

Application Number: DM/2018/01591

Proposal: Use of single dwelling as two dwelling-houses.

Address: 1 Chapel Road Abergavenny, NP7 7DN

Applicant: Ms. Kelly Evans

Plans: All Drawings/Plans 1A Floor Plans and Elevations and Site Location Plan 19.1ACHAP - , All Existing Plans Existing Layout 19.1ACHAP.EX.LAY - , All Proposed Plans 1 Floor Plans and Elevations 19.1.CHAP - , All Existing Plans Existing TPS.18.1CHAP.EX - ,

RECOMMENDATION: REFUSE

Case Officer: Ms. Lowri Hughson-Smith
Date Valid: 21.03.2019

This application is presented to Planning Committee following a request from the Local Councillor on the basis that the development is acceptable and will provide two dwellings with sufficient amenity space

1.0 APPLICATION DETAILS

1.1 The application site is a semi-detached dwelling located along Chapel Road, adjacent to the junction with the A40, in Abergavenny. The site was extended in the 1980s and 2002, following the grant of planning permission.

1.2 The extension is currently in use as a residential annexe in association with the main dwelling and it occupied by one household (one family). The annexe is served by the main dwelling in terms of its amenity space, access, parking and all utilities. The annexe is also integrally linked to the main dwelling through inter-connecting doors.

1.3 This application seeks permission to split the main dwelling (including the extension) into 2no. separate dwellings. No physical changes are proposed to achieve the separation of the dwellings. There are internal doors which will need blocking up but these alterations do not require planning permission, should the current application be granted.

Background

1.4 The separation of the dwellings was originally subject of a certificate of lawfulness application, submitted in 2018, for an existing use which sought confirmation that the annexe had been used as a separate dwelling for a period in excess of 10 years and, therefore, was immune from enforcement action. The evidence submitted was insufficient and a certificate could not be granted.

1.5 Following this, the applicant requested the application be converted to a full planning application for the separation of the two units. This report relates to the full planning application for the separation of no. 1 Chapel Road into two dwellings.

2.0 RELEVANT PLANNING HISTORY (if any)

| Reference Number | Description | Decision | Decision Date |
|-------------------------|--------------------|-----------------|----------------------|
|-------------------------|--------------------|-----------------|----------------------|

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|---------------------------|--|-----------------------|------------|
| DM/2018/01591 | Use of single dwelling as 2 dwellinghouses. | Pending Determination | |
| DC/2002/00655 | Erection Of Detached Domestic Garage | Approved | 29.07.2002 |
| DC/1987/00571 | Replace Existing LV Conductors For New Aerial Conductors. | Approved | 24.06.1987 |
| DC/2002/01131 | Subdivision Of Dwelling Into Two Dwellings | Refused | 22.11.2002 |
| DC/2016/01194 | Conversion of loft space above existing garage to create a home gym and office, including the installation of two dormer roof windows. | Refused | 15.12.2016 |
| DC/2017/01271 | Change of use of building from dwellinghouse to two dwelling houses. | Refused | 14.12.2017 |
| DC/1980/00305 | Extension To Dwelling APP_TYP 01 = Full DEV_TYP 05 = Alteration MAP_REF = 329389214568 | Approved | 06.05.1980 |
| DC/2001/00450 Approved | Extension To Existing Dwelling 05.09.2001 | | |

3.0 LOCAL DEVELOPMENT PLAN POLICIES Strategic

Policies

S4 LDP Affordable Housing Provision
S17 LDP Place Making and Design

Development Management Policies

EP1 LDP Amenity and Environmental Protection
DES1 LDP General Design Considerations
HE1 LDP Development in Conservation Areas
MV1 LDP Proposed Developments and Highway Considerations
SD3 LDP Flood Risk

4.0 NATIONAL PLANNING POLICY

Planning Policy Wales (PPW) Edition 10

4.1 The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

4.2 The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well being, creating prosperity for all.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Abergavenny Town Council

The Town Council recommended the application for approval.

Natural Resources Wales (NRW)

NRW have raised significant concerns with the proposals and provided the following comments:

'Requirement: A Flood Consequences Assessment (FCA) is required to demonstrate the risks and consequences of flooding can be managed to an acceptable level in accordance with TAN15.

The development that is proposed would result in the creation of new self-contained residential units, 'highly vulnerable development' in a flood risk area. The information submitted in support of the application gives no consideration to the flood risk posed to the properties and their occupants and the potential implications for the Emergency Services should evacuation be required during a flood event.

As you are aware, the application site lies entirely within Zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Usk, a designated main river. Our advice therefore is that the applicant needs to demonstrate, through submission of a Flood Consequences Assessment (FCA), that the consequences of flooding can be managed over the lifetime of the development.

Section 6 of TAN15 requires your Authority to determine whether the development at this location is justified. We refer your Authority to the justification tests set out in section 6.2. We therefore advise that an FCA be undertaken prior to determination of the application that meets the criteria set out in TAN15. The purpose of the FCA is to ensure that all parties, including your Authority, are aware of the risks to and from the development, and ensure that if practicable, appropriate controls can be incorporated in a planning permission to manage the risks and consequences of flooding. We refer you to other appropriate bodies for their requirements in regard to the FCA. We would recommend you consult other professional advisors on the acceptability of proposals and on matters we cannot advise on, such as, emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

We recommend you consider the future insurability of this development now. Although we have no involvement in this matter we would advise you to review the Association of British Insurers published a paper, 'Climate Adaptation: Guidance on Insurance Issues for New Developments', to help you ensure any properties are as flood proof as possible and insurable. The paper can be found via <http://www.abi.org.uk/content/contentfilemanager.aspx?contentid=24988>

N.B. Following the NRW advice, the applicant was given an opportunity to submit a Flood Consequences Assessment but opted not to provide one.

MCC Highways

No written comments received, however, made verbal comments stating that no objection would be substantiated given the space available to the front of the site to provide enough parking spaces and turning area.

MCC Heritage Officer

No adverse comments.

Affordable Housing Officer

An affordable housing contribution is required. The financial sum required has not yet been confirmed by the affordable housing officer.

5.2 Neighbour Notification

No responses received from neighbours.

5.3 Local Member Representations

The Ward Member has requested that the application be reported to committee on the basis the proposal is acceptable and there is sufficient amenity space to serve the resultant dwellings.

6.1 EVALUATION

6.2 Strategic & Spatial Choices

Strategic Planning/ Development Plan context/ Principle of Development

6.2.1 The application site is in the settlement of Abergavenny and, therefore, the principle of development is acceptable subject to relevant material planning considerations.

6.2.2 The relevant material planning considerations in respect of the proposals, in the context of the Planning Policy Wales 10 and the Local Development Plan are:

- o Flooding
- o Impact on Amenity/ Promoting Healthier Places
- o Good Design and Impact on the Historic Environment
- o Highways

6.2 Flooding

6.2.1 The application site is in a C2 flood plain, which is an area at risk of flooding and has no flood defence infrastructure in place. The development seeks to introduce a new residential dwelling within the C2 flood plain.

6.2.2 Planning Policy Wales, Edition 10 (hereafter PPW), Chapter 13 aims to minimise and manage environmental risks and contains relevant policies on flood risk. Paragraph 13.2.3 expresses the basic principle of the policy which is that "the Welsh Government's objectives for sustainable development requires actions through the planning system to move away from flood defence and the mitigation of the consequences of new development in areas of flood hazard towards a more positive avoidance of development in areas defined as being of flood hazard."

6.2.3 The site, as mentioned above, falls within Zone C2 as defined on the Development Advice Maps that accompany the Welsh Government's Technical Advice Note 15 "Development and Flood Risk" (TAN 15). Paragraph 6.2 of TAN 15 identifies that new development should be directed away from Zone C and that highly vulnerable development (which includes all residential premises) should not be permitted in C2 flood plains.

6.2.3 A ministerial letter sent to all Chief Planning Officers in Wales regarding 'Planning Policy on Flood Risk and Industry Changes' in January 2014 (hereafter referred to as Ministerial Letter) provided strict advice that residential development, which is classed as highly vulnerable development, is not acceptable in C2 flood plain, reiterating the position of TAN 15. The national planning policy position in respect of flooding is definitive; residential development should not be permitted within C2 flood plain. The development, therefore, is contrary to national policy.

6.2.3 Local Planning Policy contained in the Monmouthshire Local Development Plan (hereafter LDP) echoes national policy. Policy SD3 of the LDP does not permit proposals for highly vulnerable development in areas liable to flooding. The development is, therefore, also contrary to local policy.

6.2.4 NRW has raised significant concerns in respect of the application due to it being in a C2 flood plain together with the lack of a Flood Consequences Assessment to accompany the application. The applicant was given the opportunity to submit further information in respect of flooding. The applicant, however, has opted not to provide additional information given the policy position does not support residential development in flood plain C2 and it was considered a Flood Consequences Assessment would not alter this fact.

6.2.5 The policy position, at both national and local level, regarding new highly vulnerable development in C2 is clear and it should not be permitted due to the risk of flooding. The development, therefore, is not acceptable due to its location within a C2 flood plain and the associated risk of flooding and is recommended for refusal.

6.2.6 Notwithstanding the above, it is acknowledged that the physical works have already been carried out and, therefore, the flood risk to the overall dwelling already exists. Further clarification on this point is considered necessary to justify the recommendation made.

6.2.7 The property and extension were constructed prior to the risk of flooding being recognised as a serious issue and, therefore, there is little the authority can do to prevent the risk of flooding to the main dwelling at this stage. This application, however, seeks to intensify the use by creating two (separate) households within the flood plain, therefore, increasing the persons and property at risk from being affected by flooding. As discussed above, it is strongly advocated by national planning policy that local planning authorities should prevent further households being at risk from flooding. The extension already having been built, therefore, is irrelevant to the consideration of flooding. The assessment should be concerned about whether it is acceptable to create an additional dwelling in a flood plain thus exposing one additional household to the risk of flooding. As evidenced throughout this section, the increase of highly vulnerable development within a C2 flood plain is not acceptable.

6.2.8 Furthermore, the application was not supported by a Flood Consequences Assessment and, therefore, no information is available to indicate the level of risk associated with flooding at the

application site. Aside from the policy position in this regard, it is considered inappropriate to allow a highly vulnerable development within the flood plain without sufficient knowledge in terms of the risk of flooding.

6.2.9 In accordance with national and local planning policy, the application is recommended for refusal on the basis that the application site is in a C2 flood plain and that the creation of new highly vulnerable development is contrary to planning policy.

6.3 Impact on Amenity/ Promoting Healthier Places

6.3.1 The proposed development will intensify the use of the site which will not only have an impact on the surrounding dwellings but also on the newly created dwellings. The proposed impact will be discussed further below.

Impact on Surrounding Properties

6.3.2 The proposed development does not include any physical changes to the existing building and, therefore, the amenity impact in terms of it causing overlooking and being overbearing will be no different to the existing situation. In this regard, the proposal is deemed acceptable and in accordance with Policy EP1 of the LDP.

6.3.3 Despite this, it is important to mention that the application seeks to intensify the development on site by creating two separate planning units thus allowing two separate households to live independently on what is effectively one plot. Whilst it is acknowledged the extension is currently being used as an annexe, the site is currently one overall planning unit occupied by one family. There is a clear distinction in planning terms between one household sharing a site and its facilities and two independent households splitting a site and providing the separate facilities to create two independently functioning planning units. As one planning unit, all occupiers of the property can benefit from all the garden areas, access, parking area, etc. which does lessen the impact on neighbours. For example, the most usable space at the application site is on the southern boundary away from neighbouring properties. The splitting of the properties will force occupiers of the proposed no. 1 Chapel Road to use the limited yard area to the rear of the property which is a small, confined space immediately adjacent to neighbouring boundaries (this is discussed in more detail below). As such, there will be increased noise levels and potentially reduced privacy for neighbouring properties as a result of intensification of the use which could be avoided if the property remained as one planning unit.

6.3.4 Whilst the intensified use will impact on neighbouring properties and this should be borne in mind, given the urban location it not considered a reason for refusal that could be substantiated and, therefore, on balance is deemed to be acceptable.

Resultant Amenity of Newly Created Dwellings

6.3.5 The current property has approximately 65m² of amenity space which, given the urban location and size of the dwelling, is considered an acceptable level of amenity space. It is acknowledged there is a lack of private amenity space on site at present (the main amenity area is located to the side of the dwelling which is visible from the street), however, there is scope to create additional private space with internal fencing and/or landscaping. The property in its current state represents a good quality family home with sufficient amenity space.

6.3.6 Should the property be split as proposed, the newly created dwellings will have minimal private amenity space measuring approximately as follows:

- o 1 Chapel Road - 15m²
- o 1A Chapel Road - 48m²

6.3.7 The resultant garden areas are considered substandard and insufficient to serve the resultant family homes, particularly in relation to no. 1 Chapel Road (as proposed).

6.3.8 No. 1 Chapel Road (as proposed) is a sizeable three-bedroom family home and the proposed garden area would be 10m² yard area (approximately). For clarification, the garden measurement has not included paths around the property since these are not considered to be usable amenity space. The measurement only takes account of the yard to the rear of the property which has an approximate width of 3.7m and depth of 4m.

6.3.9 The concern regarding the garden area of No. 1 Chapel Road (as proposed) is that it is limited in size, well below the standard that would be expected of a sizeable family home. Additionally, the quality of the space is also extremely poor and considered to be oppressive. The space is immediately adjacent to the rear extension of no. 48 Brecon Road and the common boundary, so it is a confined and oppressive area, attributes which are exacerbated by its limited size. This is not considered suitable as the only usable, private amenity space associated with a family home.

6.3.10 In terms of amenity space associated with residential dwellings, it is acknowledged that there is no set standard of amenity area in PPW10 nor does Monmouthshire County Council have adopted guidance in terms of amenity standards. Despite this, it is clear from the guidance contained in PPW10 that development in Wales should have full consideration for the Well Being of Future Generations Act. A key aspect of PWW10 is achieving well-being through place-making. Place-making is defined as, amongst other things, high quality development that promotes people's health, happiness and well-being in the widest sense. It is considered essential that to meet the well-being goals of PPW10 and the Well Being of Future Generations Act that amenity spaces for the future housing stock is, at least, usable and an inviting environment. In this case, the resultant garden to serve no. 1 Chapel Road (as proposed) is considered unacceptable and inappropriate in the context of family housing. The proposed garden is considered so far detached from the spirit of PPW10 and the well-being goals of the WBFG Act, by reason of its size and oppressive nature, that it cannot be considered acceptable and refusal of the application on this ground is warranted.

6.3.11 The garden proposed to serve no. 1A Chapel Road, on the face of it, appears large enough to serve the dwelling. It is considered to be low quality outdoor space due to its lack of privacy and, therefore, considered insufficient to serve the dwelling as meaningful outdoor space. This area could be improved by being made more private which could be secured via condition. The amenity space of the proposed no. 1A Chapel Road is considered acceptable in accordance with Policy DES1, subject to conditions.

6.3.12 Whilst not wholly relevant in respect of this application, there are concerns that the property being split into independent dwellings would result in additional pressure to extend and alter the properties which could further reduce the amenity area and potentially affect neighbouring properties. This could be controlled via a condition removing permitted development rights and had the application been recommended for approval the imposition of this condition would have been considered essential to ensure the limited amenity space available to the properties was maintained in the long term.

6.3.13 In conclusion, the resultant dwelling at no. 1 Chapel Road (as proposed) would have sub-standard amenity space in direct conflict with national and local planning policy, particularly Policy DES1, creating a sub-standard family home which should be resisted and, therefore, is recommended for refusal on this ground.

6.4 Good Design and Impact on the Conservation Area

6.4.1 The element of the property which the applicant is seeking to separate from the main dwelling is an extension and so has not been designed as separate dwelling. No physical changes are proposed in this application to separate the properties. Furthermore, formal separation of the area to the front of the property, which is to be used for parking and turning, is not possible due to its restricted size.

6.4.2 The resultant dwellings, therefore, would not appear in the street as separate dwellings but would continue to look like an extended property. The lack of separation of the area to the front of

the property, not only indicates there is not enough space for two properties to be serviced from the plot, but would also result in a shared semi-public area lacking any sense of place. The lack of formal separation of the dwellings in design and layout is not conducive to good design principles and, therefore, does not promote place-making or high-quality living accommodation.

6.4.3 In terms of the impact on the Conservation Area, given there is no building works proposed the impact is neutral and, therefore, in accordance with HE1. The Heritage Officer has reviewed the proposals and raised no adverse comments. In terms of design, the proposals are not considered to be well-designed in the context of creating two separate dwellings.

6.4.4 Despite this, given the extension is already in place and will not result in any visual impact it is not considered reasonable to refuse the application on design grounds.

6.5 Highways

6.5.1 The proposal would not change the access arrangement.

6.5.2 There would be an increase in traffic generation but in highway terms this would be minimal and, therefore, acceptable.

6.5.3 The block plan shows provision for 6no. parking spaces to the front of the property; one of the proposed spaces is to be accommodated in the existing integral garage. The turning area for the two dwellings will be undefined and shared between both dwellings.

6.5.4 On the face of it, the parking provision proposed does not meet the requirements of the Council's adopted Domestic Parking SPG and Parking Standards SPG. The Domestic Parking SPG states that integral garages are not considered parking spaces for the purposes of overall parking provision. As such, the proposed development can only provide 5no. compliant spaces which represents a deficiency in parking provision by one space when assessed against the requirements of the Parking Standards SPG (which requires one space per bedroom up to a maximum of 3no. spaces).

6.5.5 Whilst the parking provision is deficient, PPW10 advises that planning authorities must support schemes where parking levels are proposed to be reduced, especially in sustainable locations (PPW10, paragraph 4.1.51). In this case, the site is in a highly sustainable location on the edge of Abergavenny Town Centre, and therefore, the minimal deficit in parking provision in this case is not considered unacceptable.

6.5.6 The Highways Authority has assessed the application and provided verbal comments which have been noted on the case file. They raised no objection to the application on the basis that the access is existing, there will be a minimal increase in usage, and an acceptable level of parking can be provided. The Highways Authority noted that the parking area and associated turning space was restricted in size and, therefore, not ideal but it was sufficient to allow turning on site and, therefore, acceptable.

6.5.7 The proposals are deemed to be acceptable in terms of the impact on highway safety and the proposed parking provision in accordance with PPW10, Policy MV1 of the LDP, the Domestic Parking SPG and the Parking Standards SPG.

6.6 Affordable Housing

6.6.1 In accordance with Policy S4 the creation of a new dwelling will trigger the requirement for an affordable housing contribution. The site is located in the Abergavenny area where the required contribution is 35% but given the development is below the threshold for an on-site contribution a financial contribution is required instead. The affordable housing officer has been consulted and the financial contribution required would be £27,857.

6.6.2 The application is not accompanied by a Section 106 legal agreement to secure the affordable housing and, therefore, does not accord with Policy S4 of the Local Development Plan.

In the light of the application being recommended for refusal on ground of flooding and lack of amenity space, it is necessary to also include a reason for refusal in respect of lack of a Section 106 agreement to secure an affordable housing contribution.

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

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

6.8 Conclusion

6.8.1 The application is recommended for refusal on the basis that it conflicts with national and local planning policy in respect of flooding and the usable amenity space in association with No. 1 Chapel Road (as proposed) is substandard.

6.8.2 There is no policy support for the new dwelling in C2 flood plains. PPW10 strongly advises against such development, TAN 15 states that 'highly vulnerable development and Emergency Services in zone C2 should not be permitted'. The Ministerial Letter sought to clarify the interpretation and use of TAN 15 and reiterated that 'highly vulnerable development (e.g. housing) should not be permitted in Zone C2'. The development is also contrary to Policy SD3 of the Local Development Plan. Furthermore, no supporting information in respect to flood risk has been submitted.

6.8.3 No. 1 Chapel Road (as proposed) would have insufficient amenity space contrary to the Well Being of Future Generations Act, PPW 10 and DES1 of the Local Development Plan.

6.8.4 The applicant has not entered into a Section 106 legal agreement to secure the necessary off-site affordable housing contribution and, therefore, does not accord with Policy S4 of the Local Development Plan.

7.1 RECOMMENDATION: REFUSE

Reasons for Refusal:

1 The planning application proposes highly vulnerable development (residential use) within Zone C2 of the Development Advice Map contained in Technical Advice Note (TAN) 15: Development and Flood Risk. Section 6.2 of TAN 15 affirms that highly vulnerable development should not be permitted in Zone C2. As such the development would be contrary to Technical Advice Note (TAN) 15: Development and Flood Risk and Policy SD3 of the Monmouthshire County Council Local Development Plan 2011-2021, adopted February 2014

2 The applicant has failed to enter into the Section 106 agreement to secure the necessary affordable housing financial contribution, and therefore the proposal is contrary to Policy S4 (Affordable Housing Provision) of the Monmouthshire County Council Local Development Plan 2011-2021, adopted February 2014

3 No. 1 Chapel Road (as proposed) provides an inadequate amount of usable, private, outdoor amenity space for future occupiers contrary to the Well-Being of Future Generations Act (Wales) 2015, Planning Policy Wales 10 and Policy DES1 of the Monmouthshire Local Development Plan.

