

DC/2015/01587

DEED OF VARIATION OF S106 AGREEMENT IN RELATION TO DEMOLITION OF EXISTING BUILDINGS, AND RE-DEVELOPMENT OF THE SITE TO PROVIDE 51 NO. RESIDENTIAL DWELLINGS AND ASSOCIATED WORKS

COED GLAS, COED GLAS LANE, ABERGAVENNY

RECOMMENDATION: AGREE TO VARY THE S106 AGREEMENT

Case Officer: Mark Hand

- 1.1 This report seeks Planning Committee's agreement to vary the S106 planning contributions agreement attached to planning permission 2015/01587 for the development of 51 dwellings at Coed Glas, Abergavenny by Melin Homes. Melin Homes will be developing the site as a flagship project trading as 'Now Your Home' (NYH), delivering both market and affordable housing.
- 1.2 That application was reported to Planning Committee on 3rd May 2016, and a resolution was made to grant planning permission subject to a S106 agreement. That agreement has since been signed and the planning permission issued. The site has been cleared but construction has not yet commenced beyond, it is understood, the footings for one garage.
- 1.3 The signed S106 contained the following provisions (see section 5.9 of the original report below):
 - The provision of 35% affordable housing (18 dwellings);
 - Financial contributions of £20,000 to be spent upgrading play areas in the locality and £159,273 (£3132 per unit) to enhance adult recreation facilities in Abergavenny;
 - A contribution of £3500 towards a path order to correctly record the actual alignment of a footpath that crosses the site was referred to in the Committee report but this was subsequently dropped because it was accepted that this request did not meet the legal tests for planning contributions.
- 1.4 The Planning Authority has since been approached by Melin Homes/NYH, who have expressed concerns regarding the viability of the development. This has resulted in several meetings and for the development being fully appraised on an open book basis by the independent District Valuation Service.
- 1.5 The District Valuation Service did not accept all of the development costs provided, notably concluding that Melin/NYH had paid above the benchmark land value for the site, and concluding that some of the build costs and abnormal costs were too high. The DVS concluded that, using an appropriate land purchase price, discounting the disputed build costs and abnormals, and allowing a 12% profit margin (which is the accepted rate for an RSL, and much lower than the profit margin usually required by a normal market builder), the development is only viable if the following reduced contributions are sought:
 - The provision of 33% affordable housing (17 dwellings, i.e. the loss of one affordable unit);
 - Zero financial contributions towards leisure provision (so a reduction of £179,273).

- 1.6 It is important to note that the above figures are based on the DVS's benchmark land value for the site, which is lower than the price actually paid by Melin/NYH. Melin/NYH has taken the business decision to accept an even lower profit margin to offset the price paid. This aspect does not, therefore, affect the S106 contributions in any way.
- 1.7 Melin/NYH had provided build costs quotations for consideration by the DVS, but in recognition of the DVS's findings has identified ways to reduce the build and abnormal costs to be in line with the DVS's figures. These measures include reducing the extent of regrading of the site, which in turn reduces transportation, tipping, drainage and retaining wall costs. In addition, the 5 no. five-bedroom homes are to be substituted for 5 no. four-bedroom homes (which have a better build cost to sales value ratio). The developer has agreed not to make any changes to the house type design or quality of finishing materials, both of which were welcomed by Planning Committee when it considered the proposal in May 2016. The changes outlined in this paragraph are the subject of separate discharge of condition or non-material amendment applications.
- 1.8 Comments have been sought on the proposed S106 changes from the Senior Housing Strategy Officer and Leisure Officer. Both express regret that the changes are required, but, having viewed the DVS report, accept the conclusions. In terms of affordable housing, the reduction is of one unit, taking the percentage down to 33% rather than 35%. The Housing Officer is happy with the mix and size of the affordable units proposed. As an alternative to this proposal, the Council could seek the £180k leisure contributions and agree a lower affordable housing provision, however Officer advice is that affordable housing is a higher priority in Abergavenny. The site contains a small area of open space and there are other amenities nearby, and there are several other S106 contributions to adult leisure arising from developments in the area.
- 1.9 It should be noted that the Council is under no obligation to entertain this request just 12 months since the S106 was signed. However, the viability challenges have been independently assessed by the DVS, and uniquely this is a pilot project by Melin's 'Now Your Home' trading arm. If successful, this development arm would provide an additional housebuilder in South East Wales and help towards the much needed delivery of both market and affordable housing. Declining this request would mean the Coed Glas site stalls, and also sets back this pilot project which would be of wider benefit to the region.
- 1.10 In conclusion, therefore, Officers recommend that a deed of variation to the S106 agreement be signed, reducing the S106 contributions from 35% affordable housing to 33%, and reducing the leisure contributions from £179,273 to nil.

PREVIOUS COMMITTEE REPORT FROM 03 MAY 2016

DEMOLITION OF EXISTING BUILDINGS, AND RE-DEVELOPMENT OF THE SITE TO PROVIDE 51 NO. RESIDENTIAL DWELLINGS, AND ASSOCIATED WORKS

COED GLAS, COED GLAS LANE, ABERGAVENNY

RECOMMENDATION: APPROVE

Case Officer: Kate Bingham
Date Registered: 04/03/2016

1.0 APPLICATION DETAILS

- 1.1 This application seeks the redevelopment of the former Monmouthshire County Council Coed Glas office site for housing. The site is allocated for around 60 dwellings in the Local Development Plan. The proposed development comprises demolition of existing vacant council office buildings in order to facilitate the construction of 51 dwellings. Eighteen of the dwellings will be affordable housing (35%) while the remaining thirty-three would be open market housing.
- 1.2 The site comprises a roughly square shaped parcel of land measuring approximately 2 ha (4.76 acres) in area. The site is bounded to the south-west by Coed Glas Lane and to the east by the Hereford to Newport railway line. The site slopes downwards from the east to the west with a change in levels of around 12 metres across the site. The site boundaries are characterised on all sides by large, mature trees which are almost entirely protected by Tree Preservation Orders (TPO). There are also some trees located in the centre of the site, some of which are also covered by the TPO. In addition to the trees, the northern, eastern and southern boundaries are also enclosed by stone walls.
- 1.3 As existing there are six buildings on the site that were previously used as offices for the council including the former Registry Office. The buildings comprise a traditional two storey building known as 'The Firs', a more modern four storey office building, two smaller modern blocks in the centre and two detached buildings in the north-east corner. There is also a tarmac road through the site following the western and southern boundaries together with associated hardstandings and parking areas interspersed across the site. All of the existing buildings and hardstandings are proposed to be removed.
- 1.4 The proposed development is accessed off a single access road via Coed Glas Lane from the north-west of the site in a similar location to the existing site access. The proposed estate road permeates on a southern loop before moving towards the north-eastern extent of the site and terminating at a turning head. The fundamental form of the layout is based around the access road where dwellings front onto it on the inner and outer loop. The layout incorporates a Local Area of Play (LAP) among other informal landscaped areas of open space adjacent to the entrance to the site.
- 1.5 The site is within the development boundary of Abergavenny and is not constrained by any flooding, ecological or conservation designations but does lie immediately to the south of the Pen-y-Fal Conservation Area.

2.0 RELEVANT PLANNING HISTORY

Various planning applications made by the Local Authority relating to the site's previous use with the last consent granted in 2005. List available on request.

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
SAH9 – Allocated Housing Site

Development Management Policies

H1 – Residential Development within Main Towns
DES1 – General Design Considerations
EP1 – Amenity and Environmental Protection
NE1 – Nature Conservation and Development
GI1 – Green Infrastructure Provision
LC5 – Protection and Enhancement of Landscape Character
MV1 – Development and Highway Considerations

4.0 REPRESENTATIONS

4.1 Consultations Replies

- 4.1.1 Abergavenny Town Council – Response awaited.
- 4.1.2 Glamorgan Gwent Archaeological Trust (GGAT) – No objection on archaeological grounds but of the opinion that the building known as The Firs is of historical importance and recommend a condition requiring a survey of the building is made prior to work.
- 4.1.3 Natural Resources Wales (NRW) - No objection to the application as submitted providing a suitable condition in relation to European Protected Species (Bats) is attached to any planning permission your authority is minded to grant.
- 4.1.4 Dwr Cymru Welsh Water (DCWW) - No objections. DCWW have met developers to discuss the drainage scheme for this proposed development and have agreed upon a strategy which will create sufficient capacity in the local sewer network to accommodate the development. The scheme will involve a large scale surface water removal from the public foul network and includes suitable on site attenuation to restrict surface water flows to an agreed rate before discharging to the public surface water sewer.
- 4.1.5 South Wales Police (Crime Prevention) – No major security concerns with the proposed development. Perimeter treatments and boundaries need to be looked at in detail to provide good quality security solutions for residents while enabling the area to retain a natural feel taking into consideration local wildlife. Providing the scheme conforms to the 2016 Secured by Design guide which comes into effect on 1st June, we cannot see why the development would not achieve Secured by Design accreditation.
- 4.1.6 MCC Highways – Response awaited.
- 4.1.7 MCC Green Infrastructure Team (Landscape, Ecology, Trees and Rights of Way) – No objection in principle subject to conditions. Some amendments suggested. The detailed comments are considered in the report below.
- 4.1.8 MCC Heritage Officer – Worked with the applicants to improve details of house type designs. Would prefer to see the retention of The Firs but accept that it is not feasible in this case.

4.1.9 MCC Landscape Facilities - The site layout is acceptable from a Landscape point of view, with a new Local Area for Play (LAP) shown on the development, along with two areas of open space. The expected financial contribution towards children's play from a development of this size should be £44982.00. A LAP as shown on the layout will cost around £ 25K to install. I would therefore advise you to ask for £20,000 to be spent upgrading play areas in the locality. This could be built into the Section 106 Agreement for the development. With regards to Adult Recreation we would expect a figure of £159,273.00 (£3132 per unit) from the developer to enhance facilities within 5 miles of the development.

4.1.10 MCC Education – Response awaited.

4.2 Neighbour Notification

Three representations received. Object on the following grounds/raise the following concerns;

- The development will create a choke point at the access where three streams of traffic will meet and due to the gradient of the road further traffic-calming measures may be in order.
- Support the comments of the Abergavenny Civic Society.
- Question what guarantees are in place to prevent householders damaging or illegally removing mature perimeter trees?
- Who will be responsible for maintaining the trees?
- Care must be taken not to destroy the boundary hedge and undergrowth wildlife.
- All fences must allow hedgehog access.
- Development must not encroach onto small turning circle at the top of Coed Glas Lane.
- Due to the elevation of the site, boundary treatment needs to be more robust to prevailing winds.

4.3 Other Representations

4.3.1 Abergavenny and District Civic Society – Object for the following reasons:

When in 2013 it was proposed to allocate this site for housing in the Local Development Plan (LDP) we had no objection in principle but made the following observations:

- 1 *Consideration should be given to the case for Listing the mid-Victorian main house, formerly 'The Firs', and possibly the attached modern buildings described in the Pevsner series volume for Gwent as 'Quite a memorable group'. Even if Listing is not an option the planning authority should require the conversion of all or some of these buildings to residential use to be the preferred option of the site's developer.*
- 2 *We are pleased to note that the planning authority has commissioned a tree survey and hope that trees of high and moderate retention value are as far as possible retained.*
- 3 *The retention of many mature trees and possibly some of the striking buildings on the site presents an opportunity for a housing development of more than usually high quality and distinctive character. We hope that a planning and design brief will be prepared to enable this opportunity to be taken.*

It is our view that the plans now submitted fail to satisfy those objectives or LDP policies S17 and DES1 in several ways, and we object on this basis and that the landowning and planning authority and the developer have wasted the opportunities offered by this prime site.

As described in the Planning Statement, the submitted scheme has been driven by the need to provide something approaching the 60 dwellings allocation in the LDP. The struggle to meet that expectation with low-rise homes with gardens has resulted in the form of development to which we object. Other forms of development might have achieved the target and taken a more imaginative shape.

There has been no attempt to create a distinctive sense of place apart from the retention of tree belts around the perimeter. The opportunity has been lost, for example, to use the Victorian house and trees within the site as distinctive features or focal points. The applicants claim that their proposals are in keeping with the adjacent Pen-y-Fal Conservation Area, but these bland proposals are typical of other disappointing recent developments in the Abergavenny area, many designed by the same architects, and which are sadly now becoming the norm. The contrast with the quality of the nearby Maes-y-Llarwydd development of a few years ago is particularly unfortunate.

Para 7.47 of the Planning Statement states the LDP Policy S17 need to 'avoid the bland, standardised appearance of some recent suburban expansion'. Yet that is exactly what this proposal does.

As elsewhere, the architects' approach to the design of buildings has been to adopt quasi-period styles and a mixture of materials and colours. While a variety of materials and colours is found in the town, it can be excessive within a development. We would suggest that white rendering should be the dominant feature as in Maes-y-Llarwydd and much of the Holywell area. The use of cream to echo The Firs is facetious. A single red brick should be used where appropriate and reconstituted stone should have a similar colouring to that of local stone. Placing the 3-storey apartment block at the highest point is questionable, especially when it might have been used as a focal point. As usual we prefer lean-to door canopies, more usual in Abergavenny, and would welcome some chimneys. Garage details do not appear to be online; adequate dimensions for family cars will be essential.

The effort taken to prevent on-street parking, often by providing three in a driveway, seems unlikely to be successful. There are instances where no garages have been provided and vistas are not terminated, except by the trees. Some sheds are to be provided but elsewhere a variety of sheds, car ports and garages may be exposed in these gaps between houses in the future. We would like to see more screen walls and less screen fencing.

A lot of impermeable (and unappealing) tarmacadam will add to the surface water run-off, and the need to place attenuation tanks at the lowest point on the site should not dictate the position of the play area at the most unsuitable location, where traffic is at a maximum and where it is most likely to attract children from Maes-y-Llarwydd (where a play area is nearby) and across the Old Monmouth Road. The play area should be well into the site on another overlooked space that gives the development some sense of place.

The Planning Statement (Section 8) deals with the demolition of buildings on the site. It appears that the planning authority has no objection to the demolition of the modern buildings, perhaps a valid if subjective architectural opinion but one that appears to

ignore any consideration of sustainable re-use. The applicants justify the clearance of The Firs itself on the basis that it is not listed and that it makes inefficient use of part of the site, undermining the LDP need to provide 60 homes on the site. Conversion to apartments is rejected, in a rather threatening way, on the basis that this is likely to be at the expense of the attractiveness of the building, and is commercially unviable with a lack of market demand - an interesting contrast with the attitude of developers at The Hill. The applicants' assertions are not supported by evidence. The Firs could give the estate personality and prestige.

The retention of perimeter trees appears acceptable if monitored during construction, but the sacrifice of two large internal trees of high/moderate value with TPO protection could be unnecessary with a layout that is not driven by a need to maximise the number of homes. We also fear that householders with shaded gardens will act illegally.

Much of the site is surrounded by stone walls, often in a poor condition, and measures are needed to safeguard these. The detailed design of the entrance to the estate should retain all the stone gateway pillars, by relocation as necessary.

Society members living nearby anticipate that cars already parking in the area will obstruct visibility at the entrance junction.

If these proposals are considered to meet the requirements of planning policies, it is at a minimal level. This prime site and the town deserve much better than an estate that is barely distinguishable from those being built by other house builders in the area.

I would emphasise that this response is the outcome of consideration by the Society's full committee and its planning subgroup.

- 4.3.2 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 allocated in the LDP for around sixty dwellings and as such the principle of development is supported. The applicant notes that fifty-one dwellings was the maximum number of dwellings that could be accommodated on the site having regard to the tree root protection areas of the mature boundary trees that are to be retained and in the light of this, it is considered that in the region of fifty dwelling units would be an acceptable amount in relation to the allocation.

- 5.1.2 The only existing building on the site of any architectural merit is The Firs which is a two storey Victorian building finished in cream render with a glass canopy at first floor level. It has traditional sash windows with a turret shaped projection on the south western corner of the building with arched windows at lower level. All of the windows are set in decorative surrounds with stone projecting cills. However, the building has been extended over the years with unsympathetic extensions. The building is not listed and its retention would not result in the most efficient re-use of the land as it would reduce the number of dwellings that can be developed on the site. The site is not within a Conservation Area and therefore the existing buildings can be demolished without the need for consent, subject to ecology reports and approval of the means of demolition and site restoration.

5.2. Visual Impact

- 5.2.1 The proposed development comprises 51 dwellings made up of a mix of house types varying in size between one bedroom and five bedroom homes. These dwellings would typically be two storeys in height together with a mix of two and a half storey town houses and a three storey apartment building, interspersed with single storey garages. The variation in height and scale will add interest to the street scene. The majority of the dwellings will be detached or semi-detached. This mix is considered to be in keeping with the prevailing character of the wider area.
- 5.2.2 There is an approximately 10m difference in levels between the northern area of the site and the central/southern area. As such, retaining structures are required throughout the development to achieve acceptable finished ground levels.
- 5.2.3 The layout of the proposed development is formed around the access road which runs through the site in a loop. This loop road formation was considered to be the most suitable arrangement given the difference in levels across the site. Dwellings front the access road on both the inner and outer loop with private gardens to the rear. The perimeter of the site is lined with trees, the majority of which will be retained. The layout proposed avoids the majority of the root protection areas of the trees.
- 5.2.4 Landscaped areas to either side of the access road are proposed to be located at the entrance of the site to give an inviting and spacious feel to the development. The landscaped area also affords protection to the trees in the vicinity of the access point and also allows surface water attenuation to be located below the designated LAP. Beyond the entrance, large detached dwellings in spacious plots are proposed with a mix of semi-detached and smaller detached units further into the site; link houses are proposed on corners to avoid dead frontages.
- 5.2.5 The houses would be finished in a mix of materials but a generally traditional palette has been chosen of render, red clay brick and reconstituted stone with a mix of reconstituted slate tiles and tiles for the roofs with the reconstituted slate being used at the site entrance and key view-points within the site. Windows would be uPVC but with traditional glazing patterns. The mix of materials and the details of the proposed houses are considered to be acceptable subject to the amendments made following advice from officers (see paragraph 5.2.7 below).
- 5.2.6 In terms of the quality of design of the development, it has been suggested that its layout, internal arrangement and house type could have been improved by a different arrangement focused on a more central massing of development rather than having pushed the development to its more sensitive outer boundaries, thus allowing these areas to be incorporated in a green corridor that could also have been accessible. However, it is accepted that the design of the layout is restricted by the topography of the site and the drainage constraints.
- 5.2.7 In order to improve the overall appearance of the development, since the application was submitted, officers have been working with the applicants to improve house types and boundary treatments and to this end the following amendments have been made:
- Chimneys added to some house types
 - Roof to be a mix of re-constituted slate and tiles
 - Screen hedges to be planted in front of timber fences where walls are not possible due to extensive 'Root Protection Areas' of the trees
 - House type F1 removed from scheme
 - Black metal railings around public open space rather than a timber rail

- Lean-to porches
- Block of affordable flats redesigned
- Addition of more active house frontages onto footpaths
- Improvement of weak vistas where primary view was of parking
- Changes to glazing

5.2.3 Following the amendments, it is considered that the proposed development will be in keeping with the surrounding area in terms of scale, density and design. The proposed materials and tree screen around the site will further help the proposed new houses assimilate into the wider landscape without harming the existing character and appearance of the area. The character and appearance of the adjacent Conservation Area is considered to be preserved.

5.3 Access, Parking and Traffic

5.3.1 Vehicular access to the proposed site will be in a similar location to the existing but with improvement to visibility. There will be a single point of access into and out of the site with the estate road terminating in a turning head. The geometry of the access and vehicle speeds along Coed Glas Lane allow for sufficient visibility splays to be achieved. The access road would maintain its 4.8m width for the entire route through the site.

5.4.2 The access road incorporates a 2m wide footway along its southern extent and a 1m wide footway along the northern side. Pedestrian access immediately at the entrance to the site is provided on one side of the access road to link with the existing westbound footway on Coed Glas Lane. It is also proposed to provide a footpath along the south west of the access road to link to Coed Glas Lane in order to enhance pedestrian permeability towards the town centre.

5.3.2 It is proposed to provide 130 car parking spaces. The number and dimensions of the parking spaces have been calculated using the Council's adopted parking standards which require 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 127. Therefore the proposed development is considered to be compliant in this regard.

5.4 Biodiversity Considerations

5.4.1 Based on the current objective survey and assessment available, enough ecological information has been submitted to make a lawful planning decision. The site is approximately 224m uphill of the River Gavenny SINC which is a tributary of the River Usk SAC (588m downstream). There are no known hydrological links between the site and the watercourses and it is therefore considered that there will not be any pathway to significantly affect these sites.

5.4.2 The Preliminary Ecological Appraisal (PEA) considered the habitats present on site. These include: amenity grassland, mixed plantation woodland, tall herb ruderal vegetation, hardstanding and buildings. Whilst many of these habitats have intrinsic value and provide habitat for pollinators and foraging opportunities for species such as bats, none are NERC Section 42 Habitats (i.e. Habitats of Principle Importance in Wales).

5.4.3 Including the Common Pipistrelle recorded by Just Mammals in 2012, three species of bats have been recorded roosting at the site including Soprano Pipistrelle and a Myotis bat (identified as *Myotis mystacinus*). These are low conservation status roosts for the

species. Impacts will include the loss of roosts and some loss of some foraging habitat. Mitigation is recommended to reduce impacts of the roost loss.

- 5.4.4 Bat activity at the site was dominated by common and soprano pipistrelles, noctule and Myotis (probable whiskered) bats and was throughout the site with some increased activity along the eastern (railway line) side of the site. Lighting will be an important consideration for the future use of the site by foraging/commuting bats and a planning condition is recommended to secure a lighting strategy and plan that considers ecological interest.
- 5.4.5 Three trees were identified as having bat roost potential in 2012 but fortunately only one of these has been identified for removal. This is a cypress tree that will need to be assessed for bat roosts and methods and measures undertaken before the tree is felled. For a tree of this scale, this would normally be undertaken prior to the determination of the application however, a planning condition for a strategy to assess the tree is included below.
- 5.4.6 The common and soprano pipistrelle bats are Natural Environment and Rural Communities Act 2006 (NERC) Section 42 Species and as such are of principle importance for conservation effort in Wales. It is noted on the GI opportunities plan that bat and bird boxes are proposed with the final detail to be agreed. A planning condition can be used to secure this.
- 5.4.7 A European Protected Species derogation licence will be required in order to carry out the works (demolish the buildings) but NRW have confirmed in their letter dated 23/03/2016 that there will be no effect on Favourable Conservation Status subject to inclusion of a licence condition. The requirement of a licence is certain as the buildings are to be demolished. Monmouthshire County Council as Local Planning Authority is required to have regard to the Conservation of Species & Habitat Regulations 2010 (as amended) 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 have been considered in consultation with NRW / Council Biodiversity and Ecology Officers as follows:

(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.*

The site is allocated for housing in the LDP and the need for housing is considered to outweigh the benefit of retaining the buildings as existing which serve no useful purpose.

(ii) *There is no satisfactory alternative*

The proposal is necessarily site specific and the 'do nothing' option would not be in the public interest.

(iii) *The derogation is not detrimental to the maintenance of the population of the species concerned as a favourable conservation status in their natural range.*

The requirement of a licence will secure the Method Statement and it is considered in these circumstances that a separate Method Statement condition is not necessary. Limited recommendations for bat mitigation are included in Section 9 of the submitted report. However, considering the proportionality of

the species and roost types present, lack of objection from NRW and possible locations for mitigation to be provided; the lack of detail does not result in an ecological objection at this time and on balance it is considered that the proposed development will not be detrimental to the maintenance of the population of bats in the area.

5.4.8 In the light of the circumstances outlined above which demonstrate that the three tests would be met, and having regard for the advice of Natural Resources Wales and the Council's own Biodiversity Officers, it is recommended that planning conditions are used to secure the following:

- Method Statement for the felling of the Cypress Tree
- Ecological enhancements for roosting bats
- Evidence of licence
- Lighting strategy

5.4.9 Whilst the main grassy areas of the site have historically been intensively managed, the current habitat developed is suitable for common reptiles as indicated by the Hawkeswood Ecology report. All species of common reptile are protected under the Wildlife and Countryside Act 1981 against killing and injury. All species are also NERC Section 42 species and as such are of principle importance for conservation effort In Wales. It is recommended that a condition is applied to any consent for a Construction Method Statement which includes methods to limit killing and injury of reptiles.

5.4.10 Of the species casually recorded at the site, two are noted as NERC Section 42 Species. This includes Hedgehog and House Sparrow. Measures to safeguard hedgehogs and nesting birds during works need to be included in a Construction Method Statement. It is noted that there will be close board fencing around all the gardens which will significantly limit the habitat available to hedgehogs. Therefore, it is considered that there would be significant benefit to this priority species by not having close board fencing at the rear of properties around the periphery of the site. Alternatively if fencing is necessary, gaps should be included under the rear close board fences (to be secured via an ecological enhancement condition). For nesting birds, and specifically house sparrow, a planning condition should be used to secure compensation for loss of potential nesting sites (existing buildings) and provide enhancements in line with the council's NERC duty.

5.5 Green Infrastructure

5.5.1 It is considered that overall for Ecology, Trees, Landscape and public rights of way (PROW), the Green Infrastructure Opportunities Plan (Rev A) supported by the Detailed Soft Landscaping Proposals prepared by TDA illustrate some positive measures to be incorporated into the scheme.

5.5.2 The proposal has sought to retain the mature and valuable boundary trees which make a significant contribution to habitat provision and connectivity and the landscape setting and quality of place for the potential occupants of the proposed development and for the existing community within which the development is set. It is positive that more trees will be retained than previously indicated and that there are plans to retain the peripheral understorey (although the term 'where possible' is not an enforceable term and should be removed from the plan). It is however a concern that they will form part of private gardens instead of public open space. Ecological connectivity should be maintained around the periphery of the site which will be an important consideration for understorey planting and management. New tree planting will provide a long term

ecological legacy for the site. Setting and quality of place will be reinforced through sensitive boundary treatment, in this case a 1.8m stone boundary wall, to ensure integration with the surrounding settlement in a way which is reflective of its current parkland context.

- 5.5.3 The seed mixtures are welcomed with a good gradual change from woodland to grassland type mixes and would create albeit artificial priority habitats important for invertebrates including pollinators. The proposed ornamental hedge could be planted with something more appropriate including species that could be beneficial for pollinators.
- 5.5.4 The GI opportunities plan makes reference to Habitat Provision and connectivity. The railway provides an ecological corridor and all peripheral lines of trees provide ecological connectivity around the site.
- 5.5.5 A requested condition regarding the profile of earth mounds is not considered to be necessary or reasonable and so has not been imposed.

5.6 Landscape Impact and Trees

- 5.6.1 The site is identified under LANDMAP as a landscape of moderate value for its visual and sensory, historical and cultural aspects and low value for its landscape habitats and geological aspects.
- 5.6.2 Following pre-application meetings and through discussion it is positive that the initial proposals to remove a large proportion of the boundary trees classified as category A and B are now proposed to be kept. The Arboricultural Implications Assessment (AIA) dated November 2015 shows that the tree losses consist in the main of low quality, linear groups. There are opportunities to mitigate trees loss via additional tree planting to supplement the existing. Assuming the large proportion of trees are successfully retained and that the boundary treatment is carefully addressed through retention of the existing understorey and supplemented by addition planting on its outward it is considered that the impacts are restricted in terms of both the landscape character and visual impact.
- 5.6.3 In terms of protection of the retained trees a condition can be used to prevent damage during construction. However, once the site is developed the trees will be in the ownership of private individuals who will be restricted from harming the trees in any way. A Tree Preservation Order prohibits the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees without the local planning authority's written consent. Anyone who contravenes an Order by damaging or carrying out work on a tree protected by an Order without getting permission from the local planning authority is guilty of an offence and may be fined. There is also a duty requiring landowners to replace a tree removed, uprooted or destroyed in contravention of an Order. This duty also applies if a tree is removed because it is dead or presents an immediate risk of serious harm.

5.7 Public Rights of Way

- 5.7.1 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. A footpath to be formed from the site in a southerly direction between the access road and Coed Glas Lane is welcomed. This route could be upgraded to a joint cycle/footway and an additional footpath formed from within the site to Footpath No. 75 where it runs over the

footbridge over the railway line. This link would provide pedestrian access the east of the rail line and the popular walking areas surrounding the Little Skirrid.

- 5.7.2 Pedestrian permeability of the site could have been improved by the inclusion of a cycle/footway running east west at the northern end of the site from approximately plot nos. 38 to 51. However, this link would be impractical due to the 6m level change and the land take required to get a DDA compliant ramp or adoption issues where steps to be provided.
- 5.7.3 It should be noted that the alignment of path no. 74 that runs adjacent to the site may be wrongly recorded on the Definitive Map as it does not show the alignment that is available on the ground. As the path on its available alignment rather than that recorded benefits the proposed development it has been suggested that a financial contribution via the Section 106 Agreement could be made to pay for a path order that may resolve this issue.

5.8 Residential Amenity

- 5.8.1 In terms of privacy and overlooking and the impact of the proposed development on neighbouring occupiers, given the mature tree screen around the periphery of the site together with the proposed 1.8m high stone wall and the presence of the access lane that runs along the southern and western boundaries of the site views into and out of the application site are already restricted. Separation distances between existing and proposed dwellings are further improved by the need to avoid building on the root protection areas of the boundary trees.
- 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 helps achieve consistently acceptable separation distances between dwellings and habitable rooms to ensure that normal standards of privacy are met. The relationship between the rear of the dwellings on the inner loop of the access road stands at over 20 metres on average which is in accordance with planning guidance of privacy distances.
- 5.8.3 The eastern boundary of the site abuts the main railway line between Hereford and Newport and the noise report submitted with the application has indicated that mitigation will be required in the form of acoustic glazing and a ventilation system. The most affected area of the site in this respect is in the location of plots 25-30 (the apartments) and the internal layout of the flats have therefore been designed to ensure non-habitable rooms are located to the east elevation, closest to the railway.

5.9 Section 106 Heads of Terms

- 5.9.1 The provision of the 35% affordable housing will be secured under a Section 106 legal agreement. This agreement will also include the requirement for a financial contribution for the provision and maintenance of public open space for the following amounts;
- £20,000 to be spent upgrading play areas in the locality
 - £159,273 (£3132 per unit) to enhance adult recreation facilities
- 5.9.2 A contribution towards a path order to correctly record the actual alignment of a footpath that crosses the site will also be sought. 50% of the cost of the Order equates to £3200.

6 **RECOMMENDATION: APPROVE subject to a s106 agreement**

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 works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured in relation to The Firs and implemented in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.
4	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.
5	Details of proposed boundary treatment shall be submitted to and approved by the local planning authority. Such details as may be approved shall be carried out prior to occupation of the associated building(s).
6	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 Strategy.
7	<p>A Green Infrastructure Management Strategy shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of development. The content of the Management Strategy shall include the following;</p> <ul 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/bodies responsible for its delivery. The Strategy shall also set out (where the results from monitoring show that conservation aims and objectives of the Green Infrastructure Management Strategy are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully</p>

	functioning Green Infrastructure objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.
8	<p>The hereby permitted works shall not commence unless the local planning authority has been provided with either:</p> <p>a) a copy of the licence issued by Natural Resources Wales pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity / development to go ahead; or</p> <p>b) a statement in writing from the scheme ecologist to confirm that the specified activity/development will not require a licence based on legislative and ecological justification.</p>
9	<p>Prior to the removal of Tree no.4 as identified on the Tree Constraints and Retention / Removal Plan TDA.2104.05 prepared by TDA December 2015; A Method statement for the safe removal of the tree shall be submitted and approved in writing by the Local Planning Authority. The method statement shall include;</p> <p>a) Methods in accordance with Best Practice to assess the tree for bat roosts</p> <p>b) Methods in accordance with Best Practice to sensitively fell the tree including climbing and section felling under the supervision of a licenced bat worker</p> <p>c) Measures and actions to be undertaken if roosts are identified at any time.</p> <p>The method statement shall thereafter be implemented in full.</p>
10	<p>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 [and if necessary, hedgehog access measures] shall be submitted to the local planning authority for agreement in writing. The scheme shall thereafter be implemented in full.</p>
11	<p>No development, demolition, earth moving shall take place or material or machinery brought onto the site until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include details of measures to protect:</p> <ol style="list-style-type: none"> 1) Nesting Birds 2) Common reptile species 3) Hedgehogs <p>The construction Method Statement shall thereafter be implemented in full.</p>
12	<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 roost compensation, roost enhancements and key bat flight lines are not illuminated. The scheme shall be agreed in writing with the Local Planning Authority and implemented in full.</p>

13	Retained trees shown on the Tree Protection Plan (7651-S1-3-1) shall be protected in accordance with Arboricultural Method Statement described in Section 5 of the Arboricultural Implications Assessment (AIA) and fenced off in accordance with the specification shown at Appendix D of the AIA.
14	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 Councils Tree Officer.
15	No development shall commence until details of the finished floor levels of each plot, site sections through the site and details of any retaining walls including finishing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
16	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.
17	External materials to be agreed – unless resolved prior to determination.

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

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.

PROW - Public Paths nos. 74 and 75 must be kept open and free for use by the public at all times, alternatively, a legal diversion or stopping-up Order must be obtained, confirmed and implemented prior to any development affecting the Public Rights of Way taking place. No barriers, structures or any other obstructions should be placed across the legal alignment of the paths and any damage to their surface as a result of the development must be made good at the expense of the applicant.

This planning permission is subject to a Section 106 agreement.