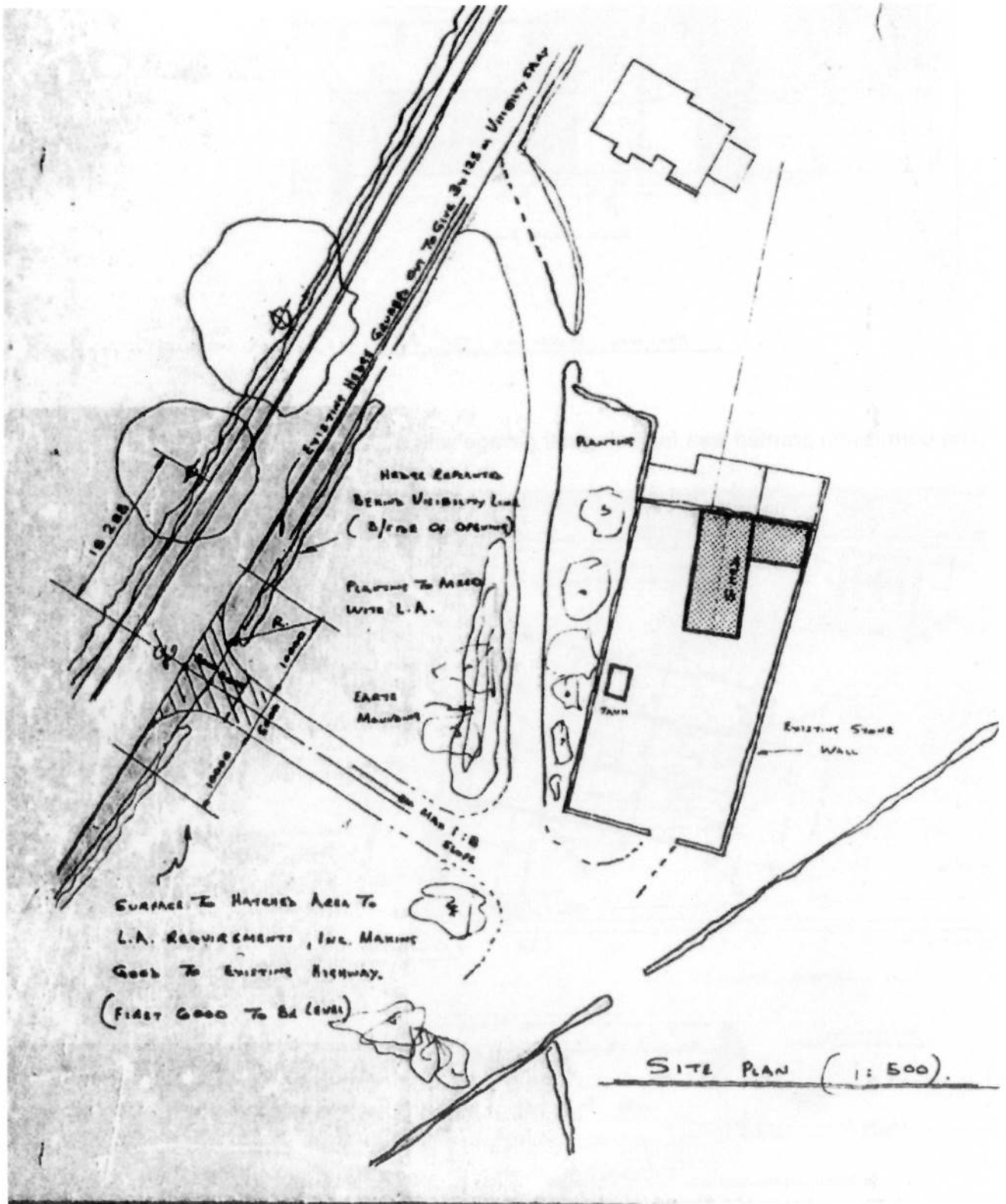
The 1985 Permission Drawings.



The permission granted was for a singular garage with a lean to at the side.



Clearly there is no existing building in 1985 only a stone courtyard which was supposed to have been retained.



Additional Policies in regard to DC/2012/00613 and DC/2013/00456

Re-determining Applications:

"In carrying out the re-determination the Committee will have to have regard to the issues raised in the litigation, notably the need to give reasons to support any grant of planning permission and the need to ensure that the consideration is based on accurate information."

Policy S12 – Efficient Resource Use and Flood Risk

All new development must:

Demonstrate sustainable and efficient resource use – this will include energy efficiency/ increasing the supply of renewable energy, sustainable construction materials/ techniques, water conservation/ efficiency and waste reduction;

The application has not demonstrated this Policy at all on these developments, both of which must be considered as new developments, despite the fact they are retrospective applications..



Policy S17 – Place Making and Design

Development shall contribute to creating high quality, attractive and sustainable places. All development proposals must include and promote high quality, sustainable inclusive design which respects local distinctiveness, respects the character of the site and its surrounding in order to protect and enhance the natural, historic and built environments and to create attractive, safe and accessible places



These applications fail every aspect of this policy, the design and development is utilitarian

industrial, ugly and detracts from the local distinctiveness and the character surrounding area. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.

Policy RE2 - The Conversion or Rehabilitation of Buildings in the Open Countryside for Employment Use

Proposals for the conversion or rehabilitation of existing buildings in the open countryside, to employment use will be permitted provided that all the following criteria are met:

- a) the form, bulk and general design of the proposal, including any extensions, respect the rural character and design of the building;*
- b) in respect of farm diversification proposals, any necessary rebuilding work should respect or be in sympathy with the location and traditional characteristics of the building; in all other cases the buildings should be capable of conversion without major or complete reconstruction;*
- c) the more isolated and prominent the building the more stringent will be the design requirements with regard to new door and window openings, extensions and means of access, service provision and curtilage, especially if located within the Wye Valley AONB;*
- d) the conversion of modern farm and forestry buildings will only be permitted if the building has been used for its intended purpose for a significant period of time. Particularly close scrutiny will be given to proposals relating to buildings that are less than 5 years old, or which are known to have been used for their intended purpose for less than 5 years, and where there has been no change in farming or forestry activities on the unit since the building was erected permission may be refused;*
- e) the proposal including curtilage and access, is in scale and sympathy with the surrounding landscape and does not require the provision of unsightly infrastructure and ancillary buildings; and*
- f) the building is capable of accommodating the proposed use without substantial extension.*

The above criteria will also be applied to proposals to extend buildings that have already been converted.

These applications will not provide any employment therefore this policy is not met.

Even so these applications fail every aspect of this policy. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.



Policy LC1 - New Built Development in the Open Countryside

There is a presumption against new built development in the open countryside, unless justified under national planning policy and/or LDP policies S10, RE3, RE4, RE5, RE6, T2 and T3 for the purposes of agriculture, forestry, 'one planet development', rural enterprise, rural / agricultural diversification schemes or recreation, leisure or tourism.

In such exceptional circumstances, new built development will only be permitted where all the following criteria are met:

- a) the proposal is satisfactorily assimilated into the landscape and complies with Policy LC5;*
- b) new buildings are wherever possible located within or close to existing groups of buildings;*
- c) the development design is of a form, bulk, size, layout and scale that respects the character of the surrounding countryside; and*
- d) the development will have no unacceptable adverse impact on landscape, historic / cultural or geological heritage, biodiversity or local amenity value*

These applications are both in the Open Countryside according to the UDP upon which all planning decisions must be based. These applications also fail Policy LC5 see below.

These applications are not for "the purposes of agriculture, forestry, 'one planet development', rural enterprise, rural / agricultural diversification schemes or recreation, leisure or tourism" so the presumption should be against these applications, and so these applications fail this policy. . Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this. The site is isolated from other buildings, and the development design does not respect the surround countryside at all. The development will have an adverse effect on the landscape, the historic and cultural heritage and the biodiversity and the local amenity of the neighbouring residential property. This development is within an area subject to international and national landscape designation. being within the Wye Valley AONB. It is also within an area identified as being of historical and cultural importance.



Policy LC5 – Protection and Enhancement of Landscape Character

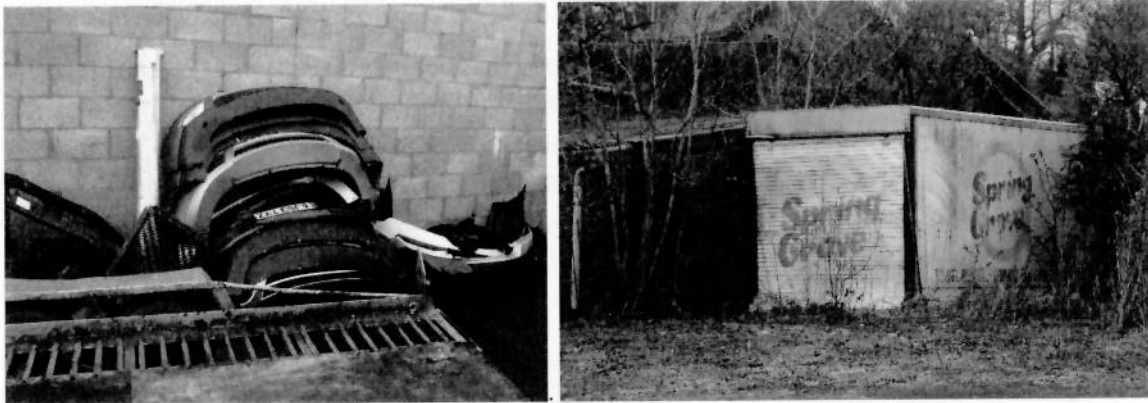
Development proposals that would impact upon landscape character, as defined by LANDMAP Landscape Character Assessment, must demonstrate through a landscape assessment how landscape character has influenced their design, scale, nature and site selection.

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 by:

- a) Causing significant visual intrusion;*

- b) Causing significant adverse change in the character of the built or natural landscape;
 - c) Being insensitively and unsympathetically sited within the landscape;
 - d) Introducing or intensifying a use which is incompatible with its location;
 - e) Failing to harmonise with, or enhance the landform and landscape;
- and /or
- f) Losing or failing to incorporate important traditional features, patterns, structures and layout of settlements and landscapes of both the built and natural environment.

Particular emphasis will be given to those landscapes identified through the LANDMAP Landscape Character Assessment as being of high and outstanding quality because of a certain landscape quality or combination of qualities.



These applications fail every aspect of this policy as above. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this. This development is within an area subject to international and national landscape designation. being within the Wye Valley AONB. It is also within an area identified as being of historical and cultural importance.

This area is classified as "outstanding" according to the landmap assessment.

"High Key characteristics of landscape are very vulnerable to change and/or have significant value as a landscape resource. Development should not be taking place in these areas."

It is visually incongruous in the surrounding landscape, being urban and utilitarian, and of very poor design. It detracts for the beauty of the rest of the area, and is situated in a very prominent position. The use is total unsuitable for this location, it's industrial B2 use in a outstanding rural area.



HISTORIC LANDSCAPES

6.3.48 *Planning Policy Wales sets out national development control policy on Historic Landscapes and is not repeated here. Chapter 6 Conserving the Historic Environment should be referred to for guidance on protecting Historic Landscapes and their setting.*

6.3.49 *Part 2 of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales identifies the following landscapes within the plan area:*

Blaenavon

Gwent Levels

Lower Wye Valley

These applications fail every aspect of this policy as above. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.

The whole of the lower Wye Valley, from Goodrich to Chepstow, has been included in the **Register of Landscapes of Outstanding Historic Interest** in Wales.

Further this application is directly adjacent to the grade 1 listed Historic parkland of Piercefield park, and the Racecourse.

Chapter 6 Conserving the Historic Environment states:

"6.1.1 It is important that the historic environment – encompassing archaeology and ancient monuments, listed buildings, conservation areas and historic parks, gardens and landscapes is protected."

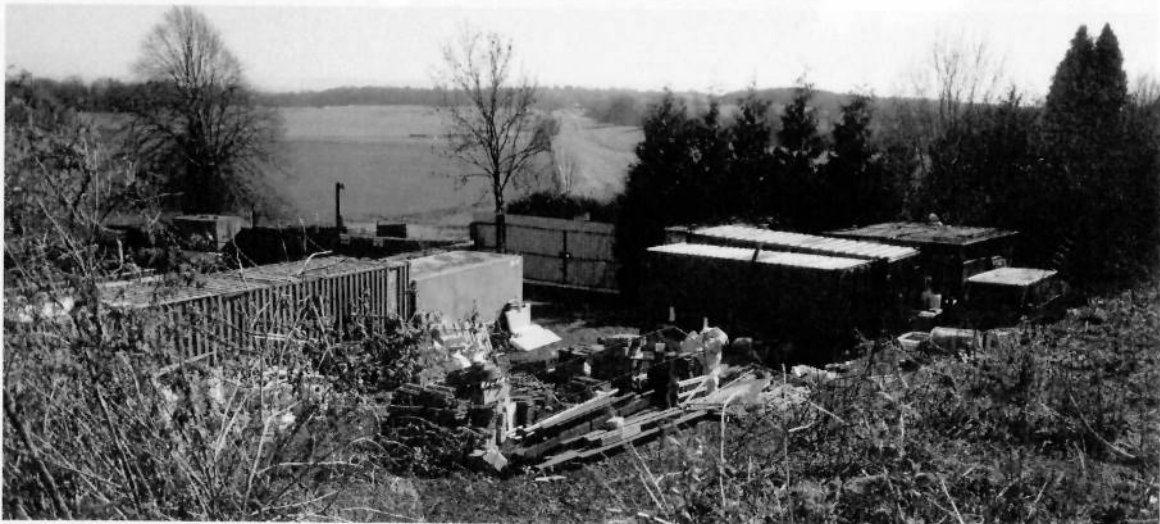
The Welsh Government's objectives in this field are to: preserve or enhance the historic environment, recognising its contribution to economic vitality and culture, civic pride and the quality of life, and its importance as a resource for future generations"

This area has been identified as being within a registered area included in the "Register of Landscapes of Outstanding Historic Interest in Wales." it is therefore an area that needs to be preserved and enhanced.

It goes on:

"6.1.2 Local planning authorities have an important role in securing the conservation of the historic environment while ensuring that it accommodates and remains responsive to present day needs.

This is a key aspect of local authorities' wider sustainable development responsibilities which should be taken into account in both the formulation of planning policies and the exercise of development management functions."



Policy NE1 – Nature Conservation and Development

Development proposals that would have a significant adverse effect on a locally designated site of biodiversity and / or geological importance, or a site that satisfies the relevant designation criteria, or on the continued viability of priority habitats and species, as identified in the UK or Local Biodiversity Action Plans or Section 42 list of species and habitats of importance for conservation of biological diversity in Wales, will only be permitted where:

- a) the need for the development clearly outweighs the nature conservation or geological importance of the site; and*
- b) it can be demonstrated that the development cannot reasonably be located elsewhere.*

Where development is permitted, it will be expected that any unavoidable harm is minimised by effective avoidance measures and mitigation. Where this is not feasible appropriate provision for compensatory habitats and features of equal or greater quality and quantity must be provided.

Where nature conservation interests are likely to be disturbed or harmed by development proposals, applications must be accompanied by an ecological survey and assessment of the likely impact of the proposal on the species /habitats, and, where necessary, shall make appropriate provision for their safeguarding.

Development proposals shall accord with nature conservation interests and will be expected to:

- i) Retain, and where appropriate enhance, existing semi-natural habitats, linear habitat features, other features of nature conservation interest and geological features and safeguard them during construction work;*
- ii) Incorporate appropriate native vegetation in any landscaping or planting scheme, except where special requirements in terms of purpose or location may dictate otherwise;*
- iii) Ensure the protection and enhancement of wildlife and landscape resources by appropriate building design, site layouts, landscaping techniques and choice of plant species*
- iv) Where appropriate, make provision for on-going maintenance of retained or created nature conservation interests.*

These applications fail every aspect of this policy as above. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.



The fact this site has already been developed should not prevent an assessment based upon the surrounding countryside being made.

The evidence from the surrounding areas shows that this is an ecologically sensitive area and there should be no development of this sort here at all. Extra surveys have been requested, bat surveys particular should have been carried out **BEFORE** development, this not being done is unforgivable at best possibly criminal.

The protected species identified around this site by the ecology report written for the racecourse CS/0029 and the assessment on the fields which adjoin this site and the assessment of the field adjacent to the A466 directly opposite the site CS/0221 have been identified to include:

European protected species:

Greater horseshoe bat, Lesser horseshoe bat, Dormouse (potential to be on site only)

Myotis bat (unspecified species), Great crested newt (potential to be on site only)

Soprano pipistrelle, Common pipistrelle, Natterer's bat, Brown long-eared bat, Whiskered bat, Noctule

UK protected species:

Bluebell, Badger, Common frog, Breeding birds, Slow worm, Grass snake.

The removal of fields in such an important area and the laying down of so much hard standing is totally at odds with the policies set out and should be refused and as it's a retrospective application, the owner should be made to reinstate it all. This is simply not acceptable behaviour.

Policy DES3 – Advertisements

Proposals for advertisements will only be permitted where: advertisements;

b) if located within the open countryside they would not unacceptably detract from the rural setting of the locality;

c) if located in a Conservation Area, they would not unacceptably detract from the character or appearance of the area and if a hanging sign, would not result in undue visual clutter. They should be of an appropriate size and materials for the building from which they hang with a traditional bracket;

d) having regard to the existing number and siting of advertisements in the locality the proposal would not result in an unacceptable clutter of

e) if located within the open countryside or Conservation Areas, illumination is only appropriate to uses that reasonably expect to trade at night.



These applications have had advertisements that Monmouthshire's Planning Officer Paula Clarke has considered to not need planning permission.

She said in an E-mail dated 8th May 2012:

"I would advise you that the sign would be deemed consent under Class 6 of the Advertisement Regulations, therefore express consent from the Council would not be required in this instance."

Therefore we have to presume that as far as enforcement is concerned at MCC, this advertising will be permitted, even although it has not been applied for.

This advertising does not meet the criteria under class 6 of the Advertisement Regulations class 6, this applies to Courtyards, it is not in a courtyard, and the public right of way runs past it. The dictionary definition is :forecourt is a courtyard in front of a building

These applications fail every aspect of this policy as above. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.



Policy S13 in regard to DC/2012/00613 and DC/2013/00456

Policy S13 – Landscape, Green Infrastructure and the Natural Environment states:

Development proposals must:

1. Maintain the character and quality of the landscape by:

(i) identifying, protecting and, where appropriate, enhancing the distinctive landscape and historical, cultural, ecological and geological heritage, including natural and man-made elements associated with existing landscape character;

(ii) protecting areas subject to international and national landscape designations;

(iii) preserving local distinctiveness, sense of place and setting;

(iv) respecting and conserving specific landscape features, such as hedges, trees and ponds;

(v) protecting existing key landscape views and vistas.

2. Maintain, protect and enhance the integrity and connectivity of Monmouthshire's green infrastructure network.

3. Protect, positively manage and enhance biodiversity and geological interests, including designated and non-designated sites, and habitats and species of importance and the ecological connectivity between them.

4. Seek to integrate landscape elements, green infrastructure, biodiversity features and ecological connectivity features, to create multifunctional, interconnected spaces that offer opportunities for recreation and healthy activities such as walking and cycling.

These applications fail every aspect of this policy as above. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.

This development is within an area subject to international and national landscape designation. being within the Wye Valley AONB. It is also within an area identified as being of historical and cultural importance.

It fails everyone of these policies and unless there are material reasons that mitigate, (none at all have been provided) this the applications should be failed.



The National Planning Policy Framework (NPPF) for England has a "presumption in favour of sustainable development". However this does not automatically apply in AONBs because (under NPPF paragraph 14 footnote 9) there are other specific policies in the NPPF that indicate that great weight should be given to the purpose of conserving and enhancing the natural beauty of the AONB and major development restricted (paragraphs 115 & 116). This does not constitute a favour against sustainable development in AONBs and indeed reinforces that change (i.e. development) will occur in many aspects of life and the environment but that where change does occur it must be managed in a manner which contributes to a better quality of life for current and future generations, without undermining the quality of the natural environment.



The European Landscape Convention (ELC) promotes the protection, planning and management of landscapes and reinforces the approach to landscape character

Fields have been bulldozed into banks, to form a large flat area of hard-standing, trees removed and hardstand of the most basic kind extensively applied over the majority of the site. Shipping containers, building materials, vehicles, including end of life vehicles stored in the open, bits of cars, domestic appliances and other rubbish stored in full view.

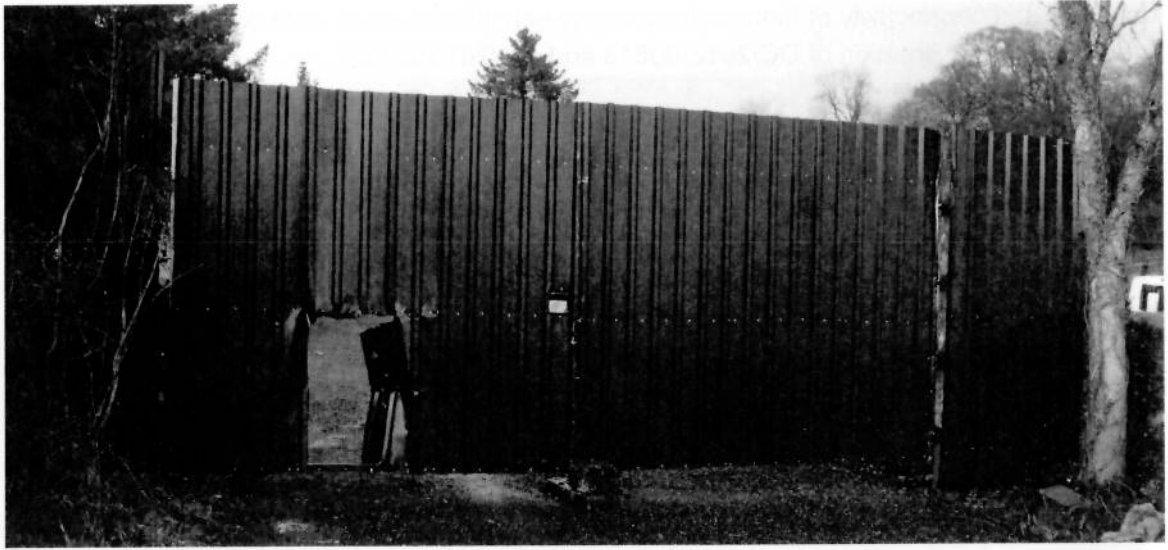


The few trees that have been planted, have been planted as a single row, so close to a protected stone wall, it will cause that wall damage and will provide very little in the way of screening of the site and will it provide only minimal ecological benefit and will not enhance the integrity and connectivity of Monmouthshire's green infrastructure network. In deed the

integrity and connectivity of Monmouthshire's green infrastructure network has been destroyed in the creation of DC/2012/00613 and DC/2013/00456.



The gates and buildings are blatantly ugly utilitarian, out of scale, and of very poor design. Simply painting them green does not overcome this, nor does planting a single row of trees on a small part of the border.



Objection to DC/2012/00613 and DC2013/00456

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."*



These applications fail every aspect of this policy as above. Any application that fails policy must be refused unless material considerations indicate otherwise. No material consideration has been proposed that outweighs this.

The National Planning Policy Framework (NPPF) for England has a "presumption in favour of sustainable development". However this does not automatically apply in AONBs because (under NPPF paragraph 14 footnote 9) there are other specific policies in the NPPF that indicate that great weight should be given to the purpose of conserving and enhancing the natural beauty of the AONB and major development restricted (paragraphs 115 & 116). This does not constitute a favour against sustainable development in AONBs and indeed reinforces that change (i.e. development) will occur in many aspects of life and the environment but that where change does occur it must be managed in a manner which contributes to a better quality of life for current and future generations, without undermining the quality of the natural environment.

No one could possibly ever consider this as a high quality development, it does nothing to respect the local character and distinctiveness of Monmouthshire's built, historic and natural environment. The materials and quality of build are utilitarian and crude.



a) this site does not make the immediate area secure nor pleasant. The broken cars and parts as well as rubbish everywhere gives an impression of industrial dilapidation. It encourages crime. We have reported many instances of crime on this site, including drug usage. The site is secluded except the residential property next door, and is open for criminals to drive into and indeed this has been the case. The sites are away from the potential customers and do nothing to encourage walking nor cycling. Indeed many will be put off walking using the footpaths through the site, as it presents an undesirable facade with vehicles in conflict with walkers.

b) The site far from contributing to a sense of place detracts from it. The applications are for a very large area of the site, The original permission in 1985 which was against the advice of the planners at the time, was for 0.08 Ha. The new applications cover an area of 0.4429 Ha.

This is an increase of over 553%. This amount of development is not compatible at all with the existing uses (that is the uses it had as if no development had taken place, as this is a retrospective

application)

c) These developments are of a very poor standard of quality and design. How could anyone say the industrial sheet metal gates are possibly of good design. Nor the roller shutter doors, nor the "wash area", nor the hard standing, nor any of the metal gates, nor the vehicles parked in the open in full view. They do nothing to respect the existing form of the only neighbouring property, a small stone cottage with a slate roof, nor respect the listed stone walls in abundance in the immediate area.



d) The privacy and amenity of the neighbouring property has/will be extremely compromised. There has been 2 Breach of Conditions Notices served on this site. One of these was because of scrapping vehicles see, this video:

<https://www.youtube.com/watch?v=ocvVWntCyqc>

We have submitted over 200 instances of breaching hours conditions.

There has been a notice served by Environmental Health in regards to Odour Nuisance.

We have submitted numerous logs in regards to Noise Nuisance.

We have submitted numerous logs in regards to Light Nuisance.

We have submitted numerous logs in regards to Smoke Nuisance; See these videos for example:

<https://www.youtube.com/watch?v=EalXudbELMo>

<http://youtu.be/PDEpKhAehoM>

<http://youtu.be/2c06Cv4RqOw>

We have submitted numerous breaches regarding the serving of vehicles outside of the compound. We have complained of anti-social behaviour on this site, the revving of vehicles, the wheel spinning, the sounding of horns, etc Imagine using the foot path at these times. See these videos for instance:

<https://www.youtube.com/watch?v=4y5MGtRr8Ug>



e) These applications in no conceivable way respect the built and natural views and panoramas in the landscape, which is an area subject to international and national landscape designation, being within the Wye Valley AONB. It is also within an area identified as being of historical and cultural importance.



f, g, h, j and k) There has been no consideration in the use of building techniques, decoration, styles and lighting to enhance the appearance of the proposal. Everything has been done cheaply and using very basic materials in a very crude way to produce a utilitarian incongruous development completely at odds with the surrounding area. this being an area subject to international and national landscape designation, being within the Wye Valley AONB. It is also within an area identified as being of historical and cultural importance.

The has consequently been no regard what so ever to texture, colour, pattern, durability and craftsmanship in the use of materials. Nor any consideration of design at all, let alone to enhance the landscape.



1) ensure that existing residential areas characterised by high standards of privacy and spaciousness are protected from overdevelopment and insensitive or inappropriate infilling.

The applications for both of these sites are as close to the border of the neighbouring residential property as they could be. There is no reason for this given that there are other locations within the ownership of the applicants that would be further away.



Tourism: Objections to DC/2012/00613 and DC/2013/00456

Policy S11 – Visitor Economy states:

"Development proposals that provide and /or enhance sustainable forms of tourism will be permitted subject to detailed planning considerations. Development proposals that would have an unacceptable adverse impact on features and areas of tourism interest and their settings, or that would result in the unjustified loss of tourism facilities will not be permitted."

These sites fail this policy.

Tourism is of major economic significance within Monmouthshire.

Areas of Outstanding Natural Beauty (AONBs) are some of our finest landscapes. They are cherished by residents and visitors alike and allow millions of people from all walks of life to understand and connect with nature.

Wye Valley Area of Outstanding Natural Beauty (AONB) Management Plan 2014-2019:

*"The lower Wye Valley remains nationally renowned as a **destination for tourism and recreation** with 2.2 million tourist days per annum. Overnight stays, while common, are outweighed by day trips with many people travelling for less than 2 hours to visit the Wye Valley. Amongst these visitors are some of the **29,300 residents** living and/or working in the market towns, villages and hamlets of the Wye Valley AONB"*

*"The **high quality environment** of the lower Wye Valley makes a significant contribution to the area's economic development. The natural beauty of the area is recognised as **contributing to economic activities and well-being** such as tourism and inward investment, as well as the overall **quality of life**, making the Wye Valley a more attractive place in which to live and work."*

"The Wye Valley Area of Outstanding Natural Beauty (AONB) will be a landscape:

- where the natural and historic assets are in good order, in fully compatible uses, and not denigrated by unsuitable change with a robust mosaic of inter-connected semi natural habitats for native wildlife, particularly around grassland, wetland and woodland*
- which provides work for local people, who make good use of the varied resources the area has to offer"*

This is an area of tourism and this development does/will have an unacceptable adverse impact upon tourism coming to this area. The footpath running through (for over 60 Meters) and the 2 paths adjacent to the site (with the site in full view for over 100 meters and 300 meters) form part of the network of paths as part of the Wye Valley walk.





MCC promoted "Pathcare" Route 5, uses these footpaths though and adjacent to these sites. These sites have a negative impact for over 160 meters of this route. The Giants Cave and Wye Valley Walk is signposted through this site, this is hardly a good nor favourable introduction to the Area of Outstanding Natural Beauty. The first part of this footpath is blocked by the unauthorised development of DC/2012/00613.

This has been highlighted in detail in another part of my objection regarding

footpaths.

This does not encourage anyone to use this footpath, particularly the tourist, quite the reverse it puts people off.



The tourist visiting therefore has to walk through an industrial site, sharing the only available path with cars and HGV's .

The vehicles not only have to drive along the route of the available footpath but also cross the footpath to enter or exit both sites. The path itself is very dusty and vehicles passing cause this dust to rise.

More importantly any vehicle entering or exiting the site has to cross the path perpendicularly, through gates that do not provide good visibility splays. As activities occur both sides of the footpath. This means there is considerable possibility of conflict between the users of the path and the public using the public rights of way.

There have been no figures provided, no survey done to access the vehicular impact this site will have.

The activities proposed are industrial, B2 use, these are likely to lead to significant noise, dust, smoke and odour which will have a detrimental effect upon the enjoyment of tourists to this area.

Public Footpath

There is a Public Right of Way 379/32/1 (this is classed as a "Highway") that runs through both these sites DC/2013/ 00456 and DC/2012/00613 The correct route of this highway is not shown on the map and indeed has been blocked.

This has been blocked for a considerable period, the signs have been allowed to become covered by vegetation, there is a fence and metal gate preventing access.

This was discussed in the previous applications on this site where the correct route was not taken into consideration.

It is a legal duty placed upon the Council to keep public highways free of obstruction.

It is an obligation that planning applications show the correct line of the foot path.

I note in the report written by Anthony Jellard Associates, they too have got this wrong amongst other thing completely wrong.

I have tried to get this resolved with Monmouthshire County Council, but all my efforts so far have been ignored.

Monmouthshire Rights of Way Improvement Plan says:

"There are approximately 100 paths in Monmouthshire where development has not taken into account public rights of way and have subsequently encroached upon or obstructed them. All such paths now require enforcement action. Rights of way guidance is required to ensure planners and developers are aware of their responsibilities and the issues involved in developing on or near to a public path. The Local Access Forum and others have said that the achievement of an up to date and accessible Definitive Map and Statement should be a high priority"

There is the maxim "*once a highway, always a highway*"

Once a highway has come into being by whatever means it continues indefinitely no matter whether it is used or not.

Mr Justice Joyce said in the case of *Harvey v Truro RDC* :

"Mere disuse of a highway cannot deprive the public of their rights. Where there has once been a highway no length of time during which it may not have been used will preclude the public from resuming the exercise of the right to use it if and when they think proper".

Planning permission and public rights of way ROW circular 9

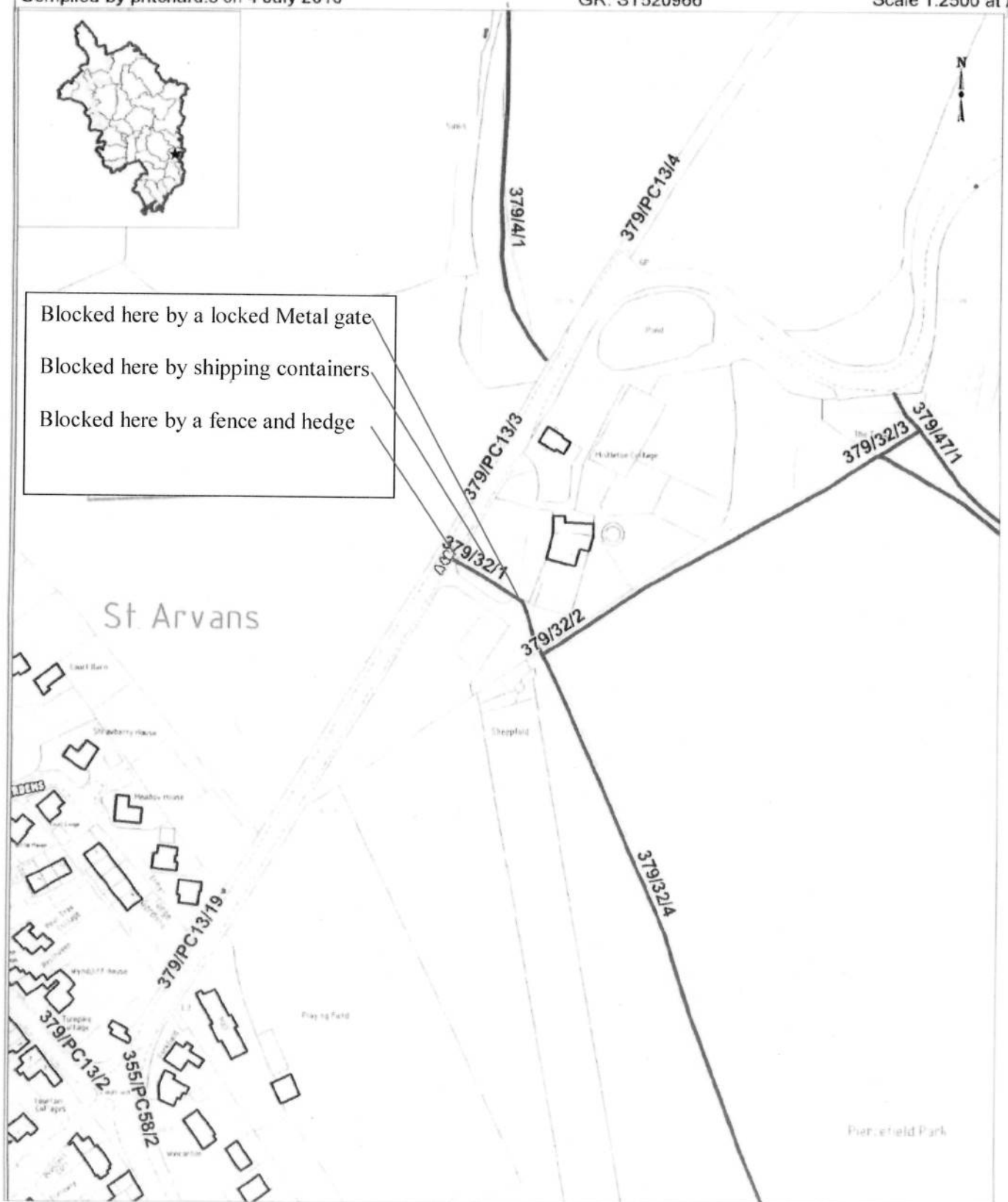
"7.1 Proposals for the development of land affecting public rights of way give rise to two matters of particular concern: the need for adequate consideration of the rights of way before the decision on the planning application is taken and the need, once planning permission has been granted, for the right of way to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed."

There has been no consideration for the right of way to remain open and unobstructed until the statutory procedures authorising closure or diversion have been completed. This is a retrospective application, first made in 2011, it is inexcusable that the footpath has been ignored all this time. The applicant has had informatives on every application for this site, but has ignored all of them. On the application form when asked: "*Do the proposals require any diversions/extinguishments/or diversions and/or creations of Rights of Way?*" The applicant said no.

"7.11 The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed.

Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement to keep a public right of way open for public use will preclude the developer from using the existing footpath, bridleway or restricted byway as a vehicular access to the site unless there are existing additional private rights. Planning authorities must ensure that applicants whose proposals may affect public rights of way are made aware of the limitations to their entitlement to start work at the time planning permission is granted. Authorities have on occasion granted planning permission on the condition that an order to stop-up or divert a right of way is obtained before the development commences. The view is taken that such a condition is unnecessary in that it duplicates the separate statutory procedure that exists for diverting or stopping-up the right of way, and would require the developer to do something outside his or her control."

These applications should not have been validated as they fail to show the correct line of the footpath nor to show the footpaths which will be affected by this site.



Landscape Assessment

The Landscape Assessment done by Anthony Jellard Associates is extremely flawed and biased, to such an extent it should be removed from this site.

The most fundamental aspect of this site, in terms of Landscape Assessment is that it is within an AONB. This is stressed in the Landmap notes upon the making of a Landscape Assessment as being fundamental as it's designation has already been determined the Countryside Commission for Wales. In its notes in regard to this says:

"Areas of Outstanding Natural Beauty (AONBs) are areas whose distinctive landscape character and natural beauty are so outstanding that it is in the nation's interest to safeguard them. The primary purpose of an AONB designation is to conserve and enhance natural beauty. The needs of agriculture, forestry, rural industries and the economic and social needs of local communities should also be taken into consideration. The demand for recreation can be met but must be consistent with the conservation of natural beauty."

It is in the National Interest to protect these areas from unsuitable development.

This is unsuitable development.



Anthony Jellard Associates goes on in regard to DC/2012/00613

"3.2 The site is very largely contained visually within a screen of vegetation on the western and southern boundaries, by the buildings of the adjoining garage to the east and the buildings of the commercial cattery business, along with a horse walker and stables, to the north east. Solid metal gates secure the entrance on the southern boundary adjacent to the public footpath."

and DC/2013/00456:

"3.2 The site is very largely contained visually within a screen of vegetation on the western and southern boundaries, by the buildings of the commercial cattery business, along with a horse walker and stables, to the north and by some edge of parkland tree cover to the east."

Solid metal gates, with stone walling on either side, secure the entrance on the southern boundary adjacent to the public footpath."

Fundamentally the correct route of the foot path runs through both sites. This is a glaring error on behalf of the writer. Secondly the sites is not well screened at all, but highly visible.

The garage buildings do not screen the site for DC/2012/00613. The cattery is single story and nowhere near this site, so cannot screen it. Equally the horse walker and stables are not near this site so again cannot screen it. There is no mention of the topography, that the site can be seen from the elevated position of Mistletoe cottage for instance, nor that the site is elevated compared to the public footpath running alongside the Eastern Boundary. All conveniently not mentioned.



Sites taken from the East neither site is "*largely contained visually*" as Anthony Jellard Associates states, on the contrary both are highly visible.

This should be an independent assessment it is not and it makes fundamental errors.

The solid metal gates themselves are a large and obvious eyesore. There is no reason to presume they will be shut, and they will certainly be open at times when people are walking past this has a visual impact, that should not be ignored.

There has been no consideration regarding the movement and parking of vehicles for these sites.



Does anyone think these gate "enhance the natural Beauty" of the AONB?



There is reason to presume the gates will remain shut, they must be opened to allow access an assessment should include the impact when they are open. this is an obvious eyesore and not what one would expect in an Area of Outstanding Natural Beauty. It certainly does not "Enhance the Natural Beauty"

For DC/2013/00456 Anthony Jellard Associates says :

"3.4 In terms of land use, the site currently includes stone buildings used for storage and repair of motor vehicles storage and small ancillary parking areas."

And for DC/2012/00613 :

3.4 In terms of land use, the site currently includes a storage area of builders' materials and equipment and some utilitarian storage containers. The assessment of impacts in this report assumes that the current facilities are retained.

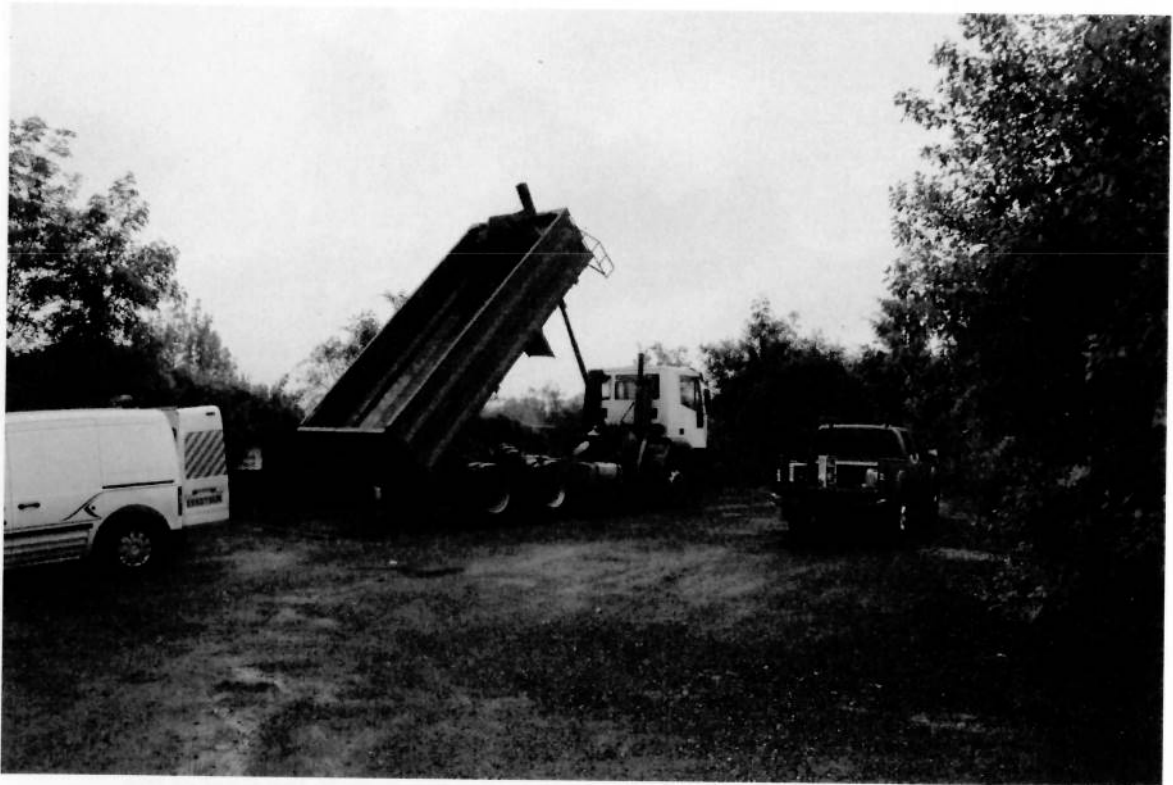
These are retrospective applications, the writer of this report should be fully aware of this. The presumption that the current facilities are retained is a false premise. Currently the sites have no planning permission and hence no legal use. DC2012/00613 has had no legally granted permission ever and DC/2013/00456 has had none since about 1990. This has been proven in the past 3 Judicial Reviews.

For Dc/2012/00613: The decision is between the site as was before development, a green field, and after development with many shipping containers stacked up and a great deal of "building materials and construction machinery". The assessment should be based upon this fact. The writer of this report does not highlight this fundamental aspect at all.



For DC/2013/00456 the decision should be between no use and the intensive B2 use proposed which includes a great deal of land use.

Anthony Jellard Associates ignores the land use outside of the Courtyard and buildings, which the footpath runs through for DC/2013/00456, this has been assigned for parking and washing of vehicles, and maintenance of vehicle also occurs here. The impact of vehicles being parked here, washed and maintained should have been assessed. This is fundamentally important because of the detrimental effect of having parked cars, HGV's and various trailers and caravans stored in the open countryside within the AONB.



Vehicles parked in full view and HGV's being maintained.



Back of a van and scrap in full view



Vehicles parked in full view.



Anthony Jellard Associates have also failed to consider the area to the East of the workshops, and the very ugly gate which has been erected with no planning permission and vehicles and other articles stored here.



3.5 No public rights of way lie within the site but one runs close to the south of the site, connecting the A466 close to the site with the Wye Valley Walk which runs north south

through the woodlands on the right bank of the river. There is a connection north from the A466 opposite Mistletoe Cottage which climbs the hillside near to Wyndcliff Court.

We are led to believe this expert has done a detailed assessment of this area and studied in detail maps and the area on foot.

Why then does he not know that a Public Right of way does indeed run through this site?

Why have no maps been provided showing these footpaths?

Please see the map attached to the footpath section.

THE EFFECTS OF THE DEVELOPMENT ON LANDSCAPE CHARACTER

Anthony Jellard Associates after trying to move the area these are situated with, (which you cannot do) then fails to address the issues.

They do not stress that these sites are in an designated area, an Area of Outstanding Natural Beauty with the clearly defined objective of "Enhancing the natural beauty of the area."

All the rest is just waffle, and Anthony Jellard Associates come to the bizarre conclusion:

"The site is well enclosed by tree and hedgerow cover which very comfortably visually assimilates the development within the surrounding landscape."

Simply look at the photos. Does anyone believe this sort of development "*comfortably visually assimilates the development within the surrounding landscape*"





Is this what you expect to see from a public footpath in an Area of Outstanding Natural Beauty? How does this "enhance the natural beauty" of the area?



The "dense vegetation" fails to hide the horror of what lies beyond.

Cultural:

Anthony Jellard Associates concludes:

"The site is on the northern edges of this Aspect Area and the vegetation around its boundary as appears as part of the wooded backdrop on the northern edges of the racecourse. The changed use of the site will have no impact on this Cultural Landscape Aspect Area."

This is simply not true, the site is clearly visible from the racecourse, see the photographs. The one mile straight leads almost directly to the site and the starting line is very close indeed. And what of people using the public rights of way to access the race course, who walk through this site?



The site is very much in the background from the racecourse.

Historical:

Anthony Jellard Associates concludes:

4.11 The discrete location and largely hidden setting of the site does not impinge on the historic characteristics of this Aspect Area. The site and its immediate surrounds have long had buildings as can be seen from the Monmouthshire County 6 inch map published in 1886 (see Appendix 1 Figure AJA03)

This site is not in a discrete location. It is in a very prominent situation, with public footpaths running through and adjacent to it. It is directly next door to Piecefield house's historic parkland, the stone wall it has as a boundary is part of the Estate and has listed protection.

The site as shown is not largely hidden, it is highly visible.

In planning terms what was there or not there in 1886 has no relevance. The current development certainly was not there.

The permission granted in 1985 was for a single garage. The applicants have built 2 over doubling the size granted permission and have continued to develop the site with no permission to do so.

Policy LC5 – Protection and Enhancement of Landscape Character

Development proposals that would impact upon landscape character, as defined by LANDMAP Landscape Character Assessment, must demonstrate through a landscape assessment how landscape character has influenced their design, scale, nature and site selection.

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 by:

- a) Causing significant visual intrusion;*
- b) Causing significant adverse change in the character of the built or natural landscape;*
- c) Being insensitively and unsympathetically sited within the landscape;*
- d) Introducing or intensifying a use which is incompatible with its location;*
- e) Failing to harmonise with, or enhance the landform and landscape; and /or*
- f) Losing or failing to incorporate important traditional features, patterns, structures and layout of settlements and landscapes of both the built and natural environment.*

Particular emphasis will be given to those landscapes identified through the LANDMAP Landscape Character Assessment as being of high and outstanding quality because of a certain landscape quality or combination of qualities.

Anthony Jellard Associates concludes:

"4.17 We have above in Paras 4.4 – 4.15 considered the impact of the development against the information contained in the LANDMAP Data base. It is our conclusion, looking at all 5 Aspects Areas, that the change of use has made no significant change to the overall landscape of this part of the Wye Valley around St Arvans. There is no unacceptable adverse effect on the special character or quality of Monmouthshire's landscape."

5. IMPACTS ON THE WYE VALLEY AONB

5.1 In the case of the AONB, the primary policy objectives in the LDP are set out in Policy LC4 –

Wye Valley AONB. This policy is set out below along with our commentary on the degree of fit of the changed use of the development.

Policy LC4 – Wye Valley AONB

Within the Wye Valley AONB, any development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area. In considering development proposals regard will be given to:

- a) The long term effect of the proposal, and the degree to which its nature and intensity is compatible with the character, purpose and overall management of the AONB;*
- b) The degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and built heritage;*
- c) The extent of the landscaping proposed;*
- d) The need to protect features in the landscape identified as important through LANDMAP;*
- e) The extent to which a proposed new building or use will generate additional traffic and the requirement for improvement of existing roads and lanes, including the surfacing of green lanes; and*
- f) The impact of the proposed development upon nature conservation interests.*

Development proposals that are outside the AONB but would detract unacceptably from its setting

will not be permitted.

AJA Commentary

5.2 Buildings have been present in very close vicinity to this site since at least the later 19th century and the present scale is similar to that shown on the early OS maps. It is a small scale development tucked behind a strong landscape screen and set in a medium scale landscape. Its nature and intensity is compatible with the AONB designation.

5.3 The boundary screening very largely hides the facilities in all wider views in the landscape and it is only in localised views, in particular short lengths of adjacent footpath where the development change of use facilities will be partly visible.

5.4 The strong existing screen of vegetation is supplemented by further tree planting which will add further enclosure.

5.5 The development does respect the local landscape features as identified through LANDMAP

5.6 In summary the development has no unacceptable landscape and visual impact on the AONB.

As demonstrated above Anthony Jellard Associates has made fundamental errors throughout this assessment, they have erred in the location of the public rights of way, they have failed to assess the impact of several features of the development, they have reached the bizarre conclusion the site is well screened and in a discrete location when clearly it is not.

This site is highly visible. A public footpath runs through both sites.

The sites are very clearly visible in the wider landscape.

The sites have no existing use at all, they have no planning permission at all.

They have failed to understand the policies correctly.

And they have failed to deal with each policy of the ones quoted above.

You cannot simply build what you like as long as it can't be seen. In this case the site is highly visible, in a prominent location on a popular footpath.

Anthony Jellard Associates also add for DC/2012/00613 *"The metal security gates are painted green harmonising with the boundary screen of vegetation."*

This is a most bizarre statement. You cannot build whatever you like as poorly designed as these are and make it acceptable by simply "painting it green". If this were the case anyone could build ANYTHING as long as its painted green it a nonsense.

The text of policy C2(b) emphasises the importance of good design where "higher than average design and control standards" shall be applied. How then does anyone not find objection to industrial sheet metal gates concreted to the floor, close to a public footpath?

The status of an AONB is that any development "**Enhances** the natural beauty" this site clearly fails to do this.

The design should be of the highest standard, look at the gates is that acceptable?

The types of activity proposed are not suited to a rural location and certainly not in an AONB.

It would be wrong for anyone to sensibly conclude this site has no adverse affect upon the landscape.

Planning Solicitor Ben Garbett wrote a statement for the Court after the last permissions were granted. he says:

" I visited the application site for the first time immediately following the committee meeting. When I arrived at the site I walked along the route of FP no.32, which runs directly past the metal gates. I would estimate these gates to be about 10-12 feet high, with an ugly, ramshackle appearance.

I followed the footpath route as it passes into the Piercefield Estate via the gate in the listed wall. The footpath is on elevated land at this point with near views directly back across the site.

I was immediately struck by the clear views into the site from the footpath. Those views are not mitigated in any way by the metal gates from this angle, and will not be mitigated by any of the new planting. This was very different t the impression that I had formed earlier in the day, when viewing the photo montage and listening to the planning officer's comments. In my view the photo montage does not give a fair representation of the landscape and visual impact. I found it very hard to reconcile what I saw with the officer's comments about there being no harm to the wider setting of the AONB. I do not believe that anyone could rationally conclude this.

I also noticed that the line of saplings planted on the eastern boundary were very close to the listed wall. In my view the tree roots will, in time, highly likely cause the listed wall to collapse. It will be several years before these trees grow to the point where they will provide any sort of screening, but even so, they would not be able to screen most views from the footpath in this position anyway.

During the debate Philip Thomas stated this:-

"However we are aware that the site has been used for commercial purposes for many years and certainly some of the large containers on the site are lawful, to clarify that, two of the containers to the left of the gate are are new, others, err, to the right hand side have been,

is that quite right (asks Paula Clarke), the others to the right, have been in situ for certainly beyond the four years in which they would be lawful as a building operation."

This was factually incorrect and highly misleading. At the time of my own site visit I counted about 8 metal storage containers on the land, painted in a variety of different colours, and all of them highly visible. A large lorry was parked on the site, which was also highly prominent.



To give another recent example, at the 06 August planning committee meeting Members refused a development for a commercial garage because "the garage/workshop use will lead to an increase in traffic using the single access road to and from the site as well generating additional noise and disturbance from the activities within the building which will harm local residential amenity, contrary to Monmouthshire Unitary Development Plan Policies ENV1 d) and e) and DES1 d)." (Application DC/2011/01240† - Change of Use from Egg Production Unit to Workshop and Commercial Garage Ty'r Pwll Farm, Hardwick, Abergavenny)*

Why does the same not apply to this site?

Objection to DC/2013/00456 and DC/2012/00613

Existing Use

The whole premise of these applications is based on existing use.

This site has no existing use.

It has been proved via three successful Judicial Reviews that it has none.

All references to existing use used throughout the Design and Access Statement are wrong in law. The following statements taken from the Design and Access Statement are false and thereby deliberately misleading:

"The garage and it's associated land has been used for the above purpose since the consent was issued."

"The commercial motor vehicles owned by Mr Peter Stephens, have been parked and maintained at the site in accordance with a Goods Vehicle Operators Licence, issued by the Welsh Traffic Area with a commencement date of 21st January 1993."

"The planning application now seeks approval for the continuation of an existing use for the storage of builders materials, construction machinery and equipment, including metal storage containers and the retention of security gates."

"The site has operated for a period of in excess of 25 years for the maintenance and servicing of motor vehicles and the access from The A466 provides adequate visibility for both entering and leaving the site."

This makes the Design and Access statements null and void.

It has not had continuous use, it has not has existing use, this was proved at Judicial Review.(See Judicial Review 1 Judicial Review 2 and Judicial Review 3)

This site failed to gain lawful use in the application DC/2012/00594.

MCC's Planning Officer Paula Clarke wrote a report recommending refusal of this application. This report is given at the end of this document.

The planning justification given by the applicant only uses this argument of existing use.

For Policy LC4 – Wye Valley AONB

"Within the Wye Valley AONB, any development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area. In considering development proposals regard will be given to:"

The applicant has written:

"a) the long term effect of the proposal, and the degree to which its nature and intensity is compatible with the character, purpose and overall management of the AONB;"

The applicant has written:

"(a) The use of the site, has existed for a period of in excess of 25 years and therefore, it's long term effect is now established as having little or no impact on the AONB."

This has been proved to be a false statement. This is an application for new use, the new

uses will have additional impacts. The storing of vehicles in the open countryside is significant. The maintaining of vehicles is significant, the uses of materials in the buildings can be altered.

For Policy RE2 - The Conversion or Rehabilitation of Buildings in the Open Countryside for Employment Use. the applicant has written:

"The fact that the workshop buildings have existed for in excess of 25 years and that their uses have been totally appropriate for the extent and scale of the buildings, results in full compliance with the requirements of Policy RE2."

Yet again the justification is existing use, which as clearly established this site does not process.

This is the CLUED report for Application DC/2012/00594 written by Paula Clarke as the designated officer, it has been passed by MCC legal department and was then signed on the on 22nd October 2012:

Application No: DC/2012/00594

Development: Certificate of Lawful Use of land for vehicle repairs

Location: New Barn Yard and Workshops, St Arvans, Chepstow, NP16 6HE

INTRODUCTION

This application seeks a certificate of lawful use or development in respect of the use of land and buildings at New Barn Workshops, St Arvans for the maintenance, servicing and repair of all classes of Motor Vehicles, including commercial vehicles, motor cars and agricultural machinery. The application has been made on the basis that the activity began in breach of a condition more than 10 years before the date of this application. The onus is upon the applicant to prove his case on the balance of probabilities. The application was submitted on 11 July 2012 therefore the applicant must show that between July 2002 and July 2012 there was a continuous breach of the condition.

ISSUES/EVALUATION Background

Planning permission was granted in February 1985 for the erection of a garage for the storage and maintenance of commercial vehicles under ref 21850. Condition 11 imposed on this permission states "The premises shall be used for the storage and repair of vehicles solely owned by the applicant and for no other purpose (including any other purpose in Class IV of the Town and Country Planning Use Classes Order 1972) without the prior approval of the Local Planning Authority. The only issue in this case is whether the use has continued on the site in breach of the planning condition in excess of the ten year period and is immune from any enforcement action.

Evidence submitted

The evidence provided by the applicant comprises statutory declarations from the joint owners, letters from 4 tenants of the workshops and a bundle of company invoices from between February 1995 to June 2012.

It is claimed that the applicant has owned the premises jointly with his two brothers in excess of 15 years. During their ownership the premises have been leased to a number of tenants

who have used the premises for repair, servicing and maintenance of motor vehicles, in addition the applicant undertook regular servicing and maintenance at various times over the past 15 years.

Delegation Report Record

A letter has been received from Mr A Hoskins stating that between July 1990 and November 2008 he was employed by J&D Langley as transport manager who operated from the workshops. He states their business involved the servicing and maintenance of motor vehicles, including commercial vehicles, motor cars and agricultural machinery. A letter from Mr D James states that between May 1998 and July 2000 he leased the workshop where he undertook the servicing and maintenance of motor vehicles including motor cars. A letter from Mr C Klinkert. states that between February 2009 and December 2010 he leased the workshop where he undertook the maintenance of motor vehicles including motor cars for his business. A letter from A Gordon states that he has been leasing the workshop since March 2011 where he undertakes the maintenance and servicing of motor vehicles for his business.

Some 155 invoices have been submitted to show the pattern of activity since 1995, these include invoices for electricity costs; water charges and rent for the workshops.

Objection received

Objections have been received from the adjoining neighbours at Mistletoe Cottage in the form of witness statements which dispute the accuracy of the evidence submitted. It is claimed that the premises was being used as a coach depot in September 2008 but ceased before February 2009. They moved into their dwelling in February 2009 and claim that no one was working at the workshops at this time and for some time afterwards. Prava cars started storing cars there at the beginning of 2010 however it is claimed that they did not use the land for servicing vehicles. It is claimed that noise from the workshops was experienced from March 2011 but did not witness vehicle servicing until April 2012.

Government Advice

Annex 8 of Welsh Office Circular 24/97 advises that by virtue of section 191(2) uses and operations are "lawful" if no enforcement action can be taken against them and they are not in contravention of any enforcement notice.

Also by virtue of section 191(3) a failure to comply with a condition on a planning permission is "lawful" if the time for taking action has expired. Development is lawful if

(4) It benefits from an extant planning permission (9) the time for taking enforcement action has expired

The onus of proof in an LDC application is firmly on the applicant and paragraph 8.12 of Annex 8 states that some information about the history of the site will be peculiarly within the applicant's knowledge. The relevant test of the evidence is "balance of probabilities" not "beyond reasonable doubt". The applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA has no evidence of its own, or from others to contradict the applicant's version of events there is no good reason to refuse an application for a certificate provided the applicant's evidence is sufficiently precise and unambiguous.

Assessment

The starting point in the assessment of the planning history in this case is the planning permission granted in 1985. This permission granted the erection of a garage for the storage and maintenance of commercial vehicles. Condition 11 stated that the premises must be used for the storage and repair of vehicles solely owned by the applicant and for no other purpose (including any other purpose in Class IV of the Use Classes Order 1972) it is clear then that the planning permission granted a use falling under Class IV of the 1972 Order

which then became Class B2 (General Industry) in the 1987 Order. It has been held that planning permissions can only be lost through the abandonment of that use.

The evidence supplied in this application includes invoices for the electricity charges for the workshop for a ' ' 1995; i in 1996;

in 1998 and in 1999. From 1998 the building appears to

be let as two separate units with . in Unit 2 and ' renting

Unit 1. left the property in July 2000. Mrs Langley appears to take

over the rental of both units in 2001 and occupied them until 2008. The letter from confirms that he was transport manager for

id that the workshops were used for the servicing and maintenance of vehicles including commercial vehicles; motor cars and agricultural machinery. There appears to be periods of non-use between November 2008 and February 2009 when Mr Leased the workshop and between

December 2010 to March 2011 when Mr leased the workshop.

It is considered that when the original applicant Mr DJ Stephens retired and passed the business to his sons "Stephens Bros" around 1995 the planning unit had taken on a different use, however one that was not "materially different" from the use granted planning permission in that the vehicles being stored and repaired at the premises now included motor cars as well as commercial vehicles and the premises were occupied by businesses other than the original applicant. There does not appear to have been a material change in use of the site.

The objections received from the neighbours Mr and Mrs Hatcher claim that there was a period of non use of the premises between 2008 and 2010 and also disputes the evidence received from claiming that no

repairs were carried out from the property only storage. However there is no direct evidence to contradict that submitted. It is claimed that no mention of business uses is made by the Council during the determination of their applications, although the reports would only relate to their planning unit under consideration and not adjoining properties.

It is noted that in Mrs Hatcher's email to the Community Council dated April 14 2010 (exhibited as CH8 in Mr Hatchers statement) she states: "The facts are these: There is an industrial unit next door to us now, and it has been there for years - we will not be setting a precedent for commercial units." It therefore appears that Mr and Mrs Hatcher were aware of the commercial use of the workshops at this time.

The Council is aware that there have been short periods of non use of the premises recently indeed during an enforcement investigation in April 2011 it was found that a car valeting business was operating from the workshop which carried on for a few months. Having regard to (Nicholson v Secretary of State for the Environment 1997) it is necessary to show a continuous breach over the 10 year period, ie between July 2002 and July 2012. If non-compliance has ceased by the discontinuance of the offending activity, the breach is at an end, and any subsequent renewed non-compliance would be a fresh breach. The applicant has therefore failed to show that the condition has been breached continuously during the relevant period.

Conclusion

Planning permission was granted for the erection of a garage for the storage and maintenance of commercial vehicles in 1985. It is considered that the inclusion of the storage and maintenance of motor cars would not be a material change in use from that granted planning permission as it falls within the same use class. The condition restricting the storage and maintenance of commercial vehicles to the applicant's own vehicles was

clearly breached prior to 1998 and continued until 2008, however over the relevant period which is July 2002 to July 2012 the breach was not continuous as there were two, 3 month periods of non use and the introduction of a car valeting business for a few months in 2011.

It is considered that condition 11 of planning permission ref 21850 restricting the use of the premises to the storage and repair of vehicles solely owned by the applicant and for no other purpose without the prior approval of the Local Planning Authority has not been breached continuously for the required period and a certificate cannot be issued.

RECOMMENDATION: Refused

Reason: The applicant has failed to show on the balance of probability that the condition has been breached continuously for the required 10 year period.

Environmental Health Comments :

Objection to DC/2012/00613 and DC/2013/00456

In regards to the comments from the Environmental Health Officer, it is totally irrational that the recommendation for hours to prevent disturbance, can be altered for the same operations with no other change in circumstance.

In the grounds for the Judicial Review ruled upon by the High Court, it was stated:

"It was irrational to impose weaker planning conditions to protect against potential harm to the AONB and to Mr and Mrs Hatcher as neighbours than had been placed on the earlier, quashed, consents"

There is no mention in these Environmental Health Officers reports in regards to protecting the amenity of the AONB. This is of particular significance considering that a Public Right of Way goes through both sites and the users of those footpaths would be considerably impacted by the activities on site.

It is stated to prevent disturbance that the hours of operation including vehicle movements, for DC/2012/00613 restricted to 0800-1800 Monday-Friday and 0800-1300 on Saturdays.

Bizarrely the Environmental health Officer, considers differently the hours for DC/2013/00456, the site directly next door to DC/2012/00613 and that shares the same access and which is as close to the property.

For this site he considers that hours 0600-1900 Monday-Friday and 0600-1300 on Saturdays are acceptable for HGV vehicle movements.

This is simply not rational nor consistent.

For previously quashed permissions for the same operations, to prevent disturbance the condition was placed that *"The premises shall not be used for the approved purposes outside the following times; 08.00 - 18.00 Monday to Friday and at no time on a public holiday."*

These need to be the recommendation now.

It was also previously recommended that servicing of vehicles only occurs within the garage buildings and that the doors are kept shut whilst work is carried out. Also that there is no burning of any material on site, a condition the EH Officer admits has been blatantly ignored by the applicant.

These previous recommendations cannot now be ignored.

However the operations proposed, upon both sites, cause an unacceptable amount of disturbance to the residential property next door irrespective of hours of use, conditions cannot mitigate this.

This is supported by the classification given to these activities of B2 use.

This should have been the conclusion of the Environmental Officer

MONMOUTHSHIRE COUNTY COUNCIL
PLANNING SECTION
30 MAR 2015
Attn of: Ref No:

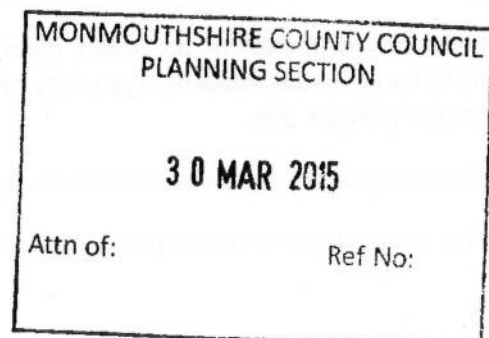
It is very clearly stated in policy that B2 use should not be next to residential properties.

These sites are immediately on the boundary of the residential property and even share a party wall.

The previous conduct of the applicant is also relevant to the question of whether conditions are appropriate, and likely to be effective, given the established pattern of planning abuse (not just on this site, but on other sites owned by the applicants too) from unauthorised development, submission of retrospective applications, and frequent breaches of conditions.

We have reported consistent breaches of the hours conditions over the past 4 years.

These applications must be refused due to the policy B2 use cannot be next door to residential properties. Conditions simply cannot mitigate this.



Objection to DC/2013/00456 and DC/2012/00613 Transport

Policy S16 - Transport states

Where appropriate, all development proposals shall promote sustainable, safe forms of transport which reduce the need to travel, increase provision for walking and cycling and improve public transport provision. This will be facilitated by:

Reducing the need to travel, especially by car;

Favouring development close to public transport facilities;

Promoting public transport, walking and cycling;

Improving road safety;

Minimising the adverse effects of parking;

None of these policies are met by these applications.

The site



is not in a location near to its potential customers, being some miles outside of the nearest town which would lead to an increase in the need to travel by car.

This site is not well served by public transport, and by its very nature vehicles must be driven to the site.

The activities proposed are much better suited to the urban environment and indeed many other more suitable sites are available in and around Chepstow, which would not lead to the



increase use of the car.



The safety of users of the public highway is highly compromised by these applications.

The vehicles not only have to drive along the route of the available footpath but also cross the footpath to enter or exit both sites. The path itself is very dusty and vehicles passing cause this dust to rise.

More importantly any vehicle entering or exiting the site has to cross the path perpendicularly, through gates that do not provide good visibility splays. As activities occur both sides of the footpath. This means there is considerable possibility of conflict between the users of the path and the public using the public rights of way.

The access road off the A466 is not wide enough for 2 vehicles to pass, particularly if one of them is an HGV. When the HGV uses this access road there is not enough space for users of the footpath.



The parking of vehicles is in full public view, and detracts from the surrounding area.

This being an Area of Outstanding Natural Beauty is highly significant.



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All of these photographs were taken from the public footpath.

The photos clearly show the detrimental effect of vehicles being parked in the open, there are no indications of how many vehicles will be parked. As MCC Enforcement has decided the selling of vehicles is auxiliary to use this could mean the car parks could be full of vehicles for sale.



Vehicles have been scraped at this site and those vehicles too are parked in full view. This is far from desirable and is detrimental to the area.



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DC/2016/00320

REMODELLING OF EXISTING DWELLING

3 MALLARD AVENUE CALDICOT

RECOMMENDATION: APPROVE

Case Officer: Nia Morrison
Registered: 16th May 2016

1.0 APPLICATION DETAILS

- 1.1 This application site is located in a residential area of Caldicot in an open plan estate that consist primarily of bungalows and dormer bungalows. The application site, 3 Mallard Avenue, is a corner plot with Linnet Road and there is a large area of residential curtilage to south of the plot. The detached bungalows along Mallard Avenue are smaller and share a different style to the bungalows along Linnet Road.
- 1.2 It is proposed to construct an extension to the south of the bungalow within the side residential curtilage in order to remodel the dwelling and form a larger dormer bungalow property. The extension is to have a gable front facing Mallard Avenue and the extension is to be set back from the front building line of Mallard Avenue by approximately 1700mm. The form of the extension facing Linnet Road has been designed so as to be in keeping with the style of the bungalows on Linnet Road. It is proposed to render the extension to distinguish it from the brick of the existing bungalow.
- 1.3 Plans were initially indicated to erect a close boarded fence up to the side brick wall boundary. On officer advice the plans have been amended so that the fence is moved back so it is in line with the extension building line, leaving the side aspect of the residential curtilage open frontage.

2.0 PLANNING HISTORY

MC/2015/ENQ/00563

3.0 LOCAL DEVELOPMENT PLAN POLICIES

S17 Place making and design
DES1 General Design Considerations
S13 Landscape, Green Infrastructure and the Natural Environment
EP1 Amenity and Environmental Protection

4.0 REPRESENTATIONS

4.1 Consultation Responses

Caldicot Town Council – recommends approval

Welsh Water – Public sewer crosses the site

Local member – No observations or objections

4.2 Neighbour Representations

Two letters of objections have been received with the following concerns:

- The extension is out of character with the surrounding area.
- The overall size of the extension on the planning application is bigger than that allowed by Welsh Government Policy guidelines. In terms of size and height.
- It will block light and view
- The 6ft fence is out of character with low level walls in the area

5.0 **EVALUATION**

5.1 Design

5.1.1 3 Mallard Avenue is within Caldicot's development boundary and the principle of extending the size property is considered acceptable providing there is an acceptable impact on visual and neighbour amenity.

5.1.2 It is considered that No. 3 is a good sized plot and there is sufficient space within the plot for the size (in terms of floor area) of the extension proposed. Although some of the neighbours have concerns it is bigger than the Welsh Government guidelines, these guidelines refer to what can be built under permitted development without requiring planning permission. There is not a restriction on the size of extensions within development boundaries providing the size of the extension is not considered to be excessive or out of character, which it is not in this case.

5.1.3 In terms of the height and massing of the extension, although higher than the existing height of the bungalow and the adjacent properties No. 1 and No. 2 Mallard Avenue, it is noted that the properties along Linnet Road do have higher rooflines. A street elevation has been provided and this indicated that the roof ridge of the extension will be approximately 600mm higher than the roof ridge of No. 8 Linnet Road. An example of a property - a bungalow with a similar design as the development proposed in Portskewett - has been provided as a guide to what the finished dwelling would be likely to look like after the extension has been constructed. It is proposed for walls of the extension to be rendered in contrast with the existing brick finish of No. 3.

5.1.4 Overall, it is considered that the visual impact of the proposal from Mallard Avenue (the gable front elevation) would be set back from the existing building line facing Mallard Road and the contrast of materials the render with the existing result in a pleasing visual amenity. Although it will be higher and does read larger than the existing dwelling, as already commented the plot is big enough to accommodate this and rather as viewing the addition of an extension the effect is that the dwelling has been remodelled. The proposal it is not considered to be AN overdevelopment of the plot and in respect of its appearance, although larger and higher than the existing property, the resultant dwelling is not considered to be so out of character with the street scene to warrant a refusal.

5.1.5 In terms of the proposed enclosures it is noted a 1.8m high close boarded fence is proposed to enclose a portion of the rear garden. Plans have been amended to set the fence back away from the street scene. It is considered that although the majority of the estate is open plan there is evidence of taller fence structures in the vicinity and this is not uncommon to enclose rear garden areas. This fence is considered to cover the 'rear' garden section of the property as it is on a corner plot, which on balance is considered reasonable. To help soften the appearance of the fence a condition will require that it is painted a darker colour, such as a dark green.

5.1.6 The overall visual impact of the proposal is therefore considered acceptable and in accordance with LDP policies S17 and DES1 of the LDP.

5.2 Amenity impact

5.2.1 It is considered that in relation to the amenity impact of the proposal, the extension will have an acceptable impact. The bedroom 1 window does not face directly into windows of No.8 Linnet Road and faces towards the side (blank) elevation of No.8 and this is not considered to result in a detrimental overlooking impact. The proposed windows (bedrooms 2 and 3) to the front gable face out onto the public street scene and therefore are not considered to overlook peoples' private amenity areas.

5.2.2 In terms of the increase in height and mass of the existing this is not considered to have an overbearing impact on adjacent neighbours as No. 3 has a good size plot and there is enough distance between the development and the shared boundary with No.8. Sufficient parking has been proposed within the site. Overall the proposal is considered to be in accordance with policies S13 and EP1 of the LDP

5.3 Biodiversity considerations

5.3.1 An assessment has been undertaken to assess whether the proposed works will have an impact upon bats. It has been assessed that in all probability there will be a potential medium impact upon bats, this is because:

- There are no known bat roosts at the site as indicated by biodiversity records.
- There is a lack of potential crevice features on the building such as lifted ridge tiles and internal roof linings and therefore limited potential for bats to roost.

5.3.2 Informatives will draw the applicant's attention to the significance of the protection of bats and also to the protection of nesting birds as it is noted on the plans the existing hedgerow is to be trimmed to allow for the construction of the garage.

6.0 **RECOMMENDATION: APPROVE**

Conditions

1. 5 years in which to commence development
2. Development to be built in accordance with the approved plans listed.
3. The fence shall be painted a dark green colour within three months of its erection.

Informatives

Public sewer

Please note that Bats are protected under The Conservation of Species and Habitats (Amendment) Regulations 2012 and the Wildlife and Countryside Act 1981 (as amended). This protection includes bats and places used as bat roosts, whether a bat is present at the time or not. If bats are found during the course of works, all works must cease and Natural Resources Wales contacted immediately. Natural Resources Wales (NRW) (02920 772400)

Roosting bat provision can be in the form of self-contained bat brick(s) which can be fixed within the exterior of the upper storey walls, for example under the western eaves/ gable apex of the new extension note that bat bricks can be recessed into the wall to create a less obtrusive finish.

Note: Wooden bat boxes should not be used as these are prone to decay and are unlikely to last throughout the lifespan of the dwelling.
Further information and details about bat roost products can be found at the Bat Conservation Trust website: http://www.bats.org.uk/pages/bat_boxes.html

DC/2015/01585

CONVERSION OF ORIGINAL HOUSE TO 6 APARTMENTS; CONVERSION OF COACH HOUSE AND STABLES INTO TWO SEPARATE RESIDENTIAL UNITS. DEMOLITION OF 1970'S EXTENSION BLOCK, ERECTION OF 36 NEW BUILD RESIDENTIAL UNITS (INCLUDING 10 AFFORDABLE RETIREMENT APARTMENTS AND 2 AFFORDABLE RETIREMENT BUNGALOWS)

THE HILL, ABERGAVENNY

RECOMMENDATION: APPROVE

Case Officer: Kate Bingham
Date Registered: 21/03/2016

1.0 APPLICATION DETAILS

- 1.1 This application seeks the redevelopment of the former Coleg Gwent facility to provide 45 no. residential units comprising 6 no. apartments in the existing main house, 24 no. new build open market dwellings, 10 no. new build affordable retirement apartments and 2 no. affordable retirement bungalows. There are also 2 separate residential units which are conversion of existing buildings on the site and the reinstatement of the existing garden cottage.
- 1.2 The site comprises 8.26ha (20.41 acres) of former educational and residential conference land and buildings with a C2 Use Class (Residential Institution). Those uses ceased in 2009. The site includes a large, extended mansion house, formal and informal landscaped grounds, modern residential/educational buildings, a former stables building and garden cottage. All of the original buildings are to be retained and re-used as part of the development.
- 1.3 New build residential development is proposed to be located to the east of the site adjacent to the existing dwellings on Hillside, roughly in the location of the existing modern extension that houses the residential accommodation for the college and to the south on the former croquet lawns and tennis courts but of which there is now no physical evidence. Further new build housing is proposed to the northwest corner of the site around the location of the existing car park. A separate development of 12 affordable units is proposed in the south western corner of the site.
- 1.4 The development of the site can generally be split into four areas; northwest, southwest, east (including the existing house and associated buildings) and southeast.
- 1.5 Northwest – the existing entrance from Pen-y-Pound will accommodate a new left hand turn which will enter a residential development of 13 no. new dwellings. This area includes the existing lodge building that is not part of this application but will have a new parking arrangement. The proposed new dwellings would have 4-5 bedrooms and would be located in relatively spacious plots which have been arranged around two large specimen trees that are to be retained.
- 1.6 Southwest – this area is proposed to accommodate a block of ten affordable apartments with two 2-bedroom bungalows attached. Parking will be located to the rear. The main block will be two storey and has been designed to mimic the mansion.
- 1.7 Southeast and east – eleven two bedroom retirement houses are proposed to the southeast of the main house. The large open space to the front of the mansion will be

retained. It is proposed to retain all of the existing buildings on site that are considered to be of any quality. This includes the original part of the main house which is to be refurbished to create six apartments. The Garden Cottage and Stable are also to be retained and reinstated as dwellings together with the Coach House.

- 1.8 The remainder of the site is made up of a formal and informal garden area immediately adjacent to the main house which is integral to its setting and the character of the historic garden. This area is not proposed to be developed but will be long term managed and restored where appropriate as part of the wider development of the site. The listed walled garden is to be maintained by a private management company as part of the development and will not form part of the title of any of the adjacent dwellings.
- 1.9 The majority of the proposed development will be accessed off the existing access road off Pen-y Pound. A separate access off Hillside to the south of the site will be created to serve the proposed affordable housing in the south western corner of the site.
- 1.10 The site is within the development boundary of Abergavenny and is not constrained by any flooding or ecological designations. However, the site is a Historic Park and Garden and is within the Abergavenny Conservation Area. The walled garden to the rear of the mansion house is also Grade II listed.

2.0 RELEVANT PLANNING HISTORY

DC/2015/01586 – Conservation Area Consent for this development. Concurrent application. Recommended for approval.

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

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

Development Management Policies

- H1 – Residential Development within Main Towns
- SD2 – Sustainable Construction and Energy Efficiency
- SD4 – Sustainable Drainage
- DES1 – General Design Considerations
- EP1 – Amenity and Environmental Protection
- NE1 – Nature Conservation and Development
- G11 – Green Infrastructure Provision
- LC3 – Brecon Beacons National Park
- LC5 – Protection and Enhancement of Landscape Character
- MV1 – Development and Highway Considerations
- MV3 – Public Rights of Way
- HE1 – Development in Conservation Areas
- HE2 – Alterations to Unlisted Buildings in Conservation Areas

4.0 REPRESENTATIONS

4.1 Consultations Replies

- 4.1.1 Llantilio Pertholey Community Council – Recommend approval.
- 4.1.2 Abergavenny Town Council – Recommend approval.
- 4.1.3 Cadw – No objection in principle. Concerns regarding the density of housing in the northwest area of the site. Full comments;

The planning application is supported by a Conservation Statement by RPS group and a LVIA by Anthony Jellard Associates. Whilst the Conservation Statement deals with the impact of the demolition of the modern buildings and the retention and conversion of the historic building, it does not deal with the impact of the new build residential units within the grounds on the registered historic park and garden.

The Design & Access Statement splits the proposed development into 3 areas (p.12, para 4.4) North-West; South-West; East. Our comments on the proposals within these areas are as follows.

Northwest - It is proposed to construct a cul-de-sac of 13 new residential units in the north-west area of the registered park and garden. The proposals include driveways off the main drive and a new road access. In our view, this part of the application will have a significant adverse impact on the registered site.

The Hill is approached from the west along the entrance drive. This has been the main approach since the eighteenth century and by the nineteenth century the drive was flanked by an avenue of trees. The north-west area is clearly visible from the historic drive and provides the immediate setting to the historic approach and the parkland setting to the house and formal gardens. The proposals in the north-west area of the site conflict with some of the philosophies set out in the Conservation Statement accompanying the application, which aims to improve the setting of the historic mansion and grounds. In fact p.18 of the Conservation Statement makes the recommendation to remove the intrusive current parking areas from the sloping ground to the north of the site access drive. Whilst we agree that its removal would be beneficial to the registered park and garden, we have concerns about its potential replacement with modern development.

Although part of the north-west area has already been developed as a car park, this is simple, flat tarmac area and presents an opportunity to improve the setting of the mansion, gardens and approach drive by the reinstatement of this area of the park and garden. Whilst reinstatement would be our preferred option in this area, our concerns could potentially be mitigated by a reduction in the density of development in this area and an alternative design and layout which appears less like a modern housing development and is more in character with its historic setting,

Southwest - A 10-unit apartment block with two 2 bedroom bungalows attached is proposed in the south-west area of the site. Access to the new units is proposed via Hillside, separating this area from the historic park. The proposed units encroach onto a previously undeveloped area of the registered park and garden and therefore will have some adverse impact on it. However, the existing trees which are to be retained as part of these proposals will go some way to screening the proposed units in this area and although it would be preferable to retain this open area, we do not consider

that the proposed units will have a significant impact on the edge of the registered park.

East - The proposed demolition of the modern blocks together with the proposed retention and conversion of the mansion, garden cottage, stables and coach house provides a sustainable use for the historic buildings and is likely to have a beneficial impact on the registered park and garden at The Hill. In our view, the proposed construction of 11 two-bedroomed retirement houses with single car ports, partly on the previously developed areas adjacent to the mansion and additionally in the south east of the site, is likely to be an improvement to the large college blocks currently adjacent to the mansion. The proposed parking arrangement is also improved by the removal of parked vehicles from the mansion forecourt. The proposed units in the south-east of the site encroach onto a previously undeveloped area of the registered park and garden and therefore will have some adverse impact on it. However, the existing trees which are to be retained as part of these proposals will go some way to screening the proposed units in this area.

The sympathetic repair to garden features and proposed replanting to enhance the historic character of the registered park and garden is beneficial and welcome. However, it is not clear how it is proposed to retain the historic character of the registered park and garden in the long term, which could easily be diluted by unsympathetic management and ad-hoc incremental changes.

4.1.4 Brecon Beacons National Park Authority – Object to area of housing to the northwest;

The National Park echoes the concerns raised by Cadw in respect to the detrimental impact represented by the cul-de-sac of dwellings proposed to be located to the north western corner of the site. This area of the development is of particular interest to the National Park Authority as it is adjacent to the boundary of the National Park. It is considered that this section of the site with numerous mature trees provides clear definition between the open field landscape of the Park, contributes to the conservation areas and the setting of the Registered Park and Garden. The National Park Authority consider the cul-de-sac development for reasons of design and density urbanises the area. In the guidelines recommendations section of NRW's LANDMAP advice regarding Visual and Sensory aspect of this part of Abergavenny it is stated; '*Medium Term (new build should reflect historical character both in materials, forma & structure) Immediate (discourage new housing/development on rising ground, valley floor and where it would affect the setting of the BBNP)*'. In respect of lighting associated with the development, it is considered important to protect the national Park Dark Skies reserve and the visual and ecological qualities provided by the woodland area located adjacent to the Park boundary.

National Park Ecologist; Not had time to undertake a site visit and unclear how much tree loss there will be but concern that a number of trees and woodland habitats within the site will be felled. The retention of the woodland corridor along the northern boundary is welcomed but its value is diminished by loss of trees and woodland habitat to the south. It will also be important to ensure that external lighting is sensitively designed and sited to avoid light-spill to the woodland corridor and the National Park beyond.

4.1.5 Dwr Cymru-Welsh Water – No objection subject to conditions and advisory notes.

4.1.6 Natural Resources Wales (NRW) – Significant concerns with the proposed development as submitted. We recommend that planning permission should only be

given if the following requirements can be met by the applicant. If these requirements are not met then we would object to this application.

Summary of Requirements;

1. Landscape: Amendments to the quantity, layout and design of new residential development within the Registered Park;
2. Landscape: Further research and site investigation on the designed landscape as part of the Historic Environment Assessment;
3. Landscape: Production of a Conservation Management Plan for the Registered Park & Garden. If your Authority is minded to grant this proposal in its current form we recommend that this requirement is secured through condition;
4. European Protected Species: A comprehensive bat method statement setting out the impacts of the proposals on bats and details of all the mitigation that will be put into place.

4.1.7 MCC Highways – No objection. Main part of access road to be adopted.

4.1.8 MCC Planning Policy – No objection.

4.1.9 MCC Heritage Officer – No objection subject to conditions;

- Roofs on conservatories on plots 11, 12 and 13 should be solid.
- Fascia / soffits to be painted timber in a dark colour.
- Rainwater goods in cast metal, but should be a dark colour.
- Samples of materials.

4.1.10 MCC Green Infrastructure Team (GI, Landscape, Ecology, Trees and Public Rights of Way - collectively looked at the submission and put forward a number of objections;

GI – The existing GI assets have not been fully incorporated into the layout as submitted with particular concern around the loss of woodland and trees and close proximity of the development to these assets. It is also unclear how the walled garden will be available to the residents and wider community.

Landscape –

- Lack of reference to the landscape setting and character of place specifically in relation the design and layout of development to the north-west and south-east.
- Lack of a comprehensive and inclusive GI strategy that also embraces the historic landscape and access opportunities.
- Concerns about the quality and layout of development and its suitability and compatibility within the listed building and historic parkland and setting. I am particularly concerned about the proposed circular cul-de-sac to the north. I feel development is too high (ideally this should be retained as parkland) however at minimum the proposal should be restricted to just the southern proportion of the site which is currently occupied by the car park. This layout and overall design in particular is contrary to policies S13, 17, LC5 and HE1.

Ecology – An ecological objection was offered for this scheme based on insufficient assessment of impacts of development on habitats and species and loss of woodland habitat and potential negative effects on Ancient Semi natural woodland. Further information subsequently submitted.

Public Rights of Way – Objects. Countryside Access believes that the proposed development does not comply with the requirement of both TAN 12 and the Active Travel Bill.

4.1.11 MCC Education - Based on 32 houses using the housing mix provided this development generates 7 primary pupils. The remainder of the development is 1 bed flats so will not impact. The catchment area school is Deri View Primary school, therefore there is capacity to accommodate the additional pupils.

4.1.12 MCC Housing Officer – No objection subject to S106 to secure the affordable housing proposed. Due to nature of the site and the development, a commuted sum to make up for a shortfall in number of affordable units on the site will be acceptable in this case.

4.2 Neighbour Notification

Two representations received. Object on the following grounds/raise the following concerns;

- Question who will manage the trees and greenery adjacent to the wall on Pen-y-Pound?
- Increase in traffic on Pen-y-Pound due to the number of homes which will put pressure on the narrow road outside the estate.
- Should allocated parking within the site for visitors to the walled garden
- The walled garden should be open to the public daily.
- Opposed if adequate long term plans are not included for the public access to the walled garden and for the undisturbed retention of the woodland bordering Deri Road.

4.3 Other Representations

4.3.1 Abergavenny and District Civic Society – The Society is pleased to make the following observations on this application:

We regret the loss of an educational facility that contributed, and might have continued to contribute, much to the well-being of the town. Nevertheless we have no planning objection in principle to the residential use of existing buildings and parts of the grounds provided that the development is sufficiently consistent with the character of the Conservation Area and the Grade II status of the entire area in the Cadw/ICOMOS Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. We are aware that the site is within the Local Development Plan development boundary for Abergavenny, though the applicants' claim that the location is sustainable might be questioned.

Our comments are constrained by being unable to gain access to the site. We cannot, for example, assess how the positioning of houses will impact on views from the main house.

The main planning concern expressed by our members is traffic generation on Pen-y-Pound and particularly at the junction with Avenue Road and Old Hereford Road, which is regularly overloaded by school and leisure centre traffic. The argument that 45 residential units will not generate significantly more traffic than the residential college is strongly questioned. Local residents assert that there were normally only about a dozen cars parked at the college and that students were usually transported by

minibuses. They also point to the amount of weekend parking generated on Pen-y-Pound by nearby leisure activities.

We are uneasy that a further development phase may be proposed for the south-western part of the parkland, and would like to see this ruled out.

The character of the adjacent part of the Conservation Area is low density bespoke housing of varying periods scattered somewhat randomly in the well-treed grounds of old houses. The density proposed for the north-western part of the site is similar to that of Avenue Crescent, which is further away, off Avenue Road. We note that your pre-application advice does not recommend this area and we would have preferred a lower density and a more random distribution of houses here. We note the variety of styles proposed and that landscaping and walling details, yet to be submitted, can determine the quality of the scheme. Nevertheless we fear that the housing here will have an unduly estate-like character.

Without access, we have no comments on the siting of the other housing proposals.

The proposed architecture seems generally acceptable, echoing traditional or vernacular forms and well-proportioned. Materials are not detailed other than in para 4.9 of the DAS. We are unsure about the late Victorian style chosen at a right angle to the classical main house, but this is impossible to judge without sections, street views or access to the site. If there are floor levels on the layout plan, we cannot read them on line. We recognise that modern housing may not need them, but we always feel that traditionally styled houses without chimney stacks appear debased; only four have these, and they are rather unsuitably added to the side elevations. The somewhat 'Regency' style of the main affordable housing block would particularly benefit from chimney stacks.

We leave the detailed assessment of the trees in the area to your experts, commenting only that we attach the highest importance to retaining and managing those on the boundaries of the site. A 1949 aerial photograph shows few trees in the north-western part of the site now proposed for housing. We also stress the importance of retaining and managing old boundary walls and the entrance gateway.

We note the concerns expressed by Friends of Gardd y Bryn regarding the walled garden. We agree that the authentic historic character of the garden should be restored rather than replaced with a new scheme, and we fully support the need to ensure its appropriate management and public access, whether by planning conditions or other means. This will require some provision for car parking and toilets.

Another plea is that the street lighting should be compatible with the National Park's Dark Sky Reserve.

Several of our members have commented on potential S106/CIL funding for road improvements or enhancement of the Football Stadium, a social facility to which U3A relocated when The Hill became unavailable.

- 4.3.2 Friends of Gardd Y Bryn - We are volunteers in The Friends of Gardd y Bryn group who have been working to restore the historic walled garden at The Hill, Abergavenny, since 2010. We have some concerns about the development plans.

We were informed at a public exhibition that a resident's management committee would decide on how the estate, including the walled garden, would be maintained in the future.

But the proposals shown online would effectively destroy what is left of the current walled garden, in addition to shutting out any community involvement.

We are concerned about the proposal to reduce the size of the walled garden and hive off part of it to provide two private gardens.

If the Edenstone application is granted we would like to see in the planning conditions that any future resident's management committee would ensure that the walled garden remains a garden and that there would be reasonable access and facilities for community organisations.

We would welcome the retention of the garden's layout and the retention of its heritage theme but other proposals are at odds with the accompanying ecological study: 4.6.1 Aims - Retain existing wildlife value of shrubs. Retain and enhance ecological value of walled garden while retaining its formal historic management.

The creation of the lawns, communal orchard and mulberry walk is a completely new design for the garden which will inevitably result in the destruction of all of the existing shrubs, many of which are prized and unusual.

The orchard and 'hay meadow' throw up a maintenance problem. Mowing an orchard needs special equipment especially if it is among trees. The maintenance recommendations from the ecological study also recommend leaving strips of unmown grass to enhance the ecological diversity, true, it will. But wouldn't the residents want the grounds kept 'neat and tidy', and how likely would it be that these unmown strips would be left, unless they are fenced off.

Why mulberry trees have been recommended is a complete mystery: these trees are slow growing, and when they eventually fruit, the birds will eat them and then deposit awful stains on the surrounding area and the residents' washing!

The walled garden has been planted with a series of themes and some yew-hedged 'rooms' one of which has yellow and gold coloured flowers and plants while another has a silver theme. The new proposals for the walled garden have paid no consideration to what is already there - mature trees and shrubs. A yew hedge has been put in a different place and a border somehow squeezed between it and the central path, the 'gold' and 'silver' gardens have been replaced by vegetable plots, the soft fruit becomes lawn as well as the shrubbery on the other side. It is not clear what is proposed in other areas such as the current Mediterranean garden.

It's not clear what is planned for the walled garden's only vehicular access in the south-west corner (and access to the compost heaps). If this goes, how will heavy machinery get in? What about disabled access? Also, if the compost heaps are to disappear where will the new ones go? What about car parking facilities?

We are primarily concerned with the historic and registered walled garden which we would very much like to see restored. We would also like to echo the sentiments of many residents of Abergavenny and beyond who feel mournful about the loss of The Hill College and conference centre with its residential and educational facilities. It is a great loss to the amenities and culture of the town.

We understand that this site is not in Monmouthshire County Council's Local Development Plan adopted on 27 February 2014, and if the application is approved, we feel that especially strict planning conditions would be appropriate.

We would ask that the entrance road to the estate be adopted by the local authority as part of the planning conditions.

Secure facilities such as water, electricity, a toilet and a mess room should be laid on for garden volunteers as well as car parking, and storeroom for tools.

Unfortunately, the lack of toilet facilities once the security guards were withdrawn meant that we lost a chance to bolster the number of volunteers by incorporating another group. In addition, the continued uncertainty about the site's future meant that we could not apply for grant funding.

4.3.3 SEWBREC Search Results – Various species of bat recorded foraging/commuting within the vicinity of the site.

5.0 EVALUATION

5.1 Principle of Development

5.1.1 The site is within the development boundary for the town and as such the principle of development is supported. The scale of the development and the desire to develop and manage the site as a whole is welcomed, as is the retention of the main house, stables, Garden Cottage and Coach House.

5.1.2 Strategic Policy S4 relating to the provision of affordable housing is of relevance; for sites of five or more dwelling units in Main Towns such as Abergavenny there is a requirement for 35% of the total number of dwellings on site to be affordable. The proposed development includes 33 market dwellings and 12 affordable dwellings (10 flats and 2 bungalows), falling short of the requirements of Strategic Policy S4 which would require 16 affordable units.

5.1.3 The proposed layout of the site is low density and considerably less than 30 dwellings per hectare which is the presumed capacity of sites for residential development in the Local Development Plan (referred to under criterion i) of Policy DES1). However, compliance with this criterion must be weighed against criteria l) of Policy DES1 which seeks to ensure that existing residential areas characterised by high standards of privacy and spaciousness are protected from overdevelopment. The sensitive setting in this instance is considered to justify a relaxation of normal density requirements. In this respect, the site is located within the Abergavenny Conservation area, where Policy HE1 applies and must be taken into consideration. As there is no specific local planning policy in relation to historic parks and gardens it is important to ensure DES1 in relation to General Design is considered along with Chapter 6 of Planning Policy Wales relating to Conserving the Historic Environment. The impact of the proposed development on these features is considered below.

5.1.4 Coleg Gwent have indicated that the site is no longer required and has therefore contracted to dispose of the site to Edenstone Homes Ltd on receipt of planning consent. There is no planning policy requirement to keep the facility for educational purposes if the need is no longer there or met elsewhere which is clearly the case at this site given that the use ceased in 2009.

5.2. Impact on the Conservation Area, National Park, Registered Garden and Listed Walled Garden

5.2.1 The layout of the site has been arranged to suit the existing topography of the site which is generally sloping from northeast to southwest. The layout has been designed

to have regard to the existing buildings and gardens, roads and footpaths within the site as well as the setting of the main house within the Historic Park.

- 5.2.2 All of the new residential units will be two storeys in height except for the two self-contained affordable bungalows that will be attached to the apartment block in the south western corner of the site. Materials proposed for new build private dwellings are a mix of stone and rendered walls with natural slate roofs, sash uPVC windows and timber doors with cast metal rainwater goods. The affordable dwellings will be rendered and brick with a natural slate roof and uPVC windows and doors. Dark coloured uPVC rainwater goods are also preferred by the developer for the affordable units as social landlords generally require them for maintenance purposes.
- 5.2.3 In order to define public and private areas within the site, some means of enclosure will be required. To this end, painted railings are proposed in addition to low level planting. It is proposed to erect a 1.8m natural stone wall around the affordable housing in the south west corner of the site and along the public boundaries of the new dwellings to the northwest. Adjacent to the walled garden 1.1m high post and wire fencing is proposed to define curtilage boundaries. Elsewhere timber fences will only be used between rear gardens where they generally cannot be seen. The means of enclosure proposed are considered to be appropriate to the location.
- 5.2.4 The proposed new housing to the north west of the site has been designed as a cul-de-sac of 13 new two storey residential units. The proposals include driveways off the main drive and a new road access. This area of development has generated the most concern from consultees. The area will be accessed via a left hand turn off the main entrance drive. This drive has been the main approach since the eighteenth century and by the nineteenth century the drive was originally flanked by an avenue of trees. The area provides the immediate setting to the historic approach and the parkland setting to the house and formal gardens. Part of this area is currently a car park and given its currently engineered appearance, it is therefore difficult to argue against re-using this area for new housing. The band of trees along the northern side of the driveway are to be retained and will provide some screening and retain a sense of the original avenue with only one additional access point to serve one private dwelling off this drive that will be between the existing trees.
- 5.2.4 This area includes, amongst others, a very large veteran Sweet Chestnut tree which has significant value both architecturally and in terms of its importance for biodiversity. The tree is to be protected during construction and protected and retained thereafter and will form the focal point of this part of the site. It will be within open space and not within the title of any individual property. Other veteran trees that will become part of private gardens are protected by TPOs and it will be clear to any prospective purchasers that mature trees will be in their garden and that these trees are protected.
- 5.2.5 The existing woodland on the northern boundary with the National Park is also to be retained. This will continue to act as a buffer between the application site and the open fields of the National Park to the north. It is also considered that sufficient distance has been allowed between this part of the development and the walled garden and due to existing tree planting and the topography of the site, this part of the site has little visual relationship with the setting of the main house, formal walled garden and parkland area to the south. The low density of development proposed at this part of the site is not considered to conflict with the character of the registered park which has historically been open with a strong belt of boundary trees to the north and west.
- 5.2.6 In terms of the design of the houses themselves, these have been designed to be sympathetic to the vernacular of the area. Windows are to be mock sash with Georgian

style window bars. The houses will also feature details including stone cills and heads to doors. Chimneys have also been included on larger properties. A mix of render and stone finishes are proposed to add some variation.

- 5.2.7 A 10-unit apartment block with two 2 bedroom bungalows attached is proposed in the south-west area of the site. This housing here will be affordable, specifically for older people which reflects the need in the local area. Access to the new units is proposed via Hillside, separating this area from the historic park although the residents of these units will have pedestrian access to the historic park and full use of this area as per the occupiers of the private dwellings.
- 5.2.8 The proposed units project into a previously undeveloped area of the registered park and garden and therefore will have some adverse impact on it. However, the existing trees which are to be retained as part of these proposals will go some way to screening the proposed units and it is accepted that this area has already been encroached upon to some degree by the existing private dwelling between the driveway and the proposed new housing to the south west which appears to have been built in the 1960's or 70's. As such it is not considered that the siting of new housing in this area will have a significant impact on the edge of the registered park.
- 5.2.9 As opposed to the more generic design of the private houses on the site, the block of affordable apartments and attached bungalows has been designed in the style of the main house itself although there will be little direct visual relationship between the two. The principle of using the main house to influence the design of the affordable dwellings, which by virtue of the fact that they are flats and tend to be bulky structures, is welcomed to provide this element with good proportions and a well-considered design.
- 5.2.10 The proposed demolition of the modern blocks together with the proposed retention and conversion of the mansion, garden cottage, stables and coach house provide a sustainable use for the historic buildings and is likely to have a beneficial impact on the registered park and garden at The Hill. The proposed construction of 11 two-bedroomed retirement houses with single car ports, partly on the previously developed areas adjacent to the mansion and additionally in the south east of the site, would be an improvement to the large college blocks currently adjacent to the mansion. The proposed parking arrangement is also improved by the removal of parked vehicles from the mansion forecourt.
- 5.2.11 The proposed units in the south-east of the site are located on a previously undeveloped area of the registered park and garden and therefore will have some adverse impact on it. This area was originally used for tennis courts and a croquet lawn and was not therefore part of the more informal parkland gardens that remain to the front of the main house. The existing trees which are to be retained as part of these proposals will also go some way to screening the proposed units in this area from views from the house.
- 5.2.12 The design of the dwellings in this area is similar to those in the north west of the site. However, the density of the units here has been increased and the size of the units reduced. In this way the proposed new dwellings will relate better to the scale of the main house and other existing cottages that are to be retained.
- 5.2.13 The sympathetic repair to garden features and proposed replanting to enhance the historic character of the registered park and garden is beneficial and welcome. The Green Infrastructure Management Plan will show how the historic character of the

registered park and garden will be retained in the long term as this could be diluted by unsympathetic management and ad-hoc incremental changes in the future.

- 5.2.14 Overall therefore, on balance it is considered that the layout and design of the proposed will not harm the registered park or the wider landscape and will maintain or enhance the character and appearance of the consideration area.

5.3 Access, Parking and Traffic

5.3.1 Vehicular access to the majority of the site will be via the existing access off Pen-y Pound. The existing access is not up to current standards in terms of visibility. However, the site has an extant use as a residential educational facility which would have generated its own traffic and this must be taken into consideration even if the site was not being used up to potential capacity. The benefits of refurbishing the existing entrance gate and walls and reinforcing the former avenue of trees that would have formed the western approach to the main house is also recognised.

5.3.2 Consideration may need to be given to change in priority with the access as the main highway and the 'mountain' access road being the minor road. The footway along Pen-y-Pound may need to be upgraded or widened. The 30mph zone may need to be extended which would require Traffic Regulation Orders, the costs of which would need to be met by the developer.

5.3.3 It is proposed to provide 103 car parking spaces in total (including five integral garages). The number and dimensions of the parking spaces have been calculated using the Council's adopted parking standards which requires one space per bedroom up to maximum of three spaces per dwelling. Based on the quantum of development this required number of spaces would stand at 92. Therefore the proposed development is considered to be compliant in this regard.

5.3.4 Objections have been raised in relation to the amount of traffic that is likely to be generated by the proposed new housing and its impact on the surrounding local road network. In this regard the existing lawful use of the site as a residential college needs to be considered. The site currently provides parking for approximately 120 cars and although the college was not being used to its capacity in more recent years, the potential traffic generated by the previous use (the fall-back position) is no less than the potential traffic generation of the proposed dwellings.

5.4 Biodiversity Considerations

5.4.1 An ecological objection was offered for the scheme based on insufficient assessment of impacts of development on habitats and species and loss of woodland habitat. As such an Ecological Impact Assessment (EclA) has now been submitted to support the application.

5.4.2 From the EclA it can be deduced that the extent of vegetation removal will be limited to 1.89 acres (0.76 hectares) which equates to 19% of the overall application area (which does not include the area of open grassland amenity space within the blue line boundary). Of that area to be lost, 1.5 acres (0.60ha) will include loss of woodland and scrub. 4.4 acres (1.78 ha) of existing woodland, scrub and grassland within the application site will be retained together with 10.5 acres (4.25 ha) of woodland, scrub and open space that lies outside the application site but within the wider estate grounds controlled by the applicant. On balance therefore it is considered that the potential overall loss is not significant.

- 5.4.3 The floristic value of the existing grassland has been identified as moderate–low. There are significant opportunities to increase floristic value of amenity grassland by over-sowing with species such as yellow rattle or use of lawn mixes on areas that need to be managed more often. This should be included in the Green Infrastructure Management Plan.
- 5.4.4 Based on the Phase 1 habitat map it is considered that the area of scrub that will be lost will be limited to a small area near the buildings which subject to a condition to consider nesting birds and reptiles, will not have a significant effect. Hedgerows were identified as species rich Priority Habitats but fortunately these habitats will not be affected by the development. The long term management of these should also be included in the GI Management Plan.
- 5.4.5 A bat survey report has been submitted to support the planning application which considers both the buildings at the site and the trees. Bats were found to be using some of the buildings on and around the site but works to these do not form part of this planning application. A condition will be necessary for trees to be removed/subject to works / close to the new development to be re-inspected prior to works particularly as there was a high number of trees with bat roost potential. Also, due to the potential loss of trees as roosts due to disturbance/lighting/habitat severance, it is recommended that a planning condition is used to secure bat enhancements in the new builds and on trees in the form of bat boxes.
- 5.4.6 The Preliminary Ecological Assessment identifies extensive habitats suitable for reptiles throughout the site. It recommends that Reptile survey should be undertaken however, a Mitigation Strategy has been submitted based on assumed reptile presence. It would be preferential to undertake survey to ascertain presence/absence and estimate population size in accordance with best practice. However, in this case it is considered that a planning condition which would secure the mitigation plan with a revised plan to demonstrate the extent of reptile exclusion fence to be erected and maintained throughout the construction period, can be used. The receptor site for any reptiles that have to be moved from the site must be included in the GI masterplan to secure future management in line with other GI management. Gardens and landscaping will be able to be recolonised by Common Reptiles when works are completed.
- 5.4.7 22 species of bird were recorded at the site on a casual basis in line with Extended Phase 1 methodology. Several of these species are identified as Section 42 species including Song Thrush, Bullfinch, Linnet and House sparrow. Impacts on these birds are likely to result from a loss of scrub, loss of undisturbed habitat and an increase in predators such as domestic cats. Nesting opportunities can be provided for House sparrow in the new build elements of scheme and the other species of bird will benefit from appropriate woodland and site management in accordance with a detailed Green Infrastructure Management Plan.
- 5.4.8 Greater than 14 species of invertebrate were recorded at the site during the extended phase 1 survey. The mosaic of habitats including the ancient woodland provides valuable habitats for these. Two Section 42 species of Principle Importance for conservation in Wales were identified at the site. Both of these species are most likely associated with the open areas of grassland in the northern area of the site, one of which appears to be at risk of loss from development. Future management improvements to grassland / woodland mosaics at the site could compensate for this

but must be secured by a wider GI Management Plan which includes grassland habitats outside of the red line (within the blue line).

- 5.4.9 Japanese knotweed has been identified on site and a removal plan should be conditioned to ensure that it does not affect the residential development or habitats on site in the long term.

5.5 Green Infrastructure (GI)

- 5.5.1 There are clearly real benefits in the proposals that have been put forward and the scheme offers some exciting opportunities. The setting of the listed building and parkland, the rich biodiverse habitats at the site and its close proximity to other high quality green infrastructure make it a development which will be able to market on the basis of high quality GI setting.

- 5.5.2 A Green Infrastructure Management Plan (ecology) has been prepared for the site however this is only relevant to ecology and does not cover other Green Infrastructure such as landscape or access and connectivity. The extent of the plan is also insufficient as it should cover the potential reptile receptor site. As such a condition requiring a more comprehensive GI Management Plan would need to be attached to any consent if the Council is minded to grant. This should seek to increase floristic value of amenity grassland by over-sowing with species such as yellow rattle or use of native lawn mixes on areas that need to be regularly managed. Management for the woodland should aim to positively manage the woodland considering its character and promote good structure and longevity. Management should be carefully designed by an experienced habitat management expert. It could focus on the removal / thinning of the plantation areas to remove species such as turkey oak and create a woodland / grassland mosaic with a scrub interface.

- 5.5.4 Trees and woodland have where possible been left out of private ownership to prevent their degradation which is good practice. It is welcomed that the bat roosts are included in the GI Management plan for the site. It will need to identify the trees that have been identified as bat roosts and those that have been identified as having high bat roost potential.

- 5.5.5 The GI Management Plan should include the parkland area at the south of the site as an open space for residents. Subject to conditions the proposed development is considered to be acceptable having regard to Policy GI1 of the LDP.

5.6 Landscape Impact

- 5.6.1 The proposal is located within the settlement of Abergavenny on rising land below the Sugar Loaf and forms an intermediate between the flat valley floodplain and the steep valley sides. The walled garden is listed and the grounds are registered as a grade 2 historic park and garden. The whole of the site sits within the Abergavenny Conservation area. It is identified under LANDMAP as a landscape of outstanding value for its cultural aspect, moderate value for its historical and visual and sensory aspects (as LANDMAP places the site just within the modern built form of Abergavenny) and low value for its Landscape habitats and geological value.

- 5.6.2 The site is extensively screened by mature trees and woodland on all sides and therefore the impact of the relatively low density housing on the wider landscape will be limited. Concerns have been raised by Cadw and the Council's landscape officer particularly in relation to the proposed housing to the north west of the site. This part of the site offers the greatest opportunity for new build houses and contributes heavily

to the viability of other parts of the proposal; most notably the conversion of the original dwelling and removal of modern extensions. As a result of the requirement to retain the majority of the trees in this area, the layout of the proposed housing on this part of the site is relatively low density and the house types, although they could be considered 'standard', are considered to be in keeping with the semi-rural setting. Given the need to provide new homes and the benefits to the wider historic park and the original house that will be afforded as a result of a viable development, it is considered that the proposed layout and house design on this part of the site are acceptable from a planning point of view.

5.7 Trees

5.7.1 In 2012, interest was shown in developing the land to the west of the house. This resulted in the issue of a tree preservation order (TPO) on many of the trees in this part of the site. Of particular note are three veteran Sweet Chestnut trees, two of which situated on the western edge of the main car park, and are old, gnarled specimens which have substantial value both architecturally and in terms of their importance for biodiversity. The third is situated within regenerating woodland to the north of the former car park area is still relatively intact and is simply massive. The retention of these trees and their use as focal points for the development is welcomed.

5.7.2 The woodlands to the north of the site between the house and Deri Road, plus the woodland in the south eastern corner of the site are remnants of Ancient Semi- Natural Woodland (ASNW) and are listed on The Ancient Woodland Inventory of Natural Resources Wales. ANSW is woodland that has developed naturally and been in continuous existence since 1600AD. Because of their longevity ASNWs contain relatively undisturbed soil upon which communities of flora and fauna unique to a particular woodland depend for their survival. Development in this area of the site has therefore been avoided but the manner in which the woodland is managed in the future will have to form part of the Green Infrastructure Management Plan.

5.8 Public Rights of Way

5.8.1 The Active Travel (Wales) Bill requires local authorities to continuously improve facilities and routes for pedestrians and requires new road schemes to consider the needs of pedestrians and cyclists at design stage. In their response the Council's GI Team stated that they were concerned about the lack of pedestrian/cycle access into the site of the proposed development and the security and maintenance of the proposed pedestrian access within it. Whilst secured public access to and within the entire site would be a benefit to both local residents and the wider public, the development has been designed to provide residents with high standards of privacy and security usually associated with a gated development; notably the retirement homes and apartments at the east of the site. Therefore although there will be opportunities for occasional public access to the site and walled garden, it is not considered that unrestricted access would be appropriate in this case and cannot be insisted upon.

5.9 Residential Amenity

5.9.1 The site is generally self-contained and therefore the development will only have significant impact on the existing neighbouring occupiers of The Lodge and Pen y Hill House which are located within the site boundaries. Plot 1 which is the dwelling closet to The Lodge has been designed to have no windows overlooking this dwelling. No dwellings are proposed within closed proximity to Pen Y Hill House.

The impact of the proposed development on neighbouring occupiers at Hillside to the east will be minimal given the mature tree screen around the periphery of the site together with the 1.8m stone wall.

5.8.2 Within the site, the width of the access road and pedestrian footpaths along with car parking and defensible space at the fronts of the proposed dwellings help achieve consistently acceptable separation distances between dwellings and habitable rooms to ensure that normal standards of privacy are met.

5.9 Section 106 Heads of Terms

5.9.1 Policy S4 requires that the 35% of the total number of new dwellings proposed are affordable which would equate to 15.05. The application proposes 12 new build affordable dwellings which is a shortfall of 3.05 units. As such, it has been agreed that a commuted sum for affordable housing in the area be a part of any Section 106 Agreement. In this case the figure has been calculated on the assumption of 2 x two person 1 bed flats and 1.05 x three person two bed bungalow which is a contribution of £179,616

5.9.2 A contribution towards provision and maintenance of public open space is required for all new development. This equates to £882 per dwelling for children's play provision (this would not apply to the affordable houses or those for persons over 55 years of age) and £3,132 per dwelling for adult recreation provision (not applicable to the affordable units).

5.9.3 Given that money paid for the site by the developers will go directly to funding education, no additional contribution will be sought via a Section 106 Agreement.

6.0 **RECOMMENDATION: APPROVE**

Conditions:

1	This development shall be begun within 5 years from the date of this permission.
2	The development shall be carried out in accordance with the list of approved plans set out in the table below.
3	All hard and 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. 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. Any trees or 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, unless the Local Planning Authority gives its written consent to any variation.
4	A schedule of landscape maintenance for a minimum period of five years shall be submitted to and approved by the Local Planning Authority and shall include details of the arrangements for its implementation this shall be integrated into the GI management Plan.
5	A Green Infrastructure Management Strategy Plan shall be submitted to, and be approved in writing by, the local planning authority prior to

	<p>the commencement or occupation of the development. The content of the Management Plan shall include the following;</p> <ol style="list-style-type: none"> a) Description and evaluation of Green Infrastructure assets to be managed. b) Trends and constraints on site that might influence management. c) Aims and objectives of management. d) Appropriate management options for achieving aims and objectives. e) Prescriptions for management actions. f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period). g) Details of the body or organization responsible for implementation of the plan. h) Ongoing monitoring and remedial measures. <p>The Management Plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the Green Infrastructure Management Plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning Green Infrastructure objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.</p>
6	<p>No development (including, for the avoidance of doubt, any demolition, ground works, or site clearance) shall take place until a protected species (bats) method statement for works has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include, as a minimum:</p> <ol style="list-style-type: none"> a) the purpose and objectives for the proposed works; b) a timetable for implementation demonstrating that works are aligned with the proposed phasing of construction; c) measures to avoid killing and injuring bats during works; d) the use of materials (such as timber and roofing membranes); e) details of the persons responsible for implementing the works; f) the positioning, size, type and location of bat roosting provision; g) the positioning and size of entrances of bat mitigation; and h) initial aftercare and long term maintenance (where relevant). <p>The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.</p>
7	<p>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 until an appropriate lighting scheme has been submitted to the Local Planning Authority and approved in writing. The strategy shall include:</p> <ol style="list-style-type: none"> a) lighting type, positioning and specification b) drawings setting out light spillage based on technical specifications <p>The strategy must demonstrate that bat roosts, including roost compensation and enhancements and key bat flight lines are not illuminated. The scheme shall be agreed in writing with the LPA and implemented in full.</p>

8	No removal of hedgerows, trees or shrubs brambles, ivy and other climbing plants or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
9	Prior to tree works, a Method statement for the safe removal of the tree shall be submitted to the LPA for approval in writing. The method statement shall include; a) Methods in accordance with Best Practice to assess the trees for presence/absence of bat roosts b) Methods in accordance with Best Practice to sensitively undertake work to trees with bat roost potential including climbing and section felling under the supervision of a licenced bat worker c) Measures and actions to be undertaken if roosts are identified at any time. The method statement shall thereafter be implemented in full.
10	Prior to the commencement of works, a scheme of ecological enhancements to include detail of nesting bird and roosting bats enhancements to be incorporated into the fabric of the buildings and positioned on trees shall be submitted to the local planning authority for agreement in writing. The scheme shall thereafter be implemented in full.
11	The development shall be carried out in strict accordance with the submitted Reptile Strategy: TerrAqua Ecological Services, Reptile Mitigation Strategy for The Hill, Abergavenny, Monmouthshire for Edenstone Homes October 2015. Reason: to ensure that animal species which come within the terms of The Wildlife and Countryside Act 1981 and Natural Environment and Rural Communities Act 2006 are effectively protected.
12	Prior to the commencement of works, an updated reptile exclusion fencing plan shall be submitted to the LPA for approval in writing.
13	A full Tree Survey accordance with British Standard 5837:2012 - <i>Trees in relation to Design, Demolition and Construction</i> Recommendations.
14	Prior to commencement of development a Tree Protection Plan and Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out strictly in accordance with the agreed details.
15	No development, including demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project for the duration of the development and who shall be responsible for – 1) Supervision and monitoring of the approved Tree Protection Plan; 2) Supervision and monitoring of the approved tree felling and pruning works; 3) Supervision of the alteration or temporary removal of any Barrier Fencing; 4) Oversee working within any Root Protection Area; 5) Reporting to the Local Planning Authority;

	6) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.
16	No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to, and approved by, the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water, and include assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
17	Prior to the commencement of the development hereby approved a notice shall be given to the local planning authority. (a) stating the date on which the development is to begin; (b) giving details of the planning permission and of such other matters as is required by Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 as amended ("the Order"). REASON: To comply with the requirements of Section 71ZB of the Town and Country Planning Act 1990 as amended by Section 34 of the Planning (Wales) Act 2015.
18	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.
19	Notwithstanding the approved plans, the roof material used for the conservatories on plot numbers 11, 12 and 13 shall be solid. Details of the roofs shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the dwelling houses on each of the aforementioned plots.
20	No works to any part of the existing stone boundary wall around the site shall be undertaken without the prior agreement of the Local Planning Authority.

Informatives:

Major Development - Any person carrying out the development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a copy of any notice of the decision to grant it, in accordance with Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 as amended and Section 71ZB of the Town and Country Planning Act 1990 as amended by Section 34 of the Planning (Wales) Act 2015.

Bats - Please note that Bats are protected under The Conservation of Habitats and Species (as amended) Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). This protection includes bats and places used as bat roosts, whether a bat is present at the time or not. We advise that the applicant seeks a European Protected Species licence from NRW under Regulation 53(2)e of The Conservation of Habitats and Species (Amendment) Regulations 2012 before any works on site commence that may impact upon bats. Please note that the granting of planning

permission does not negate the need to obtain a licence. If bats are found during the course of works, all works must cease and the Natural Resources Wales contacted immediately.

Nesting Birds - No removal of hedgerows, trees or shrubs that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

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

Japanese Knotweed - Please note that Japanese Knotweed is an invasive species and that there are several pieces of legislation relating to the control of the plant including the Wildlife and Countryside Act 1981 (as amended) and the Environmental Protection Act 1990. It is an offence to allow the spread of the plant and for incorrect disposal.

Street Naming/Numbering - The Naming & Numbering of streets and properties in Monmouthshire is controlled by Monmouthshire County Council under the Public Health Act 1925 - Sections 17 to 19, the purpose of which is to ensure that any new or converted properties are allocated names or numbers logically and in a consistent manner. To register a new or converted property please view Monmouthshire Street Naming and Numbering Policy and complete the application form which can be viewed on the Street Naming & Numbering page at www.monmouthshire.gov.uk. This facilitates a registered address with the Royal Mail and effective service delivery from both Public and Private Sector bodies and in particular ensures that Emergency Services are able to locate any address to which they may be summoned.

DC/2016/00301

PROPOSED CONVERSION OF REDUNDANT AGRICULTURAL BUILDING (BARN 4) INTO RESIDENTIAL USE

FIVE LANES FARM, CAERWENT

RECOMMENDATION: APPROVE

Case Officer: Nia Morrison
Registered: 30th March 2016

1.0 APPLICATION DETAILS

- 1.1 This application site is located to the west of the road leading from Carrow Hill north to the A48. The site is concerned with one redundant single storey stone barn located to the south of Five Lanes Farmhouse complex. Planning permission has already been granted for the conversions of barn 1 (DC/2013/00670) which has been implemented and barns 2 and 3 (DC/2014/01519) under two previous applications. It is now proposed to convert barn 4. The site is located within the open countryside, a Special Landscape Area (SLA) and also within a Source Protection Zone 1 (SPZ1).
- 1.2 It is proposed to convert barn 4 to a two bedroom property. In order to achieve this a projecting gable end extension is proposed to the north elevation of the barn measuring 5m by 4.7m by 4m high with stone walls and a tile to match the existing barn and glazing on the south west elevation. It is also proposed to create a garden curtilage to the north west of the barn and a curtilage area will also be formed south east of the barn with the boundary on the south west being the existing stone wall. Hedgerow enclosures are proposed to be grown to separate the curtilage from the agricultural field, which is also to contain the private treatment plant and to provide a privacy screen with barn 3. The parking is proposed to be shared with barn 3 to the north east of the site.
- 1.3 It was requested the proposed extension was reduced in size from 6.7m in length to 4.7m long so that the extension would be visually subordinate and appeared modest in relation to the existing barn.
- 1.4 The proposal is presented to Committee because the applicant is a close relative of a County Councillor.

2.0 PLANNING HISTORY

DC/2014/01519 – Conversions of barns 2 & 3
Approved 08.10.2015

DC/2013/00670 – Conversion barn 1
Approved 06.11.2014

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S4 Affordable housing
S12 Efficient Resource Use and Flood Risk

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

Development Management Policies

EP1 Amenity and Environmental Protection

EP5 Foul sewage disposal

DES1 General Design Considerations

H4 Conversion / Rehabilitation of Buildings in the Open Countryside

NE1 Nature conservation and design

LC5 Protection and enhancement of Landscape Character

SD3 Flood risk

M2 Mineral safe guarding

Supplementary Planning Guidance

Monmouthshire Local Development Plan Conversion of Agricultural Buildings Design Guide – April 2015

4.0 REPRESENTATIONS

4.1 Consultations responses

Caerwent Community Council – Recommends approval. Notes there are some local concerns regarding access safety and further increase in traffic. Some concerns over the use of the digester system for waste as this planned system will eventually service three properties. Concern it could affect the local aquifers.

Glamorgan Gwent Archaeological Trust - requests a condition that no development shall take place until the implementation of a programme of archaeological work.

Natural Resources Wales – we advise that the proposed development is likely to give rise to the need for a European Protected Species licence application. However, we do not consider that the development of Barn 4 is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range, provided that the mitigation measures outlined in the above report titled '*Barn 4, Five Lanes Farm, Caerwent, Monmouthshire – Updated Bat Roost Inspection Survey (Visual)*' by Avalon Ecology dated March 2016 are implemented. Therefore, we recommend planning permission should only be granted if the following points can be secured through planning conditions (or legal agreement, if necessary) to any permission your Authority is minded to grant:

- The scheme shall be implemented in accordance with the mitigation measures described in the *Barn 4, Five Lanes Farm, Caerwent, Monmouthshire – Updated Bat Roost Inspection Survey (Visual)* by Avalon Ecology dated March 2016 secured through planning conditions and/ or a Section 106 agreement; and
- No works on site shall take place until your authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorising the specified activity/ development to ahead.

The proposed development is located within the groundwater Source Protection Zone 1 of the Great Spring Source Protection Zone (SPZ). Source Protection Zones are designated by Natural Resources Wales to identify the catchment areas of sources of potable water (that is high quality water supplies usable for human consumption) and show where they may be at particular risk from polluting activities on or below the land surface. Source Protection Zone 1 (SPZ1) areas are designated closest to the source

of potable water supplies and indicate the area of highest risk for abstracted water quality.

We note that it is proposed to discharge foul drainage to a new package sewage treatment plant. However, we understand that the site already benefits from an Environmental Permit for the package treatment plant that includes Barn 4. As part of the permit application a groundwater risk assessment was provided to NRW which demonstrated that the use of non-mains drainage at this location would not cause pollution of groundwater within the Source Protection Zone. For this reason, we have no adverse comments to make in relation to foul drainage.

The discharge of clean roof water to ground is acceptable provided that all roof water down-pipes are sealed against pollutants entering the system from surface run-off, effluent disposal or other forms of discharge. The method of discharge must not create new pathways for pollutants to groundwater or mobilise contaminants already in the ground.

MCC Planning Policy Officer – LDP Strategic Policy S1 applies, the site is located in the open countryside where planning permission will only be allowed for: acceptable conversions of rural buildings, in the circumstances set out in Policy H4, sub-divisions of existing dwellings (subject to detailed planning criteria) or dwellings necessary for agriculture, forestry or other appropriate rural enterprises, in accordance with TAN6. Policy H4 should be considered as the proposal relates to a barn conversion. Policy H4 contains detailed criteria relating to the conversion/rehabilitation of buildings in the open countryside for a residential use which must be considered in full. It must be considered whether Policy H4 criterion (a) relating to the form, bulk and general design, and criterion (f) that notes only very modest extensions will be allowed, are met in particular. The roofline of the proposed extension does not appear to be subordinate to the existing building, while this is a detailed matter it should be considered against criterion (a) of this policy. The Conversion of Agricultural Buildings Design Guide (April 2015) should also be referred to. Criterion (g) relates specifically to the re-use of buildings well suited for business use, it is noted a business re-use statement has been provided and concludes the barn is not suitable for such a use. It is understood that the application was registered before 1 April 2016 so there is no need for an affordable housing contribution, as would otherwise be required by Policy S4 and the associated Affordable Housing Supplementary Planning Guidance. The barn is located close to the edge of Zone C2 floodplain, it is difficult to see for certain whether the proposed extension to this barn is outside or within this designation, although it would only relate to a minor encroachment. Strategic Policy S12 and Policy SD3 relating to Flood Risk would need to be considered if part of this barn conversion is located in the floodplain. Policies EP1 and DES1 should also be taken into consideration in relation to Amenity and Environmental Protection and General Design Considerations respectively. Finally, it should be noted that the site is located in a minerals safeguarding area as designated in Policy M2. As the barn is located within a group of existing buildings criterion iv) would be applicable and there is not considered to be any conflict with Policy M2.

MCC Biodiversity Officer - Barn 4 was subject to activity survey in 2013 and found to be a roost of low conservation significance for common and soprano pipistrelle bats. The updated inspection found the building's ecological value to be unchanged. In addition to the 2016 inspection survey report, the author, Craig Stenson, provided further justification for the lack of an updated activity survey for the above and clarified that the barn did not exhibit any potential for species other than pipistrelle species despite the records for brown long eared and myotis bat species in adjacent barns.

The Barn was also found to support nesting barn swallows, and as such we would welcome the recommendations of the report to provide alternative nesting opportunities.

Due to the presence of European Protected Species (bats), the development will need to be subject to a licence from Natural Resources Wales before work can commence at the site. As a licence is required, the Local Planning Authority will need to consider the 'Three Tests' for EPS.NRW have confirmed in their letter dated 16th May 2016 that there will not be a detriment to Favourable Conservation Status subject to conditions which require the applicant to secure an EPS licence prior to development commencing, also to require that the mitigation provided is in accordance with that specified within Barn 4, Five Lanes Farm, Caerwent, Monmouthshire – Updated Bat Roost Inspection Survey (Visual) produced by Avalon Ecology dated March 2016. Notwithstanding the above information it is important that this application be considered in a holistic way considering the other records for this site and the previous consent for Barns 2 and 3 (14/01519)

MCC Highway Officer – No adverse comments .

4.2 Neighbour Notification:

No representations have been received.

5.0 ISSUES AND EVALUATION

Principle of Development
Affordable housing
Visual amenity
Neighbour amenity
Biodiversity
Access
Foul drainage

5.1 Principle of Development

- 5.1.1 The application site is located within a countryside setting and as such LDP Policy H4 (the conversion/rehabilitation of buildings in the open countryside to residential use) is of relevance. Policy H4 permits such development subject to various criteria.
- 5.1.2 The proposed barn is constructed from natural stone walls that are structurally sound. It is considered that the form and appearance of the building is suitable for a residential conversion and the replacement of roof timbers or posts is not considered to constitute substantial reconstruction in accordance with criteria (e) and (c) of Policy H4.
- 5.1.3 The proposal utilises the existing form, bulk and design of the building, and respects the rural character and design of the building. An extension is proposed to the barn, which has been reduced in size based on officer advice. Although the roofline of the extension is the same height of the barn, it is appreciated the existing building is single storey and low level and it would be difficult to achieve the form and pitch and liveable area if the height was to be dropped; as the extension has been reduced in length it is considered to be subservient in floor area and on balance it would be a modest extension in accordance with criteria (a) and (f). The proposed curtilage and access are within the existing access/yard area, are in scale and sympathy with the surrounding landscape and do not require the provision of unsightly infrastructure and ancillary buildings in accordance with criteria (b).

5.1.4 A 'business re-use' statement has been provided and is agreed that there would be a limited demand for a business use in this area and moreover, the barn sits alongside others granted recently for residential use. As the barn is suitable in form for a residential conversion the proposal meets the requirements of criterion (g) of policy H4.

5.1.5 Given the above the proposal is considered to be in accordance with Policy H4 of the LDP.

5.2 Affordable housing

5.2.1 As the application was received and valid before the 1st April 2016, before the supplementary planning guidance was adopted no affordable housing contribution is required.

5.3 Impact on visual amenity

5.3.1 Policy DES1 of the adopted LDP refers to General Design Considerations whilst Policy LC5 is concerned with the Protection and Enhancement of Landscape Character.

5.3.2 The design of the barn, like barns 1, 2 and 3 shows a sensitive conversion that retains the original character and openings of the existing barn. Proposed materials are high quality and in-keeping with the traditional nature of the building and surrounding setting. Proposed enclosures of hedgerow and stone walls are respectful of the surrounding rural setting. Given the above, it is considered that the proposed conversion represents an acceptable form of development which would contribute positively to the existing redeveloped site and would have a limited impact upon the surrounding attractive countryside.

5.3 Neighbour Amenity

5.3.1 It is not considered that the application proposals would cause unacceptable harm to the amenities and privacy of surrounding residential properties. The nearest property that could be affected by the proposal is the yet to be converted barn 3, immediately north-west of barn 4. The barn now proposed to be converted is single storey and therefore as the proposed windows are at ground floor level it is not anticipated to cause unacceptable overlooking towards barn 3. It is noted a proposed screen hedgerow of approximately 1800mm high is to be planted between barns 3 and 4.

5.4 Biodiversity

5.4.1 Natural Resources Wales have confirmed in their letter dated 16/05/2016 that a licence will be needed and that subject to the methods and mitigation, there will not be a detriment to favourable conservation status of the species. Having regard for the advice of NRW and the Council's own Biodiversity Officers, it is recommended that the following actions be put in place:

- Compliance with the submitted mitigation/compensation
- Condition requiring any external lighting to be agreed
- No work within bird nesting season unless otherwise agreed
- Condition to see evidence of licence

5.5 Access

5.5.1 The properties are reached via an existing access that has been slightly repositioned for improvement as part of a previous application for the site. The Monmouthshire Parking Standards 2012 require two car parking space to be provided per bedroom per property. The proposal meets these requirements and therefore Highways comment that there are no highway grounds to sustain an objection to the application.

5.6 Foul Drainage

5.6.2 The site is location within Zone 1 of the Great Spring Source Protection Zone (SPZ1) and therefore the proposed development could have an impact on potable water supplies. It is also noted that the Community Council have raised a concern in relation to this.

5.6.2 In response to this concern the site as a whole (including barn 4) has an Environmental Permit, which NRW have confirmed has demonstrated that the use of non-mains drainage at this location would not cause pollution of groundwater within the Source Protection Zone.

5.6.3 In reference to the MCC Policy Officer's comments in relation to the C2 flood zone, the extension does not encroach into the flood zone and the application site is just outside that zone. NRW have been fully consulted on the application and have not raised concerns in this respect.

6.0 RECOMMENDATION: APPROVE

Conditions

1. Standard 5 year in which to commence development.
2. In accordance with the approved plans
3. Secure the implementation of a programme of archaeological work ARC02
4. No development shall take place including any demolition, ground works, site clearance until a protected species (bats) method statement for works has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include, as a minimum the:
 - a) purpose and objectives for the proposed works;
 - b) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - c) measures to avoid killing and injuring bats during works
 - d) use of materials (such as timber, roofing membranes),
 - e) persons responsible for implementing the works;
 - f) positioning, size, type & location of bat roosting provision
 - g) positioning and size of entrances of bat mitigation;
 - h) initial aftercare and long-term maintenance;The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: to safeguard species of conservation concern protected under The Conservation of Habitats and Species Regulations 2010 and in accordance with LDP policy NE1.

5. The hereby permitted works shall not in any circumstances commence unless the local planning authority has been provided with a copy of the licence issued by Natural Resources Wales pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity / development to go ahead.

Reason: To ensure that plant and animal species which come within the terms of The Conservation of Habitats and Species Regulations 2010 are effectively protected and that a copy of the NRW development licence is submitted to the LPA.

6. Barn 1 – permitted development restrictions on extensions, outbuildings, etc.
7. Barn 3 – Retention of existing walls
8. Barn 5 – No fences to be added other than those approved – permitted development restriction.
9. The scheme shall be implemented in strict accordance with the Mitigation measures described in the Recommendations section of Barn 4, Five Lanes Farm, Caerwent, Monmouthshire – Updated Bat Roost Inspection Survey (Visual) produced by Avalon Ecology dated March 2016.

Reason: to safeguard species of conservation concern protected under The Conservation of Habitats and Species Regulations 2010 and in accordance with LDP policy NE1.

10. 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 on the building, or on the other buildings within the complex until an appropriate lighting plan which includes lighting type and specification, protecting roosting and foraging/commuting habitat for bats has been agreed in writing with the LPA.

Reason: To safeguard roosting and foraging/commuting habitat of Species of Conservation Concern in accordance with LDP policies NE1 and EP3.

11. The development shall incorporate bird nesting enhancements: to include three or more Artificial Schwegler No.10 Barn Swallow nest boxes to be installed on the building.

Reason: To provide net benefit for biodiversity conservation and comply with Section 40 of Natural Environment and Rural Communities Act 2006 and LDP Policy NE1.

12. No works to or demolition of structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the building(s) for active birds' nests immediately before the work commences and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority

Reason: To ensure that nesting birds are not disturbed by development works and to enable the Local Authority to fulfil its obligation under Section 25 (1) of the Wildlife & Countryside Act (1981) as amended.

13. All surface water shall be collected and disposed of within the site of the proposal.
14. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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, unless the Local Planning Authority gives written consent to any variation.

Informative

Refer to NRW Planning Advice Note

No surface water from the site shall drain onto the County Highway or into the County Highway drainage system.

DC/2016/00494

CHANGE OF USE OF HOTEL WITH C1 USE TO A1, A2 AND A3 USE ON THE GROUND FLOOR WITH B1 USE TO THE FIRST AND SECOND FLOORS.

THE SWAN HOTEL, CROSS STREET, ABERGAVENNY, NP7 5ER

RECOMMENDATION: APPROVE

Case Officer: Andrew Jones
Date Registered: 19/05/2016

This application was deferred at the meeting of Committee held in July 2016 to enable the observations of the Abergavenny Town Council to be received. These were received on 15th July 2016 and the response was:

'We received the paperwork for DC/2016/00496 and DC/2016/0494 (Swan Hotel/Change of Use). This was approved. The only comments from councillors were to recommend ensuring the external appearance - render etc - is returned to its original form, as detailed in the application. This is one of the first buildings people see when entering the town...'

The previous report and recommendation are set out below.

PREVIOUS REPORT

1.0 APPLICATION DETAILS

- 1.1 This application relates to the Swan Hotel, which is located at the south east end of Cross Street within the centre of the town of Abergavenny. The building is also Grade II listed and as such the application is considered concurrently with Listed Building Consent DC/2016/00496.
- 1.2 Planning permission is sought for the change of use of the hotel (C1) to A1, A2 or A3 on the ground floor with a B1 use to the first and second floors above. External works include the enlargement of ground floor windows and the removal of the portico to the south east elevation and a number of external pipes. Proposed internal works are under consideration as part of the concurrent Listed Building Consent application.
- 1.3 The application is presented to Planning Committee at the request of the Local Member, Councillor John Prosser.

2.0 RELEVANT PLANNING HISTORY

DC/2014/00727 - Smoking hut. Approved on 06/01/2015.

DC/1976/00925 – Alterations. Approved on 10/11/1976.

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S5 – Community and Recreation Facilities
S6 – Retail Hierarchy
S8 - Enterprise and Economy
S11 – Visitor Economy

S12 – Efficient Resource Use and Flood Risk
S13 – Landscape, Green Infrastructure and the Natural Environment
S17 – Place Making and Design

Development Management Policies

SD3 – Flood Risk
CFR1 - Retention of Existing Community Facilities
DES1 – General Design Considerations
EP1 – Amenity and Environmental Protection
MV1 – Proposed Developments and Highway Considerations
HE1 – Development in Conservation Areas
RET2 – Central Shopping Areas

4.0 REPRESENTATIONS

4.1 Consultations Replies

4.1.1 Abergavenny Town Council – have not responded to date.

4.1.2 MCC Highways – Have not responded to date

4.1.3 Dwr Cymru Welsh Water – We would request that if you are minded to grant Planning Consent for the development that the suggested conditions and advisory notes provided are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

4.1.4 Planning Policy – Provided the following comments:

Policy S11 relates to the Visitor Economy, which states in part that development proposals that would result in the unjustified loss of tourism facilities will not be permitted. It does not appear that any information has been submitted within the application in order to justify the loss of tourism use in terms of financial viability, occupancy rates etc.

The benefits of the alternative uses should nevertheless be considered and balanced against the loss of hotel accommodation, the proposal will provide additional Class A uses at ground floor level along with an employment use to the first and second floor which will contribute to the local economy.

The proposal is located within the Central Shopping Area and the addition of A1, A2 and A3 on the ground floor complies with RET2 in principle and assists in supporting the retail hierarchy set out in Policy S6.

The introduction of a B1 use at first and second floor level needs to be considered against Policy S8, which seeks to deliver the Council's vision of sustainable economic growth, while also enabling the continuing development of key economic sectors, including tourism. Support for the proposed B1 use is provided by Policy S9, which seeks to provide a suitable range and choice of sites for business uses such as B1.

The site is located in Zone C2 floodplain, Strategic Policy S12 and supporting development management Policy SD3 relating to Flood Risk are therefore of relevance. The proposed use does not relate to a highly vulnerable use and there is subsequently no conflict with S12 or SD3.

In addition to the above, the site is located within the Abergavenny Conservation Area, Policy HE1 must therefore be referred to. The site is also located in an Area of Special Archaeological Sensitivity, National Planning Policy Guidance set out in Chapter 6 of Planning Policy Wales therefore applies. General policies DES1 and EP1 should also be taken into consideration.

4.1.5 Glamorgan Gwent Archaeological Trust – Have not responded to date.

4.2 Neighbour Notification

No objections have been received following the consultation exercise.

4.3 Local Member Representations

Councillor John Prosser – Request that this application is considered by full committee as it will impact on accommodation levels in Abergavenny.

5.0 EVALUATION

5.1 Principle of Development

5.1.1 The proposed change of use would see the loss of 11 hotel rooms with none to be retained. Strategic Policy S11 *Visitor Economy* which states in part that proposals that result in the unjustified loss of tourism facilities will not be permitted. In response to this no information has been provided in support of the application in order to justify the loss of tourism use, for example financial viability or occupancy rates.

5.1.2 However, the loss of the hotel accommodation needs to be balanced with the economic benefits of the proposed alternative uses. The proposal would provide additional Class A uses to the ground floor with additional employment use (B1) to be delivered to the upper floors. The site is located within the Central Shopping Area (CSA) as designated by Policy RET2 of the LDP, this would support the Class A uses proposed and would assist in supporting the retail hierarchy detailed within Policy S6 *Retail Hierarchy*.

5.1.3 As detailed in paragraph 5.1.2 the proposal seeks to introduce a B1 (Office not within A2) use to the upper floors. Policy S8 *Enterprise and Economy* seeks to enable the delivery of the Council's vision of sustainable economic growth through the development of key economic sectors, including tourism. However, whilst a tourism use is to be lost, Policy S9 *Employment Sites Provision* does provide support for the B1 use by seeking to provide a range and choice of business sites (including B1).

5.1.4 It is therefore considered on balance that whilst the loss of 11 hotel rooms is unfortunate, the proposed change of use would nevertheless provide economic benefit to the local area. Projected figures within the application detail that employment places within site would increase from 9 to 26 as a result of the proposed change of use. The retail use is fully in accordance with relevant LDP policies and as such the change of use is considered to be acceptable in principle.

5.2. Access, Parking and Traffic

5.2.1 The premises currently provides 13 car parking spaces and 1 space for a light goods vehicle, the change of use would retain these existing levels. Whilst it is anticipated that the change of use would increase staff levels and potentially footfall through the

building, the site is located immediately adjacent to the Swan Meadow Car Park and Abergavenny Bus Station. As such it is considered that the change of use would not cause any issues relating to parking and could comfortably cater for any additional traffic.

5.3 Flooding

5.3.1 The planning application proposes to change the building to a less vulnerable use (retail) from a highly vulnerable use (hotel). The proposal falls within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Therefore a Flood Consequences Assessment (FCA) has not been considered necessary for the purposes of determining the planning application.

5.4 Visual Impact

5.4.1 The most notable external alteration to the building would be the loss of the portico to the south east elevation of the building. Photographic evidence has been provided which illustrates that this is not an original feature and as such its loss has been agreed by the Council's Heritage Officer. Similarly the alterations to the ground floor windows, that also form part of the concurrent LBC, are considered to safeguard the character and appearance of the Grade II listed building and wider Conservation Area.

5.5 Residential Amenity

5.5.1 Given the existing hotel use, it is not considered that the change of use at ground floor level to Classes A1 to A3 would be harmful to the residential amenity of any neighbouring properties, including Pegasus Court opposite. The suggested opening hours are considered to be acceptable give the town centre location and can be managed via planning condition.

6.0 **RECOMMENDATION: APPROVE**

Conditions:

1	This development shall be begun within 5 years from the date of this permission.
2	The development shall be carried out in accordance with the list of approved plans set out in the table below.
3	No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
4	The premises shall not be used for the approved B1, A1 and A2 purposes outside the following times 08:30-17:30 Monday to Friday, the approved A3 use shall not use outside the following times 08:00-23:00 Monday to Saturday and 08:00-22:00 on Sundays.

Informatives:

None.

DC/2016/00588

PROPOSED DEMOLITION OF NORTHERN SPECTATOR STAND AND ERECTION OF MULTI-PURPOSE BUILDING AND ASSOCIATED WORKS

CHEPSTOW RACECOURSE, CHEPSTOW

RECOMMENDATION: APPROVE

Case Officer: Nia Morrison

Date Registered: 26/05/2016

1.0 APPLICATION DETAILS

- 1.1 This application relates to Chepstow Racecourse which is located just outside the development boundary of Chepstow, between the settlements of Chepstow and St Arvans. Vehicular access to the site is off the A466, which runs adjacent to the western boundary of the site and there is a large carpark to serve the venue the other side of the A466. North east of the racecourse is the historic registered Grade I Piercefield Park and the racecourse is also located within the Wye Valley Area of Outstanding Natural Beauty (AONB).
- 1.2 It is proposed to demolish the northern spectator stand, which is located within an established zone of development to the south west of the site and racing course. This area contains spectator grandstands, hospitality boxes and so on, and consists of a large area of hardstanding area. It is noted that the northern stand to be demolished is no longer fit for purpose (having been condemned) and has been closed for a year.
- 1.3 The proposed building has been designed with a footprint of 1512sqm measuring approximately 63m by 24m and to be single storey with an aluminium curved roof. The building is proposed to be fully glazed to the eastern elevation looking out towards the racecourse, metal clad to the west and panel clad to the northern and southern gable.
- 1.4 The proposed development is a joint venture between Arena Racing, owners of Chepstow racecourse and The Welsh Kennel Club. The building brief requires a multi-purpose use based building around a large central hall which will act as a show ring for dog shows. In addition the racecourse will use the facility for hospitality purposes on race days. It is anticipated that pedestrian access for the building will be as it is now, via the western car park the other side of the A466 through multiple service gates along the western boundary. It is noted the building would be able to accommodate approximately 2000 customers and the facility is likely to lead to two new full time positions and up to 30 part time jobs on race days.
- 1.5 This is a major development as the floor area of the proposed building is over 1000sqm. A screening opinion has been sought and it is concluded that an EIA is not required as the scale of the proposed development it is considered unlikely to have significant environmental effects on key factors including the ecological, historical and visual environment.

2.0 RELEVANT PLANNING HISTORY

Numerous planning applications for development have been received over the years. The most recent relevant applications are:

M08127 – Proposed refurbishment and extension of existing members stand to provide hospitality boxes, restaurant, bar and ancillary services
Approved 21.02.2003

M11923 – Proposed hospitality marquee
Approved 06.09.2015

DC/2009/00015 – Removal of condition to enable permanent siting of marquee
Approved 12.02.2009

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S5 Communication and Recreation facilities
S8 Enterprise and economy
S12 Efficient resource use and flood risk
S13 Landscape, green infrastructure and the natural environment
S16 Transport
S17 Place making and design

Development Management Policies

DES1 General Design considerations
EP1 Amenity and environmental protection
LC1 New built development in the open countryside
LC4 Wye Valley AONB
LC5 Protection and enhancement of landscape character
NE1 Nature conservation and development
G11 Green Infrastructure
MV1 Proposed developments and highway considerations
MV2 Sustainable Transport Access
SD2 Sustainable construction and energy efficiency
SD3 Flood risk
SD4 Sustainable drainage

4.0 REPRESENTATIONS

4.1 Consultations Replies

St Arvans Community Council – Recommends Refusal with the following comments summarised below:

- Replacing an old stand with a modern multi-purpose building is viewed as a positive development by the Community Council.
- Concerns about the traditional traffic that will cross the A466 on non-race days e.g. dog shows. Allowing the road to be crossed without appropriate safety measures would greatly increase the risk of an accident
- Transport report does not address the specific infrastructure problems surrounding Chepstow.

Further comments received 19/07/2016 reinforced that the Community Council were still gravely concerned with the lack of consideration for the movement of traffic to and from the proposed site from the A466. Attention is drawn to that:

- There is a combined footpath /cycle path which runs along the A466 parallel to the Racecourse boundary. This combined footpath /cycle path runs from St

Arvans village past the Racecourse and on to Chepstow. It is now a popular path, frequented by school children going to and from school as well as a variety of other users.

- The proposed access to the site for use by the exhibitor's vehicles has to cross the footpath/cycle path in order to access the entrance gates.
- Drivers *leaving* the site have no warning of these users and are completely unsighted. Unless they actually stop at the gate to look for walkers and cyclists, there is a high possibility of an accident. There have already been incidents of collision between cyclists and motorists entering and leaving this site.
- Drivers entering the site from the A466 at that point have to cross a busy carriageway and negotiate a narrow entrance. There are trees and bushes which can obscure a driver's view of pedestrians and cyclists on that track. Again it has the potential to cause an accident. A near miss was witnessed very recently when the driver of a vehicle towing a trailer, apparently anxious to clear the trailer from the carriageway almost collided with a cyclist.

Chepstow Town Council – Recommends approval

Dwr Cymru-Welsh Water - There is no connection to the public sewer and therefore no comments.

Glamorgan Gwent Archaeological Trust – No comments to make as no archaeological restraint on the site

Cadw – The northern grandstand is in a poor condition and the replacement building will be located on a similar but wider footprint. The new building will have a curved roof rather than the angular one on the current grandstand. The application area has already been radically changed for the original design of the historic park and the proposed development will not be in any of the identified significant views of the park. The new building will be replacing an existing one of similar size although in a different design. However given that it is in an area of modern buildings relating to the later race course in our opinion the proposed development will have a slight adverse impact on the registered historic park

Gwent Police – No response to date.

CAIR– No response to date

MCC Planning Policy - Strategic Policies S5 and S8 relating to Community and Recreation Facilities and Enterprise and Economy respectively, provide support in principle for the proposal due to the Racecourse's importance in the Local economy.

The site is located in the Wye Valley AONB, as a consequence Policy LC4 must be referred to. The site is also located within the Piercefield Historic Park and Garden, as there is no specific local planning policy in relation to Historic Parks and Gardens it is important to ensure DES1 in relation to General Design is considered along with Chapter 6 of Planning Policy Wales relating to Conserving the Historic Environment. Policy EP1 should also be taken into consideration along with Strategic Policy S17. Policy LC5 relates to the protection and enhancement of Landscape Character along with Policy NE1 (Nature Conservation and Development) and Policy GI1 relating to Green Infrastructure (GI).

Strictly speaking the proposal is contrary to Policy LC1 as new build in the open countryside outside existing settlement boundaries. Subject to compliance with the policies set out in the above paragraph, however, the proposal may be considered to

be acceptable in principle as it is the replacement of an existing building within an existing large scale and long established recreation facility.

Finally, it should be noted that the site is located in a minerals safeguarding area as designated in Policy M2. As there is already an existing stand in this location and the proposed development would be located within a group of existing buildings/the curtilage of the racecourse criterion iv) would be applicable and there is not considered to be any conflict with Policy M2.

MCC Conservation Officer - The site is within the Grade I Piercefield Registered Garden, the boundary of which follows the road from Chepstow to St Arvans. The park extends to the east to the river covering a large area. Formerly woodland, this part of the registered park has been used as part of the racecourse development for a number of years and is characterised by modern buildings and the racecourse itself. The buildings are most prominent from the main road adjacent to the park boundary, having said this there are open views to the east over towards Piercefield House and so the visual impact on the setting of the park needs to be considered from both directions.

The proposed building replaces an existing modern and condemned viewing stand which has little architectural or historical merit and so its removal would not have an adverse impact on the heritage assets. The replacement building is larger and given its prominence, would need to be carefully considered; a well-designed modern building is considered to be most appropriate rather than adopting a traditional approach. It is understood that a large expanse of glazing is proposed overlooking the racecourse for indoor viewing of the racing. This could create a dominant feature in the landscape and so careful consideration should be given to the type of glazing and construction details. The choice of cladding and roofing materials should also be carefully approached. I note that the application remains as previously discussed, however in order to mitigate against this it would be necessary to condition samples of the proposed materials and finish, in particular the metal cladding including the Trespa rain screen cladding, flat surface aluminium insulated composite panel, the natural anodised aluminium ventilation louvre, aluminium standing seam roofing and details of the roof lights. I note that the aluminium panels are to be in black and wonder if a softer grey would be more appropriate to alleviate some of the harshness.

In order to ensure that the roof profile is lightweight and sleek it might be worth conditioning the eaves and verge details

In addition it would be good to understand the hard landscaping and around the building as the proposed drawing doesn't specify any and whether there are any proposals for soft Landscaping.

MCC Landscape Officer - Requests further information on materials and finishes of external works and expresses a concern that the landscape visual appraisal has not informed the design of the building.

MCC Highway Officer - Initial comments received 27.05.2016. The redevelopment of the stand is well within the site boundary and would appear to have little adverse effect on the internal vehicular movement. The pedestrian and the vehicular access into the site is to remain as existing. The application is supported by a Transport Statement that confirms access and layout suitability for the TRICS data for the site. (TRICS is the National standard for trip generation analysis and validates assumptions about transport impacts of new developments). Further comments received 19.07.2016 acknowledge that concerns have been expressed with regard to the intensifying of the whole site and the increasing frequency

of traffic and travel issues experienced with the increased venue provision proposed. Concerns can either be justified or alleviated in part with the applicant providing a comprehensive Traffic Management Plan for the events proposed for the whole site. This must be provided to emphasise the considered plan to reduce any risks at the site associated with the increased frequency of larger events that will inevitably be attracted to the site.

MCC Biodiversity Officer - The submitted ecological survey is sufficient to inform the decision. Nesting birds are the only consideration for the decision and a planning condition is recommended to cover implementation of the recommendations of the report.

MCC Building Control - No concerns. Should the proposal lead to significant increases in the numbers of people using the racecourse facility at any one time consideration may need to be given to the capacity and adequacy of the foul water drainage.

MCC Tourism Officer – Supports the application. As the largest racecourse in Wales and the South West, Chepstow Racecourse is a key events venue in Monmouthshire. It currently stages 32 fixtures a year including the prestigious Coral Welsh Grand National in December as well as summer music race nights and non-racing events including festivals, fireworks and conferences. Superbly located between Bristol and Cardiff and close to the M4, M48 and M5, it is within a 45 minute drive time of more than 2 million people, and attracted approximately 92,000 paying racegoers and 16,000 hospitality customers in 2015.

Based on Monmouthshire's 2015 STEAM (Scarborough Tourism Economic Activity Monitor) figures, each visitor day brings an average of £63.19 to the local economy, ranging from £31.18 for day visitors to £158.77 for visitors staying in serviced accommodation. As well as improving facilities for race day and other leisure visitors, the proposed development will enable Chepstow Racecourse to attract more high quality conferences, trade shows and exhibitions to capitalise on the higher yield business tourism market. Monmouthshire's most recent local authority tourism profile (produced by ONS) showed Monmouthshire to be the third most popular local authority in Wales for business trips with the value of Monmouthshire's business tourism estimated as £16m pa representing approximately 5% of the Wales total.

In an increasingly competitive tourism marketplace, it is critical that key destination venues like Chepstow Racecourse continually improve their offer, to help deliver continued tourism growth for the county. The proposed development comprising approximately 1200 square metres of indoor space will enable the venue to host an increased range of events aimed at different audiences throughout the year. In particular, a new improved wet weather exhibition space will enable Chepstow Racecourse to meet the increasing expectations of visitors, and help deliver year round benefits for tourism in Monmouthshire, including local employment.

MCC Economic Development - Information provided by Chepstow Racing & Events indicates that in 2015 it attracted 92,000 paying racegoers and 16,000 hospitality customers. More than 40,000 customers attended non-racing events. The business therefore plays an important role in attracting visitors to Chepstow and the surrounding area. Modern sporting and entertainment venues need to continue to adapt to ensure that they offer a high quality experience that meets the changing expectations of visitors. They also need to be able to offer multi-purpose facilities capable of hosting a range of events. This proposal is an important one, as it will help to ensure that Chepstow Racing and Events can continue to compete for customers in an increasingly demanding leisure market.

MCC Environmental Health Officer - Whilst there is the potential for disturbance at the nearest residential properties from the proposed development, in particular from amplified music I am not in a position to substantiate a level of problems on which to base an objection. However given the potential for disturbance at nearby residential properties I would recommend that any granting of planning permission was subject to the following conditions:

A scheme of acoustic insulation measures to be incorporated into the design and fabric of the building by a suitably qualified acoustic consultant shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development.

The hours of operation shall be limited to:

- a. 09:00 to 01:00
- b. Amplified music or performed music shall only be played inside the venue between the hours of 11:00 and 00:00

4.2 Neighbour Notification

Two letters of objection have been received with the following reasons summarised below:

- The existing infrastructure cannot take further events. On event days there are long queues of traffic and chaos on the roads in and around Chepstow
- Exacerbate pollution problems in terms of noise and litter on event days
- Not the best location for a kennel club and concerns the building will be used for other purposes such as a late night music venue

4.3 Local Member Representations

None received

5.0 **EVALUATION**

- Principle of the proposal
- Visual impact and landscape assessment
- Amenity impact
- Highway safety

5.1 Principle of the proposal

5.1.1 Strategic Policies S5 and S8 relating to Community and Recreation Facilities and Enterprise and Economy provide support in principle for the proposal. Chepstow Race course is a well-established site and the proposal of the building to sustain its growth and provide an up-to date modern facility at the site is supported by the Council's tourism and economic development officers. It is noted that the proposal has the benefits of providing *'an improved wet weather exhibition space will enable Chepstow Racecourse to meet the increasing expectations of visitors, and help deliver year round benefits for tourism in Monmouthshire, including local employment'* and *'help ensure that Chepstow Racing and Events can continue to compete for customer in an increasingly demanding leisure market.'*

5.1.2 It is crucial however that to ensure there are no significant detrimental visual, neighbour amenity or highway safety impacts resulting from the proposal, and these issues are addressed in the ensuing sections.

5.2 Visual impact and landscape assessment

- 5.2.1 In terms of assessing the visual impact of the development, the proposed building is considered to enhance the appearance of the existing site. It is proposed to remove a disused stand that has little architectural or historical merit and although the stand it is to replace has a slightly smaller footprint than the proposal, it is considered that the contemporary design and the proposed use of modern aluminium and glazed materials has the potential to improve the overall visual appearance of the racecourse complex. The low profile curved roof and the embedding of the building into the existing slope of the land will help nestle the building within the site and its setting within the racecourse site and surrounding Wye Valley AONB landscape.
- 5.2.2 It is considered vital to agree the specific materials and finishes of the building to ensure a high quality building. This point is also put forward in the submitted visual appraisal '*there is opportunity to improve the general character of the site and its immediate surrounding, through the arrangement of the built elements, and the materials and finishes used.*' The need to agree materials is also raised by the Council's Conservation Officer and Landscape Officer. Although *full* details have not yet been put forward it is considered that that there is sufficient evidence to provide confidence that a high quality of design and finish can be achieved with planning conditions and to satisfy the Authority's design and landscape policy considerations, in particular the terms of Policy GI1 - Green Infrastructure.
- 5.2.3 Although Cadw have a view that there will be a slight adverse impact on the registered historic park, Piercefield Park and also Wyndcliff registered park, it is considered as the building is to be of a high quality modern design and set within an area of existing development within the Racecourse (as well as providing a real benefit to the local economy) that from distant viewpoint such as Piercefield Park the building will be viewed as a minor feature as part of the wider racecourse complex.
- 5.2.4 Overall the proposed building is considered to have a positive visual impact that has been well designed within the site and surrounding landscape in accordance with policies DES1 and LC4 of the LDP.

5.3 Residential amenity impact

- 5.3.1 In terms of residential amenity impact the main concern will be the noise impact from the use of the building. It is considered that during the use for dog shows the noise impact would be limited and therefore acceptable. It is anticipated that for the majority of the day the dogs will be inside the building and with their owners and noise can be controlled and at an acceptable level.
- 5.3.2 On non- race/event days there is some concern that the building could be hired out for other hospitality events; although not specifically referred to in this application, the building has the potential for this use. In order to ensure these type of occasions will not result not in a detrimental impact on amenity a condition requested by the Council's Environmental Health Officer (EHO) will ensure a scheme of acoustic insulation measures is designed into the construction; the EHO also seeks to restrict the late evening use of the building to no later than 1am and music should not be played past midnight. This should ensure an acceptable noise impact following the result of the use of the building on non-race day events. Conditions will also ensure that there is a time restriction on the building so it cannot be used after 1am for events and that music cannot be played from the building past midnight. Providing this condition is adhered to noise impact is considered acceptable and in accordance with policies EP1 of the

LDP. However, the EHO's comment about the building not being brought into use before 09.00am is considered to be unduly restrictive and would prevent the proper operation of the dog show events. As such, an earlier time of commencement if use of 7am is recommended.

5.4 Highway safety

5.4.1 A Transport Assessment has been submitted which anticipates that on dog show days the exhibition hall is likely to attract approximately 2500 journeys, including vehicles and public transport movements, which is considerably less than on race days. Parking will be arranged as on race days, with visitors using the existing large car parks west of the site on the other side of the A466 and dog owners parking within the racecourse complex.

5.4.2 In terms of the traffic congestion, on dog show events the number of users expected are thought to be adequately accommodated by the existing highway network. The Council's Highway Officer has no concerns with the proposal in terms of the safety of access and egress. There is an existing underpass and crossings that pedestrians will be directed to use both on the dog event days and race days.

5.4.3 On race days and larger events the Council's Highway Officer has provided further comment that a Traffic Management Plan will be required to ensure it has been fully considered to reduce any risks at the site associated with the increased frequency of vehicular and pedestrian movements of larger events attracted to the site. St Arvans Community Council have raised specific concerns in relation to the conflict with the well-used pedestrian and cycle path along the A466 and that vehicles leaving the race course will have to cross this path. This is considered an important consideration with the potential intensification of the racecourse however it is felt by Officers that with the provision of this Traffic Management Plan as a condition the proposal is considered to be in accordance with policies MV1 and MV2 of the LDP. The Community Council can be consulted on the discharge of the Traffic Management Plan at the time of receipt.

5.5 Conclusion

5.5.1 The addition of an exhibition hall within Chepstow Race Course is considered to have a positive impact upon the economy of Monmouthshire, supporting business and tourism within the County. The potential impacts of the building have been well considered and it is anticipated that the building will have a discreet visual impact within the surrounding Wye Valley AONB landscape, preserving the natural beauty of the area, and the contemporary design proposed complements and enhances the existing racecourse complex. In terms of noise and highway safety impact, these can be adequately managed and conditions are recommended to help mitigate these issues.

6.0 RECOMMEDATION: APPROVE

Conditions

1. Standard 5 year condition
2. Development shall be built in accordance with the approved plans listed in the decision notice.
3. The hereby permitted development shall be carried out in accordance with Section 6.0 SUMMARY OF POTENTIAL IMPACTS AND RECOMMENDED MITIGATION of the submitted ecological assessment: New Kennel Club Building, Chepstow

Racecourse, Chepstow, Ecological Assessment (old stand building) prepared by Nicholas Pearson Associates dated 17 May 2016.

4. A scheme of acoustic insulation measures shall be incorporated into the design and fabric of the building by a suitably qualified acoustic consultant and such details shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development.
5. No development shall take place until a Traffic Management Plan (TMP) that takes into account risks at the site associated with the increased frequency of larger events has been received and agreed in writing with the Local Planning Authority. The development shall be operated in accordance with the approved TMP.
6. No development shall take place until the final finish of all external finishing materials has been agreed in writing. Samples of materials shall be made available on site for inspection. The development shall be carried out in accordance with the approved details.
7. No development shall commence until a detailed section of the roof of a scale of 1:10 or 1:20 is submitted to and agreed in writing with the local planning authority.
8. No development shall commence until the details of the rooflights have been submitted to and agreed in writing with the Local Planning Authority.
9. No development shall take place until details of the all external paved surfaces and means of enclosure have been submitted to and approved by the LPA. The development shall be carried out in accordance with the approved details.
10. No development shall take place until a submitted landscaping and planting scheme has been agreed in writing with the Local Planning Authority. The landscaping and its maintenance thereafter shall be carried out in accordance with the approved landscape scheme and planting plan.
11. The hours of operation of the building hereby approved shall be limited to 07:00 to 01:00. Amplified music or performed music shall only be played inside the venue between the hours of 11:00 and 00:00

Informatives

NESTING BIRDS – Please note that all birds are protected by the Wildlife and Countryside Act 1981. 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.

It should be brought to the attention of the applicant that in the event of a new or altered vehicular access being formed, the requirements of Section 184 of the Highways Act 1980 must be acknowledged and satisfied. In this respect the applicant shall apply for permission pursuant to Section 184 of the Highways Act 1980 prior to commencement of access works via MCC Highways.

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Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 14/06/16

Ymweliad â safle a wnaed ar 14/06/16

gan Paul Selby BEng (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15.07.2016

Appeal Decision

Hearing held on 14/06/16

Site visit made on 14/06/16

by Paul Selby BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 15.07.2016

Appeal Ref: APP/E6840/A/16/3144474

Site address: The Mount, Parc Road, Coed y Paen, Monmouthshire NP4 0SY

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

- 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 William Jones against the decision of Monmouthshire County Council.
- The application Ref DC/2015/01019, dated 21 August 2015, was refused by notice dated 3 February 2016.
- The development proposed is Full planning application for the proposed erection of a single dwelling.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site lies at the centre of Coed y Paen, a small village featuring residential buildings of a range of periods and designs. The site lies opposite the village church, and extends from the junction of the main route through the village up to the car park of the Carpenters Arms public house. A tall hedgerow and post and rail fence mark the front boundary, and a mature beech hedgerow lies on the property boundary of The Mount. The site is higher than the lanes which it fronts, and slopes gently up towards the residential dwellings and open countryside which lie beyond.
4. There is no dispute amongst the parties that Coed y Paen is, in principle, a suitable location for small-scale residential development, and on my site visit I saw evidence of a significant amount of infilling having taken place in recent years. The Council considers the design of the house to be acceptable, and I also find that the proposed dwelling is of a modest and sympathetic design that is consistent with the character of the village.

5. At the hearing it was established that, together with the church and the pub, the site forms part of the historic core of the village. Whilst originally part of a small paddock attached to The Mount, the site is now mainly grass and shrubland and the tall boundary hedgerow obscures views into it from the south. Despite the overgrown appearance of the site, its undeveloped nature affords it an intrinsically rural character which provides a positive setting for the neighbouring church and public house and contributes beneficially to the character of the village core.
6. Although the appeal site and neighbouring buildings are not the subject of any statutory or non-statutory designations, I saw on my site visit that the immediate area is nevertheless an attractive and visually appealing enclosed landscape and, in forming the historic centre of the village, is of significance to the character and form of Coed y Paen as a whole.
7. A previous scheme for a single dwelling on the site was dismissed at appeal in 2015 (reference: APP/E6840/A/14/2225629). Reference has also been made to an earlier appeal dismissed in 2005 (APP/E6840/A/04/1162155/T). The appellant has sought to address the Inspector's findings from the 2015 appeal decision by re-orientating and re-siting the dwelling further back from the lane, and by retaining a substantial margin of undeveloped land outside the residential curtilage. It is submitted that these elements of the revised scheme would ensure that key views from the junction to the church, graveyard and the public house would be retained. I was able to confirm on my site visit that, whilst the existing tall boundary hedgerow contributes to the rural character of the village, its removal would strengthen the visual connection between the newer part of the village to the south and its older core.
8. The proposed dwelling would be substantially set back from the road, positioned within a recess towards the rear of the site. Its siting and orientation would moderate its visual presence in views from the south, facilitating clear views from the junction to the church and public house. From the lane itself, the dwelling would appear as a prominent feature, due to its relatively high slab level and similar ridge height to neighbouring properties. However, a proposed low stone wall and hedgerow marking the front boundary of the curtilage would assist in screening and integrating the dwelling into its immediate setting.
9. Nevertheless, the presence of a building on the site would significantly alter its character and appearance, and with it that of the village core and the setting of the church, its associated graveyard and the public house. Despite its location towards the rear of the site, the dwelling and parking area within its curtilage would damage the open, undeveloped nature of the land, which can currently be appreciated from many parts of the village core, and which frames the public house and church and visually ties these elements to the open countryside beyond. This rural composition at the heart of Coed y Paen is critical to its sense of place, and its loss would unacceptably harm the character of the village as a whole.
10. Furthermore, whilst the retained area of undeveloped land outside the residential curtilage would open up key views within the core of the village, it would be of an awkward shape and size. Access to the proposed dwelling would be obtained across it, and regardless of the surface treatment used, the character of the residual open land would be primarily derived from the neighbouring residential use. Its linear form is such that landscaping, secured by condition, would not prevent it from appearing as a verge of overtly suburban character. Despite the retention of an area of undeveloped land and the clear views that would be obtained across it, I find that its reduced size,

shape and form would unacceptably harm the character and appearance of the village core and the setting of the key older buildings therein.

11. Whilst the proposal is materially different from the previous scheme subject to the 2015 appeal decision, not least in terms of the different site boundary, I find myself in agreement with the previous Inspector who considered that the introduction of a dwelling onto the site would destroy one of the primary features of this part of the village. Nevertheless, whilst I have had regard to the 2015 decision and the earlier decision from 2005, I have determined the appeal based on the specific circumstances of the case. For the reasons given above, I conclude that the proposal would fundamentally alter the undeveloped, open and intrinsically rural nature of the site, unacceptably harming the character and appearance of the area, contrary to the objectives of LDP policies S13, S17, H3 and DES1.

Other Matters

12. At the hearing the appellant submitted that the retained undeveloped land could be used by the public, but whilst a condition could be used to prevent structures or means of enclosure from being erected, public access could not be safeguarded in this manner. In any event, any benefits that might arise from informal public access being obtained to the retained land would not outweigh the identified harm.
13. Representations have been made in relation to potential highway safety concerns and impacts on the living conditions of occupiers of neighbouring properties. The Council's Highways Department has not raised any concerns regarding highway safety, and I consider the proposed access and on-site parking arrangements to be acceptable. I am satisfied that the siting, orientation and design of the proposed dwelling are such that no unacceptably harmful impacts on the privacy or outlook of neighbouring occupants would be likely to arise. The proposed sewage treatment system, whilst close to the property boundary, would be subject to the normal regulatory requirements, and I note that Natural Resources Wales has not objected to the proposal in this regard.
14. Finally, whilst I acknowledge that the proposal would make a modest contribution to rural housing supply, this does not outweigh the harm that I have identified.

Conclusion

15. Having taken into account all matters raised, for the reasons given above I conclude that the appeal should be dismissed.

Paul Selby

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Roberts	Barton Willmore
Mr L Bowkett	Architectural Consultant
Mr W Jones	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms K Young	Planning Control Officer
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INTERESTED PERSONS:

Mr G Rogers	Llangybi Fawr Community Council
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DOCUMENTS SUBMITTED AT THE HEARING

1. Site Layout Plan relating to 2015 appeal decision

Appeals - Detail Report

Report Parameters:

Report Requested By:	
Report Date:	21-Jul-2016 at 11:29
Sort Sequence:	

Total Applications Found:	3
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Planning Objects Associated to Appeal

Associated Planning Objects:

Object	Linked	UniqueReference	Description	Type
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Appeal Details

Local Reference:	DC/2015/01516	DOE Reference 2:	/16/3153651
DOE Reference 1:	E6840/A		
Appeal Type:	Written Representation		
Appeal Application Type:			
Reason For Appeal:	Against a Refusal		
Appeal Received Date:	15-Jul-2016		
Appeal Description:	Proposed extension to the existing storage building and the Change of Use of the existing building on the land of Green Tree Orchard to residential, which will incorporate alterations to the existing entrance. This is a re-submission of planning no. DC/2015/00280.		

Site Address: Green Tree Orchard Store, Coed-Chambers Road, Glascoed, Monmouthshire, NP4 0TF

Appeal Decisions

Appeal Decision Type:	
Appeal Decision Text:	
Appeal Decision Qualifier:	
Appeal Decision Level:	
Appeal Legal Agreement:	N
Date Signed:	
Appeal Decision Date:	

Appeal Conditions

Type:	No:	Text	Effect Date:	Deact. Date:
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Appeal Decision History

Status:	Decision Type:	Dec. Date:
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Other Details / Audit

Team: DC Enforcement	Officers Name: Paula Clarke		
Telephone Number: 01633 644817	Fax Number:	E-Mail Address: paulaclarke@monmouthshire.gov.uk	
Unclear Plans: N	No Plans Available: N	Major/Key Proposal: N	
Unclear Records: N	No Plans: N	Private Road: N	
Created On: 15-Jul-2016	Created By: BAILEYL	Updated On: 15-Jul-2016	Updated By: BAILEYL
Data Source:	Import Block: N	Checked: N	Deactivated Date:

Notes:

Note ID:					
User Group:	CON29 Question:				
Summary:					
Text:					
Create On:	Created By:				
Updated On:	Updated By:				
Deactivated Date:	Checked:				
Links:					
Local Reference:	Checked:	Created On:	Created By:	Updated On:	Updated By:

Planning Objects Associated to Appeal

Associated Planning Objects:				
Object	Linked	UniqueReference	Description	Type

Appeal Details

Local Reference:	DC/2015/01552	DOE Reference 2:	/16/3151842	
DOE Reference 1:	E6840/A			
Appeal Type:	Informal Hearing			
Appeal Application Type:				
Reason For Appeal:	Against a Refusal			
Appeal Received Date:	04-Jul-2016			
Appeal Description:	New dwelling and garage with associated works.			
Site Address:	Grosmont, Mount Pleasant, Chepstow, NP16 5PT			

Appeal Decisions

Appeal Decision Type:				
Appeal Decision Text:				
Appeal Decision Qualifier:				
Appeal Decision Level:				
Appeal Legal Agreement:	N			
Date Signed:				
Appeal Decision Date:				
Appeal Conditions				
Type:	No:	Text	Effect Date:	Deact. Date:
Appeal Decision History				
Status:	Decision Type:			Dec. Date:

Other Details / Audit

Team: DC Case Officers	Officers Name: Nia Morrison		
Telephone Number: 01633 644824	Fax Number: 01633 644880	E-Mail Address: niamorrison@monmouthshire.gov.uk	
Unclear Plans: N	No Plans Available: N	Major/Key Proposal: N	
Unclear Records: N	No Plans: N	Private Road: N	
Created On: 04-Jul-2016	Created By: BAILEYL	Updated On: 04-Jul-2016	Updated By: HAZARDGA
Data Source:	Import Block: N	Checked: N	Deactivated Date:

Notes:

Note ID:					
User Group:	CON29 Question:				
Summary:					
Text:					
Create On:	Created By:				
Updated On:	Updated By:				
Deactivated Date:	Checked:				
Links:					
Local Reference:	Checked:	Created On:	Created By:	Updated On:	Updated By:

Planning Objects Associated to Appeal

Associated Planning Objects:				
Object	Linked	UniqueReference	Description	Type

Appeal Details

Local Reference:	E15/255			
DOE Reference 1:	E6840/F	DOE Reference 2:	/16/3142784	
Appeal Type:	Written Representation			
Appeal Application Type:				
Reason For Appeal:	Against an Enforcement Notice			
Appeal Received Date:	22-Jan-2016			
Appeal Description:	Conservation: Rooflights without listed building consent			
Site Address:	Pool Farmhouse, Pool Spur Road, Newcastle, NP25 5NT			

Appeal Decisions

Appeal Decision Type:				
Appeal Decision Text:				
Appeal Decision Qualifier:				
Appeal Decision Level:				
Appeal Legal Agreement:	N			
Date Signed:				
Appeal Decision Date:				
Appeal Conditions				
Type:	No:	Text	Effect Date:	Deact. Date:
Appeal Decision History				
Status:	Decision Type:			Dec. Date:

Other Details / Audit

Team: DC Conservation	Officers Name: Jody Blake			
Telephone Number: 01633 644823	Fax Number:	E-Mail Address: jodyblake@monmouthshire.gov.uk		
Unclear Plans: N	No Plans Available: N	Major/Key Proposal: N		
Unclear Records: N	No Plans: N	Private Road: N		
Created On: 04-Jul-2016	Created By: HACKERT	Updated On: 04-Jul-2016	Updated By: HACKERT	
Data Source:	Import Block: N	Checked: N	Deactivated Date:	

Notes:

Note ID:					
User Group:		CON29 Question:			
Summary:					
Text:					
Create On:		Created By:			
Updated On:		Updated By:			
Deactivated Date:		Checked:			
Links:					
Local Reference:	Checked:	Created On:	Created By:	Updated On:	Updated By:

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