

Application Number: DM/2018/01995

Proposal: Outline application for a six dwelling residential development with primary access off Baron Street with some matters reserved

Address: The Willows, 20 Baron Street, Usk, Monmouthshire, NP15 1AS

Applicant: Mr John Lewis

Plans: Location Plan G (1) - , General Green Infrastructure Assets Plan - , General Green Infrastructure Opportunities Plan - , Bat Survey - , FCA FCA V3 - , Other Transport Statement - , Other Preliminary Ecology Report - , All Proposed Plans Sites Sections G (3) Rev. A - , All Existing Plans Topographical Survey - , Site Layout G (2) - Rev G, Drainage Klargest Product Guide Feb2018 - , Drainage TDS0038-02 BA-BC Phosphate Reduction - , Drainage Certificate PIA Kingspan BioDisc +P - December 2020

RECOMMENDATION: Approved

Case Officer: Kate Bingham
Date Valid: 15.04.2019

This application is presented to Planning Committee due to the number of objections exceeding the threshold of five households

1.0 APPLICATION DETAILS

This application was presented to Planning Committee on December 6th with a recommendation for approval. This recommendation was agreed by Members of the Planning Committee subject to two additional conditions namely:

- Compliance with approved site levels (to manage flood issues).
- A Flood Action Plan to be submitted pursuant to the reserved matters.

Also, the resolution to approve was subject to officers checking with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant and that this matter be agreed via the Delegation Panel.

2.0 Consultation Responses

NRW –

We understand that concerns have been raised in relation to the potential sources of flood risk to the site from the Mill Brook and the Olway Brook. Your Authority is seeking assurance that they have been assessed and considered in relation to the proposed development site. We note, amongst others, the concerns set out in the document titled “Correspondence Received Since Closing Report Planning Committee – 6 December 2022” on your website and the photographs showing flooding in and around the Garden Centre (but not directly on the proposed development site).

We understand that the photographs were taken in the Storm Dennis event on 16th February 2020. Although the source of the flooding is not clear, we acknowledge that it could

potentially be from the Mill Brook, if it was unable to discharge into the River Usk, and/or the Olway Brook which may also be affected if there is no free discharge into the River Usk. The Flood Consequences Assessment (FCA) undertaken by JBA, Reference 2017s7040_FCA (Version 3), dated 3rd July 2020 (post Storm Dennis), does not include any specific reference to flood risk from the Mill Brook or the Olway Brook. The FCA has focused on the dominant risk of flooding to the site, which is from the River Usk. However, for completeness the FCA should have considered risk from the Mill and Olway Brooks.

The applicant has submitted evidence (in their email 8 December 2022) which includes a Technical Note prepared by Halcrow from November 2006 (Appendix C of the Flood Consequences Assessment prepared Halcrow Group Ltd, dated January 2007). This considered flood risk from the Mill and Olway Brooks.

Page 2 of the Technical Note provides a predicted flood level of 15.83mAOD from the Mill Brook in the 1 in 100 year (1%) plus an allowance for climate change 20% flood event. Based on photographs of flooding immediately south of the development site, we consider the flood extent shown in the photographs to be comparable to that flood level. Therefore, both the photographs and the predicted flood level would appear to suggest the proposed development site is not affected in this flood event.

On this basis, there is reasonable evidence that the development site is not at risk of flooding from the Mill or Olway Brooks during a 1 in 100 year (1%) plus an allowance for climate change 20% flood event.

Further, and notwithstanding the above assessment, it is important to note the development proposals are designed to mitigate flooding from the dominant River Usk which has been shown to affect the development site. This mitigation is in the form of raised site levels based on the higher predicted flood level of 16.5m AOD (for the 1 in 100 year (1%) plus an allowance for climate change 25% flood event on the Usk).

For completeness, this further assessment should be included in an updated FCA given the submission of third-party information. Your authority can then refer to this in your Officer Appraisal of the planning application. We also refer to our previous advice (response dated 27 May 2021, reference CAS-147195-S8D8) regarding the FCA being updated to reflect the changes to the site layout plan.

However, we are satisfied with the further explanation and evidence submitted by the applicant regarding flood risk from the Mill Brook and/or Olway Brook.

Additional comments: When reviewing the additional information, we noted your Committee Report dated December 2022. Section 6.7, paragraph entitled Flooding at Access Point states "In this case, the flood depths in the 1% flood event plus climate change is up to a maximum of 600mm which is within the tolerable limit of TAN 15 and, therefore, is acceptable." Please note that the tolerable limits that are included in the table under A1.15 of TAN15 should be assessed against the extreme 0.1% flood event, i.e. they do not apply to the 1% plus climate change flood event. Your authority should assess the acceptability of access/egress using A1.15 criteria in the 0.1% flood event.

Usk Civic Society -

I am writing to express Usk Civic Society's concerns that mistaken officer advice has been given to elected members during their consideration at the December meeting of MCC Planning Committee in DM/2018/01995 The Willows Nursery; these concerns are set out more fully below. This advice, on which elected members should be able to rely, has major implications as it may have prevented them from properly considering this application,

particularly for those where the interests of their constituents living in the Baron/Mill Streets area of Usk are involved. As we noted in our late objection to the application, our concerns are as follows:

The Officer Report and Andrew Jones in the recording of the Planning Committee meeting both mistakenly advised Committee Members by stating that the scheme "would not be contrary to the aims of either strategic policy S12 or development management policy SD3" [recording] and that "The proposal accords with national planning policy TAN 15 and local planning policies S12 and SD3" [Officer Report]. Given that the statutory LDP states for SD3 that: "Proposals for highly vulnerable development or emergency services will not be permitted in areas which may be liable to flooding, ..." then the Officer Report and recorded officer advice are both unarguably incorrect. The draconian words "will not be permitted" were introduced into Monmouthshire's statutory Local Plans following the publication of TAN 15 and the decision to refuse the Woodside application for over 200 dwellings on risk of flooding grounds. The phrase "will not be permitted" offers no scope for ambiguity.

As to compliance with TAN 15, a key test is whether the development site can be described as "brownfield" or "previously developed" in accordance with PPW11. If it is agricultural, it does not qualify as "brownfield" so in that respect TAN15 is not complied with. Andrew Jones commented that garden centre use is not agricultural and that as a retail use, or as a 'sui generis' use, then the site was indeed 'brownfield'. He displayed pictures of the glasshouses to be demolished, followed by a picture of the exterior of the shop part of the Willows Garden Centre commenting that "again the building would be lost".

The recorded officer comments were also mistaken. The retail building that Andrew Jones stated "would be lost" is not even part of the planning application site. The glasshouses that are to be demolished are not in retail use, and never have been. The applicant (FCA July 2022. Table 3.2) describes the buildings as "unused green houses" (sic). The greenhouses were a nursery for growing plants which were then transported to the nearby shop area for sale. The Concise Oxford English Dictionary defines a nursery as "A place where plants, trees etc. are reared for sale or transported." Section 336 of the Town and Country Planning Act 1990 includes "market gardens and nursery grounds" within its definition of "agriculture". The site of the proposed dwellings is unarguably in agricultural use. As such, it does not constitute brownfield land, and TAN 15 is not complied with.

Furthermore, regarding the other TAN 15 tests, as UCS has stated previously, the site does not accord with the LDP Strategy which as per its S12 states "All new development must: Avoid the siting of inappropriate development in areas at risk of flooding". That is the Council's Strategy; the wording of S12 is not ambiguous; the TAN 15 flood requirements are not complied with.

Had officers been correct in their guidance to elected members, then the proposal would have been stated as being in conflict with both the LDP and TAN15. Furthermore it would have been advertised as a departure from the LDP which means the Welsh Government would have automatically been alerted to the question of whether the application should be 'called in' if members had been minded to approve the scheme despite its conflict with LDP and national policy. The officers cannot hide behind so-called NRW 'approval'; what NRW state in their letter of 27/05/2021 is: "The planning application proposes highly vulnerable development, six residential dwellings. Our Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map contained in TAN 15 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Usk. Our records also show that this site has previously flooded from the River Usk during the December 1979 flood event. Section 6 of TAN 15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN 15." In other words, questions of compliance with TAN 15

requirements on brownfield land and accordance with the LDP strategy are down to Planning Committee, not the NRW.

In conclusion, local residents, elected members and bodies such as UCS should be able to have confidence that the Officer Report and Committee Presentation will fairly reflect the LDP and national policy TAN 15. Clearly the officer advice has been mistaken. Where this has happened in other cases approvals have been quashed and costs incurred by the planning authority at judicial review. It seems to us that the advice offered to elected councillors in this case (including arguable misinterpretation of statute law) is incomplete and incorrect.

The pause necessitated by Planning Committee's decision to reconsult NRW about flooding originating from the Olway (we note that they have recently replied, suggesting further work) gives a little time for review of the advice offered to councillors in this case. We hope you will feel able to use this time to good effect, possibly in the first instance by involving the Planning Committee Panel. We consider it of prime importance that the advice offered to elected councillors (on which they are entitled to rely) should be of the highest quality, and we remain of the belief that in this case it was not.

Response to objection on behalf of the applicant -

I note that a third objection from the Usk Civic society has been uploaded onto the planning portal claiming mistaken advice has been provided in the planning officer's written and verbal report to the committee. I would like to formally respond to this as some of the claims made are factually incorrect.

National Planning Policy TAN 15 – Development and Flood Risk Section 6 of TAN 15 states that development will only be justified if it can be demonstrated that:

I. Its location in Zone C is necessary to assist or be part of a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement.

The LDP interactive map shows the site to be within the Usk development boundary and designates strategic policy S1 – The Spatial distribution of New Housing Provision. Clearly six new dwellings will assist the authority with this Strategy and will help to sustain the existing settlement and the viability of the town of Usk.

II. It concurs with the aims of PPW and meets the definition of previously developed land.

It has been claimed that the proposed site is “unarguably agricultural” and that “the glasshouses to be demolished are not in retail use and never have been”. For the avoidance of any doubt for over 25 years the greenhouses on the proposed site have formed part of the Willows Garden Centre and have been open to the public for the sale of a variety of items including bedding plants, shrubs, hanging baskets, lawn mowers and garden furniture.

I attach a few photographs which show the greenhouses being used for retail purposes. You will note on the first photograph that the floor of the greenhouse has been hard paved and has been marked out to ensure members of the public adhere to correct social distancing (during Covid).

In the case of *Wiggin V Arun District Council* 14/11/1996 the Court of Appeal found that “a garden centre” is clearly a premises “used for the retail sale of goods”. As a matter of law the current use of the proposed site is class A1 retail, it is clearly not agricultural and is not a use excluded from TAN 15.

It has also been claimed that the officer's comments were mistaken in relation to the retail building adjacent to the site which was stated "would be lost". These comments were not mistaken, it is a requirement that the retail building is demolished so that the ground below can be lowered to compensate for ground raising on the site.

III. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Following extensive negotiation over a two year period NRW have confirmed acceptance of the Flood Consequences Assessment for the site.

It has previously been claimed by the Civic Society that the main risk of flooding at the site is the backing up from the Olway / Mill Brook. Further evidence has been submitted to demonstrate that during a 100 year plus climate change event the undeveloped site remains flood free during this backing up which again has been accepted by NRW. Clearly if these backing up events do not reach the site the proposed development cannot increase the flood risk in the neighbouring properties of Mill Street.

LDP Policies S12 and SD3

The wording of both Strategic Policy S12 and Development Management Policy SD3 contain a certain amount of ambiguity. It is initially stated that SD3 "aims to prevent development in areas that would be at high risk of flooding " and that "TAN 15 identifies those circumstances in which development can be justified in flood zone C" and finally that "the risk of flooding must also be taken into consideration on a development by development basis". I am fully aware of a possible conflict between the wording of the LDP and TAN15 which was queried with your authority back in 2017. The advice received has been backed up by the approval of several residential developments in Usk located on the same flood plain which include the Three Salmons, the Old Smithy Gallery and 33 Maryport Street.

I believe that the officer report and presentation fairly represent the LDP and National Policy TAN 15 and that the advice provided to the Planning Committee has not been mistaken.

3.0 Response to New Issues Raised

3.1 Further consideration of Flood Risk

NRW have confirmed that there is reasonable evidence that the development site is not at risk of flooding from either the Mill or Olway Brooks during a 1 in 100 year (1%) plus an allowance for climate change 20% flood event.

TAN15 also requires that in respect of the residual risk to the development, it should be designed that so in an extreme (0.1% chance) event there would be less than 600mm of water on access roads and within property and the velocity of the water flowing across the development would be less than 0.4m/seconds.

The finished floor level of the proposed houses is between 16.6-16.8m AOD, 200mm above the surrounding ground level. There are two areas within the proposed development that will be lowered to provide mitigation against modelled third-party impacts. Additionally, a lowered track towards the south of the site provides assistance to the flood water conveyance. The post-development modelling shows that the maximum flood depths are less than 600mm during the 0.1% extreme event.

In terms of the access, this will have a maximum flood depth of 600mm – 1000mm. However, the development will provide a betterment to the north and west of the proposed development site, including Baron Street, during the 0.1% extreme event modelled. This betterment to the north of the site reduces maximum flood levels by up to 25mm during a 0.1% extreme event. Maximum velocities at the site are less than 0.2m/second in the 0.1% event, although Baron Street experiences greater velocities as it heads northwards.

As stated by NRW, flood risk to the access / egress is an issue for the local planning authority. Whilst it is acknowledged the site access will flood by up to 400mm over the tolerable limits set out in the TAN15 guidance, extreme floods are by their nature, very rare and also of short duration with the periods when the risk to the access is greatest limited. It should also be noted that the surrounding area is significantly flooded several hours prior to flood waters reaching the proposed development site and access. Flood defences therefore not only provide protection from flooding but also greatly increase the flood warning time available, hence why flooding in Usk first occurs approximately 17-18 hours into an event.

During an extreme flood event, going to the upstairs of the dwellings is considered an acceptable escape route for occupiers, as noted in page 24 of the FCA which has not been contested by NRW. Being dwellings, occupiers will have access to all the facilities / goods that they need within the building until the access is passable again. It is also relevant to consider the proposed development will provide six new homes on a brownfield site in a sustainable location. Should the application be approved, a Flood Action Plan should be developed and adopted by the developer and future residents to ensure the correct action is taken in the event of an extreme flood warning being issued. This can be included in any Reserved Matters application, secured by the condition suggested by Members at the previous Planning Committee Meeting.

Taking these factors together, on balance it is considered the benefits of the proposals outweigh the limited risk of flooding at the access point, the consequences of which can be managed.

3.2 Local Development Plan SD3

The Civic Society objection references Development Management Policy SD3 which states, “proposals for highly vulnerable development will not be permitted in areas which may be liable to flooding” and mentions the “refusal of the Woodside application for 200 dwellings on risk of flooding grounds”. The Woodside application referred to was refused as that area is at much higher risk of flooding than the current application site. Woodside has a long history of flooding with flood events occurring in October 1998, October 2000, February 2002 and February 2020.

Since the construction of the new flood defences in the 1980’s there has been no history of flooding at the Willows application site. Even during the Storm Dennis event of February 2020 when the River Usk reached its highest ever recorded level of 18.112 metres Ordnance Datum (OD) the site remained flood free. Flood modelling which forms part of the Flood Consequence Assessment submitted with the application demonstrates that the proposed development will also remain flood free during a 100 year flood event plus a 25% allowance for climate change. It can therefore be concluded that during the lifetime of the development (100 years advised by NRW for new residential development) the site will not be liable to flooding.

The aim of LDP Policy SD3 is “to prevent development in areas that would be at high risk from river or coastal flooding”. Compliance with the technical requirements of TAN 15 demonstrates that the proposed development will not at be high risk of flooding and therefore the development accords with LDP Policy SD3.

3.3 Previously Developed Land

Planning Policy Wales Edition 11 (PPW11) defines 'previously developed land' as the following:

Previously developed (also known as brownfield) land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage of the development is included, as are defence buildings and land used for mineral extraction and waste disposal where provision for restoration has not been made through development management procedures. Excluded from the definition are:

- land and buildings currently in use for agricultural or forestry purposes;
- land which has not been developed previously, for example parks, recreation grounds, golf courses and allotments, even though these areas may contain certain urban features such as paths, pavilions and other buildings;
- land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings;
- land which is species rich and biodiverse and may qualify as section 7 habitat' or be identified as having nature conservation value; Environment Act; and
- previously developed land subsequently put to an amenity use.

The Civic Society have questioned the use of the glasshouses, identifying them as a nursery rather than garden centre and therefore within agricultural use. If this is the case then the site cannot be classed as previously developed land for the purposes of LDP Policy SD3. The appeal decision ref: APP/R0660/X/09/2115961 Garden Centre, 9 Lees Lane, Newton, Macclesfield, Cheshire, SK10 4LJ suggests that if plants for sale are grown on site then the use is classed as a nursery (agriculture), whereas where plants are imported for sale, the use is a garden centre so retail (A1). (N.B. The classification of a garden centre as A1 use was established in the case of Wiggan V Arun District Council 14/11/1996 where the Court of Appeal found that "a garden centre" is a premises "used for the retail sale of goods"). As such, establishing the use of the application glasshouses will determine whether the site is brownfield or greenfield.

The glasshouses themselves were erected in the late 1960s and early 1970s. Whilst initially used for commercial growing, during the late 80s early 90s the site transitioned away from growing plants for sale off site, to more general use selling the plants on site as well as other horticultural related products. Therefore the use of the glasshouses has been incorporated into the overall garden centre through the passage of time.

A garden centre use rather than an agricultural nursery use is considered to be when the sale of bought in goods exceeds the level of *de minimis* or a level that is no longer insignificant. Since January 2009 the site has been leased to the applicant who as well as managing the garden centre has diversified part of the site to a soft play area and café. The glasshouses are no longer used to propagate any of the plants from seed as all are bought in as small plants which are grown on and sold exclusively in the garden centre. Therefore, the sale of bought in goods sold at the site has exceeded the level that would be considered insignificant. The applicant has also advised that the glasshouses on the site have been open to the public for the sale of a variety of items including bedding plants, shrubs, hanging baskets, lawn mowers and garden furniture for over 25 years. It is also worth noting that the site is charged for Business Rates; a nursery or agricultural use would be exempt from such rates.

There appears to be no firm figure for this percentage of imported goods although 20% is quoted in the case of "Bromley LB V George Haeltchli and Son". The percentage of imported goods sold at The Willows is well in excess of this figure as the sales from bedding plants which are grown on from small plants accounts for only 8.8% of total sales. The primary use of the site is therefore the retail sale of goods and services to visiting members of the public rather than as a nursery where plants are sold on.

On the basis of the above, officers are satisfied that the glasshouses have been used as part of the wider garden centre and are not a nursery (agriculture). Therefore, the land meets the definition of previously developed land cited in PPW11 and can be redeveloped in accordance with TAN15 subject to the consequences of flooding being reasonable managed. The applicant has provided a detailed FCA outlining that the consequences of flooding can be reasonably managed and therefore the re-development of the site is in accordance with the requirements of TAN15.

4.0 Conclusion

It has been demonstrated that the site will not be at risk of flooding from the River Usk. Furthermore, as advised by NRW, there is reasonable evidence that the development site is not at risk of flooding from the Mill or Olway Brooks during a 1 in 100 year (1%) plus an allowance for climate change 20% flood event.

Officers are satisfied that the application site is 'previously developed land' in accordance with the definition in PPW11 and therefore is suitable for re-development under the technical advice contained within TAN15.

The previous Committee Report (December 2022) and recommendation is below.

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Plans: Location Plan G (1) - , General Green Infrastructure Assets Plan - , General Green Infrastructure Opportunities Plan - , Bat Survey - , FCA FCA V3 - , Other Transport Statement - , Other Preliminary Ecology Report - , All Proposed Plans Sites Sections G (3) Rev. A - , All Existing Plans Topographical Survey - , Site Layout G (2) - Rev G, Drainage Klargester Product Guide Feb2018 - , Drainage TDS0038-02 BA-BC Phosphate Reduction - , Drainage Certificate PIA Kingspan BioDisc +P - December 2020

RECOMMENDATION: Approved

Case Officer: Kate Bingham
Date Valid: 15.04.2019

This application is presented to Planning Committee due to the number of objections exceeding the threshold of five households

1.0 APPLICATION DETAILS

1.1 Site Description

The application site is located to the south of the settlement of Usk, off Baron Street. The application site forms part of the wider Willows Garden Centre which extends westwards towards the River Usk.

The application site currently accommodates commercial greenhouses which were constructed in the 1970s and 1980s and were part of a nursery associated with the garden centre. The garden centre to the west will continue to operate.

To the north and east of the application is residential development, there is open land to the south and, as mentioned above, the garden centre to the west.

The site is currently accessed via Baron Street.

The application is located within the Usk Conservation Area and near to several listed buildings, the most closely related being nos. 7, 9, 11 and 13 Baron Street to the north. The site is also within the Phosphorous Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC).

1.2 Value Added

The application as originally submitted proposed 7no. dwellings. It became clear following discussions with Natural Resources Wales that to deal with potential flood risk the site was not capable of accommodating 7no. dwelling since space was needed on site to provide flood storage. The proposed development was therefore reduced to 6no. dwellings.

Also, the proposed dimensions included a minimum and maximum height of 9m and 9.5m, respectively. The Heritage Officer raised concerns regarding the proposed height on the basis that a dwelling over two storeys, considering the ground level increases required for the flood mitigation, would look out of keeping with the Conservation Area and would not preserve its character or appearance. As such, the minimum and maximum height is restricted via condition to 8.2m, despite the proposed maximum dimension proposed by the applicant.

1.3 Proposal Description

Proposed Development

The proposed application seeks outline permission with *all matters reserved except access*. The proposed layout shows an adoptable standard access road to the north-west of the site via Baron Street. The access leads eastwards into the site forming a small cul-de-sac which splits to the north and south. The dwellings front onto the access road.

The proposed dwellings are shown to be a mix of detached and semi-detached dwellings within the following minimum and maximum dimensions:

| Plot | Length | | Width | | Height | |
|------|--------|-----|-------|-----|--------|------|
| | Min | Max | Min | Max | Min | Max |
| 1 | 9m | 10m | 7m | 8m | 8.2m | 8.2m |
| 2 | 9m | 10m | 7m | 8m | 8.2m | 8.2m |
| 3 | 9m | 10m | 8m | 10m | 8.2m | 8.2m |
| 4 | 8m | 10m | 6m | 8m | 8.2m | 8.2m |

| | | | | | | |
|---|-----|-----|----|-----|------|------|
| 5 | 8m | 10m | 6m | 8m | 8.2m | 8.2m |
| 6 | 11m | 12m | 8m | 10m | 8.2m | 8.2m |

To accommodate the flood mitigation measures the finished floor levels of the site will need to be raised to a maximum of 16.8m AOD, which is a level rise of approximately 1m compared to the existing ground level. The proposals include an area of flood storage to the south of the site.

2.0 RELEVANT PLANNING HISTORY (if any)

| Reference Number | Description | Decision | Decision Date |
|------------------|---|-----------------------|---------------|
| DM/2018/00299 | Change of use of horticultural shop/display area to children's activity/play area | Approved | 19.04.2018 |
| DM/2018/00303 | Discharge of conditions 2, 7, 8 & 9 of DC/2017/01081. | Approved | 22.11.2018 |
| DM/2020/01090 | Demolition of commercial greenhouses (Conservation Area Consent) | Pending Consideration | |
| DC/2014/01289 | Proposed replacement of glazed roof of existing glasshouse by colour coated profiled steel sheets and translucent sheets. | Approved | 15.12.2014 |
| DC/2017/01181 | Retention of an unoccupied residential caravan on The Willows Garden Centre site between the months of July to March (inclusive) in any year. | Approved | 04.07.2018 |

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

- S1 LDP The Spatial Distribution of New Housing Provision
- S4 LDP Affordable 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

H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements
DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
EP5 LDP Foul Sewage Disposal
HE1 LDP Development in Conservation Areas
NE1 LDP Nature Conservation and Development
MV1 LDP Proposed Developments and Highway Considerations

Conservation Area Appraisal

Usk Conservation Area Appraisal. The existing buildings that are proposed to be demolished have not been identified as having an especially positive impact on the Conservation Area.

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales 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. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

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 of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

Technical Advice Notes

TAN15 - Flood Risk and Development.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Usk Town Council - The Town Council recommended approval of the application.

MCC Heritage Officer - No objection, subject to a condition controlling the maximum height of the proposed dwellings.

Natural Resources Wales - No objection, subject to conditions.

Response to Habitats Regulations Appropriate Assessment - Agreed. We have reviewed your Habitats Regulation Assessment Record dated 28/06/2022 along with supporting evidence submitted with the planning application reference DM/2018/01995. We apologise for the time it has taken for us to respond to this consultation.

You have concluded a likely significant effect from the project on the River Usk Special Area of Conservation. As such you have taken forward the following potential impact pathways into an Appropriate Assessment (AA) for further consideration:

- Change in water chemistry during operation stage, this includes increased loading of Phosphorus
- Toxic contamination and siltation/sediment/turbidity during the construction stage
- Changes in surface flooding during both construction and operation stage
- Otter entrapment during construction stage
- Disturbances during construction stage, including noise and increased activity

We agree with the above and provide the following advice on your AA.

Operational stage - phosphorus loading

We agree that the project has the potential to increase phosphorus loading on the River Usk SAC. The AA has largely relied on the Phosphate Statement prepared by N.J.Bowen (Rev C, dated 2/3/22) to consider this impact further. The statement provides a baseline of existing Phosphorus (P) loading at the site from its existing use against a future predicted P loading from its proposed use. The statement explains that the crops and plants within the existing greenhouses are fertilised with a combination of base fertilisers dug into the soil and soluble fertilisers in irrigation water.

The Phosphate Statement references several research studies, including a desktop study by Defra to understand how much fertilizer and therefore P could be discharged from the site. Using these studies, the Statement provides a P emission rate of 9.35 kg/ha/year at this site from the existing use, which is equivalent to a total phosphorus load of 2.89kg/year. It is likely that a new commercial greenhouse operation would yield a much lower figure than this, based on the fact that they would have more efficient irrigation systems. However, the Defra study suggests that older operations tend to use fertilizers more freely, with little attention paid to efficiency of nutrient use. We are not aware of any evidence opposing the Defra study, and therefore we consider this to be reasonable.

The other element to consider is whether there is a pathway for P to enter the SAC river from the existing operations at the site. We consider a pathway to surface waters (including the SAC river itself) or highway drains via run-off of P is unlikely due to the greenhouses being covered.

In terms of a pathway via groundwater, P does not normally move in soluble form within sub-surface flows. This is because it binds in the soil, where the soil has capacity. However, there would be exceptions to this where there is excessive application of P over long periods of time. The evidence submitted by the applicant shows the operation of the greenhouse is likely to have resulted in over-application of fertilizer (and therefore P) over several decades, therefore it is likely the soils have no further capacity for retention of P through binding. As a result, it is likely the soil would be free draining, and as such the P would be finding its way to the river. This effectively creates a pathway.

Therefore, the applicant states there are existing P losses from the site which have been and are entering the river environment via sub-surface flow. Further, the information submitted by

the applicant concludes that the new proposal can achieve neutrality or betterment, resulting in a net reduction of 0.459kg/year total phosphorus. This conclusion is based upon calculations for 6 residential units, with an average occupancy of 2.3 people, using 110l/p/d and a total phosphorus concentration of 4.4mg/l being discharged from the Usk wastewater treatment works. In our view, without any further evidence to the contrary, the figures for total phosphorus above are reasonable to use in assessing the overall phosphorus balance.

Based on this assessment, we agree with your conclusion that there will be no adverse effect on the integrity of the River Usk SAC.

Construction stage - all pathways

We agree with the elements of the construction of the project which you have taken through to Appropriate Assessment. We note the proposed Construction Environmental Management Plan and the Surface Water Management Plan conditions which are set out under 5.3 of the AA. Subject to the approval and implementation of these conditions and relevant mitigation measures, we agree with your conclusion that there will be no adverse effect on the integrity of the River Usk SAC during the construction stage.

Operational stage - Surface water

We note the applicant has demonstrated that surface water can be managed through infiltration and that a SAB consent will be required. We agree with your conclusion that there will be no adverse effect on the integrity of the River Usk SAC.

Summary

We agree with the conclusions of your appropriate assessment that subject to the above planning conditions being attached and implemented, there will be no adverse effect on the integrity of the River Usk SAC.

Dwr Cymru Welsh Water – No objections subject to condition.

We can accommodate an increase in foul flows generated from the site into the public sewerage network as well as catchment's waste water treatment works.

Condition: No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Glamorgan Gwent Archaeology Trust - No objection, subject to conditions.

MCC Highways - No objection.

MCC Biodiversity Officer - No objection.

MCC Housing Officer - We had originally asked for 2 affordable units on site but the viability assessment considers this to be unviable. If there is an opportunity for a financial contribution for affordable housing, which the viability assessment suggests that there is, I would welcome this.

MCC SAB - Now they have been able to show the site can infiltrate that will take away my concerns. As the site needs a full SAB app I am happy for this to be managed through that process.

SEWBRc Search Results - No significant ecological record identified.

5.2 Neighbour Notification

13no. objections to the application received raising the following concerns:

- Raising site levels will adversely impact on neighbouring amenity;
- Loss of privacy;
- Increased risk of flooding to surrounding properties;
- A similar application was refused by the Council in the past;
- Increased air pollution;
- The application site is opposite a retirement complex with vulnerable residents;
- Disturbance during construction in relation to traffic, noise and dust;
- Adverse impact on Highway Safety due to increased traffic on substandard access road;
- Adverse impact on pedestrian safety;
- Adverse impact on parking;
- Adverse visual impact;
- Adverse impact an increase in traffic would have on the structure of the surroundings dwellings;
- The development should fund the resurfacing of the riverside path;
- Consultation not carried out correctly;
- The road should be resurfaced.

5.3 Other Representations

Usk Civic Society - The Civic Society objected to the application on the following grounds:

- Concerns regarding the flood risk
- Concerns regarding third party impact of flooding
- Concerns regarding the capability of the access road to cater for additional traffic;
- Concerns regarding the traffic impact of large vehicles serving remaining nursery as well as the proposed development.

Usk Trail Access Group - Trail Access Group would like to see MCC negotiate some improvements to local access provision should this development get planning permission. A priority should be safe walking and cycle provision to and from the site to school and improvements to the surface of the path along the riverbank to make it accessible to all ages and abilities.

5.4 Local Member Representations

No comments received.

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 site is located within the settlement boundary of Usk, which is defined as a rural secondary settlement in the Local Development Plan. Policy H1 supports development in rural secondary settlements in principle, subject to detailed material planning considerations. The primary material planning considerations relevant to this application are:

- Heritage Considerations;

- Section 106 Requirements;
- Flood Risk;
- Residential Amenity;
- Impact on Highways; and
- Ecological Considerations.

6.2 Good Design / Historic Environment

The application site lies within the Usk Conservation Area and, therefore, must be assessed against whether the proposed development preserves and enhances the Conservation Area in accordance with Policy HE1 and Policy DES1, which relates to good design. The site also lies in an area of archaeological sensitivity. Planning Policy Wales 11 (PPW) requires development to ensure the protection of the archaeological resource. These heritage matters will be discussed in turn below.

Policy HE1 requires development in the Conservation Area to meet the following criteria:

- a) preserve or enhance the character or appearance of the area and its landscape setting;
- b) have no serious adverse effect on significant views into and out of the Conservation Area;
- c) have no serious adverse effect on significant vistas within the area and the general character and appearance of the street scene and roofscape;
- d) use materials appropriate to their setting and context and which protect or enhance the character or appearance of the Conservation Area; and
- e) pay special attention to the setting of the building and its open areas.

The existing buildings are of low architectural value and the redevelopment of the site represents an opportunity to develop a high-quality scheme which is sympathetic to the historic context.

The application is made in outline for 6no. dwellings with key matters such as layout and appearance reserved for later consideration. It is considered that the amount of development proposed is in keeping and would integrate well with the existing urban grain of the area. The proposed appearance and materials can be secured at reserved matters stage to ensure they are acceptable in the historic setting and in accordance with Policy DES1.

The Heritage Officer has reviewed the application and raised no objection to the loss of the existing buildings. They considered the proposed development to be acceptable in terms of density and the concept of detached and semi-detached dwellings is appropriate. The heritage officer does, however, have concern regarding the scale of the proposed dwellings and the potential impact on the character of Baron Street, featuring several listed buildings (no. 7, 9, 11 and 13 Baron Street) and the wider Conservation Area. Due to the lack of detail regarding the proposed house types and their scale, the Heritage Officer has requested that a condition be imposed limiting the ridge height of the proposed dwellings to a maximum of 8.2m to ensure the scale of the dwellings is acceptable in the Conservation Area. The height is already limited to 8.2m as it is an agreed perimeter as part of the application and therefore should a future developer wish to increase the height above those agreed in this application, then this would have to be considered as part of a Full Application rather than Reserved Matters. However, it has been included as a condition below for clarity.

On the basis of the above, it is considered that the proposed development, subject to an acceptable design and scale to be agreed at reserved matters, would improve the

appearance of the site within the Conservation Area and preserve and enhance its setting, in accordance with LDP policies HE1 and DES1.

The application site is also in an Area of Special Archaeological Sensitivity (ASA) and, therefore, there may be archaeological remains of significance on site. Glamorgan Gwent Archaeological Trust (GGAT) has been consulted and advised that during an archaeological evaluation undertaken in 2006, archaeological remains (pottery and metalworking slag) and features of medieval and potentially of Roman origin, were encountered. This indicates that further archaeological features are likely to exist within the application area which would require further investigation and recording during any future development of the site. GGAT have raised no objection subject to a condition to secure a written scheme of historic environment mitigation.

The proposed development is considered acceptable in accordance with the requirements of PPW, subject to the condition requested by GGAT which will be imposed.

6.3 Biodiversity

The site is within 100m of the River Usk Special Area of Conservation (SAC). There is a pathway for potential adverse impacts on water quality on the SAC both during construction and operation. The site is also within the buffer area for Otter which have the potential to be detrimentally impacted by the development. As such the Council undertook an Appropriate Assessment (AA) under the Habitats Regulations Assessment. This has concluded that there will be no adverse impact on site integrity of the River Usk SAC because of change in water chemistry (increase in phosphates).

In respect of the other hazards to be considered by this Appropriate Assessment it is considered that subject to the imposition and incorporation of the additional mitigation measures via appropriately worded planning conditions and the subsequent enforcement and monitoring of implementation and conditions, it is concluded that the hazards associated with the project will not adversely affect the integrity of the River Usk SAC. The Assessment was sent to NRW for review as required who agreed with this conclusion.

In terms of other ecological considerations, a Preliminary Ecological Appraisal (PEA) has been submitted to assess the potential impacts on habitats, protected species and designated sites, arising from proposals to demolish the existing greenhouses and sheds and build new houses in their place. This concluded that the onsite leylandii and Russian vine hedge and the ornamental trees with ivy are considered to be the most ecologically valuable habitat on site, as they can provide nesting opportunities for birds. The plastic sheet flooring within the greenhouses (G1 & G3) and the small pile of wood and brash in the south-east corner of the site offer potential habitat for reptiles to use as refuge. The brash pile and grassland offer potential habitat to amphibians including Great Crested Newts (GCNs). All of the on-site buildings have negligible potential to support roosting bats.

Consequently, all works would be required be carried out following the recommendations in the PEA report (Section 5) and secured via a condition requiring a Construction Environmental Management Plan (CEMP) to be submitted prior to development. This should include details of an external lighting scheme to avoid negative impacts on foraging and commuting bats or any bats roosting, reasonable avoidance measures for reptiles and GCNs, vegetation clearance to only take place outside of the bird breeding season (i.e. this must take place within the period September to February inclusive). Furthermore, all on-site and neighbouring trees/hedgerows which are to be retained will require a Root Protection Area (RPA) to be calculated and fenced off prior to work commencing. The on-site leylandii hedgerow and the ornamental shrubs to the north-east of the site will be removed during the proposed works. This must be compensated for by the planting of a new, native species rich

hedgerow to the rear of the new houses and the planting of native plant species around the site. Furthermore, in order to fulfil the requirements PPW, the enhancements provided in the PEA (Section 5) should be followed. This can also be secured via condition should Members be minded to approve the application.

Subject to the conditions referred to above, it is considered that the proposed development will not adversely affect local biodiversity and the provisions of LDP Policy NE1 can be met.

6.4 Impact on Amenity

The application is made in outline and, therefore, no final layout or dwelling design has been proposed. The application description, however, confirms that permission is being sought for a maximum of 6no. dwellings and the applicant has provided the minimum and maximum dimensions which are detailed earlier in this report. The proposed dimensions indicate a maximum height of 8.2m. There would be an increase in ground levels and finished floor levels to a maximum of 1m when measured from Baron Street. Details of the finished floor levels would be conditioned to ensure full details are assessed as part of the reserved matters application.

A full assessment of the impact on neighbour amenity is not possible at this stage since the final layout and house types have not been finalised and will be subject to a reserved matters application. It will be necessary that the final scheme takes into account neighbouring properties and to ensure there is no adverse overlooking, and this will be fully assessed at reserved matters stage.

Whilst a full assessment is not possible, the indicative layout demonstrates that 6no. dwellings can be achieved on the site without affecting neighbour amenity. There is sufficient space on the site and enough flexibility in the agreed parameters to achieve a layout which does not adversely affect amenity of existing or future occupiers. Given the size of the site, the offset the proposed dwellings can achieve in relation to surrounding neighbours, ensures that the proposed increase in ground levels will not result in an adverse overbearing impact.

The proposed outline development is considered capable of according with policies DES1 and EP1 at reserved matters and no further details are needed at this stage.

6.5 Highways

6.5.1 Sustainable Transport Hierarchy

The site is located in the town of Usk which benefits from a regular bus service connecting it to Cwmbran, Monmouth and Abergavenny. The town also has a variety of shops and services that are all within walking distance of the site reducing day-to-day reliance on car usage.

6.5.2 Access / Highway Safety

The proposed development will be accessed via a new entry point located off Baron Street. The proposed access point will be designed to adoptable standards and includes a 5.5m wide carriageway and 2m wide footpaths either side. *The point of access off Baron Street is not a reserved matter and is to be determined as part of the outline permission.*

Internally to the site, the proposed road would reduce to 4.8m in width and provide a footway on one side of the road. The internal road layout could be subject to change at reserved matters stage, but the indicative layout plan shows an acceptable highway arrangement can be achieved.

The indicative layout also demonstrates the necessary parking provision of 1no. space per bedroom to a maximum of 3no. spaces. The layout also provides for 4no. additional spaces to serve visitors and existing properties adjacent to the site.

The proposals also include localised widening of Baron Street to allow vehicles to pass. This will require the applicant to enter into a legal agreement with MCC Highways to agree and enable these works to take place.

In terms of traffic movements, the development is likely to generate 7no. movements in the peak period which is unlikely to coincide with the existing commercial and retail activities associated with the adjacent garden centre.

The Highway Authority has assessed the proposed development and confirm the proposed means of access and widening works along Baron Street are acceptable. The traffic generation is not considered to be significant and would not be detrimental to the current capacity or operation of Baron Street. The Highway Authority recommends a Construction Traffic Management Plan (CTMP) is prepared to alleviate potential impact on neighbours as a result of the construction traffic associated with the development.

The Highway Authority concludes that they have no objection to the development subject to conditions in relation to the following:

- No development shall take commence until detailed design, technical and safety audits have been agreed with the Local Planning Authority to ensure the safety of the highway works proposed;
- Provision of a CTMP;
- Details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority.

The Highway Authority also requested Section 106 obligations to secure the following:

- The applicant enters into a Section 278 agreement to secure the off-site highway improvements to Baron Street; and
- A Financial contribution of £3,000 per dwelling towards sustainable travel improvements; and
- Provision of electric charging points.

Whilst the requirement to enter a Section 278 will be essential, the provision of £3,000 per property has been subject to a viability assessment which has concluded that the development would not be viable with these additional costs (see paragraph 6.6 below for further details).

To conclude on highway matters, the proposed development will result in very limited traffic generation and there is capacity within the existing highway network to accommodate the traffic without there being an adverse impact on highway safety. The access to the site, subject to localised widening along Baron Street, is appropriate and safe. The proposed development can provide sufficient parking provision in accordance with the Council's Parking Standards SPG.

The proposed development is acceptable in terms of its impact on highway safety in accordance with LDP Policy MV1.

6.6 Affordable Housing (AH) / Section 106 Contributions

Under Policy S4 of the LDP, the site should provide affordable housing on site (35%). However, the applicant has stated that any contribution either on site or as a payment for off-site provision is not economically viable. A viability report has been provided and sent to the District Valuer (DV) for an independent assessment.

The DV has determined that a scheme that reflects a planning compliant scheme with 35% AH and section 106 obligations of £38,352 achieves a profit rate of 13.90%. This results in a deficit of £49,496. However, a scheme based on the same parameters excluding the Section 106 contributions achieves a profit rate of 15.98%. This results in a deficit of £9,516. Therefore, based on the information provided and the subsequent revisions, the DV is of the opinion that the proposed scheme cannot achieve a competitive rate of return of 16.5% with or without the proposed planning obligation payment.

The abnormal costs associated with the development are as a result of the requirement of the Flood Consequence Assessment submitted in support of the application that the proposed dwellings incorporate several flood resilient measures. The DV adopted an additional abnormal cost of £60,000 (£10,000 per unit) to account for this requirement. The DV also deemed it appropriate to include off site highways works at a rate of 15% abnormal costs that will be required as part of any Section 278 agreement. As such, it would not be appropriate to seek any provision for affordable housing on this site as it would result in the development becoming unviable.

6.7 Flooding

The site is in TAN15 defended floodplain (C1 flood zone). As such Strategic Policy S12 and supporting development management Policy SD3 of the LDP relating to Flood Risk together with national planning policy TAN 15 are relevant.

The proposal relates to 6no. new residential dwellings, which would be highly vulnerable development, in a floodplain. It is, therefore, necessary to consider whether the proposal satisfies the justification tests outlined in Welsh Government Guidance in TAN 15 to justify vulnerable development in the defended floodplain and whether the criteria in Policy SD3 is met. These policy requirements will be addressed below.

The TAN 15 justification tests are extracted below and discussed in turn.

i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement. *The site is in the settlement of Usk and will develop 6no. new homes on a currently vacant, previously developed site. The site's redevelopment will support the function of the existing settlement and the viability of Usk town centre.*

Or

ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
Not applicable since i) is met.

And:

iii. It concurs with the aims of PPW and meets the definition of previously developed land
The site is previously developed in accordance with the definition included in Planning Policy Wales 10.

iv. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

A Flood Consequences Assessment, (hereafter referred to as FCA) and Modelling Technical Note has been prepared to support the application and reviewed NRW. The FCA includes for the potential 25% blockage of Usk Town Bridge. The assessment below in respect of 1% plus climate change and 0.1% flood event takes account of the flood risk including the bridge blockage scenario, representing a robust assessment of the flood consequences. NRW has assessed the potential consequences of flooding in relation to the proposed development and this is discussed in more detail below.

1% plus Climate Change Allowance Event

NRW has advised that the proposed development including raising of the ground level of the development to between 16.3m - 16.55m AOD, the finished floor level between 16.6m - 16.8m AOD and lowering a track towards the south of the site and two storage areas result in the site becoming flood free in the 1% plus climate change (+CCA) flood event (with 25% blockage i.e. 5% to each of the 5 arches to Usk Town Bridge). NRW acknowledge that small areas within the gardens are predicted to flood during this flood event but this will be less than 10mm. NRW conclude that whilst the small level of flooding does not comply fully with the requirements of A1.14 of TAN15, in this instance, due to the nature of the areas predicted to flood and their shallow depths, they raise no significant concerns in relation to the proposals.

0.1% Flood Event (Extreme Flood Event)

NRW concluded that during the 0.1% flood event with 25% of the Usk bridge blocked, the properties are predicted to flood to a maximum depth of up to 200mm with some of the wider site, including site access and gardens flooding up to 400mm. These depths are in line with the tolerable limits set out within table A1.15 of TAN15 (i.e. less than 600mm) and, therefore, acceptable.

The predicted maximum velocities at the site would be less than 0.2 metres/sec which is in line with the tolerable limits set out in TAN 15.

Third Party Flood Risk

In terms of third-party flooding, it is proposed to improve flood conveyance locally to the site (on land under the ownership of the developer) by constructing a flood conveyance route using lower level land alongside the development. This is predicted to reduce the risk of flooding to the area around the periphery of the site to the north.

During the 1% Flood Event plus climate change adverse impacts on maximum water levels are limited to the south of the proposed development and the vast majority of the detriment experienced is limited to the flood storage and conveyance areas and land within the applicant's ownership.

During the 0.1% flood event (extreme event) there is an increase in flooding beyond the redline and limited to less than 25mm. The increase of 25mm in depths does not result in an increase in the frequency or extent of flooding elsewhere. NRW has raised no concerns in relation to this flood impact.

The Local Planning Authority has considered the third-party flood risk further. The flood risk of the proposed development in a 1% Flood event results in no third-party impact. In terms of the extreme event, there is a minimal increase on flooding of up to 25mm on undeveloped land. Whilst this does represent an impact on third-party land, the impact would only be realised in an extreme event which is very rare, and the proposed flood increase would be minimal.

Since the land is not in a sensitive or highly vulnerable use, it is not considered the impact would be perceivable and adversely affect the use or enjoyment of this land in its current form. On balance, the risk to third parties is considered acceptable.

Flooding at Access Point

The FCA indicates that during the 1% flood event plus climate change the access/egress on Baron Street is predicted to flood to a maximum depth of 0.6m with velocities of up to 1m/s which is classified as a hazard rating of danger for most. During the extreme event, the predicted depth at the access is greater than 1m with a velocity of greater than 1m per second which is hazardous to all.

The flood risk at the access point is an issue for the Local Planning Authority. In this case, the whole of Usk is affected by flooding and it is challenging for new development to achieve a flood free access. Indeed, most existing development in Usk does not achieve a flood free access. In this case, the flood depths in the 1% flood event plus climate change is up to a maximum of 600mm which is within the tolerable limit of TAN 15 and, therefore, is acceptable.

It is acknowledged the access would flood significantly during an extreme flood event. This type of event is very rare and if it were to occur the whole of Usk would be affected, not just the proposed development site. Given the unlikelihood of this type of event and the fact that the whole of Usk would be affected but would still need to be accessed if necessary, it is considered unreasonable to refuse the application on this basis.

The proposed flood risk to the access and egress is considered to be acceptable.

Usk Town Flood Defences

NRW has confirmed that a structural assessment of the existing Usk Town flood defences has been undertaken and confirmed to be capable of withstanding overtopping conditions during the 0.1% extreme event.

Flood Risk: Conclusion

The flood risk to proposed development is compliant with the requirements of TAN 15. NRW do not object providing the mitigation measures included in the FCA are conditioned, including raising the ground level to between 16.3m - 16.55m AOD, the finished floor levels of the proposed dwellings between 16.6m - 16.8m AOD and a lowered access road within the site to assist flood water conveyance. The proposed dwellings should also include flood resilient measures since as passive flood doors, air brick and tiled floors. These measures will be conditioned.

The proposed development has an acceptable impact in terms of flood risk, subject to conditions. The proposal accords with national planning policy TAN 15 and local planning policies S12 and SD3.

6.8 Drainage

It is proposed that the foul water from the new residential development will be fed into the adjacent 375mm diameter Dwr Cymru combined foul / storm sewer. The 2018 amendment to document G of the building regulations Wales requires water consumption in new dwellings to be limited to 110 litres / person / day. Dwr Cymru Welsh Water have confirmed in a letter dated 22/9/21 that they can accommodate the increased flows generated by the proposed development at the Usk WwTW.

Each four bedroom dwelling will generate 0.9 m³ of discharge per day. Phosphate levels for the whole development site are provided as being:

6 Residential Units = Additional Population of 14.4 Persons (Based on average household size of 2.4)

Total Phosphates = 14.256kg TP / Year (Based on 0.99 kg Total Phosphates per person per year)

The site is currently covered with 2,500m² of commercial greenhouses which were erected in the late 1960's and early 1970's. Impermeable concrete pathways have been constructed between the greenhouses. As this is a developed site a phosphate export coefficient of 1.38 kg/Ha/year has been calculated based on Zhang et al (2014) after HR Wallingford method (DoE, 1981) using locally specific information. The phosphate budget calculation within Appendix A of Phosphate Statement rev C (3/3/22) demonstrates that the change of use of the site will result in a yearly phosphate budget of - 0.459 kg.

A negative phosphate budget figure demonstrates that the proposed development will provide phosphate neutrality or betterment. As such there will be no adverse impact on the integrity of the River Usk SAC as a result of the development.

The applicant has also demonstrated via soakaway testing that surface water can be infiltrated from the site. The development must also obtain SAB consent.

6.9 Planning Obligations

None required due to lack of financial viability .

6.10 Response to the Representations of Third Parties and/or Community/Town Council

The application has received a number of responses from interested parties and for completeness these comments will be addressed in turn below.

Trail Access Group

The trail Access Group requested that the development include improvements including a safe walking and cycle provision to and from the site to school and improvements to the surface of the path along the riverbank to make it accessible to all ages and abilities. The proposed development is small scale and would result in the increase of 6no. households. It is not considered the scale of development justifies the costs of improvements to local footpaths. The improvement works sought are not integral to the acceptability of the development or directly related to the development and, therefore, are not deemed necessary to mitigate the impact of the development.

Usk Civic Society

The Civic Society raised concerns regarding the flood risk/ Concerns regarding third party impact of flooding. The flood risk has been assessed at length with NRW over a period of nearly two years. The negotiation has included additional flood modelling being completed including accounting for a potential blockage at the Usk Town Bridge. NRW has concluded, based on the extensive information provided, that the risk of flooding is acceptable. This consideration has assessed impact of flooding on future occupiers and existing neighbouring properties, as detailed in full earlier in this report. The Local Planning Authority is satisfied that the risk of flooding is acceptable and accords with TAN15.

Concerns regarding the capability of the access road to cater for additional traffic:
The Highways Authority has assessed the proposal in detail and concludes that the additional traffic generation would be very limited at 7no. vehicles at peak times. The

existing road network can accommodate the increase in traffic. It is considered the proposed increase in traffic is acceptable and would not have an adverse impact.

Concerns regarding the traffic impact of large vehicles serving the remaining nursery as well as the proposed development:

The proposed development includes localised widening along Baron Street to enable vehicles to pass. This will improve the access road along Baron Street and make it easier and safer for larger vehicles to enter the garden centre as well as improving the access to serve the proposed development. Notwithstanding the improvement works, as discussed above the proposed traffic increase would not be significant and unlikely to coincide with traffic associated with the Garden Centre.

Neighbours

Raising site levels will adversely impact on neighbouring amenity/ Loss of privacy:

This application is made in outline and scale, layout and appearance are matters reserved for later consideration.

Despite this, the indicative layout, minimum and maximum scale parameters and proposed finished floor levels provide sufficient information to indicate that the application site would be able to accommodate 6no. dwellings in a manner which would not adversely affect neighbour amenity due to the separation distance which can be achieved. Notwithstanding this, a full assessment of residential amenity can be carried out at reserved matters stage to ensure there is no adverse overlooking or overbearing impact as a result of the proposed dwellings.

Increased risk of flooding to surrounding properties:

As discussed above in detail, the proposed development would not increase flood risk to surrounding residential properties.

A similar application was refused by the Council in the past:

Multiple applications can be submitted on sites and, regardless of the outcome, it does not indicate whether a future development would be successful or unsuccessful. This application has been considered on, amongst other things, the current policy regime and up to date flood information and it is against these relevant material considerations that this application is recommended for approval.

Increased air pollution:

The proposed development would result in a minor increase in traffic and it is not considered this would result in an adverse impact on air quality to an extent which would warrant refusal of the application.

The application site is opposite a retirement complex with vulnerable residents:

The proposed development is for residential development which is not a use which is incompatible or would pose a risk to surrounding uses.

Disturbance during construction in relation to traffic, noise and dust:

It is inevitable there will be a level of disruption during construction, however, this will be temporary. To reduce the impact during construction a Construction Traffic Management Plan will be conditioned requiring the applicant to agree measures to reduce the impact of traffic, noise and dust during the construction.

Adverse impact on Highway Safety due to increased traffic on substandard access road:

This has been addressed above.

Adverse impact on pedestrian safety:

The proposed development will result in only a small increase in traffic and include localised improvement works. The proposed development is considered to have a neutral impact on pedestrian safety.

Adverse impact on parking:

The proposed parking provision accords with the adopted Parking Standards Supplementary Planning Guidance.

Adverse visual impact:

The appearance of the proposed dwellings is reserved for later consideration.

Notwithstanding this, the existing site currently accommodates glass houses with limited architectural merit. The proposed development, subject to the final design, will offer a betterment and improved streetscene.

Adverse impact increase traffic would have on the structure of the surroundings dwellings:

There is no evidence to suggest increased traffic generation will adversely affect the structural integrity of nearby dwellings.

Consultation not carried out correctly:

The consultation was carried out in accordance with the legislative requirements, including direct neighbour notification, press and site notices.

The Road should be resurfaced:

There will be widening works along Baron Street where required and these works will include localised surfacing to accommodate the widening. Full resurfacing of Baron Street is not reasonable given the small scale of the proposed development.

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

6.11.1 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.

6.12 Conclusion

The proposed redevelopment of the application site accords with LDP Policy H1 and offers an opportunity to redevelopment an underutilised brownfield site for residential purposes. The proposal represents an efficient use of land and accords with the principles of Planning Policy Wales.

The consequences of flooding have been assessed in detail and considered by NRW. NRW raise no objection and the Local Planning Authority is satisfied that the risk of flooding is within tolerable limits as set out in TAN15 and in accordance with the relevant policies.

The proposed access point and localised widening works along Baron Road are acceptable a represent an appropriate access arrangement which would not impact on highway safety in accordance with Policy MV1.

The application is made in outline with all matters except the pint of access reserved, so a full assessment in terms of heritage matters and residential amenity are not possible at this stage. The information provided, however, demonstrates that it possible an acceptable

development in relation to these material considerations can be achieved and, therefore, full assessment can be reserved for later consideration.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 This development shall be begun within 5 years from the date of the Outline permission or within 2 years of the date of approval of the last of the reserved matters to be approved whichever is the later.

REASON: To Comply with Section 92 of the Town and Country Planning Act 1990.

2 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

REASON: The application is in outline only.

3 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

4 No development shall take place (including ground works, vegetation clearance) until a Contractor's Construction Environmental Management (Biodiversity) plan has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following as a minimum:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) General site management: details of the construction programme including site clearance, method statements, surface water management and measures, site waste management and disposal, sustainable drainage (pre- and post-construction), maintenance and monitoring programmes;
- j) Pollution prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and an incident response plan;
- k) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: To safeguard species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) and the Integrity of the River Usk SAC.

5 No development shall commence until a Surface Water Management Plan (SWMP) for the protection of water quality in the River Usk and River Usk SAC has been submitted to and approved in writing by the Local Planning Authority.

The Approved SWMP must be adhered to throughout the demolition and construction phases and should include, but not be limited to the following:

1. Identification of all potential sources of contaminated water that may be generated on or brought to site during all construction phases until development completion. This includes identifying how silty water could travel on/off site, i.e. pollution pathways, considering drains, watercourses, slope and topography. Seasonal variation will need to be considered i.e. wetter autumn/winter months will require increased pollution prevention measures and management.
2. Specification of what mitigation measures will be deployed (e.g. lagoons, silt fencing, straw bales, attenuation tanks, SuDS), and when and how they will be deployed throughout the construction phases until completion.
3. Demonstration of the use of clean surface water separation e.g. cut-off trenches/diversion ditches, vegetation corridors, buffer strips to separate clean from contaminated water on site, promoting sustainable development and preventing generation and propagation of contaminated water.
4. Mitigation management procedures including maintenance and monitoring programmes to ensure mitigation methods employed are working effectively. Consideration needs to be given to the type of mitigation measure being deployed and the appropriate monitoring and repair/replacement frequency.
5. Emergency/contingency plans to prevent and control spills and emissions. All staff/contractors employed during the phases must be aware of the SWMP and its requirements, including reporting procedures, as well as contact details for NRW in the event of pollution to the environment.
6. Relevant guidance documents e.g. NetRegs GPP5, CIRIA C532 that support and assist mitigation measures to avoid, minimise and reduce potentially adverse effects that have been identified and described in the WMP.

The approved SWMP shall be adhered to and implemented throughout the development phases, strictly in accordance with the approved details.

REASON: To ensure the Integrity of the River Usk SAC.

6 In conjunction with the submission of the first of the reserved matters, a scheme for biodiversity enhancement shall be submitted to and agreed in writing by the local planning authority. The details shall include a timetable for the implementation of the approved means of enhancement. The approved details shall be implemented in accordance with the agreed timetable and retained as such in perpetuity.

REASON: Future Wales, Planning Policy Wales and Policy NE1 of the Monmouthshire Local Development Plan requires all development to maintain and enhance biodiversity.

7 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

REASON: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

8 Prior to the commencement of development, a Construction Transport Management Statement shall be submitted to and approved by the local planning authority. The agreed method statement shall be implemented in full.

REASON: In the interests of highway safety in accordance with LDP Policy MV1.

9 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

REASON: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

10. The dwellings hereby approved shall have a maximum ridge height of 8.2 metres.

REASON: In the interests of visual amenity and to preserve the character and appearance of the Usk Conservation Area in accordance with LDP Policies DES1 and HE1.