

**Application Number:** DM/2020/00881

**Proposal:** Removal of condition 1 from planning consent 2314 (Date of Decision: 01/09/1975):- Occupation of the proposed bungalow shall be limited to a person employed or last employed wholly or mainly locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or a dependant of such person residing with him

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

**Applicant:** Mr Harry

**Plans:** Block Plan Block Plan - , Floor Plans - Existing Floor Plan - , Location Plan Site Location Plan - ,

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Young  
Date Valid: 07.07.2020

**This application is presented to Planning Committee at the request of the Local Member**

### **1.0 APPLICATION DETAILS**

#### **1.1 Site Description**

Bushes Farm Bungalow is situated directly off Chapel Road on the outskirts of Earlswood. It is a three-bedroomed bungalow that was built in the 1970's. It has off street parking and a small garden area. The applicant owns approximately 15 acres of land surrounding the property. The dwelling is in a very poor state of repair having been vacant for over 11 years. The whole site is overgrown and the roof has failed over a rear extension. The building does not possess operable WC facilities or an equipped kitchen. There are significant areas of damp and there has been no maintenance on the property for some time.

Planning permission was obtained for the construction of the bungalow on 1st September 1975 under planning application reference: 2314. The planning permission includes an Agricultural Occupancy Condition limiting the occupation of the property as detailed below;

"Occupation of the proposed bungalow shall be limited to a person employed or last employed wholly or mainly locally in agriculture as defined in Section 290 (1) or the Town and Country Planning Act 1971, or a dependant of such person residing with him".

#### **1.2 Value Added**

The application has been subject to an independent review by the District Valuation Officer.

#### **1.3 Proposal Description**

This application seeks to remove the agricultural occupancy condition allowing the property to be sold on the open market. A Planning Statement was submitted as part of the application which included a marketing report suggesting that that the property had been marketed for at least 12 months with a price of £200,000. The sales particulars related to a detached 3 bedroom dwelling, with 0.25 acres of garden and provision for off road parking. The property was advertised as being the subject of an agricultural occupancy condition. The information shows some interest in the property with offers lower than the asking price. These offers ranged between £120,000 and

£140,000, however, the applicants maintain that none would have been compliant with the requirements of the agricultural tie. The planning statement also included 3 quotes from local builders for repairs to the property to bring it up to a habitable standard, these quotes ranged from £90,000 to £128,000.

## 2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2018/01222	Conversion of stone barn to dwelling, with detached new double garage	Approved	27.11.2018

## 3.0 LOCAL DEVELOPMENT PLAN POLICIES

### Strategic Policies

S10 LDP Rural Enterprise  
S17 LDP Place Making and Design  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S4 LDP Affordable Housing Provision

### Development Management Policies

DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection

### Supplementary Planning Guidance

Affordable Housing SPG July 2019:

<https://www.monmouthshire.gov.uk/app/uploads/2019/09/Final-Adopted-SPG-July-2019.pdf>

### National Planning Policies (If Any)

Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010):

<http://gov.wales/docs/desh/policy/100722tan6en.pdf>

## 4.0 NATIONAL PLANNING POLICY

### Future Wales: the national plan 2040

As of 24th February 2021 *Future Wales – the national plan 2040* is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. *Future Wales – the national plan 2040* is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040.

### Planning Policy Wales (PPW) Edition 10

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.

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**

#### **Shirenewton Community Council – Refuse.**

The 1975 planning consent was an exception to policy to permit accommodation for an agricultural worker and the applicant has shown there is no need for such accommodation nor for a rural enterprise and there is no viable affordable housing.

The two adjoining sites already have residential planning consent and allowing an additional dwelling would create overdevelopment to Bushes Farm. In the event that MCC removes the AOC, it should be replaced with a requirement that occupation be restricted to inhabitants with a strong local connection.

Councillors were aware that the 1975 planning consent with the AOC was an exception to MCC's policy not to permit residential building in the countryside because the need for an agricultural worker outweighed the rural impact. Given that the applicant has demonstrated there is no agricultural or rural enterprise need, the logic is that the bungalow should be removed and the land restored to its original state, and therefore be compliant with the SINC.

#### **MCC Housing**

To be able to use this property for affordable housing, I would have to support an RSL with grant funding to purchase and refurbish the property to bring it up to the required standard. The grant allocation for this year has been allocated and I do not have funds available, I am therefore unable to take this forward as an affordable housing option.

### **5.2 Neighbour Notification**

One letter of support was received

The original linkage between the Agricultural Occupancy Condition and the old farmhouse was effectively confirmed as irrelevant when Monmouthshire County Council granted permission for the renovation of the old farm house.

The bungalow is in a poor state of repair and given its location is unlikely to be suitable nor affordable to someone working in agricultural or a related industry. Rather than allowing the bungalow to remain in its dilapidated state it would seem sensible to grant the application to remove the occupancy and allow the Bungalow to be renovated for general housing use This would help meet housing targets in Monmouthshire, allow others to enjoy living in Earlswood and prevent the Bungalow from falling into a state of further disrepair.

### **5.3 Local Member Representations – can be read in full on the website**

Cllr Louise Brown (summarised)

I am writing to request that application DM/2020/00881 is fully considered by the planning committee in relation to the LDP, planning policies, rural and biodiversity policies, TAN2, TAN 5 and 6 policies, affordable housing contribution, removal of PDOs and highways considerations.

Concerns are raised over the suitability of the marketing exercise and the level of information provided. In addition the impact of any potential overage and increase in market value of the property should the tie be removed needs to be considered. The site is also located in a SINC and the biodiversity issues need to be considered including enhancements. In addition further consideration is necessary in relation to the enhancement of affordable housing in terms of strong local ties.

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

## 6.0 EVALUATION

### 6.1 Principle of Development

The existing dwelling is classed as a residential property with a condition that restricts the use to someone wholly or mainly employed or last employed locally in agriculture. The building is existing and the use of the building is accepted as residential. The application therefore evaluates the proposal to remove the restriction of occupancy completely to allow an unfettered residential use.

Technical Advice Note 6 Planning for Sustainable Rural Communities July 2010 considers in detail rural enterprise dwellings (the modern equivalent of a residential property with an agricultural tie or agricultural workers dwelling). It identifies what factors should be taken into account when approving rural enterprise dwellings in the open countryside. A rural enterprise dwelling is intended to allow for a more flexible approach to the rural economy. It also provides guidance as how to assess applications for the removal of such occupancy conditions.

Paragraph 4.13.5 of the TAN says "*Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for noncompliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.*"

The model condition identified above states:

The occupancy of the dwelling shall be restricted to those:

- a) solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;*
- b) who would be eligible for consideration for affordable housing under the local authority's housing policies; or if it can be demonstrated that there are no persons eligible for occupation under either a) and b);*
- c) widows, widowers or civil partners of the above and any resident dependants.*

The advice given in paragraph 4.13.2 of the TAN says that, "*It should not be necessary to tie occupation of the dwelling to workers engaged in one specific rural enterprise even though the needs of that enterprise justified the provision of the dwelling. An occupancy condition will, however, ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside.*"

Rural Enterprise Dwellings -Technical Advice Note 6 Planning for Sustainable Rural Communities December 2011 Practice Guidance also states:

*8.1 The policy for rural enterprise dwellings provides for exceptions to be made to the general policy of restraint on sporadic residential development in the countryside where particular circumstances of functional need exist. It is an important aspect of this policy, therefore, that the needs are genuine and that permitted dwellings remain available to meet the needs of the rural community into the future. Given the widening of the scope of qualifying circumstances, this aspect is of even greater importance and it is necessary to have controls available to address it.*

*"The occupancy of the dwelling shall be restricted to:*

- a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,*
- b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants."*

The guidance goes further to provide flexibility of the location of workers and to provide an intent that the conditions will preserve a stock of dwellings for the local population that can be recycled between workers meeting a constant need.

Where applications are received to remove such occupancy conditions the first consideration is for the dwelling to provide accommodation for a local occupant who meets the Authority's housing policies, i.e. is in need of affordable housing.

Specifically the guidance states that; (paragraph 8.26 to 8.28)

*In the event that a proposal to remove the new occupancy condition, as attached to a new dwelling or pre-existing property, comes forward, there will be a need to demonstrate, with supporting evidence, that there is no longer a rural enterprise need for the dwelling or a local affordable housing need in the area. The longstanding mechanism for demonstrating the absence of need has been market testing.*

*8.27 Evidence of effective market testing will be required over a reasonable period, usually at least 12 months. The critical aspects of market testing are that:*

- o the availability of a property is advertised in such a manner that compliant purchasers or tenants are likely to be made aware of it; and*
- o the price or rent attached to a property reflects the restrictive occupancy requirement.*

*8.28 The value of any property subject to an occupancy restriction will be less than its value on the open market. Traditionally agricultural dwellings have been marketed at prices generally between 70 and 75% of their open market value. With the wider range of compliant rural enterprise workers and local affordability constraints, this will continue to be the case. The valuation of properties will require professional advice and, in the case of affordability criteria, assistance from the local authority.*

In summary, if it is considered appropriate to remove the agricultural occupancy condition the first consideration would be to replace the AOC with a more updated and flexible rural enterprise dwelling condition which expands on the suitable criteria for occupants including those requiring affordable housing. In order to assess the removal of the AOC the appropriate marketing and evidence of lack of need should be demonstrated.

The main issues in the assessment of this case are set out below.

## **6.2 The need for the original agricultural occupancy condition**

There is a general presumption against new residential dwellings in the open countryside. At the time that planning permission was sought for a property on this site the applicant would have needed to demonstrate that there was a functional and financial need for a new dwelling to be located on this site. The condition was necessary in this case because without it approval for a new dwelling would not have been granted. In 1975 planning permission was granted for the bungalow to replace the old stone farm house with a condition that the old stone farm house be demolished or used for storage. The old stone farm house was not demolished, it was used for agricultural storage and then granted permission in 2018 under app ref DC/2018/00128, for conversion to a residential property.

## **6.3 Marketing Exercise**

Welsh Government advice is to ascertain if there is any demand for an enterprise dwelling in this location. The property should be actively marketed for a least 12 months in a location where rural enterprise workers are likely to see the advertisements. In this case DJ & P Newland Rennie marketed the property. Sale particulars were emailed to all registered applicants on the DJ & P Newland Rennie system looking for this type of property. The property was advertised on the open market from the 8th July 2019 through online portals including Rightmove ([www.rightmove.co.uk](http://www.rightmove.co.uk)) and On the Market (<https://www.onthemarket.com>) and on the website of DJ & P Newland Rennie ([www.djandp.co.uk](http://www.djandp.co.uk)). The property was further marketed online with UK Land and Farms ([www.uklandandfarms.co.uk](http://www.uklandandfarms.co.uk)). Sales particulars were available in offices throughout Monmouthshire, Gwent, Gloucestershire and North Somerset. A 'For Sale' signage board was

erected at the property to advertise the property as available to purchase. The property remains available for sale on the open market. The property was advertised a minimum of three times within printed publication. As such three adverts were placed in the property supplements of the following local newspapers;

- Western Daily Press;
- Free Press; and
- Western Mail.

The adverts on line, in the paper and on site all identified that the property was the subject of an occupancy condition but did not specify the amount of land that came with the property referring only to the 0.25 acre garden and not the surrounding 11- 15 acres in the applicant's ownership. The marketing was extensive in so much as it was advertised in the farming press, locally and that the tie was mentioned. It complies with WG advice in that the marketing should continue for at least 12 months. The advertisements specified that the property came with 0.25 acres of land; planning officers consider that the property would have been more attractive to potential rural enterprises had the advertisements referred to the surrounding 15 acres in the applicant's ownership. Despite this, generally the marketing exercise complies with the advice given in TAN 6, in that it was marketed in suitable publications over an acceptable length of time

The marketing report from DJ & P Newland Rennie found that there was a reasonable amount of interest in the property as a renovation project. A total of 52 enquiries were received from interested parties, including telephone enquiries, in office enquiries and online enquiries. Predominantly enquiries were received through the online market portals and the majority of information with regards to the property was emailed to interested parties, with two copies of the property particulars and details of the agricultural tie being sent via post. From the 52 enquiries received, 94% did not comply with the agricultural tie which limits the occupation of the property to agricultural/forestry workers. The remaining 6% were made up of three interested parties. Two of these were currently working in agriculture within the local area of Monmouthshire. Viewings were undertaken of the property for both interested parties with one party requesting a second viewing but no offers were forthcoming from either party. The remaining interested party was retired and had previously worked in agriculture however, prior to retiring he derived his main source of income from work at Llanwern Steelworks. It was advised that the interested party should contact the Council to confirm whether his historical agricultural work would satisfy such a tie. No further correspondence was received. From the interested parties, 14% of enquiries were from developers/builders looking for a project. One enquiry was from a Town Planner who enquired as to whether an Option to Purchase, subject to gaining planning approval to vary the agricultural occupancy condition would be acceptable. This offer was however rejected. Through the marketing process, three offers have been received from two interested parties. One party initially offered £120,000 which was rejected and a counter offer of £130,000 received however, this was again rejected. A further offer was received from another interested party for £140,000 which was subsequently refused. No offers were accepted at this level as they are substantially below the asking price of the property. It is also important to note that DJ&P took time to consider whether potential purchasers not only complied with the AOC, but whether they would meet the requirements of the wider and more flexible Rural Enterprise Condition and concluded that none of the parties who offered on the property met the tie criteria. Whilst helpful, again this is ultimately a decision for the Local Planning Authority.

However, some interest in the property has been drawn to the attention of the planning authority as a result of this application. A recent enquiry direct to the case officer demonstrated interest in the property as it stands from a party who would comply with the conditions of the rural enterprise dwelling as stated above. From the marketing evidence supplied it is considered that there is some interest in the property from applicants who could potentially make use of the building in line with its intended purpose.

#### **6.4 Was the asking price realistic?**

The property was placed on the market for £200,000. The applicant obtained three valuations of the property prior to marketing with these valuations reflecting the poor state of the property and it being subject to an occupancy tie. These valuations ranged from £190,000 to £225,000.

For clarity the Council commissioned a separate valuation by the District Valuer. This valuation stated that the Market Value of the freehold in the subject property is approximately £185,000 as at 20 November 2020. This valuation takes into account the extensive refurbishments required to bring it to a level where it is fit for occupation and the fact that the value of a home tied with an agricultural occupancy condition is generally 30 per cent lower than that of an unencumbered property.

The current owner of Bushes bungalow, the vendor, has put a legal covenant on the land to say that he would get 50% of any uplift on the value of the property if the agricultural tie was to be removed in the next 35 years. The District Valuer did take this into account and concluded that, "The uplift would unlikely have a major impact to the valuation but the only real way of knowing this is if it was marketed without the overage clause. Even if it were advertised without this clause, the condition of the property and the lack of land it comes with may still deter prospective purchasers."

From the independent valuation it can be seen that the property was marketed at about £15,000.00 above its true value. Given that house prices are often subject to negotiation, it is considered that although rather high, the marketing price was not too far from the independent valuation to warrant a new marketing exercise. It has been suggested to the vendor that he continues to market the property but at a price in line with that of the District Valuer, £185,000.

## **6.5 Demand for enterprise dwellings in local area**

TAN 6 makes it clear that it is intended there should be a pool of rural enterprise dwellings retained within the locality that can be recycled, so that they are available to meet the needs of the rural community now and in the future. It is considered important to maintain a stock of such dwellings to provide accommodation for workers in the rural economy who are often on low wages and may otherwise have to move out of the county or give up their jobs. The pool of such dwellings is also available for retired rural workers and their dependants. To assess demand for this type of accommodation we can look at recent planning applications for rural enterprise dwellings in Monmouthshire over the last 5 years.

MCC produces an annual return to the Welsh Government on the numbers of rural workers dwellings being approved and refused. This return indicated that since 2014 there were at least 11 applications made for new Rural Enterprise dwellings in the county. This would indicate that there is demand within the county for New Enterprise Dwellings in the open countryside.

Officers of the Council were made aware that an interested party had submitted a provisional offer on Bushes Barn and 2.6 acre adjacent field on the 14<sup>th</sup> December 2020, and were offering £185,000. This interested party sought to start a market garden from which they intended to derive their main source of income and thus satisfy the occupancy condition. At the time of writing, it is unclear as to current status of the offer. The applicant has questioned their ability to meet the tie and sought to obtain such evidence, whilst helpful, ultimately the compliance with an agricultural occupancy condition is a matter for the Local Planning Authority. The council is satisfied that other such enterprises in the area are able to meet the wider scope of activities within the TAN 6 suggested condition. Planning officers are satisfied that there is demand within the county for properties with AOC and Rural Enterprise conditions. If the AOC was removed from this property part of the stock of rural enterprise dwellings would be lost to the county forever and this may result in some potential rural enterprises being unable to start up in the area or more likely would result in greater pressure for new rural enterprise dwellings to be approved in the future.

## **6.6 Impact of the SINC**

The land surrounding the bungalow has been designated locally as a Site of Interest for Nature Conservation (SINC). In this case the land is Species Rich Grassland. The applicant maintains the site is not suitable for a rural enterprise dwelling as the land surrounding the bungalow is designated as a SINC. There is however no requirement or expectation for land owners to alter their current regime for the land. The Gwent Wildlife Trust has produced a Land Management Tool for the management of Local Wildlife sites. This document does make recommendations for the management of land to help maximise the wildlife potential of the site that includes light grazing of the land, but that is only a recommendation and not intended to prevent farming on the land. The

local designation of the land surrounding the bungalow as a SINC does not restrict the bungalow's ability to be a suitable rural enterprise dwelling.

## **6.7 Suitability for Affordable Housing**

TAN 6 outlines, within the model occupancy condition, at chapter 4, para 4.13.1 that where there would be no suitable rural enterprise workers, affordable housing should be considered for the site.

WG advice is that where a property is no longer suitable as a rural enterprise dwelling it should be offered as affordable housing to meet local need. The applicant wrote to MCC Housing and two housing associations seeking an offer to purchase the dwelling. However these housing providers declined on the basis that the agricultural tie is restrictive to occupants and that the condition of the building would require extensive refurbishment. Funds are not available for the extensive upgrades required to the property.

If the housing providers were to take on the property they would not need to apply to remove the occupancy condition, they could just seek to modify the condition to replace it with the model condition. This was not made clear to the housing providers. In the case of MCC Housing there was no allocated funds in their current budget to make the necessary repairs to bring the property up to a habitable standard. If the applicant was to undergo the repairs first and then offer the property to a housing provider there may have been more interest. The applicant also claims that the property is not suitable for affordable housing as it would not meet the standards for life time homes. This is not a reason for it not being an affordable dwelling, it just means that it may have to be adapted to comply with the standards if the funds were available.

The condition of the property means that it will require investment that the local housing providers do not have. It is not a reflection of the need for affordable housing within the locality. The Council are always looking for affordable accommodation and consider any options available to help meet wider housing need.

## **6.8 Replacement Condition**

As per TAN 6 (paragraph 4.13.5) it is recommended that the agricultural occupancy condition (AOC) is replaced with the more flexible rural enterprise condition. This condition allows for the use of the building for those employed in Rural Enterprise and also for occupants who meet the Authority's housing need criteria. The building once restored, would then contribute to meeting local need in a more flexible manner. The Authority has a register with clear evidence of the need for affordable homes within the area.

The assessment above has shown that the applicant has been through a marketing assessment which, despite the higher than normal valuation and the implications of not providing all of the land with the dwelling, is considered to be sufficient. The marketing of Bushes Bungalow has proved that there is interest from people wishing to purchase the property and who could comply with the occupancy condition. It has been brought to the officer's attention that at least two sets of interested parties have considered purchasing the property and this demonstrates that there is demand within the county for such properties.

The restrictions applied to the residential use in the first instance were considered to be necessary, and are still appropriate in policy terms. Relevant up to date policy, TAN 6, states that where AOCs are proposed to be removed they should be replaced with a more flexible rural enterprise condition. In this case it is understood that the current condition is restrictive and that the marketing has shown that as it stands the condition severely limits the occupancy of the building. However, as per the guidance a more flexible condition can be reasonably imposed and in this case, it is considered that it should be applied to the building, which provides a much wider scope of potential occupants whilst retaining the building for its intended purpose.

## **6.9 Previous Appeal**

The applicant refers us to relatively recent planning appeal (2016) in Monmouthshire Tyr Berllan, Llangwm, Usk, DC/2014/01163 (APP/E6840/A/15/3124713). This case referred to the removal of an occupancy condition on a property where a Certificate of Lawful Development had been approved. The Inspector allowed the appeal on the basis that the certificate of lawfulness affected the ability of the Council to enforce the occupancy condition and allowed the appeal to remove all occupancy restrictions from the site.

The circumstances are different in this case, there being no approved certificate of lawfulness, and as discussed above the condition remains relevant and enforceable. Thus, the appeal decision is not material to the determination of this application.

## **6.10 Other Material Considerations**

### Design/ Visual Impact/ Residential Amenity

The removal of the condition has no bearing on design, visual impact or residential amenity. As per this application there are no proposals to make physical alterations to the building or the land around it. The applicant could repair the building on a like for like basis without the need for planning permission. Therefore as the application stands, the proposal is acceptable and in accordance with LDP policies DES1 and EP1.

### Access and Highway Safety

As with the design, the application does not propose any alterations to the access or parking provision on site. There are no highway safety concerns and the application accords with Policy MV1.

### Biodiversity

As the application does not propose any physical alterations to the property or associated land there will be no adverse impact on biodiversity and there is no justification for asking for biodiversity enhancements. The proposal accords with Policy NE1.

### Phosphates

The application is outside the Phosphates Catchment Area and so it is not considered to have adverse impact on the protected SAC of the Usk or the Wye in relation to Phosphate inputs. No further screening or HRA will be required.

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

Shirenewton Community Council recommend refusal of the application due to overdevelopment. In 2018 planning permission was granted to convert the former stone farm house into a dwelling and also to convert a stone barn to the south of the bungalow into a dwelling; work on these has not yet started. Whilst these applications increase the number of residential units, they both refer to existing buildings. The current application seeks the removal of an occupancy condition and again as this refers to an existing building, with an existing residential use this has no net increase of the level of development on the site. The community council also suggest that future occupiers of Bushes Barn should be restricted to someone with strong local connections.

As stated above it is considered reasonable to replace the outdated occupancy condition with a more updated and flexible occupancy condition which is more appropriate.

Finally the community council recommend the removal of the bungalow to allow for biodiversity enhancements. Again the planning authority does not have powers to remove the building or the residential use from the site, as this is the current lawful position which in theory can be maintained in perpetuity.

Councillor Brown refers to poor access to the site and the fact that two conversions to residential units have been allowed on adjacent sites. As stated above this application does not seek to change the physical arrangements on site; the potential removal of the occupancy condition, which is the subject of this current application, will have no effect on the number of vehicles accessing the site.

Councillor Brown also refers to "Special Conditions of Sale" which were published on the sales particulars which refers to an uplift in value being provided to the vendors. Councillor Brown correctly identifies the need to take the uplift in value into account when assessing this application. It has been acknowledged through case law, that the value of a property is depressed by approximately 30% if that property is the subject of an agricultural occupancy condition; this is to ensure that there is a stock of such dwellings kept available for rural enterprise workers. The replacement of the outdated AOC with a more flexible rural enterprise condition will not affect the value of the property, which will still be suppressed by approximately 30%. Clarification with the DV shows that this has been part of the consideration and resulting valuation.

Councillor Brown also mentions that the property was marketed during the Covid Emergency. The property was first marketed in July 2019, which continued through the beginning of the pandemic. Both the District Valuer and Newland Rennie took this into account when compiling their reports; some adjustments had to be made for the viewing of properties but this did not have a significant impact on the marketing of the property. Councillor Brown raises concerns about the over development on the site (addressed above) and its impact on the surrounding SINC. The removal of the occupancy condition will not result in any new development and will have not have a detrimental impact on the SINC. It is important to note that the land can be legally farmed at present despite the designation as a SINC.

The Councillor has also suggested that more work needs to be undertaken to see if there is local need for affordable housing. We are aware that there is a great need for affordable housing for local people within the Shirenewton area. A register of demand is produced by MCC Housing Department. The application of a more flexible occupancy condition will take into account local residents' needs and housing requirements.

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

6.12.1 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.

## **6.13 Conclusion**

This application seeks to remove an agricultural occupancy condition which is tied to the property. This AOC restricts the occupation of the property for those solely or most recently employed in agriculture in the locality.

The removal of an agricultural condition is generally resisted as policy aims to ensure sufficient affordable dwellings are available for agricultural workers in the countryside. In order to remove an agricultural occupancy condition the application must comply with the tests set out in paragraph 8.27 of TAN 6 Practical Guidance Dec 2011, ensuring appropriate marketing with a realistic price. In this case the applicants have demonstrated that the property was marketed for a period of at least 12 months, in a manner that the advertisements would be seen by relevant tenants or purchasers and that the marketing price was within reasonable parameters. The asking price was higher than the District Valuer's valuation by £15,000 which, subject to the usual negotiations is towards the higher, but not unsuitable, range. Interest was drawn to the Council's attention in relation to the use of the building that could be accommodated with a more flexible and relevant condition.

Whilst the marketing was for a sufficient period and for a reasonable price it is not considered that there is no interest in the property. Moreover, the recent interest directed at the Council confirms that the building is still required for its intended purpose. With this in mind it is considered necessary to follow the TAN6 advice and replace the condition with the more modern and flexible equivalent. Whilst the officer recommendation is to remove the agricultural occupancy condition, it is also to replace this with another restrictive condition, and thus the occupancy of the property should therefore be maintained for its intended purpose.

## **7.0 RECOMMENDATION: APPROVE**

The occupancy of the dwelling shall be restricted to those:

- a) solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;*
- b) who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either a) and b);*
- c) widows, widowers or civil partners of the above and any resident dependants.*