

Application Number: DM/2019/00800

Proposal: Demolition of existing bungalow and outbuildings and replacement with 2no. detached two storey dwelling houses with altered driveway access from highway

Address: Homestead, Wainfield Lane, Gwehelog, Usk

Applicant: Mr. & Mrs. Newman

Plans: Site Plan 1416[BD]01 - REV D, All Proposed Plans 1416[BD]02 PLOT 1 - REV B, All Proposed Plans 1416[BD]03 PLOT 2 - REV B, Location Plan - , Topographical Survey

RECOMMENDATION: REFUSE

Case Officer: Ms. Kate Bingham
Date Valid: 24.05.2019

This application is presented to Planning Committee as there are more than four objections to the proposed development and at the request of the Head of Planning

1.0 APPLICATION DETAILS

- 1.1 The site comprises a garden area around the existing bungalow that is predominantly lawn, a limited amount of overgrown shrub borders and some individual shrubs within the garden to the rear of the bungalow. The majority of the existing vegetation is restricted to the boundaries of the site. Extending from the south to east a concrete block wall forms the boundary between the site and the neighbouring property of Ty Cwtch. The concrete block wall is some 1.8m high.
- 1.2 The proposed development is to demolish the existing bungalow (Homestead) and replace with one four-bedroom dwelling and one five-bedroom dwelling that would be similar in design and form as outlined on the associated plans above. Plot 1 would measure 9m to the ridge and it would include an integral garage. Plot 2 would have a pitched roof that would measure 9m to the ridge. There would also be a detached garage that would be located in front of plot 2. The proposed materials for the dwellings and garage would include fine texture render and larch boarding for the external walls, slate for the roof and coated aluminum or uPVC for the openings.
- 1.3 This application was approved by Planning Committee on 2nd February 2021. The consent was for the demolition of an existing bungalow with outbuildings and the erection of the two detached dwellings. The decision was subsequently subject to a Judicial Review by a local resident, the single ground of challenge to the grant of the permission being that part of the officer's report was substantially misleading in relation to foul drainage, in that there is guidance within approved document H2 that suggests that drainage fields should be at least 15 metres from a building. If that had been applied in this case, the effect would be that each of the proposed drainage fields would be required to be some 5 metres further away from Ty Cwtch and from the proposed buildings.
- 1.4 The Judges judgement on the judicial review is included as an annex to this report. The judge concluded the following:

"Reading the officer's report as a whole, which incorporated a previous report, the concerns in relation to foul drainage from objectors and the local community council are noted and these include references to the history of drainage issues in the area and to the site being predominantly on clay. In dealing with amenity, the report deals only with visual amenity and privacy. In my judgment, by not referring to the Circular or the Approved Document H2, the members, even as informed readers, are likely to have been left with the impression that as the building control officers were satisfied that the drainage proposals satisfied the

requirements of the 2010 Regulations, that was the end of the matter in respect of such proposals. In the planning context, in my judgment, it was not. To leave it there without fully dealing with the adequacy of the drainage proposals in that context was in my judgment significantly misleading”.

- 1.5 On this basis alone, the decision was quashed and therefore the application is now re-presented to the Planning Committee for consideration. The Local Planning Authority has conducted a complete re-appraisal of the development proposal in light of this judgement and conducted further consultation in the form of the erection of a site notice at the site and consultation with the local community council, neighbouring parties and statutory consultees.

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

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

Development Management Policies

H3 LDP Residential Development in Minor Villages
LC5 LDP Protection and Enhancement of Landscape Character
DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
NE1 LDP Nature Conservation and Development
SD4 LDP Sustainable Drainage
EP5 LDP Foul Sewage Disposal

4.0 NATIONAL PLANNING POLICY

Planning Policy Wales (PPW) Edition 11

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

This section includes any responses to re-consultation following the quashing of the original decision and the additional drainage information received to deal with NRW's Interim Planning Guidance in relation to phosphate levels in the River Usk and Wye SACs. Where there is no response to re-consultation mentioned, no response was received.

Gwehelog Community Council - Objects:

1. The proposed development is an additional development on the lane and not infill. It will make this the third division of a single plot. The plot is only big enough for one house in a rural, countryside setting.
2. Allowing the application will set a precedent for extended development outside the current LDP.
3. Foul drainage remains a significant issue. The potential amount of waste on a small plot will not be managed by a soakaway. The soil in this area will not tolerate the amount of waste that will be produced.
4. The positioning of the plot will not be acceptable - any development should remain on the existing plot or move back, keeping the roof line the same as the

other houses on the lane.

5. The proposed development will have a significant impact on traffic along the lane and driveways appear to be directly opposite other properties.

Response to re-consultation:

Re-issued previous response (above).

Natural Resources Wales (NRW) - We have no objection to the application as submitted but request that an informative is attached to any planning permission granted advising that a bat license is required for the works.

Response to Habitats Regulations Assessment 3/12/21: We have reviewed the HRA Screening Matrix and Appropriate Assessment (AA), prepared by your Authority, dated 14/10/2021. The AA correctly identifies a potential in combination effect from the proposal irrespective of the density of discharges currently in the area. The density criteria are in place to consider whether the close proximity of multiple drainage fields (existing and proposed) might compromise performance and risk creating a pathway for effluent to enter the protected site (River Usk Special Area of Conservation (SAC)). The AA has also considered factors such as existing density, proximity to the nearest surface water feature and distance to the SAC and that construction can be in accordance with British Standards 6297.

We note that the Package Treatment Plant (PTP) has a phosphate stripping level of 630mg to ground (page 8), compared with the existing dwelling's discharge to ground (stated as 7500mg). We note and agree with the following statement on page 10 "The scheme adds additional mitigation measures in the form of a chemical dosing unit to strip out the levels of Phosphorus to (as quoted in certification) 0.3mg/l. There is uncertainty in the effectiveness of Phosphorus stripping technologies and ensuring their long-term functionality through appropriate maintenance."

Natural England evidence reports show that phosphorus, in its entirety, does get retained in the soil around well-constructed drainage fields, regardless if no phosphate stripping is installed and providing ground conditions are suitable for drainage field construction (installed and maintained in accordance with British Standards 6297). Having a phosphate stripping facility means that the reduced phosphorus entering the drainage field is an additional mitigation against increased density of systems. Given the ability of soils to retain phosphorus, it can be ascertained that there won't be transport of phosphorus to the river environment from increased phosphorus in the effluent if the phosphate stripping system should fail due to poor maintenance.

Taking the above into consideration we are satisfied that your Authority can conclude no adverse effect on site integrity, subject to the system implementing British Standards 6297; compliance with the approved drainage layout plan; and that the future relevant Environmental Permitting Regulations controls are in place.

MCC Urban Design/ Landscape Officer- The increase in garden to the frontage is welcomed and could provide an opportunity for a suitable landscape scheme based on the concept planting schedule 1416[BD]06 August 2019 and species selection to reduce the impact of the proposed development (dwellings and garage to plot 2) on the village form and character as seen from Wainfield Lane.

Plan 1416[BD]01D indicates the retention of trees to the northern boundary which is welcomed. The retention of boundary hedges are also welcomed. Further tree and planting to eastern, southern and western boundaries to reduce the impact of the northerly property plot 1 ridgeline would be welcomed as viewed from the approach to the village via Wainfield Lane and as viewed from Bank Road and Llancayo Road (this has now been added to the proposal).

MCC Highways - No objection to access and parking arrangement. Concern of adverse impact on highway safety should this application set a precedent for further plot divisions. Recommend condition requiring the provision of the new access prior to development commencing and a Construction Traffic Management Plan.

Response to re-consultation: The highway authority following receipt of a re-consultation request dated 14/01/2022 proposes no change to the previous response other than to note that no reference or notes to applicants were provided with the original decision notice regarding the alterations to the driveway access. The highway authority therefore request that the applicant is advised of the highway authority's requirements pursuant to section 184 of the Highways Act as detailed in the footnote and the footnote is provided as an informative to any subsequent planning decision notice:

It should be brought to the attention of the applicant that in the event of a new or altered vehicular access being formed, the requirements of Section 184 of the Highways Act 1980 must be acknowledged and satisfied. In this respect the applicant shall apply for permission pursuant to Section 184 of the Highways Act 1980 prior to commencement of access works via MCC Highways.

MCC SAB - the proposed scheme will require a sustainable drainage system designed in accordance with the attached Welsh Government Standards for sustainable drainage. The scheme will require approval by the SuDS Approving Body (SAB) prior to any construction work commencing.

Response to re-consultation: We have received a valid SAB application for the site and have approved the surface water system. The system will manage the surface water on the site without increasing flood risk to others according to submitted information. We therefore have no further comments on the surface water drainage of the site.

MCC Environmental Health - I have reviewed the current information available with this application.

I note that a private foul / waste water treatment system is proposed for this development. Providing the foul / waste water treatment system meets current Building Regulations / Standards, I do not anticipate an unacceptable risk / harm from noise, odour etc to nearby residents. I therefore have no objection.

Building Control Officers (Information taken from JR Witness Statement) – No objections to the proposals Building Regulations BS 6297:1983 require the treatment plant to be 7m from the house not 10m, the package treatment plant to be at least 7m from the building and the treatment plant drainage field to be at least 10m from the building. This has been achieved and is shown on the latest plans and therefore there are no objections to the proposals.

NATS Safeguarding - The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

SEWBRc Search Results - No significant ecological record identified.

5.2 Neighbour Notification

Nine representations received. Object on the following grounds:

- The proposal extends the furthestmost line of building beyond the bungalow to be demolished and as such does not constitute true infill.
- The two dwellings together are too big for the plot, too close together and

out of character with other properties in the lane.

- The development would add additional traffic on the lane which has no passing places at the bottom end and an access on to the main road which is potentially dangerous.
- Any foul drainage system for the proposed housing development would need to cope with the impact of the full potential occupancy of the 2 x 4 bedroomed houses - which given the number and size of the bedrooms would be at least 16 persons (i.e. 8 persons per property) - and not just the average sized families that would in reality probably reside there. Therefore, it would be interesting to know the applicant's plans for foul drainage given the very limited space that is available on the plot to install the necessary plant and soakaways etc., and, given the well documented history of drainage issues in the area.
- It is disappointing to note that despite meeting with MCC Planning on two occasions the Agent/Applicant has once again submitted an application that is contrary to Supplementary Planning Policies H3 and H5 regarding infill and replacement dwellings respectively.
- The scale and massing of the application is in line with a housing estate not a country village.
- It is not 'in-fill'. The two proposed dwellings are not in the 'building line' and do not 'in-fill' between any properties, therefore in conflict with Policy H3 of the Supplementary Planning Guidance.
- It is not a replacement dwelling. The proposed two properties are not on the original bungalow footprint so therefore in breach of Policy H5 of the Supplementary Planning Guidance. The proposal is clearly overdevelopment.
- There are no other three storey properties on the lane. This would set a new precedent for further development.
- The drawings are misleading. No adjacent properties are shown on the drawings. There is no demonstration of how the proposal relates to existing properties, especially in terms of building line and the proposed heights. Please note, in other recent planning applications along Wainfield Lane, 'Ty Cwtch' has been stated as NOT setting a planning precedent for ridge height in planning applications by MCC. These recent applications also have permitted development with restrictions on ridge heights and increased distances from adjacent boundaries to minimise the visual impact. (Street elevations now submitted with the application).
- Pipistrelle bats are roosting at the property. The removal of hedgerow, as proposed in the creation of the new driveway would damage the bats 'route to roost', limiting food source and causing them disorientation for their established routes to feed and roost. This has not been looked at or taken into consideration.
- The positioning of the proposed new driveway, the third one for the 'Homestead' plot in less than three years. Usually in a village, driveways are staggered. The relationship to other drives is not shown on the drawings, but it looks as though the new proposal would be directly opposite Meadowside's drive.
- The planning precedent this application would set. Allowing this proposal would allow neighbouring garden/land owners to build similar schemes which would cause significant harm to the identity of our small country village. The plans submitted are still not to scale and are therefore misleading.
- The revised plans still do not address my major concerns and objections. I had hoped that any new application submitted would have been for one home and not a two house development. Sadly this second attempt to once again gain planning permission for two houses being constructed on this small plot is still overcrowding of the site and is clearly for profit without consideration for the local plan or aesthetics of the area.

- The development is 270% bigger than the existing bungalow, and would dominate the horizon being at the highest point of Wainfield Lane, which again is not in keeping with the local plan.
- Believe the development will impact Meadows side both on loss of privacy and local amenity.
- Both dwelling houses are considerably higher and each has three storeys, whereas the existing property is a bungalow.
- The proposed dwellings are located close to the highest point on Wainfield Lane (and at what is in fact the highest developed part of the east side of the lane, which is higher than the west side) and as such would have a significant negative visual impact from the lane and the surrounding countryside.
- Contrary to LDP Policy H6 relating to replacement dwellings in the open countryside.

Responses to re-consultation: Nine representations received. Object on the following grounds:

- Reiterate previous objections.
- The proposal for an additional dwelling at Homestead is contrary to LDP Policy H3 as it does not constitute infill resulting from the filling in of a small gap between existing dwellings.
- The proposal for 2 x two and a half storey height dwellings on the highest and most widely visible ground on Wainfield Lane will have an unacceptable impact on village form, character and the LANDMAP designated High Value landscape and thereby conflict with Policy H3 and Policy LC5.
- The Homestead proposal represents an extension of Gwehelog, and by removing the restriction for new houses to be infill only will set the precedent for significantly more housing development; this would be contrary to Policy MV1 which will not permit development that is likely to create significant and unacceptable additional traffic growth in relation to the capacity of the existing road network of Wainfield Lane and its vicinity.
- The foul drainage proposals for Plots 1 and 2 both demonstrably fail to comply with Building Regulations and Approved Document H2, especially paragraph 1.27, for which reason the proposals cannot be said to safeguard the locality's environment, amenity and public health in contravention of Circular 008/2018 and Policy EP5.
In order to be able to accommodate the foul drainage bed for plot 2 within that plot the boundary between the plots has been changed such that plot 1 is disproportionately smaller than plot 2 and generally at odds with other 5 bedroom properties in the area. The shifting of the boundaries between the two dwellings has been done with little regard for amenity and is primarily driven by the desire to shoehorn two large 5 bedroom properties onto a plot that is too small for that purpose.
- A significant part of the foul drainage field for plot 1 appears to be located where the existing drive is presently located. That means, when complete, that portion of that drainage field will be in made-up or disturbed ground. This must surely have an influence on how that portion of the drainage bed will perform. Also, a percolation test cannot possibly have been conducted in ground representative of that portion of that drainage bed.
- None of the plans submitted take account of the storm water discharged from outbuildings in the back and front gardens.
- The new front garden outbuilding appears to require planning permission as it is located forward of the principal elevation of the existing and proposed properties. It is not included as part of this application.
- The present owner appears to be conducting a business from the premises which requires clients to visit the site for a period of time. There does not appear to be provision for parking for business visitors. Also, no

assessment has been made of the impact of business visitors on foul water discharge quantities.

- The proposal would be the third driveway the property has had. That's loss of hedgerow twice.
- The positioning of the proposed driveway although not shown, looks to be directly opposite the Meadowside driveway.
- Along Wainfield Lane the drives are generally staggered, so not in keeping. Having two driveways meeting could be hazardous, compromising the safety and ease of traffic movements for surrounding residents in contravention of Policy MV1.
- As Homestead is topographically much higher, the creation of the proposed driveway would enable users of the proposed driveway to have direct vision into the front bedrooms of Meadowside.
- The proposed driveway provision is inadequate to service two houses. It does not give the houses three spaces each, nor does it allow for adequate turning circles. Plot 1 provides 2 spaces and an integral garage for parking. Plot 2 provides two parking spaces and a double garage.
- The proposed private drive entrance does not appear to ensure sufficient visibility splays and sufficient surface water drainage control with the potential to discharge onto Wainfield Lane, which fails to drain correctly at peak rainfall.
- The foul drainage proposal is unchanged from the Judicial Review which was quashed as a result of the drainage not being able to comply with: (a) Building Regulations (b) Approved Document H2 (c) Circular 008/2018 (d) Policy EP5 (e) Plot 1 Treatment plant percolation ability considering the drainage field proposed invert is similar to the driveway formation could lead to drainage water percolating into the driveway and surface water SUDS system.
- Reconsultation not as thorough as it should have been. No site new site notice posted.
- Whilst there is no doubt that a lot of consideration has been given to the design of a sustainable drainage system, we remain concerned as to how effective and efficient the latest proposals will actually be. We trust that the full requirements of both the Planning and Building Regulations aspects of this important area will be carefully re-examined during this second consultation process.
- Please note, if the new planning consultation were to be for one family house, in keeping in scale and mass with our small rural village we would welcome the application.
- I understood that this application was required to be quashed following judicial review. Why is this application, therefore still ongoing?
- The planning history of the site is so complex, that the re-application, needs to be examined in detail by the planning committee.
- Suggest 5 reasons for refusal:
 - 1) The proposal for an additional dwelling at Homestead is contrary to LDP Policy H3 as it does not constitute infill resulting from the filling in of a small gap between existing dwellings; if approved the proposal will set an unwarranted precedent for further extensions of Minor Villages such as Gwehelog.
 - 2) The proposal for two two and a half storey height dwellings on the highest and most widely visible ground on Wainfield Lane will have an unacceptable impact on village form, character and the LANDMAP designated High Value landscape and thereby conflict with Policy H3 and Policy LC5.
 - 3) The Homestead proposal represents an extension of Gwehelog, and by removing the restriction for new houses to be infill only will set the precedent for significantly more housing development; this would be contrary to Policy MV1 which will not permit development that is likely to

create significant and unacceptable additional traffic growth in relation to the capacity of the existing road network of Wainfield Lane and its vicinity.

- 4) The foul drainage proposals for Plots 1 and 2 both demonstrably fail to comply with Building Regulations and Approved Document H2, especially paragraph 1.27, for which reason the proposals cannot be said to safeguard the locality's environment, amenity and public health in contravention of Circular 008/2018 and Policy EP5.
- 5) The proposed driveway is too narrow, does not have a 2 arm turning head so that vehicles will be unable to enter and leave in forward gear, has no visibility splay, and by adding another house to the substandard Homestead access arrangements will compromise the safety and ease of traffic movements for surrounding residents and Wainfield Lane in general in contravention of Policy MV1 which requires the provision of a safe and easy access for road users. Plot 1 only provides 2 parking spaces in contravention of the minimum standards in the Parking Standards and Domestic Garages SPG.

6.0 EVALUATION

6.1 Strategic & Spatial Choices

6.1.1 Strategic Planning/ Development Plan context/ Principle of Development

The proposed development for the demolition of the existing bungalow Homestead and the construction of two dwellings at the site was previously recommended for approval by planning officers and subsequently approved by the Planning Committee on 21st February 2021. As outlined above this decision was subject to a judicial review based on the foul drainage proposals for the site and the decision was consequently quashed. Given this decision the application has now been fully reconsidered by planning officers and following consultation and a forensic review of planning policy it is considered that officers are unable to make the same recommendation given that there is conflict with Policy H3 of the Local Development Plan (LDP).

Gwehelog is classed as a minor village suitable for infill residential development under Policy H3 of the LDP. This policy states that:

In Minor Villages planning permission will be granted for minor infill of no more than 1 or 2 dwellings resulting from the filling in of a small gap between existing dwellings, or residential redevelopment, or conversion to residential or sub-division of large dwellings, subject to detailed planning considerations, including no unacceptable adverse impact on village form and character and surrounding landscape, and other policies of the LDP that seek to protect existing retail, employment and community uses.

Policy H3 of the LDP only allows for the infilling of a small gap between existing dwellings. The proposed development does not fill a small gap between existing dwellings and represents a redevelopment of this existing residential site. Minor villages do not have development boundaries and when considering development proposals within these villages detailed consideration has to be given to the 'physical boundaries' of minor villages. Paragraph 2.3 of Monmouthshire's Infill Supplementary Planning Guidance (SPG) outlines that when defining the settlement, we would look at existing physical features such as field boundaries, roads, trees, rivers, and railway lines, generally the edge closest to village. Homestead and the associated residential curtilage is considered by officers to be the last property on the eastern side of Wainfield Lane to be within the physical boundary of the village of Gwehelog as defined by the physical features at the site.

It is clear that Policy H3 allows for minor infill of no more than 1 or 2 dwellings,

however it also makes reference to residential redevelopment. The meaning of residential redevelopment is not defined within the LDP or the associated SPG for Policy H3. An argument could be made that it is appropriate to make efficient use of this previously developed land (as defined in PPW ed. 11) which already has residential use for minor residential development subject to the development not having a harmful impact on the character and appearance of the village of Gwehelog or the wider landscape. However, whilst officers are of the view that the proposed development would not have an unacceptable impact on the character and appearance of the village or the wider landscape, the proposal does not represent minor infill development in accordance with Policy H3. The site is not a small gap between existing dwellings and therefore it does not represent 'infill development'. There is ambiguity with regards to the meaning of residential redevelopment' within Policy H3 and there is no specific definition of this term within the policy or associated SPG.

Being aware of the concerns that have been raised from local residents regarding compliance with Policy H3 it would be for the Planning Committee to make a balanced judgement on whether the development is in accordance with the requirements of the policy. However, given a forensic review of the planning policy position, officers are recommending to Members that the development proposal does not represent infill development and therefore it is not in accordance with Policy H3 of the LDP and the application should therefore be refused.

In relation to affordable housing provision, it is a basic principle of LDP Policy S4 that all residential developments (including at the scale of a single dwelling) should make a contribution to the provision of affordable housing in the local planning area. As this site falls below the threshold at which affordable housing is required on site, the calculation of the financial contribution that will be required if planning consent was to be granted at this site would be £8,491 which will be secured by a Section 106 legal agreement.

6.1.2 Good Design/ Place making

The existing bungalow is relatively modern and is not a traditional dwelling that is intrinsic to the landscape character of the area. As such its demolition will not harm the appearance of the area.

The proposed replacement dwellings will be traditional houses with natural or man-made riven edged slate roofs, fine texture render and natural cedar/larch clad walls and aluminium or uPVC windows with traditional glazing bar arrangements. There is a mix of house types on Wainfield Lane with post war detached houses and bungalows and more modern infills. The proposed new houses are considered to be in keeping with the vernacular of the area and the other dwellings within the vicinity of the site.

The proposed layout will see a single central access point leading to a detached garage to the front of Plot 2 and then onto Plot 1. The shape of the plot differs from others along the lane as the boundary is straight along the southern edge but is more like a dog-leg to the north which allows more area to accommodate the two buildings. The two dwellings will follow the building line established by the neighbouring dwelling Ty Cwtch. Street elevations submitted with the application show that the ridge height of the proposed new dwellings will be similar to Ty Cwtch with Plot 2 which is immediately adjacent having the same ridge height and Plot 1 slightly higher. The properties have accommodation in the roof space in the form of a bedroom but are not overtly three storey.

On balance, it is considered that the proposed layout will not appear at odds with the general ribbon pattern of development in the area. The staggered building line would not be adverse to the character and appearance of the village given that there

is no uniform building form and although buildings are fixed along Wainfield lane the buildings vary in their siting and location. The development will not adversely affect the street scene or character and appearance of the wider area. The proposed development is therefore considered to accord with LDP Policy DES1.

6.1.3 Impact on Amenity/ Promoting Healthier Places

There are likely to be views southeast from Plot 2 towards the rear garden area of the property of Ty Cwtch however these views will be limited to a 45 degree angle. There will be no windows on the side elevation of Plot 2 facing this neighbour. A substantial laurel hedge within the Ty Cwtch garden together with the concrete block boundary wall would screen all views from the ground floor of this neighbouring property and vice versa.

Distances between the existing dwelling on the other side of Wainfield Lane and the proposed new dwellings are well over 21 metres and views between will be distant only. The proposed dwellings are set back from the front boundary at distance of over 22m (72ft). As such there will be no loss of privacy for existing neighbours or future occupiers of the proposed development.

On the basis of the above, it is considered that the proposed new dwellings will not adversely affect local residential amenity and meet the requirements of LDP Policies DES1 and EP1.

6.2 **Active and Social Places**

6.2.1 Access / Highway Safety

With regard to highway safety it should be noted that there is only a net increase of one dwelling and it is considered by the Highway Authority that traffic flow on Wainfield Lane will not be adversely affected and would, in isolation, not be sufficient reason to sustain a highway objection. However, Highways are concerned that should further plot divisions be allowed as a result of this application then there could be the potential to cause strain on the public highway in terms of traffic flow etc., along the single lane Wainfield Lane. Any additional proposals for sub-division will be the subject of a planning application which can be assessed on its own merits having regard to the cumulative impact of additional traffic.

Parking spaces are provided on the site and this arrangement would avoid cars parking in Wainfield Lane. A turning area is also provided within the site meaning that cars can enter and leave in a forward direction. As such the proposed development meets the requirements of the MCC Parking Standards.

The relocated position of the proposed access provides greater separation between the proposed dwelling on Plot 1 and the boundary with Ty Cwtch and also provides improved visibility. Thus it is considered that the proposed development will not harm highway safety in accordance with LDP Policy MV1.

6.3 **Productive and Enterprising Places**

6.3.1 Landscape/ Visual Impact

The village form along Wainfield Lane from the junction of the Monmouth Road to the crossroads junction with Bank Road is in general a ribbon settlement consisting of predominantly individual houses of mixed size, architectural form and age set within their own grounds and driveways leading onto a tree and hedge-lined Wainfield lane.

The settlement of Gwehelog is quite dispersed overall, set within the context of the historic landscape of Gwehelog and Trostrey commons as defined by LANDMAP

and in the visual and sensory landscape setting of Gwehelog characterised by wooded hillside and scarp slopes. Both evaluated through LANDMAP as being of High value.

The existing mature boundary hedge screens the view of the new dwellings from the road and all existing boundary hedges and trees are to be retained including the translocation of the hedge to infill the existing site access. Additional planting using native species is also proposed and its implementation and maintenance can be ensured by planning condition.

The frontage of the site along the lane is 34.5m wide and the plot measures over 52m deep front to back. The site area is just under a third of an acre (1,270 sq. m) which is considered to be adequate to accommodate two dwellings and still provide on-site parking, turning areas and large gardens and soft landscaped space. The landscape proposals also seek to contain the two buildings within hedgerow perimeters to emulate the landscape character along Wainfield Lane.

The size and shape of the site allows for an enhanced lane frontage, appropriate to the village form. The site is considered to be of sufficient width to accommodate the development without causing a significant visual impact and no physical impact to the existing vegetation or site context. The proposed development would not have an adverse impact on the character and appearance the Landscape in accordance with Policy LC5 of the LDP.

6.3.2 Biodiversity

Daytime inspection survey (internal and external), with two dusk emergence/activity observations were conducted on the bungalow in August and September 2018. Internal inspection found no live bats, or evidence of bats, but external survey found evidence with fresh bat droppings noted on the exterior wall at the south-eastern end of the bungalow. During the summer observations, a consistently low number of common pipistrelle bats were seen to emerge from the bungalow with the same pattern of behaviour during the two surveys: a single bat emerged at the north-west gable apex area and four bats at south-east gable, low, towards the front (west) slope. Only common pipistrelle bats emerged and no other species was recorded in the observation zone during survey.

When the nature conservation significance of the site is considered against recognised criteria, the nature conservation status of the site is assessed to be medium, due to the presence of what is likely to be a small maternity roost for a low number of common pipistrelle bats. The scale of the impact of the development will affect current roost locations, with a low risk of detrimental impacts to the conservation status at a local level, on the basis that the colony at this site is a small number of protected bats and the development would not harm the widespread species. There is no threat to the conservation status of the species given that the impact of the development would be slight or insignificant in relation to the local bat species population.

As bats are fully protected in British legislation, as well as their places of rest, for the development to proceed, the owner will, in addition to planning consent, need to obtain a European Protected Species licence from Natural Resources Wales prior to commencing any works for demolition of the bungalow, because such works will affect the current bat roost. A scheme of mitigation is proposed and can be conditioned so that the site continues to provide roost opportunities for the protected species currently present.

In consideration of this application, 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 and the 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 replacement of the existing bungalow will provide additional housing for the local area as well as a financial contribution toward affordable housing. The development would add considerably to the economic value of the land given it would result in a net gain of one residential unit. This would give rise, albeit indirectly, to some local social and economic benefit.

(ii) *There is no satisfactory alternative*

The 'do nothing' scenario has been considered and rejected as it leaves the applicant with an unsuitable property, the condition of which could steadily worsen. This approach would eventually give rise to dereliction, with loss of bat roosting habitats. The application is necessarily site specific.

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

Based on the bat report submitted with the application, NRW do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. This is provided the report is included in the 'approved list of plans / documents' condition within the decision notice and it is proposed that the following condition is also added to any subsequent planning consent

Condition: The development shall be carried out in strict accordance with the approved "Homestead, Wainfield Lane, Gwehelog, Usk NP15 1RG - An Ecological Survey Report By Just Mammals dated November 2018" and as illustrated on "Proposed Floor Plans and Elevations – Plot 2 Dwg no. 1416(BD)03B dated April 2019 revised 2/01/20" and "Site Plan As Proposed – Dwg no. 1416(BD)01D dated April 2019 revised 2/01/20"

Reason: To ensure adequate safeguarding of species of principle importance for conservation and to ensure compliance with LDP policy NE1

6.3.3 Surface Water

The proposed development must comply with Welsh Government Legislation regarding sustainable drainage which strictly controls surface water run-off. To achieve compliance with Sustainable Drainage legislation the new dwellings will have rainwater harvesting systems to collect and store rainwater and make use of it to flush toilets and supply washing machines, as well as water gardens. There will be little if any water discharging to the ground and to soakaway. The driveway will be of a permeable surface to avoid run-off. The development will not be allowed to commence unless it can be demonstrated that the proposed drainage meets the requirements of the SuDS legislation. The surface water drainage has full SAB approval, which has been confirmed by the Council's Senior Drainage Officer.

6.3.4 Foul drainage – Background information in relation to the judicial review, foul drainage amenity and phosphates

6.3.4.1 Background information relating to the judicial review

This application was approved by Planning Committee on 2nd February 2021. The consent was for the demolition of an existing bungalow with outbuildings and the erection of two detached dwellings. The decision was subsequently subject to a judicial review by a local resident, the single ground of challenge to the grant of the permission being that part of the officer's report was substantially misleading in relation to foul drainage, in that there is guidance within approved document H2 that suggests that drainage fields should be at least 15 metres from a building. If that had been applied in this case, the effect would be that each of the proposed drainage fields would be required to be some 5 metres further away from Ty Cwtch and from the proposed buildings.

The relevant regulations referred to in the Circular (008/2018) include the Building Regulations 2010 (the 2010 Regulations), made under ministerial powers conferred by the Building Act 1984. The building regulations (2010) set out the minimum standards that need to be complied with. The Approved documents issued by the Welsh Government and the British Standards provide guidance to assist with meeting the standards set out within the building regulations (2010).

The requirements as to the siting of waste water treatment plants are set out in section H2 of the Building Regulations. So far as relevant, any waste water treatment system must be so sited that it is not prejudicial to the health of any person and will not contaminate any watercourse underground water or water supply. There are no minimum distances set out in this legislation. However, the Welsh Government has adopted a series of documents to provide guidance as to the requirements set out above. The current version dealing with foul drainage is dated 2002 but incorporates amendments made in 2010 (the Approved Document). Paragraph H2 1.27 deals with siting of drainage fields serving treatment plants and states that:

"A drainage field or mound serving a wastewater treatment plant or septic tank should be located: (a) at least 10m from any watercourse or permeable drain; (b) at least 50m from the point of abstraction of any groundwater supply and not in any Zone 1 groundwater protection zone; (c) at least 15m from any building; (d) sufficiently far from any other drainage fields, drainage mounds or soakaways so that the overall soakage capacity of the ground is not exceeded."

Approved document H2 Paragraph 1.72 also refers to an alternative approach to meet building regulations requirements that being the British Standards (BS). Paragraph 1.72 states that

"The requirement can also be met by following the relevant recommendations of BS 6297:1983 Code of practice for design and installation of small sewage treatment works and cesspools. The relevant clauses are in Section 1, Section 2, Section 3 (Clauses 6–11), Section 4 and Appendices."

These are standards developed and published by the British Standards Institute, which is recognised by the UK Government as the national standards body. In respect of habitable buildings, the guideline is: "Position as far as practicable considering prevailing wind direction: Recommended minimum: 7 metres."

The Judge found that it was accurate for the previous Committee report to say that building control inspectors considered that the drainage proposals met the requirement of the Building Regulations as the drainage fields were required to be at least 10 metres from a building. Furthermore, that the authority's building control officers were not obliged to have regard to Approved Document H2 and were entitled to assess compliance by reference to the British Standards.

However, the Judge found that although the report was accurate in the context of building control, in his opinion, it does not follow that the same approach could or should be adopted by the planning committee as the Building Regulations Schedule H2 are concerned with whether the proposal is prejudicial to the health of any person but in the planning context, the focus is not just upon public health, but also upon amenity. Amenity is expressly referred to in paragraphs 1.2 and 2.7 of the Welsh Government Circular on drainage (008/2018) as a consideration.

The Judge concluded the following:

“Reading the officer’s report as a whole, which incorporated a previous report, the concerns in relation to foul drainage from objectors and the local community council are noted and these include references to the history of drainage issues in the area and to the site being predominantly on clay. In dealing with amenity, the report deals only with visual amenity and privacy. In my judgment, by not referring to the Circular or the Approved Document H2, the members, even as informed readers, are likely to have been left with the impression that as the building control officers were satisfied that the drainage proposals satisfied the requirements of the 2010 Regulations, that was the end of the matter in respect of such proposals. In the planning context, in my judgment, it was not. To leave it there without fully dealing with the adequacy of the drainage proposals in that context was in my judgment significantly misleading”.

The previous decision was quashed given that the information presented to the planning committee was misleading. The impact of the foul drainage proposals and the impact on amenity are outlined below.

6.3.4.2 Amenity

Welsh Government Circular on drainage 008/2018 provides advice on the exercise of planning controls on non-mains sewerage and associated sewage disposal aspects of new development in order to avoid public health, amenity or environmental, problems. The circular outlines that planning authorities should aim to satisfy themselves that the sewerage proposals for a development are suitable, and public health, amenity and environmental problems are unlikely to arise. In doing so they should take into account

- a) any information submitted by the developer
- b) comments provided by Natural Resources Wales; and
- c) other relevant information, including comments from their own professional advisors

The proposed private package treatment plant has been fully considered and it is recommended by officers that the proposals are unlikely to have an unacceptable impact on health, amenity and/or environmental considerations as to warrant refusing the application. Environmental Health Officers have concluded that providing the foul / wastewater treatment system meets current Building Regulations / Standards, that they do not anticipate an unacceptable risk / harm from noise, odour etc., to nearby residents as the treatment system would be built to modern drainage standards and to a standard that exceeds the existing arrangement of a septic tank. The proposed foul drainage would be subject to a separate building regulations application, however the Council’s Building Control Officers have outlined that there is no clear reason to outline at this stage why building regulations could not be achieved for foul drainage at the site. The proposed private treatment system would be built to modern standards and would not lead to a risk to public health or cause a nuisance to neighboring parties or the future occupants given it would be built to meet current building regulations standards. Given that the drainage would be constructed in accordance with the building regulations requirements it would not result in harm to the use of the residential curtilages of the proposed dwellings or neighbouring properties and would not pose a risk to public health. The installation of a private treatment system at the site would not

harm the amenity of any party. Natural Resources Wales have reviewed the risks posed to the water environment and have outlined that it has been demonstrated that the ground conditions are appropriate, and that the environmental regulator has no further concerns. NRW have stated that the applicant will require an environmental permit or exemption for the system.

Given there are no objections or concerns from environmental health colleagues, building control colleagues and/or NRW to the proposed drainage solution there is no reason to conclude that a suitable drainage solution cannot be implemented at the site and therefore in accordance with the requirements of the Planning Circular 008/2018 officers are satisfied that it is unlikely that the proposed development would harm the environment or public amenity or health, so the proposals would be acceptable.

The previous decision of planning committee on the 2nd February 2021 was quashed, the judge concluding that committee was misled and the officers report had not adequately considered the implication of foul drainage on the amenity of the neighbouring parties. The objecting party refers to the development not being in accordance with Approved Document H2 given the proposed drainage field is not 15m from any building, however as outlined in section 1 of this report, paragraph 1.72 of approved document H outlines that the requirement can also be met by BS 6297:1983 which outlines that the treatment plant can be 7m from the house and the drainage field can be at least 10m from the building. For the reasons outlined above it is considered that the proposed foul drainage proposal is acceptable, and it is unlikely that it would harm the environment or public amenity or the health of the occupiers of the proposed dwellings or the neighbouring properties.

It is worth noting that within the judgement (para 20) the judge outlines that the 1983 BS referred to provided that sewage treatment works should be as far away from habitable buildings as economically practicable. That edition was replaced in 2007, which in turn was replaced in 2008 (BS 6297 2007: A+1 2008), which is now the current standard. However the reference in the Approved Document (H2), although amended after the 2007 and 2008 BS came into force, continued to refer to the 1983 BS.

The professional consultees are satisfied on technical implementation grounds and have advised that the potential risk of harm to neighbour amenity is not significant. In accordance with the guidance within Planning Circular 008/02018 planning officers are satisfied that there is no overriding reason why the proposed development should be recommended for refusal given the principle of the proposed foul drainage proposals is considered to be acceptable and technical advisors have no objection to the development. If the foul drainage could not achieve building regulations requirements or achieve the required environmental permit, then the development would not be able to be carried out.

6.3.4.3 Phosphates

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

Where increases in phosphate inputs in the SAC cannot be ruled out as a result of the development then the competent authority (the LPA) must carry out an appropriate

assessment of the implication of the plan or project in view of the site's conservation objectives. NRW have reviewed the HRA Screening Matrix and Appropriate Assessment (AA), prepared by the Local Planning Authority's Biodiversity and Ecology Officer dated 14/10/2021. The AA correctly identifies a potential in combination effect from the proposal irrespective of the density of discharges currently in the area. The density criteria are in place to consider whether the close proximity of multiple drainage fields (existing and proposed) might compromise performance and risk creating a pathway for effluent to enter the protected site (River Usk Special Area of Conservation (SAC)). The AA has also considered factors such as existing density, proximity to the nearest surface water feature and distance to the SAC and that construction can be in accordance with British Standards 6297. It is noted that the Package Treatment Plant (PTP) has a phosphate stripping level of 630mg to ground, compared with the existing dwelling's discharge to ground stated as 7500mg. NRW agree with the statement on page 10 of the AA: "The scheme adds additional mitigation measures in the form of a chemical dosing unit to strip out the levels of Phosphorus to (as quoted in certification) 0.3mg/l. There is uncertainty in the effectiveness of Phosphorus stripping technologies and ensuring their long-term functionality through appropriate maintenance."

Natural England evidence reports show that phosphorus, in its entirety, does get retained in the soil around well-constructed drainage fields, regardless if no phosphate stripping is installed and providing ground conditions are suitable for a drainage field (i.e. installed and maintained in accordance with British Standards 6297). Having a phosphate stripping facility means that the reduced phosphorus entering the drainage field is an additional mitigation against increased density of systems. Given the ability of soils to retain phosphorus, NRW have advised that it can be ascertained that there will not be transport of phosphorus to the river environment from increased phosphorus in the effluent if the phosphate stripping system should fail due to poor maintenance.

Taking the above into consideration, NRW as Statutory Advisors to the LPA on such matters, are satisfied that it can be concluded that there will be no adverse effect on the integrity of the River Usk SAC subject to the system implementing British Standards 6297; compliance with the approved drainage layout plan; and that the future relevant Environmental Permitting Regulations controls.

6.4 Response to the Representations of Third Parties and the Community Council

6.4.1 The Judicial Review judgement held that it was accurate of the previous Committee report to say that building control inspectors considered that the drainage proposals met the requirement of Building Regulations (BS 6297:1983). Furthermore, it was held that the authority's building control officers were not obliged to have regard to Approved Document H2 and were entitled to assess compliance by reference to the British Standards. The proposed drainage will not have any adverse impact on public health. In terms of amenity the council's Environmental Health Officer has reviewed the current information available with this application. It is noted that providing the foul / waste water treatment system meets current Building Regulations requirements it is not anticipate that there would be an unacceptable risk / harm from noise, odour etc to nearby residents and raise no objection. As outlined in section 6.3.4 the proposals are considered to comply with the requirements of Planning Circular 008/2018 and officers are satisfied given input from technical advisors that an acceptable drainage proposals can be implemented at the site that would not have a harm on the amenity of the occupiers of the property or the neighbouring party. The development proposals will have to meet other legal requirements such as building regulations and environmental permits.

6.4.2 Both proposed plots have both front gardens and rear private garden that are sufficiently large to allow future residents to be able to use these areas for various domestic enjoyment purposes such as hanging out washing, children's play equipment, eating outdoors etc. The resultant residential curtilage areas do not harm the character and appearance of the village. Existing hedgerows along Wainfield Lane

are to be retained where possible and added elsewhere resulting in a single new access point with hedge either side. There will also be additional hedge and tree planting along other site boundaries.

- 6.4.3 The impact on Highway safety has been considered by the Council's Highway Engineer and found to be acceptable. As such it is considered that the arrangement meets the requirements of LDP Policy MV1. There is a turning area off the shared part of the driveway which itself also acts as a turning area for Plot 2. Provided that a condition is attached to any consent to ensure that the garages are retained for parking of a vehicle, then each property will have 3 parking spaces which meets the Monmouthshire Parking Guidelines and is acceptable to the Highway Authority. The visibility provided is considered to be acceptable by the Council's Highway Engineer. In terms of potential discharges onto Wainfield Lane, this will be dealt with by the requirement for the developer to apply for permission pursuant to Section 184 of the Highways Act 1980 prior to commencement of access works via MCC Highways.
- 6.4.4 There is a distance of approximately 30m between the rising driveway of the application site and Meadowside. This distance is considered to be large enough to avoid any direct overlooking that would result in a loss of privacy to the occupiers of that property
- 6.4.5 With regards to surface water considerations the scheme benefits from SAB approval and has been duly considered by the SAB.
- 6.4.6 Comments regarding new outbuildings and business use at the site are not part of this planning application and will be reviewed and considered separately by the LPA.

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

- 6.5.1 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.

7.0 RECOMMENDATION: REFUSE

Reason for refusal

- 1. The construction of two dwellings at this site does not constitute infill development as it is not a small gap between existing dwellings and therefore the development would be contrary to Policy H3 of the Monmouthshire Local Development Plan.**