

**Application Number:** DM/2023/00592

**Proposal:** Erection of 1 x 2-bedroom detached dwelling

**Address:** Pathways, Vinegar Hill, Undy, Caldicot

**Applicant:** Peter And Sonia Whitfield

**Plans:** All Proposed Plans PATHWAYS080\_01 - , All Proposed Plans 9994-GRY-01-00-DR-C-010 - P01, GI Masterplan Pathways085\_01 - , All Drawings/Plans Pathways084\_01 - , All Proposed Plans Pathways083\_01 - , All Proposed Plans Pathways081\_01 - , Location Plan - , Other CONSTRUCTION TRAFFIC MANAGEMENT PLAN

**RECOMMENDATION: Approve**

Case Officer: Kate Young

Date Valid: 20.04.2023

**This application is presented to Planning Committee at the request of the two Ward Members for Magor East with Undy, Councillor John Crook and Councillor Angela Sandles**

## **1.0 APPLICATION DETAILS**

### 1.1 Site Description

Pathways is a two-storey detached dwelling which is located on a large plot, 0.3 hectares, within the Magor and Undy Development Boundary of the LDP. The existing property is located on the western side of the plot and is accessed by a driveway from Vinegar Hill. The land slopes downwards steeply from north to south. The site is set between neighbouring dwellings. Adjoining the southern boundary is an area of amenity open space. In September 2020 planning permission was granted for two detached dwellings in the grounds of Pathways with an access off Vinegar Hill.

### 1.2 Proposal Description

The current full application seeks the erection of a two-bedroomed detached dwelling on the eastern side of the garden to Pathways; the plot area would be 569 m<sup>2</sup> with a shared access from Vinegar Hill. The new dwelling, which would have accommodation over two floors, would have a footprint of 10 metres by 7 metres with a ridge height of 5.95 metres. It would be finished in smooth render with grey roof tiles. The principal windows would be on the side elevations and there would be roof lights on the north elevation. Three off-street parking spaces would be provided and the existing boundary treatments would be retained. A retaining wall would be built between the new dwelling and the access road to the north.

This application is a duplicate of DM 2022 01193 which was refused due to concerns over highway safety. The decision was subsequently appealed and the application was considered by the Planning and Environment Decisions Wales (PEDW). The appeal was dismissed on the 18/04/2023. The Inspector considered the reason for refusal, highway safety, and concluded that while that issue would not have warranted refusal of permission, "the harm and policy conflict associated with the absence of a completed legal agreement to secure affordable housing provision" was sufficient reason to dismiss the appeal.

The appeal decision is attached in full at the end of this report.

## 2.0 RELEVANT PLANNING HISTOREY (if any)

Reference Number	Description	Decision	Decision Date
DM/2020/00234	Erection of 2 x 4 - Bed Detached Residential Dwellings.	Approved	28.09.2020
DM/2020/01882	Erection of 2, 4 bed dwellings and the formation of a new vehicular access of Pennyfathing Lane.	Withdrawn	29.01.2021
DM/2021/00164	Erection of 2, 4 bed dwellings and the formation of a new vehicular access of Pennyfathing Lane.	Refused	21.05.2021
DM/2021/01000	Discharge of condition 4, 5, 9, 11, 12, 14 and 15 relating to application DM/2020/00234.	Approved	06.10.2021
DM/2021/02078	Erection of one detached residential dwelling.	Refused	22.07.2022
DM/2022/01193	Erection of 1 x2 bed detached residential dwelling.	Refused	07.03.2023
DM/2023/00592	Erection of 1 x 2-bed detached dwelling.	Pending Determination	
DM/2023/00594	Non material amendment for planning decision DM/2020/00234. (Ground Floor & First Floor Window Frames & Lounge patio Door changed from Aluminium to UPVC Black).	Approved	24.04.2023

## 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

## **Development Management Policies**

H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements  
SD4 LDP Sustainable Drainage  
NE1 LDP Nature Conservation and Development  
EP1 LDP Amenity and Environmental Protection  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations

## **Supplementary Planning Guidance**

Affordable Housing SPG July 2019:

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

Infill Development SPG November 2019:

<https://www.monmouthshire.gov.uk/app/uploads/2020/02/Appendix-2-Infill-Development-SPG-Latest-Version-for-Final-Adoption-2020-Dave-adjustments-00000002.pdf>

Domestic Garages SPG (January 2013):

<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Domestic-Garage-SPG-Jan-2013.pdf>

Monmouthshire Parking Standards (January 2013)

<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Mon-CC-Parking-Standards-SPG-Jan-2013.pdf>

## **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.

## **5.0 REPRESENTATIONS**

### **5.1 Consultation Replies**

#### **Magor with Undy Community Council - Refuse**

This plot was removed from the previous application and the proposed house is to be built on amenity land. There is also poor access on a blind bend. Concerns that the Emergency Services (in particular the Fire Service) will have difficulty accessing the site and rubbish will be stored outside the site.

The Community Council would refer you to DC/1997/00237, an application for low level usage agricultural access onto Vinegar Hill which went to appeal. The Planning Inspectorate described Vinegar Hill in 1997 as a "narrow tortuous road - with no footways and a combination of restricted visibility, substandard accesses and volume of traffic giving rise to potential hazardous conditions for road users."

MCC has approved lots of infill sites on Vinegar Hill in the last 25 years, concerns as to conflicting comments from two highway officers regarding two developments on Vinegar Hill. There were three previous planning applications in the 1970's, with all three of them being refused

The Community Council also have concerns over adverse impact on Walnut House from overlooking.

**Dwr Cymru - Welsh Water** - No objection subject to conditions.

We have reviewed the information submitted as part of this application and note that the intention is to drain surface water to a soakaway and foul water to the public sewer. Our records indicate the public sewerage system in the area is designated to receive foul water only and so no surface water will be permitted to enter the public sewer.

**MCC Highways** - No Objection.

**Environmental Health** - No objection.

**MCC GI and Landscape Officer** - No objection subject to conditions.

**SuDS Approval Body** - No objection.

## 5.2 Neighbour Notification

Letters of objection received from 10 addresses, these have been summarised into the following areas of concern.

Increase in traffic on Vinegar Hill will be dangerous, the access is dangerous and not wide enough and there is no opportunity to purchase additional land. Disruption during construction; the road will have to be closed to lay pipes and access is too narrow for construction traffic. The private drive is too narrow to accommodate four dwellings. The application refers to highway improvements which are outside the red line boundary. Contrary to Policy MV1

Local Authority are not satisfied that there is a reasonable prospect that the necessary improvements can be delivered within the five year time period to commence the development.

Over Development, loss of amenity land, loss of privacy. The separation distance is only 15.7m from the Walnut House rear elevation to the rear elevation of House 3. The new house will be set at a higher level than Walnut House. Does not comply with the standards outlined in the SPG

Inaccuracies in the plans. The submitted plans are deficient and do not provide sufficient information. It doesn't comply with the regulations.

Flooding of neighbouring properties.

Conifer trees on the boundary are not appropriate.

Rubbish will be piled up next to the access.

This application is the fourth attempt (three planning applications and an appeal) by the Applicants to reinstate the third house on the Approved Green Infrastructure / Amenity Area but as a separate 'drop-in' application. The current proposal is unacceptable because it would remove those aspects of the previous development which were a fundamental basis for that earlier scheme being found to be acceptable.

It would create a substantially different permission to that which was originally Approved in 2020 and the applicant should apply for separate application for the whole site. The current application for the third house does not stand alone on its own individual merits, being wholly reliant for acceptable access on improvements to be made under the original application. The third house on this site was not considered acceptable at the time of the original application. There are Material Considerations that were not considered by the Appeal Inspector in his assessment of DM/2021/02078 and resulted in dismissal of the Appeal on S106 grounds only.

The previously refused application DM/2021/02078 did not get presented to planning committee despite there being more than 5 objections so that residents did not get the opportunity to address committee and many material considerations were not addressed.

Having not been provided with the relevant design standards on which the Refusal on Highways grounds was based, the inspector has been forced to use his judgement and concludes that the proposal complies with the relevant highways considerations set out in Policy MV1 of the LDP. Had the stated Welsh Government Common Standards, released in June 2020 been provided to the Inspector, then it would have been proved that Policy MV1 would not have been complied with.

The Inspector's assessment of highway safety relies entirely on the road improvements required under another application, DM/2020/00234, this acknowledges that the Appeal Application, DM/2021/02078, cannot stand alone. Yet there is no directive that the road improvements required under DM/2020/00234 must be completed first.

The three plots may be sold off separately.

The application is inconsistent with the description of development of the original application which referred to two dwellings.

The following were not addressed by the Appeal Inspector:  
Overdevelopment / Green Infrastructure  
Privacy / Overlooking issues  
Placemaking / Good Design / Residential Amenity  
Environmental / Public Health / Excessive Noise / Dust / Vibration  
Flooding

If approved this application would set a dangerous precedent.

### 5.3 Other Representations

None Received

### 5.4 Local Member Representations

Councillor John Crook and Councillor Angela Sandles have requested that this application be presented to members of the planning committee.

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

PPW 11 paragraph 4.2.23, states that proposals for housing on infill and windfall sites within settlements should be supported where they accord with the national sustainable placemaking outcomes. The site is located within the Magor and Undy Development Boundary and forms part of the Severnside sub-region. Policies S1 and H1 of the Local Development Plan presume in favour of new residential development within development boundaries, subject to the relevant detailed planning considerations. This application needs to be considered against the Infill Development Supplementary Planning Guidance which was adopted in November 2019.

### 6.2 Infill Development

#### Character

The Infill Development Supplementary Planning Guidance (SPG) states that the proposed dwelling must respect the scale, form and massing of existing development in the area. The existing and proposed dwellings surrounding this plot are all relatively large and situated on substantial plots. In this case plot 3 has an area of 569m<sup>2</sup> which is smaller than that of the plots for adjoining dwellings. There is no discernible road frontage in this area and the proposed plot will not be visible within the street scene. The topography of the site slopes up steeply from south to north and so the ridge heights of the dwellings vary considerably. The ridge height of the new dwelling (5.96m) is lower to that of the original dwelling at Pathways and the two new dwellings that have been approved recently. The property to the south of plot 3, Walnut House is a dormer bungalow and the two properties to the east are both bungalows. There is a significant difference in ground levels in this area, but given the relatively low ridge height of the proposal and the separation distances, the new dwelling would not have an overbearing impact on the dormer bungalow to the south.

#### Distance between buildings.

The SPG says that all proposals need to provide sufficient gaps between buildings to minimise any overbearing and overshadowing impact on the residential amenity of neighbouring properties. Part 7.1 looks at Privacy and Amenity. The key considerations relating to privacy and amenity for small scale infill residential development are:

- a. whether the plot would have adequate privacy to habitable rooms and private garden space
- b. whether a new house(s) on the plot would affect the privacy of neighbours
- c. whether a new house(s) on the plot would affect the host dwelling

In this case the plot is of sufficient size to accommodate a new dwelling with sufficient parking provision and limited private amenity space. The new dwelling has been designed so that its principal windows are in the side elevations. As a result of this adequate privacy can be provided to the main habitable rooms but it does mean that there would be only two small windows on the south elevation. These two high-level windows would serve the main habitable space on the ground floor, the living room. The design compromises the residential amenity of the occupiers of the proposed new dwelling as well as compromising the visual appearance of the new dwelling, albeit not to an extent that would warrant refusal. The design however does prevent unacceptable overlooking of the neighbouring property, Walnut House. The new dwelling would be located close to the common boundary with Walnut House, 7.1m and Glyn Royson, 13m. The new dwelling is a significant distance from the host dwelling, Pathways. The SPG outlines specific privacy distances that would normally be expected.

#### A. Back to back distances

There should be minimum of 21m between directly facing elevations containing main habitable windows. In this case there would be less than 20 metres between the rear elevation of the proposed dwelling and the rear elevation of Walnut House. There is also a significant change in levels with the slab level of the new dwelling being almost 4 metres higher than the finished floor level of Walnut House. In this case, because of the high level windows on the rear elevation of the new dwelling there will not be a significant loss of privacy for the occupiers of any existing dwellings. The new dwelling will be built to the north of Walnut House so it will not have an

overbearing impact or reduce the sunlight to the neighbour's garden. There is a 1.8m high close-boarded fence along the common boundary and some trees have recently been planted.

#### B. Distance to a side Elevation

The adopted SPG on Infill development makes reference to distances between the rear elevation of one property and the side elevation of another. It states that "To avoid over-dominant development and overshadowing of neighbouring properties, there should be at least 15m between principal elevations with main habitable windows and side gable walls without windows (unless these are minor windows such as the landing, WC or utility room windows)." This is applicable to the new dwelling as well as the host dwelling. This will ensure adequate amenity is provided for future occupiers as well as the existing residents. In this case, the east elevation of the proposed dwelling contains the main habitable room windows with bi-fold doors serving a kitchen/diner on the ground floor and a bedroom window at first floor level. The east elevation of the proposed dwelling will face towards the rear garden of Glyn Royson. The east elevation of the new dwelling will be approximately 13.5 metres from the common boundary with Glyn Royson, there is a low level stone wall between the two properties. The habitable room windows of the new dwelling will overlook the end of the private rear garden of Glyn Royson but not the dwelling itself. Given that the rear elevation of Glyn Royson is approximately 25 metres from the east elevation of the new dwelling and set at an oblique angle the overlooking impact would be limited and not warrant refusal.

The west elevation of the new dwelling will contain the front door and a habitable room window on the ground floor and a bedroom window at first floor level. The west elevation faces towards plot 2 and there is sufficient separation distance between these two properties. The north elevation of the new dwelling would contain three windows on the ground floor, one of which would serve a habitable room, all these windows will be set behind a retaining wall so there will be no possibility of unacceptable overlooking. There would also be three roof lights on the north elevation, these would look towards the rear garden of Lydstep at a distance of approximately 10 metres, however given that they are within the roof it is considered that this is acceptable.

#### C. Distance from the rear and side boundary of the neighbours

The SPG states "Where the proposed rear principal elevation (with habitable windows) is not aligned with the side elevations of the neighbouring property, it is normally required that there should be at least 10m from the rear principal elevation of the infill development to the side boundary of the neighbouring property." In this case the principal elevation will be the east elevation and there is sufficient distance, achieving 10m, between this proposed elevation and the neighbouring boundary of Glyn Royson.

#### D. The '25° rule' for windows facing other structures

A reference line is taken at 2m above ground level on the existing building. This is the assumed position of the top of ground floor windows in the existing building. A 25° line is then drawn towards the proposed building. If the proposed development falls beneath the line drawn at 25°, there is unlikely to be a detrimental effect to daylight on the existing property. In this case Walnut House has a single storey conservatory on the rear elevation but the new dwelling because of its low ridge height will not intrude into this 25 degrees even accounting for the difference in ground levels.

The proposed dwelling does comply with the guidance set out in the adopted SPG on Infill Development and would not result in a significant loss of outlook or privacy to the occupiers of the existing neighbouring properties. Despite the difference in ground levels, the new dwelling will not have an overbearing impact on the existing neighbours. The proposal accords with the advice given in the SPG on infill development and also with the objectives of Policy EP1 of the LDP which requires that new development should have regard to the privacy, amenity and health of the occupiers of neighbouring properties.

### **6.3 Sustainability**

The Local Development Plan and PPW encourages sustainable development. This is a sustainable location for new housing development being located within an existing village, within

walking distance to facilities such as schools and smaller convenience stores. The proposal accords with a key objective of PPW11 providing residential accommodation in a sustainable location.

#### 6.4 Good Design & Placemaking

The application seeks the erection of a two-storey detached dwelling with the first floor accommodation is in the roof space. There would be roof lights on the north elevation. The principal windows will be on the two side elevations. The only windows on the south elevation would be set at a high level and they would serve the main living room. On the north elevation the ground floor windows would be set behind a retaining wall and because of this, the outlook from the ground floor is limited. The dwelling will be finished in smooth render with grey concrete roof tiles; these materials are considered to be appropriate in this location and reflect the materials of the recently approved dwellings on the site. The dwelling would be of a contemporary design and the style will be very similar to that of the dwellings on plots one and two, which have recently been granted approval. Policy DES1 of the LDP requires that the dwellings contribute to a sense of place while its intensity is compatible with existing uses. The residential properties surrounding this site are of a variety of ages and styles, although most are detached and situated on large plots. As the site is steeply sloping with the neighbouring properties to the north set at a higher level than the proposed development, and those to the south set at a lower level, this means that there is no uniform ridge height. The development site is not visually prominent from any public vantage point. Many of the properties surrounding this site are single storey or dormer bungalows but the height of the dwelling is less significant due to the large difference in ground levels. The form, scale and massing of the new dwelling is acceptable. The new dwelling would have a footprint of 10 metres by 7 metres, the eaves height would be approximately 2.6 metres and the total ridge height would be a maximum of 5.98 metres above ground level. A considerable amount of cut and fill of the ground levels would be required as well as a retaining wall. The contemporary design of the dwellings is generally acceptable in design terms and the proposal would comply with LDP Policy DES1.

PW11 says that good design is fundamental to creating sustainable places where people want to live work and socialise. The special character of an area should be central to its design. In this case the proposed new dwelling will not be visually prominent within the street scene of either of Vinegar Hill or Pennyfarthing Lane but it will be viewed from surrounding properties to some degree. The proposal will provide a suburban form of development to the existing character and its scale is compatible with development in the adjacent area. It would not be prominent and so it would have a neutral visual impact.

#### 6.5 Green Infrastructure

The development indicates fruit tree planting to the eastern boundary of the plot, 11 conifers planted to the south of the proposed dwelling 2.6m north of the existing boundary hedge and lawn areas to be a wildflower lawn mix. The plan indicates that elements of a wider Green Infrastructure Management Plan (GI MP) are to be retained within the application boundary. The application also includes rain gardens related to SAB/2021/050 as indicated on plan.

Figure 1 shows existing site levels based on topographical survey of the site and external floor level (i.e. patio) of the proposed development. The applicant has indicated that a retaining structure will be required and has indicated in sketch 3D this will extend from the parking area and wrap to the eastern end of the patio. Concerns remain with regard to the retaining structure and relationship with the proposed SuDS and as indicated by the applicant the retaining structure is yet to be designed so it is not clear if there will be a subsequent impact. Further clarity would be required to show a cross section through the SuDS and proposed retaining wall to ensure sufficient depth and width of SuDS is provided - to accommodate growth of proposed plants and functionality of the feature. This can be provided prior to determination or as condition of approval should the application progress. It is also noted that the 3D sketches highlight the proximity of existing car access and corner approach to a circa 2.5m drop inclusive of graded grass to patio of the proposed application. There appears to be no protective measures on edge of car access. It is suggested that consideration of features such as landscaping, fence, upstands should be included as part of the scheme and this can also be reflected in cross sections. The applicant has indicated



that proposed sewer drain / pump will be located 3m distance from the line of the proposed conifer hedge which is acceptable. It is suggested that alignment of a drain pump indicated on plans related to SAB/2021/050 and / or current submission are updated to show the proposed location in proximity to the conifer hedge. The applicant has clearly indicated that the roles and responsibility for the establishment and future maintenance of the rain gardens, the establishment and maintenance of the proposed landscaping within the application boundary inclusive of hedges, conifer hedges, fruit trees and wildflower lawn areas, will be the responsibility of the landowner.

The applicant has indicated that a site wide GI Management Plan has been provided in relation to an adjacent previous application which is also referenced in PATHWAYS085\_01 which highlights the commitments related to a site wide GI MP. As this is a separate application to previous applications the GI MP should accompany this application and be updated to include any proposed alterations related to the application. This can be provided prior to determination or as a condition of approval should the application progress.

The applicant has referenced the proposed planting schedule as indicated in PRE-APP SAB 9994 G 2 GRAY which is welcome however a more detailed planting plan will be required with the submission to determine what planting is proposed within this application boundary inclusive of species, number, size at planting for the rain gardens. This can be provided prior to determination or as a condition of approval should the application progress.

From a Landscape and GI perspective the application is acceptable subject to requested clarifications and information prior to determination or as conditions of approval.

## **6.6 Impact on Amenity**

The impact on residential amenity has been considered in detail at the start of this report, in connection with compliance with the adopted Infill Development SPG.

## **6.7 Highways**

### 6.7.1 Sustainable Transport Hierarchy

PPW11 refers to the Sustainable Transport Hierarchy where walking and cycling are the highest priority and public transport second with private motor vehicles being the least desirable. In this case the site is located within an existing village within walking distance to facilities such as schools and smaller convenience stores. There is also a public bus service that runs through the village providing access to larger settlements such as Caldicot, Chepstow and Newport.

### 6.7.2 Access / Highway Safety

It is proposed that the new dwelling will be served off the existing access into Pathways. This access would also serve the two new dwellings recently approved within the Pathways site as well as the existing dwelling. The existing access would therefore be expected to serve four properties in total. This access is between two existing properties Gwyn Royson and Firkbans. Gwyn Royson is set at a lower level than the access road and has a stone wall along the boundary with the existing access. Fairbanks is set at a higher level but has windows on the elevation facing towards the access. The access track is relatively narrow for a length of approximately 40 metres.

The Highways Authority requested that hard surface and drainage improvements be made to the existing access as shown in drawing 9994-GRY-01-00-DR-C 010-ACCESS ROAD REMEDIALS - P01 as an integral part of planning application DM/2020/00234 and with the exception of the tarmac and the new kerbs all of these improvements have now been completed.

DM/2021/02078 was refused with the following highway safety reason.

*The existing access into the site is not suitable as a private drive to serve four dwellings due to its restricted width. The existing driveway, even when improved by the features shown on drawing no. GRY 01 00 DR C 010 Rev PO1 will not be wide enough to allow for two cars to pass and this*

would lead to inappropriate vehicle manoeuvres that would be detrimental to the safety and capacity of the private drive and its junction with Vinegar Hill. The use of the access by an additional dwelling would be detrimental to the safe passage of vehicles using the private drive and would be contrary to the adopted highway design guide and subsequently be contrary to the objectives of Policy MV1 of the Monmouthshire Local Development Plan which seeks for the safe and efficient operation of the highway system

This decision was subject to an appeal which was dismissed. However, In that consideration the highway safety issue was considered. The Inspector said that they had "*assess[ed] the practical risks to highway safety within the context of the site constraints and the wider planning policy framework. In considering such matters, it is necessary to note that the approved scheme for two dwellings includes highways improvements to the existing access driveway to accommodate the anticipated increase in vehicle movements. A minimum width of 4.1m for the first 10m along the access from Vinegar Hill was agreed, as indicated on the approved plans. The appellant has provided evidence that the planning conditions pertaining to the highway improvement works have been discharged and I could see that some works were underway during my site visit. I am therefore satisfied that such works can be considered as part of the assessment of this appeal.*"

The inspector concluded that "*Having regard to the low traffic volume, the domestic use of the driveway, and the driveway width and alignment, I have little evidence to suggest that the proposed additional dwelling would give rise to any significant highway safety risks. The proposal would therefore comply with the relevant highways considerations set out in Policy MV1 of the Monmouthshire Local Development Plan (LDP), adopted in February 2014*".

Given the position taken by the inspector on the previous application, which is exactly the same as this current application, MCC Planning officers consider that they cannot sustain an objection to the proposal on highway safety grounds. The Highway Authority has evaluated the details submitted in support of the current application and in reviewing the application has considered previous highway consultation responses and the Inspector's appeal decision. The highway authority has concerns that the application proposes no amendments / improvements to the shared private drive as detailed on application DM/2022/01193 but notes that the Planning Inspector concluded that the addition of a further two-bedroom dwelling (DM/2021/02078) would not give rise to harmful effects on highway safety.

The Inspector also notes that '*The Council refers to several design standards for private shared driveways set out in the Welsh Government Common Standards, released in June 2020. However, the status of such standards is unclear, and in any event, I have not been provided with a copy of the document or any evidence of their use within Monmouthshire. Given the lack of clarity on these matters, I am unable to attribute them significant weight in the determination of the appeal. I shall therefore assess the practical risks to highway safety within the context of the site constraints and the wider planning policy framework.*

To confirm, the standards referred to are The Common Standards Guide which was produced by Welsh Local Authorities and other key stakeholders, this Guide had not been adopted by Monmouthshire County Council, the Highway Authority or Welsh Government and therefore they have limited weight in the determination of the application. The Authority do consider these standards to be good practice and that it is hoped that applications would be able to meet these requirements. However, it is noted that these are not adopted policy documents, and even had the Inspector had sight of these documents, limited weight would have still been given to this guidance. As a result the LPA concur with the Inspector's position given the limited additional traffic that would be generated by this proposal.

The current application proposes the erection of a two-bedroom detached dwelling with no improvements or amendments to the private shared drive. In conclusion although the highway authority would welcome improvements of the shared private drive as detailed in planning application DM/2022/01193, the highway authority offers no objection to the application on the grounds that the proposal generates no more or less vehicular movements than application DM/2021/02078 that was subject to the appeal decision that concluded that the proposal would not give rise to harmful effects on highway safety.

### 6.7.3 Parking

The adopted Monmouthshire Parking Standards require one off-street parking space per bedroom up to a maximum of three for each dwelling. In this case the car parking spaces are being provided within the site to the north-west of the proposed dwelling and this is in accordance with the adopted standards.

## **6.8 Affordable Housing**

LDP Policy S4 requires affordable housing contributions to be made in relation to developments which result in the net gain in residential dwellings. Where the net gain in dwellings is below the threshold for affordable units to be provided on site, which is 5 or more units in Severnside, then a financial contribution is appropriate. The financial contribution is based on floor area and the calculation contained in Appendix 3 of the Affordable Housing Supplementary Planning Guidance (July 2019). The amount of affordable housing proposed may be based on a viability assessment.

Formula: Financial Contribution = Internal Floor Area (m<sup>2</sup>) x CS Rate x 58%  
In Severnside the CS rate is 80

The property has an internal floor area of 140 square metres so the financial contribution required is £6,496.00

The applicant has confirmed they accept the payment and are willing to enter into a Section 106 agreement. The proposal would now accord with Policy S4.

## **6.9 Flooding**

The site is not in a designated Flood Zone. Flood risk maps provided by Natural Resources Wales indicate the site to not be at particular risk of flooding. Our database of previous flood events does not record any flood events in close proximity to the site.

## **6.10 Drainage**

### 6.10.1 Foul Drainage

The foul water will connect to a mains sewer. This complies with the advice from NRW that in a sewered area the preference is to connect into a mains sewer. Welsh Water have offered no objection to the proposal but request a condition to prevent surface water drainage from entering the public sewer.

### 6.10.2 Surface Water Drainage

The application requires a full concurrent Sustainable Drainage System Application; therefore SuDS techniques will be incorporated into the development. The applicant has had a SAB pre-application meeting with the Council's drainage engineers. A full application can be made if planning permission is granted but the possible SuDS components could include permeable paving, soakaways, infiltration trenches, swales, filter drains and rainwater gardens/SuDS planters. Water butts will be provided to demonstrate compliance with the second principle to "treat rainfall as a valuable natural resource". The SAB authority have been in discussions with the applicant regarding the SuDS for this plot as well as for plots 1 and 2. As this aspect is covered by separate legislation, a condition requiring details of the surface water is not considered necessary.

## **6.11 Biodiversity**

Planning Policy Wales (PPW) 11 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016. These

enhancements are included in the form of bat and bird boxes to be included in the wall on the west and east elevations of the proposed dwelling.

The Biodiversity enhancements have been included on the elevational drawing and these are commensurate with the scale of the proposal. This will ensure that the provisions of Policy NE1 of the LDP are met with regards to providing biodiversity enhancements.

## **6.12 Phosphates**

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SACs. NRW has set new phosphate standards for the riverine SACs of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA. This application is outside of the SAC catchment and so will not have a detrimental impact on any protected SAC, and as a result no further assessment is required.

## **6.13 Planning Obligations**

If the application is to be approved then a financial contribution for affordable housing in the local area will be required of £6,496.00.

## **6.14 Response to the Representations of Third Parties and/or Town Council**

Local residents have raised concerns over the amount of traffic using Vinegar Hill and the access into the site; this has been discussed in detail in the main body of the report. This issue was also considered by the Planning Inspector when considering the previous appeal on this site for application DM/2021/02078 and it was concluded that, "Having regard to the low traffic volume, the domestic use of the driveway, and the driveway width and alignment, I have little evidence to suggest that the proposed additional dwelling would give rise to any significant highway safety risks."

An objector has stated that "because the inspector was not provided with the relevant design standards on which the Refusal on Highways grounds was based, the inspector has been forced to use his judgement". This is with reference to The Common Standards Guide which was produced by Welsh Local Authorities and other key stakeholders; however, this Guide has not been adopted by Monmouthshire County Council, the Highway Authority or Welsh Government.

Many Local residents have referred to the loss of amenity space as a result of this proposal. The application site is not on land designated as an Area of Amenity Importance under Policy DES2 of the LDP and there is no public access to the site.

The application site is in the residential curtilage of the property Pathways. A local resident is concerned that residential development on this site will lead to flooding of an adjacent property. The application site is not in any flood area designated by the DAM Maps in TAN15 or in the Flood Maps for planning in the new emerging TAN15. The new dwelling will be subject to SAB approval and the SuDS system will require technical drainage approval by the Council's engineers prior to any works commencing on site; this will be assessed in detail to ensure that it does not lead to any flooding of adjoining properties.

Concerns were raised that the new dwelling will be too close to Walnut House and that this will result in unacceptable levels of overlooking. The proposed new dwelling will be a least 20 metres to the north of the main rear elevation of Walnut House, there is however a single storey element to Walnut House which extends out a further 3 metres but even given this, the separation distances are acceptable especially having regard to the differences in height and the vegetation screening between the two properties. The rear elevation of the proposed dwelling would be positioned at an oblique angle to Walnut House to the south. There is a significant difference in

height between Walnut House and the proposed new dwelling but the 25 degree guideline is not infringed. The provisions of the SPG on Infill Development have been met.

Concerns relate to the increase in rubbish that will be left out on collection day. The residents of the new dwelling will have to place their rubbish at the end of the driveway ready for collection, this is not a significant issue given that all the existing residents are already doing this, the amount of domestic rubbish generated from one additional dwelling is not significant.

Concerns were raised over the ability for emergency vehicles to access the site. The access drive is at least 4m wide for a minimum of 10m into the site. The drive reduces to a minimum of 2.9m at its narrowest. A previous appeal decision considered this aspect and set out distance requirements for emergency vehicles at 3.7m between kerbs. However, the access can be reduced to 2.75m over a short distance provided that a pump appliance can get to within 45 m of a dwelling. The site plans shows that Plot 3 is well within this distance.

Residents have stated that the planting of coniferous trees along the southern boundary is not appropriate. The conifer trees have already been planted and once established they will provide an appropriate screen between the new plot and Walnut House. The Green Infrastructure Management Plan will include the future maintenance of these trees and any that die will have to be replaced. Other indigenous species of trees will be planted within the site to ensure biodiversity enhancements and benefits for ecology.

Reference is made to the access being dependant on purchasing land from adjoining properties in order to widen the access. The purchasing of additional land does not form part of this current proposal - the inspector when determining the previous appeal on this site considered that the existing access was sufficient to serve four dwellings and therefore additional land is no longer required to improve the access.

Reference is made to the previously refused application DM/2021/02078 and the subsequent appeal. Members are required to consider the application currently Infront of them and evaluate it on its own merits while taking into account the inspector's observations with regard to the previous appeal.

There are also concerns that the application proposal would be unlawful due to the extant permission for two dwellings identifying the appeal site as amenity area. The inspector considered this when determining the previous appeal and concluded that, "*Whilst reference is made to case law, there is a different set of circumstances in terms of the site context and proposal. Any proposal on the appeal site would be considered on its individual merits, having regard to material considerations. It does not follow that because an application for two dwellings has been approved on land including the appeal site, that a separate application subject to detailed consideration of all technical matters, would necessarily be physically impossible or unlawful. It also does not follow that the appellant must reapply for planning permission for the entire site.*"

Concerns are also raised that this application is dependent on the improvements to the access which were approved under application DM/2020/0023. While these improvements are outside the red line boundary of the current application they have already been implemented and therefore would not prejudice the current application.

It has been suggested that there is insufficient information submitted with the application but Officers consider that they have all the information they need to make a recommendation on the approval.

Finally, one objection states that the previous application DM/2021/02078 did not follow the correct procedure and that it should have been presented to Members of the Planning Committee in order for local residents to be given the opportunity to address committee. There is no requirement under the adopted procedure for applications that are recommended for refusal to be presented to Committee as no third party interests are prejudiced.

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

6.15.1 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 WCFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WCFG 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 WCFG Act.

## **6.16 Conclusion**

PPW11 supports proposals for housing on infill and windfall sites within settlements should be supported where they accord with the national sustainable placemaking outcomes. The proposal accords with a key objective of PPW11 providing residential accommodation in a sustainable location. The site is located within the Magor and Undy Development Boundary and forms part of the Severnside sub-region. Policies S1 and H1 of the Local Development Plan presume in favour of new residential development within development boundaries subject to detailed planning considerations. The principle of new residential development in this location is acceptable.

This application is identical to DC/2023/02078, that was considered by Planning and Environment Decisions Wales (PEDW) in April 2023. In that case the Inspector found that the existing access, with the slight improvements that have recently been implemented, was satisfactory to serve four dwellings and considered that there was little evidence to suggest that the proposed additional dwelling would give rise to any significant highway safety risks. The proposal would therefore comply with the relevant highways considerations set out in Policy MV1 of the Monmouthshire LDP.

The design of the new dwellings is acceptable and is not visually prominent when viewed from public vantage points. The proposal accords with the advice and guidelines in the adopted SPG on Infill Development and will not result in a significant loss of outlook or privacy to the occupiers of the existing neighbouring properties. The new dwelling will not have an overbearing impact on the existing neighbours. The proposal accords with the advice given in the SPG on infill development and also with the objectives of Policy EP1 of the LDP which requires that new development should have regard to the privacy, amenity and health of the occupiers of neighbouring properties.

The proposal accords with Policy S4 by providing a financial contribution for affordable housing in the area. The scheme will provide adequate biodiversity enhancements. It also accords with Policy NE1 of the LDP by providing Biodiversity enhancements. The application is policy compliant in all respects and is presented to Members with a recommendation for approval.

## **7.0 RECOMMENDATION: Approve**

Subject to a 106 Legal Agreement requiring the following:

A financial contribution for affordable housing in the local area of £6,496.00.

### S106 Heads of Terms

If the S106 Agreement is not signed within 6 months of the Planning Committee's resolution then delegated powers be granted to officers to refuse the application.

### **Conditions:**

#### **5 YEAR TIME LIMIT**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

### **COMPLIANCE WITH PLANS**

2 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.

### **PD RIGHTS**

3 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A B C D E F & H of the Town and Country Planning (General Permitted Development) (Amendment)(Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) no enlargements, improvements or other alterations to the dwellinghouse or any outbuildings shall be erected or constructed.

REASON: In order to protect residential amenity in accordance with policy EP1 of the Local Development Plan

### **CTMP**

4 The development shall be carried out in strict accordance with the methods detailed in the Construction Traffic Management Plan (CTMP) dated April 2023.

Reason : to protect residential amenity during the construction phase in accordance with policy EP1 of the LDP

### **BIODIVERSITY NET BENEFIT**

5 The Biodiversity net benefit measures as illustrated in plans entitled House 3 Proposed Bungalow, Plans and Elevations 081 shall be implemented in full and shall be retained as such in perpetuity.

Reason: To ensure appropriate mitigation for protected and priority species and provide biodiversity net benefit ensuring compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policy NE1

### **SURFACE WATER**

6 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

### **OBSCURE GLAZING**

7 The ground floor windows on the north elevation serving the bathroom and WC shall be obscure glazed to a level equivalent to Pilkington scale of obscurity level 3 and maintained thus thereafter in perpetuity.

REASON: To protect local residential amenity and to ensure compliance with LDP Policies DES1 and EP1.

### **LANDSCAPE**

8 Prior to the commencement of development full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:

Detailed scaled plans, showing existing and proposed levels, appropriate cross sections with site levels in relation to proposed retaining wall and SUDS.

Soft landscape details shall include: means of protection, planting plan, specifications including cultivation and other operations associated with planting, SUDS, grass and wildflower establishment.

Reason: In the interests of visual and landscape amenity; in accordance with Policies DES1 & LC1/5 of the Local Development Plan

### **LANDSCAPE WORKS IMPLEMENTATION**

9 All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be

carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and ensure the provision afforded by appropriate Landscape Design and Green Infrastructure LC5, DES 1, S13, and GI 1 and NE1

### **LANDSCAPE MAINTENANCE**

10 A schedule of landscape maintenance for a minimum period of five years shall be submitted to and approved by the Local Planning Authority and shall include details of the arrangements for its implementation. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the provision of amenity afforded by the proper maintenance of existing and / or new landscape features.

### **GI MANAGEMENT CONDITION**

11 An updated and proportionate Green Infrastructure Management Plan shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development.

The content of the Management Plan shall include the following;

a) Description and evaluation of Green Infrastructure assets to be identified, protected and managed in the GI management plan including those that are to be privately managed and those that are to be part of strategic landscaping.

- a. Trees and Hedgerows
- b. Green corridors and boundaries
- c. SuDS

b) Opportunities for enhancement to be incorporated

- a. Management of SuDS for botanical species diversity and / or protected species including reptiles
- b. Management of tree and hedge buffer strips to increase and maintain diversity, connectivity and screening
- c. Maintain habitat connectivity through and or around the perimeter of the site for species

c) Trends and constraints on site that might influence management of above features.

d) Aims and objectives of management.

e) Appropriate management options for achieving aims and objectives.

f) Prescriptions for management actions.

g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period).

h) Details of the body or organization responsible for implementation of the plan.

i) Ongoing monitoring and remedial measures.

The Management Plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery as appropriate. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the Green Infrastructure Management Plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning Green Infrastructure objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To maintain and enhance Green Infrastructure Assets in accordance with LDP policies, DES1, S13, GI1, NE1, EP1 and SD4. (Legislative background - Well Being of Future Generations Act 2015, Planning (Wales) Act 2015 Environment (Wales) Act 2016)

### **INFORMATIVES**



1 NESTING BIRDS - Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended).

The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most bird species is between March and September. BS 5837:2012 Trees in relation to design, demolition and construction to provide further guidance on tree protection Policy NE1 - Nature Conservation and Development seeks to ensure the protection and enhancement of wildlife and landscape resources by appropriate building design, site layouts, landscaping techniques and choice of plant species.

Planning Policy Wales - Net Benefit for Biodiversity

Planning Policy Wales (PPW) 11 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016