

Hacker, Tracey L.

From: Thomas, Philip
Sent: 28 June 2016 14:49
To: Hacker, Tracey L.
Subject: FW: St Arvans Garage & Site Enforcement Required

Hi Tracey – could you please add this to the application DC/2015/01336 as an objection on IDOX.

Thanks,

Phil

From: Michelle Hatcher [REDACTED]
Sent: 12 June 2016 18:40
To: Thomas, Philip [REDACTED]
Cc: Ben Garbett [REDACTED] Matthews, Paul [REDACTED]
Subject: Re: St Arvans Garage & Site Enforcement Required

Dear Mr Matthews

Why has enforcement taken place on this site since my last email to you?

This is a complaint now for the following:

1. Lack of action on the Judicial Review number 3 in 2014 where upon MCC was required to make a decision on this site and as yet it has not done so nearly two years later. I understand there is one complaint in with the Ombudsman about it and I am going to make another.
2. They are working all day on Saturdays now, I was disturbed yesterday till 17:00 by tyre fitting noise - which is loud and other engineering works. The Three Judicial Reviews that MCC has lost have been very clear about the impact of amenity on my property; I am being impacted again now at weekends. I am requesting you take immediate action and rectify this situation.
3. Please add this correspondence to any further planning applications that you currently hold on this site.
4. Please confirm to me by return, that you have updated your Planning Committee Members of this latest expansion of this illegally operating site.
5. Please confirm to me by return, that you have updated St Arvans Community Council of the latest disturbances to my amenity regarding the working at weekends. They were happy to vote approval for the site based on the fact that you would enforce any breaches and protect this property. This is a clear breach and I have not seen any enforcement despite my several emails to you now.

Please note my solicitor has been fully briefed on this matter.

I await your responses.

Yours Sincerely

Ms M Southgate

On Sun, Mar 20, 2016 at 5:35 PM, Michelle Hatcher [REDACTED] wrote:

Mr Thomas

This is yet another complaint about the site next to my home where St Arvans Garage workers were on site last night working till 20:30 hours. The noise was vehicles mis-firing and the sound of a pneumatic drills which I believe is used to replace tyres as well as the roller doors making the racket that they do. It disturbed me and my horses and I wish it to be dealt with immediately please.

Complaint 2: St Arvans Garage is advertising and working on Saturdays. I discovered this when two weeks ago my dog escaped and ran into their garage. The mechanic Chris told me they have planning permission and Peter Stephens said it was ok for him to work on Saturdays till 13:00 then shut the roller doors and work till 14:00 when he must leave the site. I informed him this is incorrect information.

As you know, they don't have planning permission granted for any use on the site. They also haven't been leaving the site till 14:30 and yesterday 20:30.

The noise is awful and I have a right to a peaceful weekend in my country home.

The Mechanic Chris informed me he could wash his cars inside the garage, I said he couldn't due to the sensitive nature of the location and he informed me that he "doesn't care about what's outside, just about earning money".

And it is this attitude which indicates why garages are not in Internationally Protected Areas of Outstanding Natural Beauty, SACs and SSSIs.

Complaint 3: St Arvans Community Council voted at their December 2015 meeting to approve the application: DC/2015/01336 "Change of Use for the site" - as you all know the site does not have any use approved on it, therefore a new development application should have been submitted, and you should be going back to them to remind them of their duty. They already have this information so the bias is clear.

Mr Tranter has informed my legal team that the application will be back at Planning Committee either in April or May, which is it please and why has this been allowed to progress when MCC has lost three Judicial Reviews and you haven't actually dealt with JR3 granted July 2014?

Complaint 4: Planning Committee Councillor Ann Webb was present at the SACC meeting and is fully aware of the planning status of this site, so why didn't she inform them that it is not a change of use? This is a dereliction of her duty of care as the Ward of St Arvans Councillor and as a PC member. Breaching her duties is serious and I would like a clear response as to why she didn't provide the up to date correct information to SACC.

Complaint 5: St Arvans Garage have installed a new wooden office inside the building. This is new development and therefore requires a new application yet it has been included in the latest Change of Use application for a site which has no planning permission on it.

Complaint 6: Mechanic Chris told me that a planning officer had been down around the week of the 26th February 2016 and had viewed the broken down black metal washing machine, the piles of tyres stacked up where they were stacked in 2011 when the Env Agency made MCC remove them because it is illegal to store tyres on this site. I refer you to the paperwork already held in your records on this matter.

Which planning officer undertook the site visit? I would prefer not to waste everyone's time going down the FOI route so please meet my request.

Complaint 7: Served Enforcement Notice - I requested the date when the Enforcement was due to be completed, still not received, but I do believe the six months is up. The metal gates are still in place, the shipping containers are on site. The rubbish, broken chairs, toilets etc are still on site.

SACC commented that as long as conditions were in place the application could be approved - There have been over 250 breaches on this site and you do not enforce your conditions.

Placing the onus on me personally and this property to monitor the site next door is irrational and in breach of my rights to a quiet life. It is clear that you cannot enforce your own conditions and that you never have had any intention of enforcing them so please ask SACC and your PC members to stop mocking the planning process and implying that Conditions are a way to control the site.

Remedial Action Required Please

Please enforce the Enforcement Notice.

Please inform St Arvans Garage and the site owners that they do not have any planning permission on the site, therefore they should not be retrospectively operating a business, and they should not be working after 17:00 or at Weekends affecting the residential amenity of my property. I refer you to the three Judicial Reviews.

Please provide the date of when DC/2015/01336 will be placed in front of Planning Committee as my solicitor and I need to be in attendance.

Please advise why as the Head of Planning you have allowed DC/2015/01336 to be accepted when you know it is the same application as the three JRs have dealt with and quashed and it has new development held within it.

This will be the seventh time that this application has been placed in front of Planning Committee in 4 years. Please be specific in your answer to this question. I really would like to understand your reasoning.

regards

Ms M Southgate (formerly Hatcher)

Mae'r neges e-bost yma a'r ffeiliau a anfonir gyda hi yn gyfrinachol ac fe'i bwriedir ar gyfer yr unigolyn neu gorff y'u cyfeiriwyd atynt yn unig. Gall gynnwys gwybodaeth freintiedig a chyfrinachol ac os nad chi yw'r derbynnydd bwriadedig, rhaid i chi beidio copïo, dosbarthu neu gymryd unrhyw gamau yn seiliedig arni. Os cawsoch y neges e-bost yma drwy gamgymeriad hysbyswch ni cyn gynted ag sydd modd os gwelwch yn dda drwy ffonio 01633 644644. Cafodd y neges e-bost yma sgan fwrws Microsoft Exchange Online Protection. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. It may contain privileged and confidential information and if you are not the intended recipient, you must not copy, distribute or take any action in reliance on it. If you have received this email in error please notify us as soon as possible by telephone on 01633 644644. This email has been virus scanned by Microsoft Exchange Online Protection. Mae'r Cyngor yn croesawu gohebiaeth yn Gymraeg, Saesneg neu yn y ddwy iaith. Byddwn yn cyfathrebu â chi yn ôl eich dewis. Ni fydd gohebu yn Gymraeg yn arwain at oedi. The Council welcomes correspondence in English or Welsh or both, and will respond to you according to your preference. Corresponding in Welsh will not lead to delay.

I strongly object to this Planning Application: DC/2015/01336 based on factual evidence corroborated by the previous three Judicial Reviews that Monmouthshire County Council has lost in their attempts to illegally grant planning permission to this site over the past five years.

My objection is based on the legal grounds that its content has been Refused by MCC Planning Committee previously and Refused at three Judicial Reviews.

This Application should not have been accepted by Head of Planning, Mr Philip Thomas in the first instance; and he should have directed the Applicants to lodge an Appeal to the Welsh Government in relation to DC/2013/00456 which was Refused at MCC Planning Committee on the 07.10.15, over one year after MCC lost their case at the High Court, which refused the same application based on the facts that the site directly contravenes the following Local Development Plan Policies:

- 1 S8 LDP Enterprise and Economy
- 2 S11 LDP Visitor Economy
- 3 S13 LDP Landscape, Green Infrastructure and the Natural Environment
- 4 S16 LDP Transport
- 5 S17 LDP Place Making and Design
- 6 DES1 LDP General Design Considerations
- 7 LC1 LDP New Built Development in the Open Countryside
- 8 LC4 LDP Wye Valley AONB
- 9 LC5 LDP Protection and Enhancement of Landscape Character
- 10 GI1 LDP Green Infrastructure
- 11 EP1 LDP Amenity and Environmental Protection
- 12 EP3 LDP Lighting
- 13 RE2 LDP The Conversion or Rehabilitation of Buildings in the Open Countryside for Employment Use
- 14 M2 LDP Minerals Safeguarding Areas
- 15 NE1 LDP Nature Conservation and Development

Planting some additional trees (already inadequately undertaken in 2012) is not going to address the above major issues, and I would remind all concerned that this site does not have Planning Permission granted in any form, so the misquote again, of 'change of use' is incorrect and I refer you to read the three Judicial Reviews which clearly addresses this point, as a point of Law.

All Consultees on the current application DC/2015/01336 have had dealings in all of the previous failed Planning Applications, referenced in the table below for clarity, and thus their

commentary has also been Judged and found wanting at Judicial Review and by MCC, so should be discounted in relation to the current Application:

Application Date	Application Number	Outcome
3 rd August 2011	DC/2011/00697	Refused at Judicial Review
12 th July 2012	DC/2012/00594	Refused at Judicial Review
19 th July 2012	DC/2012/00613	Refused at Judicial Review
12 th October 2012	DC/2012/00886	Refused at Judicial Review
5 th June 2013	DC/2013/00456	Refused at Judicial Review then MCC Refused the application
29 th October 2015	DC/2015/01336	Awaiting Decision

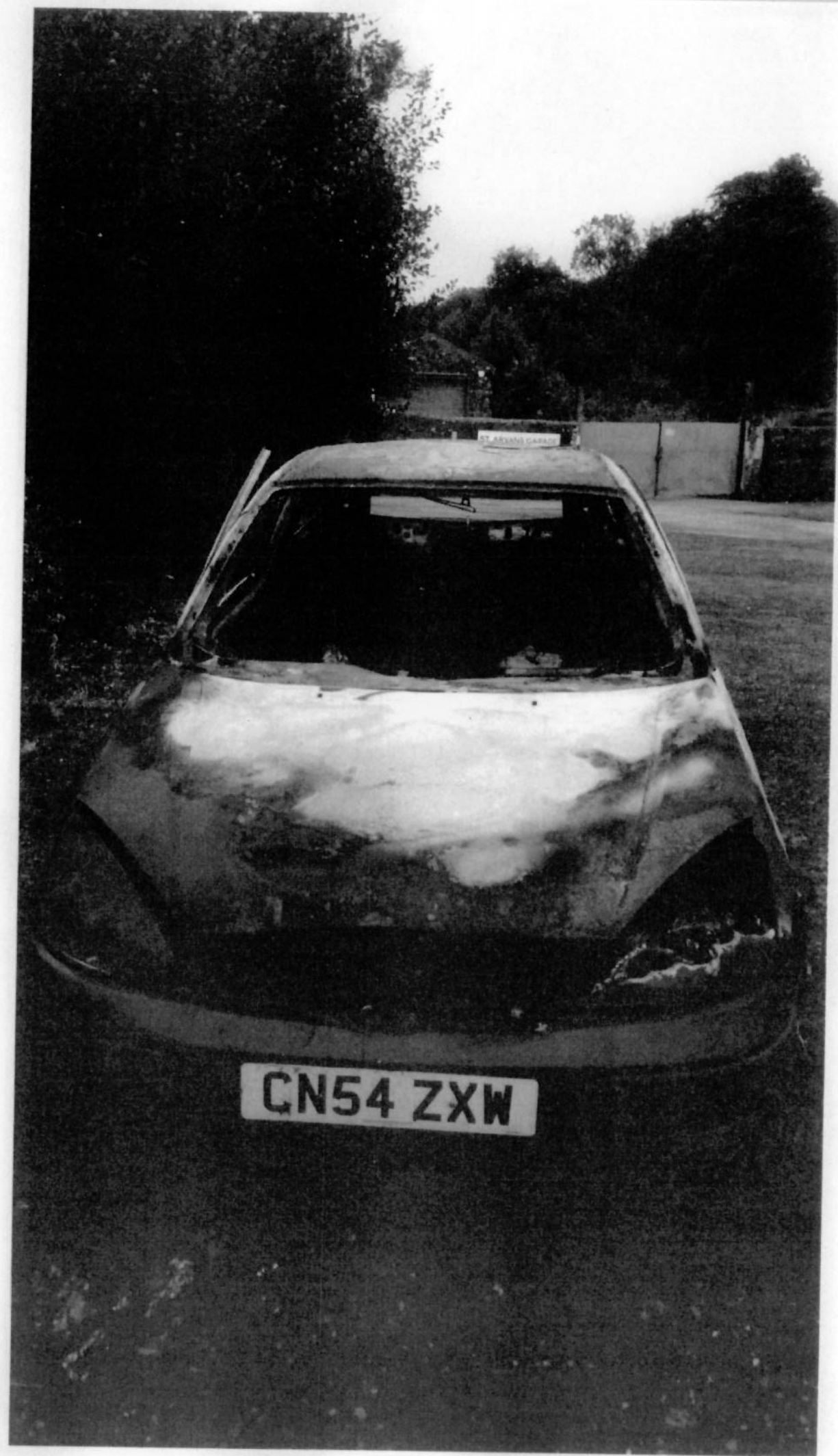
It is astonishing that once again MCC is behaving in this manner by accepting this Application; their Planning Refusal Notice clearly states that the Applicants can Appeal so Mr Thomas has failed in his duty of care to remind the Applicants of this, and is, once again, not following the Planning Laws set down by Government and not following due process by drawing the Applicants attention to the Appeal process.

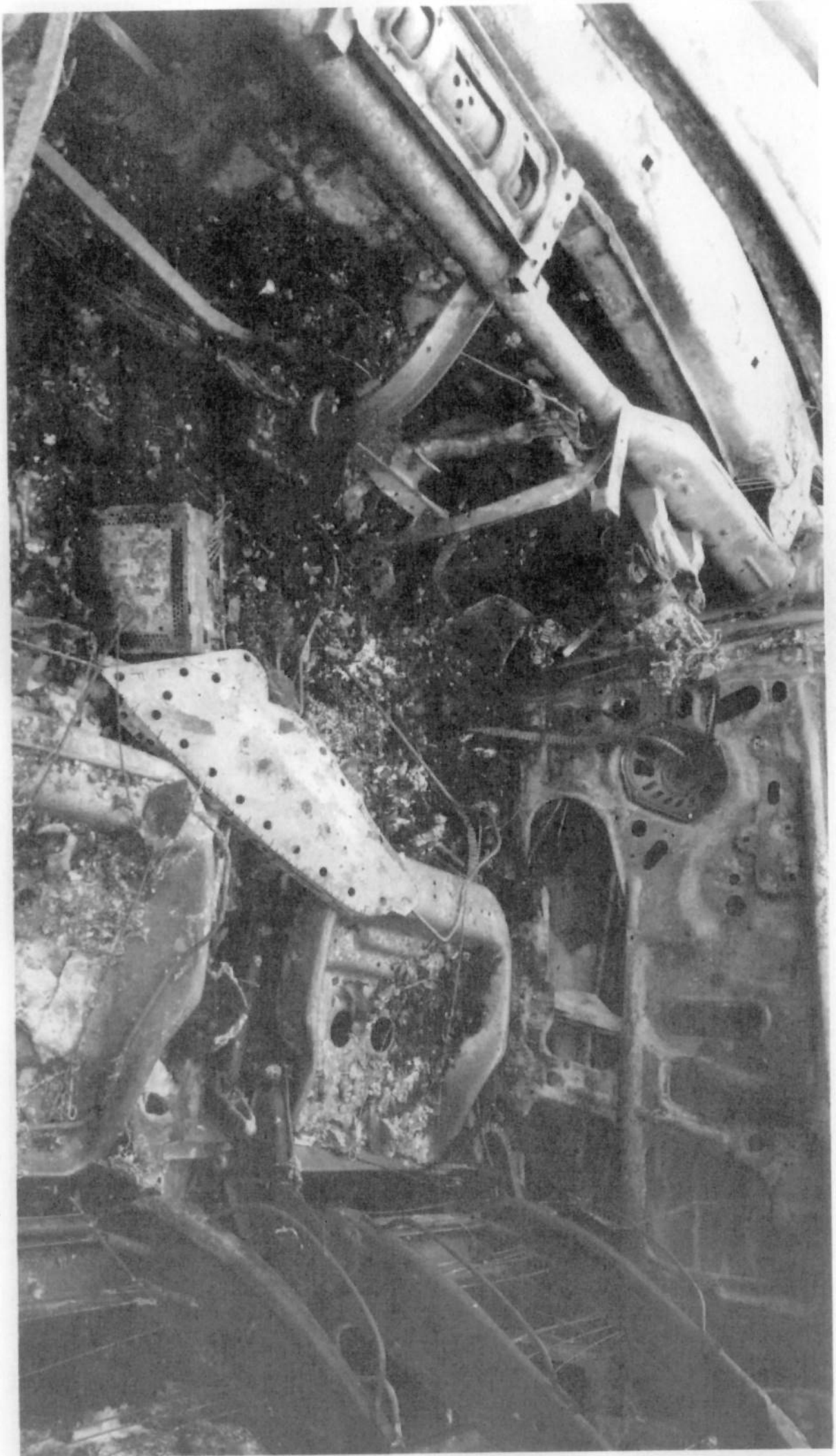
The Applicants are within their rights to Appeal the Refusal Decision set down by MCC on the 7th October 2015 and should therefore not be allowed to attempt to circumvent the system by Mr Thomas, wasting yet more rate payers money and MCC staff time and potentially leading MCC into a fourth Judicial Review.

An Enforcement Order was served on the site on the 11th November 2015 and promptly removed by Mr Peter Stephens on the 12th November 2015 as witnessed by myself, and at the time of writing the Conditions of the Order have not been complied with.

A serious vehicle fire took place at mid-night on the 26th August 2015 whereupon I had to call the fire brigade; this is not the first fire on the site and it shows that this type of illegal development is detrimental to the quiet country residential property next door, as well as the surrounding AONB and associated wildlife. I have a full set of photographs of the incident and ask they are also taken into consideration should this farce be allowed to continue.

http://www.southwalesargus.co.uk/news/13629730.Firefighters_tackle_car_fire_after_reports_of_explosions/









Amandla House ,
Marcross,
Vale of Glamorgan
CF611ZG
01656 895005

12th August 2015

Dear Mr Mathews,

This is a formal and urgent complaint.

The planning committee meeting on the 4th August 2015, particularly in regards to application DC/2013/00456 was in breach of the Planning Codes of Conduct (PCC) for Monmouthshire. These were not adhered to, and the principles of fairness constancy and objectivity were not met. The PCC states:

1.1 *"Monmouthshire County Council will seek to adopt best practice in its administration of the planning process. It recognises that the general public expects the Council to subscribe to the principles of fairness, consistency and objectivity. Members of the Planning Committee have a key role in ensuring that these principles are followed and the Council has stated that the Planning system must be fair and open. Elected Members are critically important in arbitrating between competing arguments."*

1.2 *The town and country planning system involves the Council taking decisions about private proposals for the development and use of land, but in the public interest. Planning law requires that all planning applications be determined in accordance with the adopted development plan unless material planning considerations indicate otherwise. The Council must also take account of representations made by members of the public, in as far as they relate to material planning considerations.*

At the committee meeting for this application there was no discussion at all about the relevant UDP policies. I wrote a huge amount detailing the relevant UDP polices and nothing was said about any of these in breach of the above.

PCC 1.3 *"As planning affects people's lives and private interests it can be very contentious. It is therefore important that members of the public understand the system and has confidence in its integrity and transparency, and that Members and Officers avoid impropriety or even the suspicion of impropriety."*

Please take time to review the planning committee meeting of the 4th August 2015. There was a fair amount of mirth going on during the determination of these applications,

considering this planning committee and officers had got the law wrong on 4 separate occasions. The members were trying to find ways to pass this application, rather than deal with them objectively. Why wasn't policy looked at and discussed at all? I certainly was given the impression of impropriety, as would the average man in the street.

PCC 2.1 Planning Committee Members

Planning Committee members should:

- *act fairly and openly and avoid any actions which would give rise to an impression of bias*
- *approach each planning application/issue with an open mind*
- *carefully weigh up all relevant planning issues before making a decision*
- *make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. In this respect, while Committee Members have a special duty to their Ward constituents, including those who did not vote for them, their over-riding duty is to the whole community.*
- *ensure that the reasons for their decisions are clearly stated*

The members certainly did not act fairly and certain gave the impression of Bias.

Clearly these applications were not approached with "an open mind" nor were all the relevant planning issues weighed up at all. The planning grounds were not discussed at all.

The reasons for deferment were not clearly given. The planning reasons for this deferment were not discussed. Indeed Councillor Murphy made a valid point when he said "*if we refuse it (DC/2013/00456) the applicant can come up with a fresh scheme which may be successful we will have to see on its merits. So if we are in any doubt we don't defer we refuse it.*"

The application as put before the planning committee was recommended for refusal, the application should have been refused. The applicant could then choose to put forward an alternative application. Or go to appeal. Ill remind you these applications have remained undetermined, and with no enforcement since the permissions we quashed in July 2014.

The applicant has had over 4 months since the landscape officer comments were made to change his application, the determinations were held up all this while whilst he prepared a response. Why has he been granted a deferment to alter this scheme yet again? You could do this with all applications, but the committee does not. Bias has therefore been shown in favour of this application.

3.0 *In considering applications and in advising Members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, Planning Officers shall: -*

- *act fairly and openly and avoid any actions which would give rise to an impression of bias*
- *approach each planning application/issue with an open mind, avoiding pre-conceived ideas*
- *carefully weigh up all relevant planning issues*
- *make decisions purely on planning grounds having regard to the development plan and other material considerations*
- *give professional, objective and consistent planning advice*
- *provide a comprehensive and accurate analysis of the planning issues*
- *abide by the Royal Town Planning Institute's Code of Professional Conduct*

And:

9.0 Officers' Reports to the Planning Committee

9.1 *All Planning matters considered by the Planning Committee will be the subject of full evaluation by officers and will include a recommendation. Such reports shall be comprehensive, but succinct in setting out the key planning (and legal) issues to be considered (in terms of the provisions of the development plan and other material planning considerations), the substance of any representations received and any relevant planning history.*

The following are serious flaws in the planning report nor brought up by officers nor members at the committee meeting:

The fundamental aspect that is not taken into account in the planning report nor at the committee meeting is that developments are for B2 use.

B2 use is not is not permitted next door to residential properties.

This has not been addressed at all, no mitigating factors have been offered that mitigate this.

This is clearly set out in Policy, the definition of B2 Use :*"General Industrial. B2 building use is for the carrying on of an industrial process other than one falling within class B1 above or within classes B3 to B7 below."*

The relevant section this refers to here is: *"B1 (c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."*

If the activities were permitted next door to a residential property, and these activities are directly on the border of our residential property, the class would be B1 but it is not, it is B2.

Mr Thomas accepted this at the meeting I had with him, Mr Tranter and Councillor Webb when he admitted B2 use should not be next door to a residential property because of the harm it does to the amenity. Again I point out very clearly how close our property is.

<https://www.youtube.com/watch?v=7bJlrdKZEoU>

The assessment done in regards to the detrimental impact this development would have upon the residential property is also therefore seriously flawed.

In regards to the comments from the Environmental Health Officer, it is totally irrational that the recommendation for hours to prevent disturbance, can be altered for the same operations with no other change in circumstance.

In the grounds for the Judicial Review ruled upon by the High Court, it was stated:

"It was irrational to impose weaker planning conditions to protect against potential harm to the AONB and to Mr and Mrs Hatcher as neighbours than had been placed on the earlier, quashed, consents"

The EHO previously stated: *"Although I am not in a position to object to the development in principle, given the proximity of the neighbouring property to this development I do anticipate noise to emanate from activities associated with repair and maintenance of vehicles to cause a level of disturbance likely to result in complaints of noise nuisance to this department"*

The first Judicial Review expands upon the noise impact:

"The EHO's advice was that noise nuisance complaints were likely so the proposal would generate significant levels of noise. ENV6 required the developer to submit information prepared by a suitability qualified person on the likely noise impact. That was not done and the committee were not aware that this part of the policy was breached. Indeed, there was no technical assessment of noise impacts at all. The committee lacked the necessary information to assess the noise impacts. They also failed to take into account the test for determining whether the application should be refused because of noise impacts."

There has still been no noise impact assessment done to date. Therefore the noise impact has not been assessed. Reliance on the EHO is not sufficient. For the EHO to act he must personally observe a level of noise likely to cause a "statutory nuisance". This is a certain

level of noise over a prolonged period. Not a level of disturbance. This assessment should be made in planning applications by the planners, they cannot rely on the EHO. He is only interested in Statutory nuisance. A completely different standard compared to the harm on the amenity. This is a rural peaceful location, introduction of industrial B2 use will by definition cause significant disturbance. A huge number of disturbances have been reported to MCC in regards to these sites. these cannot be ignored. In regards to the comments from the Environmental Health Officer, it is totally irrational that the recommendation for hours to prevent disturbance, can be altered for the same operations with no other change in circumstance.

There is no mention in these Environmental Health Officers reports in regards to protecting the amenity of the AONB. This is of particular significance considering that a Public Right of Way goes through both sites and the users of those footpaths would be considerably impacted by the activities on site.

It is stated to prevent disturbance that the hours of operation including vehicle movements, for DC/2012/00613 restricted to 0800-1800 Monday-Friday and 0800-1300 on Saturdays.

Bizarrely the Environmental health Officer, considers differently the hours for DC/2013/00456, the site directly next door to DC/2012/00613 and that shares the same access and which is as close to the property.

For this site he considers that hours 0600-1900 Monday-Friday and 0600-1300 on Saturdays are acceptable for HGV vehicle movements.

This is simply not rational nor consistent.

For previously quashed permissions for the same operations, to prevent disturbance the condition was placed that "The premises shall not be used for the approved purposes outside the following times; 08.00 - 18.00 Monday to Friday and at no time on a public holiday."

These needed to be the recommendation now.

It was also previously recommended that servicing of vehicles only occurs within the garage buildings and that the doors are kept shut whilst work is carried out. Also that there is no burning of any material on site, a condition the EH Officer admits has been blatantly ignored by the applicant.

These previous recommendations cannot now be ignored. There is an inconsistency between what the EHO says between these 2 sites, he stresses on the Builders site that the hours include any vehicle movements. Then he irrationally allows an HGV to enter and leave the site well outside of those hours, if as he states disturbance will be caused by vehicle

movement, as these sites share an access road the same must apply to both sites.

However the operations proposed, cause an unacceptable amount of disturbance to the residential property next door irrespective of hours of use, conditions cannot mitigate this.

This is supported by the classification given to these activities of B2 use.

This should have been the conclusion in the planning report.

The report also concluded: that although complaints have been received regarding noise disturbance, insufficient evidence has been provided to officers in the Council's Environmental Health team to substantiate the complaints and support any enforcement action involving cessation of the unauthorised use on amenity grounds. Moreover, no significant noise disturbance was witnessed by officers during their numerous unannounced visits to the site.

The disturbance was observed at the site at the site visit I had with Mr Thomas Mr Tranter and Councillor Webb Further the lights were pointed out, the dust from the hard surfaces and the spray from the pressure washer.

<https://www.youtube.com/watch?v=7bJlrdKZEoU>

Since 2011 to date in 2015, there has been only six other unannounced site visits. Based on this Monmouthshire has stated that it has not witnessed any excessive noise or disturbance.

And yet it has received detailed statements from me and my wife, including the evidence to support the statements, which demonstrate the disturbance and harm being done by these breaches. I can provide the breaches we have reported these shows the huge extent of the harm being done.

The conclusion implied by Monmouthshire Council, *"that there is no excessive noise or disturbance"* is a simply untrue.

The six other site visits are at the end of this complaint some detail:

Footpath

There is also serious flaws in the way the public footpath issue is dealt with. The report contradicts itself several times. It is a legal duty placed upon the Council to keep public highways free of obstruction. It is an obligation that planning applications show the correct line of the foot path. Monmouthshire Rights of Way Improvement Plan says:

"There are approximately 100 paths in Monmouthshire where development has not taken into account public rights of way and have subsequently encroached upon or obstructed them. All such paths now require enforcement action. Rights of way guidance is required to ensure planners and developers are aware of their responsibilities and the issues involved in

developing on or near to a public path. The Local Access Forum and others have said that the achievement of an up to date and accessible Definitive Map and Statement should be a high priority"

There is the maxim "*once a highway, always a highway*"

Once a highway has come into being by whatever means it continues indefinitely no matter whether it is used or not.

Mr Justice Joyce said in the case of *Harvey v Truro RDC* :

"Mere disuse of a highway cannot deprive the public of their rights. Where there has once been a highway no length of time during which it may not have been used will preclude the public from resuming the exercise of the right to use it if and when they think proper".

The planning policy regarding this has not been used in this report:

Planning permission and public rights of way ROW circular 9

"7.1 Proposals for the development of land affecting public rights of way give rise to two matters of particular concern: the need for adequate consideration of the rights of way before the decision on the planning application is taken and the need, once planning permission has been granted, for the right of way to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed."

The report states *"Also, it is advised that MCC Countryside Access is in receipt of an application and is currently processing an order that may resolve the issue but until such time that the order is confirmed the legally recorded alignment will remain obstructed if consent is granted."*

Where is this application? It should be on the planning report.

The report goes on: "Public path orders are not guaranteed to succeed. If unsuccessful it is possible that MCC would require that the legal alignment of the path is made available."

Therefore until it is moved it must be considered as being as existing.

History

The report is again seriously flawed, this has been dealt with before in the Judicial Reviews accepted by the council. So this mistake should simply not be happening again.

The reports states

"Much of the wider site (which largely encompasses the sites under DC/2012/000613 and DC/2013/00456) was originally granted permission in February 1985 under A21850 for a commercial garage/ workshops for the storage and repair of vehicles solely owned by the

applicant at the time and any successors in title"

This is not true at all. The site granted permission was for a mere 0.08 hectares, considerably less than stated here. It was a private garage for commercial vehicles not a commercial garage, further it was granted as a personal permission for the applicant only, no one else and hence no successor, and for no other business, which included no storage.

Mr Thomas stated that the 1985 permission included the use "*solely owned by the applicant at the time and any successors in title*" This has been dealt with at Judicial review. The permission was a personal permission for the applicants at the time only. That's it, no successor in title for the application site.

DC/2012/00456

The report also erroneously states for DC/2013/00456 "A 2m high fence to the north of the site has been constructed and forms a reasonable screen to Myrtle(SIC) Cottage's curtilage".

No it doesn't, this is wrong there is no fence by this site. This was clearly pointed out to Mr Thomas, Mr Tranter and Councillor Webb, on the site visit on the 28th February 2015 (this video has been referred to earlier) just how very close this development is to our property showing them the hedge, as the border which was explained to him was not in the control of the applicant. He could clearly see the elevated position of the residential property compared to that of the workshop site, this should have been taken into consideration in this report.

Other policies brought up but not referred to by the report nor at committee meeting:

ENV 14 lighting, Policy S16 - Transport, Policy S11 – Visitor Economy Policy NE1 – Nature Conservation and Development Policy DES3 – Advertisements

In the committee report Mr Thomas assesses the effect the proposal will have on the historic landscape, he quotes, without reference part of a report from CADW:

"This proposal is located immediately adjacent to the historic park and garden known as Piercefield Park and the Wyndcliffe, which is included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. Although the application area is located immediately adjacent to this grade 1 registered historic park, it is not in any of the identified essential views. The application area would not be visible, or will be screened from view by the topography, a stone wall and existing vegetation from the majority of the registered park, although close views are possible." (This differs from what the landscape officer wrote.)
"The impact, therefore, is likely to be no more than local and is not considered to harm the registered park itself, although for the reasons set out above, there would be localised harm to the AONB as a result of the development's proximity to the public right of way."

What he does not make clear is that this report was written by CADW when asked about the need for an Environmental Impact Assessment. Not for an assessment the site would have upon the historic landscape. The report says:

"Cadw's role in the planning process is not to oppose or support planning applications but to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled ancient monuments or Registered Historic Parks and Gardens.

It is a matter for the local planning authority to then weigh Cadw's assessment against all the other material considerations in determining whether to approve planning permission. The advice set out below relates only to those aspects of the proposal, which fall within Cadw's remit as a consultee.

Our comments do not address any potential impact on the setting of any listed building, which is properly a matter for your authority. These views are provided without prejudice to the Welsh Government's consideration of the matter, should it come before it formally for determination. Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance. PPW explains that the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or not. Furthermore, it explains that where nationally archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that this means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains.

This advice is given in response to a screening request as to the need for an environmental impact assessment to be produced to accompany a planning application for retrospective planning consent for the proposed change of use of the site to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of vehicle washing area and ancillary parking."

6.0 Lobbying of Members of the Planning Committee

6.1 *Lobbying is the process by which applicants and their agents, neighbours, non-Committee Members and other interested parties seek to persuade Councillors on the Planning Committee to come to a particular decision. It is a legitimate part of the planning process for them to approach Members of the Planning Committee as these discussions can help Members to understand the issues and concerns. As stated in the Nolan Committee*

Third Report: "it is essential for the proper operation of the Planning system that local concerns are adequately ventilated"

6.2 *In responding to approaches of this kind, Committee Members shall follow the 9 principles outlined in Paragraph 2.1 above and may wish to make a record of the discussion, but may also: -*

Explain the potentially conflicting position they are in if they express a final opinion on a proposal before consideration at the Committee/by the Corporate Director

Explain the procedures by which representations can be made; that the public can speak at the Committee (subject to a number of conditions being met), should the application come to the Committee for decision, and that a decision will be taken only when all relevant planning considerations have been taken into account

Explain the kinds of planning issues that the Council can take into account

Report issues raised to the Officers or direct the public to the Officers so that their views can be considered

Advise the public to contact non-Committee Members who may be able to represent local views with less restraint

6.3 *Where a Committee member feels that he/she has been unreasonably or excessively lobbied on a particular proposal he/she shall make a declaration at Planning Committee on that application that he/she has been lobbied. However, that member shall still be able to speak and vote on the application if the guidance in Section 2 is adhered to.*

I lobbied my local councillor, councillor Webb, she attended a meeting with me and Mr Thomas and Mr Tranter, (please see the video of this meeting url above). At no time during this meeting nor before or after did Mrs Webb ever explain she has a conflict of interest in regards to this site. Yet at the planning meeting she declared an interest and left.

So this "*legitimate part of the planning process*" was denied me. But I did not know this until the meeting itself. I would like to know what interest Mrs Webb declared so as not to be present.

"it is essential for the proper operation of the Planning system that local concerns are adequately ventilated"

My concerns were clearly not adequately ventilated.

10.0 **Procedure at Planning Committee**

Planning Committee members will then debate the application, commencing with the local member if a member of Planning Committee

- *When proposing a motion either to accept the officer recommendation or to make an amendment the member proposing the motion shall state the motion clearly*
- *When the motion has been seconded the Chair shall identify the members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded.*
- *An officer shall count the votes and announce the decision*

My local member as shown above declared an interest and ducked out of the meeting.

The motion was not stated clearly, no member proposed the motion and no member seconded the motion. The chair therefore did not identify anyone. No Officer appeared to count the decision. No one knew why they were deferring Councillor Haywood said "we don't give a reason why we are deferring "

This is in serious breach of the codes of conduct.

12.0 *Planning Committee Decisions Contrary to Officer Recommendation*

12.2 It is important that full clear and convincing reasons are set out when any planning decision is made. Where an application is determined in accordance with the officer recommendation the officer report meets this requirement. However, when members determine against officer recommendation the only record of the debate is the minutes. It is therefore essential that members' reasons are recorded and that the minutes of meeting incorporate a full, clear and convincing statement of the reasons.

The reasons for going against the planning Officers recommendation were not clear at all (see above) It is hinted it maybe to give the applicant a chance to mitigate the visual impact now DC/2012/00613 has been refused(although at this point it had been voted to be refused but had not been refused) As Phillip Thomas says in his e-mail of the 10th August "The applicant have since withdrawn the application DC/2012/00613 which means they will not now be appealing the Committee decision, as the formal decision notice had not been issued before the withdrawal."

If the formal decision notice had not been issued, the reason for deferring "because it had been refused" is not relevant.

More importantly there was no planning reason that, because DC/2011/00613 had been refused, it would have any effect on mitigating the already assessed impact of

DC/2013/00456. As was clearly seen by Mr Thomas Mrs Webb and Mr Tranter, at the site visit of the 28th February, (<https://www.youtube.com/watch?v=7bJlrdKZEoU>) the visual impact of the site cannot be mitigated by planting, due to the topography, position of the footpaths, need for access and land not in control of the applicant. This was also the conclusion of MCC's Landscape Officer. He should have made this very clear to the committee members. The views from the West (the site of DC/2012/00613) were not significant on the impact upon the AONB for application DC/2013/00456

12.3 *Where planning permission is refused contrary to officer advice, members should be aware of the risk of an award of costs being made against the Council at a subsequent appeal. Advice on the award of costs is contained in Welsh Office Circular 29/93. Paragraph 9 of Annex 3 is relevant.*

"Planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers, or received from statutory bodies or consultees. But they will be expected to show that they had reasonable planning grounds for taking a decision contrary to such advice; and they were able to produce relevant evidence to support their decision in all respects. If they fail to do so, costs may be awarded against the authority."

The planning Officers recommendation was to refuse simply there was no planning reason not to do this.

Enforcement

There has been no enforcement upon this site since the permissions were quashed in July 2014. I have complained about this constantly. In my complaint to the ombudsman, the reasons for not perusing enforcement was this report, submitted to the ombudsman by MCC this was for both sites as late as July 2015. See appendix 2

Now read the planning reports. These completely contradict the reasons given in the enforcement report for not taking enforcement action. The enforcement report is biased in favour of the applicant.

Further harm is clearly identified to the AONB by these sites as they stand. Therefore immediate enforcement should have been taken, this should have been brought before the committee before any decision was made. The failure to do so is in clear breach of the PCC.

Chris Hatcher

Appendix 1 The 6 site visits in detail:

1. 6th March 2012 by Guy Delemare;; *"At the time of my visit I noted one person on site, a Mr Good who was operating a JCB to clear the area at the side of the workshops and was in the process of laying down a tarmac surface in this area.*

I firstly stated to him the concerns that have been raised about the hours of operation on this site. He informed me that initially he was unaware of these conditions, but would now not undertake any work before 8am and stated that he would normally be finished by 4.30-5pm

Turning to the issue of the containers, at the time of my visit I noted 2 freight containers within the area he was working in, both of which I was informed contained building materials. One of these was within the hatched area on the marked plans and one of which was not. I have requested that the container outside this area be removed as soon as possible.

Shortly after returning to this office I received a phone call from the site owner, Mr John Stephens regarding my visit. Again I have asked him to the remove this container nearest to the boundary and also informed him of the requirements of the breach of condition notice that was served earlier this year and indeed the conditions that were attached to the original planning consent."

2. 2nd April 2012 by Paula Clarke;; *"Visited site 2 April, the BCN has not been complied with, all the materials have not been moved to approved area and landscaping not done. Advised owner and Mr Hatcher that the Council would commence prosecution proceedings for non-compliance."*

This was never done, as the applicant applied for a new planning permission and no action was therefore taken.

3. 12 February 2013 by Paula Clarke; *"There was no-one on site at the builders yard. There was a worker in the office of the car repair garage however no work was being undertaken either in the garage or outside.*

Builders yard – there were no builders materials stored outside of the approved area; no materials stored in excess of 2 metres in height; the shipping containers were within the approved area. There were 4 vehicles in the yard however there was no indication that these were not in connection with the use as a builders yard."

Vehicles had no permission to be there, they were not construction machinery nor building materials, the shipping containers were outside of the double hatched area and there were materials over 2m in height. I had photographic proof of this.

"Car repair garage – there was no evidence of a car wash facility on the site."

This was an outright lie. On the latest application the applicant has applied to retain the very wash facility Mrs Clarke claims is not there. I had photographic evidence of it in situ and video of it being used.

"There were 2 vehicles being offered for sale in the premises, this is considered to be ancillary to the main use of the site and does not constitute a material change in use requiring planning permission"

Again this is a factually wrong. The selling of vehicles is a separate activity.

"There were no vehicle repairs being done outside the building. The landowner has been advised of the need for planning permission for the small office building and has stated his intention to submit an application for its retention."

Therefore the office building had no planning permission.

"The landowner has advised that the container on the land to the east of the repair garage has been there for many years and is now lawful, it does appear to have been in situ for many years. It is the landowners intention to show that the container is lawful and immune from enforcement action."

The certificate of lawful use failed. The container is outside of the area for which planning has been applied. We proved this container(the rear half of a van) had not been there for 10 years with photographic evidence. The applicant has never proved the container is lawful and immune from enforcement. And yet it is still not enforced against to date.

"With regard to the hours of operation, the owner of the repair garage has stated that his normal hours are 8.45 till 5.00. However one of the landowners keeps his vehicle on the site which is collected around 7am. I have been advised that the applicant intends to appeal against the hours of operation imposed on both sites to allow for continuation of these practices"

So by the applicants own admission the hours conditions, set to preserve the amenity of our property against disturbance, were being broken. Remember the council has stated that the applications can be made acceptable by imposing conditions, therefore not enforcing them causes recognised harm.

"Furthermore I understand you have applied for judicial review to seek the quashing of the recently approved planning permissions therefore any enforcement action is unlikely to be taken until the resolution of these courses of action."

We had not applied for Judicial Review at this point but only sent a pre-action protocol to which the council had not responded. The pile of earth referred to on the map as "noise

bund" is not in the location shown on the map. This had given a much larger area for the storage of building materials than was given permission. This is very clearly visible to Mrs Clarke on her site visit but not mentioned.

4. 18th February 2013- site visit by Paula Clarke;: *" I visited the site unannounced again on 18th February however no breaches of conditions were found at the builders yard site which was locked up. No materials were seen outside of the approved area, the containers were within the approved area and no materials were stored higher than 2 metres."*

See above the breaches here were very clear to see.

"A vehicle was being worked on in the garage building, there were no vehicles being maintained outside of the building. The photograph stated to be attached to your email of 17th February was not attached, however I saw no "development" on site which would require the benefit of planning permission."

And yet the applicant applied for permission at a later date for the wash facility Mrs Clarke said she could not see.

"The container appears to have been sited in excess of 4 years and is now lawful, the container is visible on the Council's aerial photograph in 2000."

It is up to the applicant to prove the container has lawful use(see above where it is stated by Mrs Clarke this will be done). Mrs Clarke now lies about this container, the requirement is for it to have been sited for 10 years not 4 years as Mrs Clarke as a qualified Planning Officer should have been very aware of. It could only be considered as being 4 years if they are *"by virtue of their size, permanence and physical attachment to the land are considered to be operational development"* There is no possible way the rear end of a van can fall into this description, therefore it is clearly 10 years.

"I wrote to the landowner on 14th February requiring the removal of the tyres and car parts from this area. This area has been used for the parking of vehicles in excess of 20 years, as evidenced by the Council's aerial photographs dating back to 1991 and is not within the area covered by the recent permissions."

Yet again Mrs Clarke is lying. She wrote the CLUED report so knows full well that this area does not have lawful use. She states it is outside of the current area applied for. So why is enforcement action not taken? An area with no permission and none applied for.

"I have found no evidence of any breaches of the conditions at the site. However, as stated previously your agent has written to the Council requiring it to consent to the quashing of the permissions. Any further claims of breaches of the conditions must be accompanied by firm evidence in order to justify further site visits."

Firm evidence has been supplied by photographs, video and witness statements, including admissions by the applicants themselves. Mrs Clarke chooses to ignore all this evidence.

Indeed in response to Mrs Clarkes e-mail I responded thus;(Exb.8): *"I have evidence of these breaches, all on video since the permissions were granted.*

This is of course a massive size of file, would the edited high lights be suffice? How do I get this to you?

The size of the building storage area is there awaiting measurement, it is much larger than that granted permission. But I have photographs too.

The Office is clearly in sight when you visited but is also on the video and in photographs.

The owner of the site admitted to breaching the time conditions, but I can still provide video proof. There are clearly vehicles in the builders storage area that are not "construction machinery" they were there when you made your visits. However I'll include photographs of these too."

5. 15th March 2013 Paula Clarke: *"I undertook a further unannounced site visit on Friday however there was no noise whatsoever emanating from the building or the site; one vehicle was being worked on inside the building. The site was clean and tidy however there was a pile of stone outside the gate of the builders yard which I have required to be removed."*

I reported the following breaches on the 15th March 2013 with video evidence):

"15th March 2013 Friday

0639 on site

0646 HGV leaves site

0732-0749 Builders storage area in use."

Also on the 15th March I met and walked the site with the AONB Officer , I responded to Mrs Clarke observation thus(Exb.8): *"You claim on your visit on Friday that the site was "clean and tidy".*

I too visited the site on Friday with the AONB officer, I think I'd beg to differ, there is junk throughout the Builders Yard, clearly visible through the hedge and hole in the gate.

I showed him where they are cleaning cars, the cars for sale, the Office, the areas being used without permission, all clearly in view from the Public footpaths.

Why on your site visit have you not noticed these?

There was indeed a pile of stone this is a breach as are the piles of building materials to the South on an area not included in the Permission."

6. 9th April 2014 Mrs Clarke;(Exb.8) *" I would advise you that I visited the site yesterday and spoke with the occupier of the garage workshop. He advises that he attended the site Monday evening to drop a car off, he did not go into the workshop and the garage was not open for business. This does not constitute a breach of condition which would require enforcement action."*

The hours conditions are very clear, this was use of the site outside of those hours.

"I would remind you that I advised you that the container on the eastern side of the workshops was lawful in my email to you dated 20 February 2013."

Appendix 2

ENFORCEMENT REPORT

Non-Publication

This report contains information which, if disclosed to the public would reveal that the Authority proposes to give under any enactment a Notice under or by virtue of which requirements are imposed on a person (Paragraph 13(a) of Schedule 12A to the Local Government Act, 1972).

LO CASE DETAILS

There has been a series of planning applications and permissions relating to this site which has resulted in two planning consents granted in February 2013 under ref DC/2012/00613 and DC/2012/00886 being quashed by the High Court and remitted back to the Council to redetermine. Application DC/2012/00886 has been withdrawn by the applicant and a new application ref DC/2013/00456 has been submitted.

DC/2012/00613 relates to the "Change of use to allow for the storage of builders materials, construction machinery and equipment, including metal storage containers and retention of security gates".

DC/2013/00456 relates to "Proposed change of use from the storage and maintenance of commercial vehicles to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of a portable office, vehicle washing area and ancillary parking."

The site is currently being used for the previously approved purposes, however as the permissions have been quashed the uses are currently unauthorised and in breach of planning control.

2.0 PLANNING HISTORY

A21850 Erection of a garage for storage and maintenance of commercial vehicles - Approved 08/02/85 Section 52 agreement.

DC/2011/00697 Change of use of existing workshop and adjacent land, to now include for the maintenance of motor vehicles and storage of building materials, in addition to the commercial vehicles granted consent under ref A21850 - Permission granted but quashed by the High Court and remitted back to the Council to redetermine. Withdrawn 05/09/12

EI 3/023 Use of land for builders yard, storage of metal containers and gates; storage and repair of lights motor vehicles, 2 HGVs and trailer, office, wash area and ancillary parking.

Land at New Barn Workshops, St Arvans, Monmouthshire St Arvans E12/014 Breach of conditions imposed on planning permission DC/2011/00697.

BCN served 25/01/2012 however planning permission quashed and notice fell away.

DC/2012/00243 Revision to previous consent (ref DC/2011/00697) to allow the storage of metal containers and amendment to operating hours within the area designated for the storage of building materials. Introduction of an office unit for use in conjunction with the workshops and installation of new gates and landscaping Withdrawn

16/05/12

DC/2012/00445 proposed change of use for existing workshop and adjacent land, to now include for the maintenance of motor vehicles and storage of building materials and equipment, in addition to the commercial vehicles granted consent under Ref A21850 - Withdrawn 11/12/12

DC/2012/00594 Certificate of Lawful Use of land for vehicle repairs Withdrawn 25/10/12

DC/2012/00613 Change of use to allow for the storage of builders materials, construction machinery and equipment, including metal storage containers and retention of security gates. Permission granted but quashed by the High Court, remitted back to the Council to redetermine.

DC/2012/00886 Variation of condition 11 of planning application 21850 Permission granted but quashed on appeal, remitted back to the Council to redetermine but withdrawn on 03/06/13

DC/2013/00456 Proposed change of use from the storage and maintenance of commercial vehicles to the storage and repair of light motor vehicles. Storage and repair of up to two HGV motor vehicles and a trailer. Retention of a portable office, vehicle washing area and ancillary parking. Current application

GUIDANCE

Procedural guidance on the use of various powers available to local planning authorities is provided in Welsh Office Circular 24/97 Enforcing Planning Control. National guidance on planning enforcement is provided in Planning Guidance (Wales): Planning Policy and supplemented by Technical Advice Note (Wales) 9 Enforcement of Planning Control.

Responsibility for determining whether unauthorised development should be allowed to continue or should be enforced against rests with the local planning authority. In considering whether enforcement action should be taken, the decisive issue for the local planning authority should be whether the breach of planning control would unacceptably affect public amenity. Enforcement action should be commensurate with the breach of planning control. The effect on public amenity is considered at Para 5.0.

Paragraph 12 of TAN 9 states that "where a LPA considers that an unauthorised development could be made acceptable by the imposition of conditions it should invite the owner or occupier of the land to submit an application for planning permission". In this case the owners have submitted planning applications in an effort to gain the necessary permissions which are now being considered by the Council.

Paragraph 23 of TAN9 states that "where a LPA considers that an unauthorised development is causing unacceptable harm to public amenity, and there is little likelihood of the matter being resolved through negotiations or voluntarily, they should take vigorous enforcement action to remedy the breach urgently, or prevent further serious harm to public amenity". In this case the owners of the site have submitted planning applications in an effort to gain planning permission for the use of the site. In line with the above guidance it is the Council's usual practice not to take enforcement action whilst a planning application for the unauthorised development is being considered by the Authority. (

0 PLANNING POLICY

The relevant policies are:RE1

Proposals for the conversion or rehabilitation of existing buildings in the open countryside to employment use will be permitted provided that all conditions are met.

C2 Within the Wye Valley AONB any development must be subservient to the over-riding necessity to conserve the natural beauty of the area.

ENV1 General development considerations.

ASSESSMENT

In this case, as can be seen from the above planning history, conditional planning permission has previously been granted for the current uses on the site, albeit that these consents have been quashed by the High Court. From discussions with Counsel it is considered that the buildings on the site are lawful, however there is no current lawful use of the buildings or site. The site itself has been in use for many years for various uses such as coal yard; bus depot and storage and maintenance of commercial vehicles which is a material consideration. The site is currently split into 2 separate uses. The western part of the site is occupied as a builder's yard and is used for the storage of builder's materials and containers.

The buildings to the east of the site and its yard areas is in use as a car repair garage. Complaints have been received from the occupiers of the dwelling to the north regarding early morning vehicle movements; vehicles being maintained outside the buildings; the existence of a wash area and office building and breaches of conditions imposed on the quashed permissions. It is claimed that the uses on the site give rise to noise nuisance and disturbance.

Evidence has been provided by the owners to show that an operator's licence for 2 vehicles and 1 trailer has been in existence since at least 1993. Currently 1 lorry is being collected from the site around 7am returning in the evening, this practice appears to have been carried on for many years. Unannounced site visits have been carried out by officers who have not witnessed any excessive noise or disturbance emanating from the site. The advice from the environmental health officer is that whilst some noise disturbance from the development is likely from time to time, he does not envisage a level of problems on which to base an objection. Given the proximity of the nearest property he recommends suitable conditions be imposed. No alterations to the buildings are intended or have been earned out. It is considered that provided suitable conditions are imposed the use of the buildings and the site would not cause harm to the residential amenity of the neighbouring property and therefore comply with policies RE1; ENV1 and DES1.

With regard to the impact upon the Wye Valley AONB. the site is well screened from the A466 by mature tree planting. There is an existing mature row of vegetation along the northern boundary; substantial planting to the south and new planting has been undertaken along the eastern boundary. Public Footpath no. 32 runs through the site and when the gates to the builder's yard are open the site is visible to members of the public using the footpath. However the site is not readily visible in the wider setting of the AONB and the

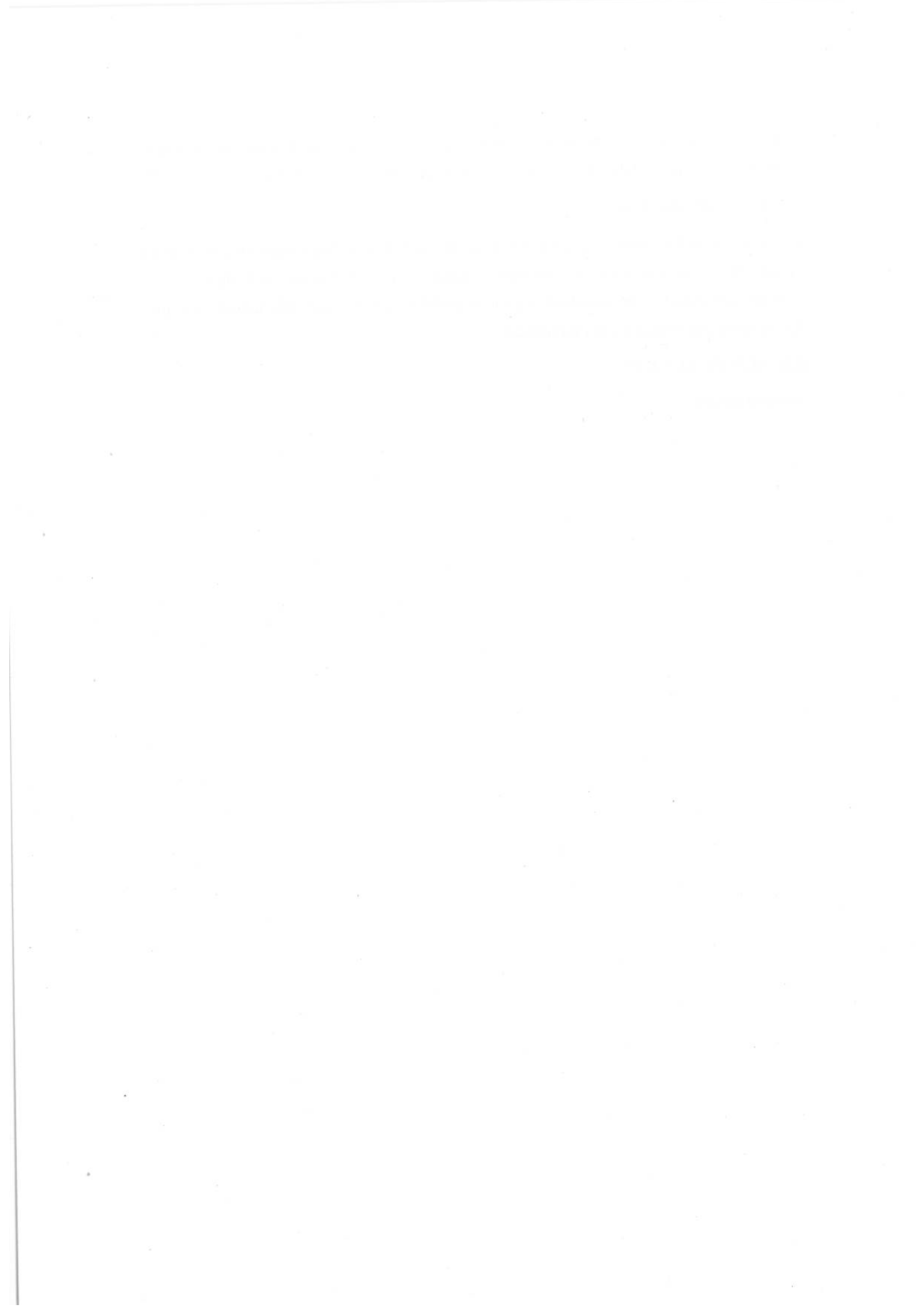
degree of visual impact is considered to be localised. It is considered that provided suitable conditions are imposed the development would not be contrary to Policy C2.

5.0 RECOMMENDATION

In conclusion of the above, it is considered that the unauthorised development can be made acceptable by the imposition of conditions, therefore in line with Government advice, enforcement action is not expedient at present whilst the current planning applications are outstanding and remain to be determined.

ENF REPORT EI 3/023

PC/10/07/2013



OBJECTION to DC/2012/00613 and DC/2013/00456

This application must be considered as if it is a new application on the site, in this case on a site in open countryside in the AONB.

Retrospective applications

Retrospective planning applications have to be handled in exactly the same way as any other application. In considering retrospective applications, the Council should not normally be swayed in either direction by the fact that the development has already taken place. Permission should not be refused just because the development was unauthorised and permission should not be granted just because the development is already there and would be expensive to remove or alter. They have to be judged only on their planning merits against adopted planning policies and other material planning considerations.

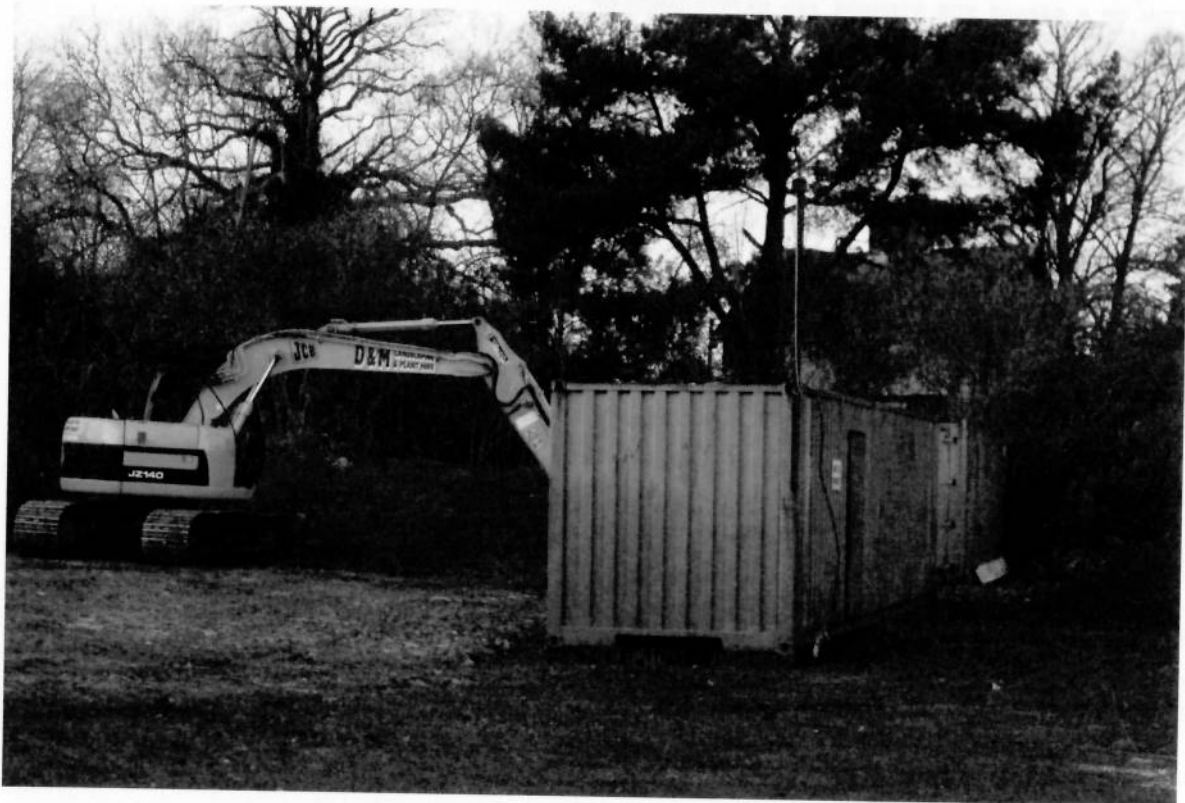
The fact this development exists should have, in law, no bearing at all on how it is determined.

This development has been illegal for many years, it has been further developed without permission and the owner has benefited financially from this illegal activity.

Welsh Office Planning Policy Guidance:

"If people ignore or flout laws and regulations designed to protect the public from serious harm, they should be properly punished, and the punishment should take account of the resulting profits or savings..."

Field being dug up and piled into banks at the side. Note the proximity of the residential dwelling and the Scots Pine which has a Tree Preservation Order upon it.



This site has only had permission temporarily for 13 weeks from the 18th May 2012 when the permission was quashed, and prior to that from December 2011 until that was too was quashed in May 2012.

It only had permissions this long due to the long Court processes.

So for many years, since at least 1990, this site has had planning permission for only some 7 months and yet it has been allowed to be developed further by Monmouthshire County Council, why?

Because MCC planners and planning committee have gone directly against Regional, National and European Legislation, this site has lost 2 Judicial Reviews taken at High Court.

MCC planners are trying to force this permission through to the extent they are breaking policy and their own rules.

There have been 6 applications on this site over the last 2 years. This has meant that an application has been in place or awaiting to be quashed, for over 2 years now.

Multiple applications should not be permitted; this is an unfair burden upon those who have to continually object and have to suffer the non-enforcement. The Council Enforcement Officers have stated they will not enforce whilst an application is being determined, and hence there has been no enforcement on this site, since an Enforcement Notice was issued in February 2012 but never actioned.

Welsh Office Planning Policy Guidance:

"During consideration of the Bill in Parliament, amendments to impose a general duty on LPAs to ensure compliance with planning control were proposed. Although these amendments were not accepted (because the Government considers that enforcement action should remain within the LPA's discretion), the Government's view is that the integrity of the development control process depends on the LPA's readiness to take effective enforcement action when it is essential. Public acceptance of the development control process is quickly undermined if unauthorised development, which is unacceptable on planning merits, is allowed to proceed without any apparent attempt by the LPA to intervene before serious harm to amenity results from it."

So this site has continued to be developed without valid permission for the last 2 years, the applicants have lied on their applications and yet MCC have failed to take any action, to the detriment of the amenity of the area, AONB, our home and life.

MCC need reminding of their: **Community Strategy**

The Vision of the existing Monmouthshire Community Strategy is:

'By 2019 Monmouthshire will be a happy, developing, prosperous, just, caring, healthy and tolerant community where:

- Everyone living in Monmouthshire is engaged, valued and takes an active role in the future of their community and the talents within the community are nurtured for the benefit of all.*
- All community members have full and equal access to a comprehensive, first class range of services in which they have confidence. Where appropriate, these services are delivered through effective partnerships.*
- People live without fear of crime in their communities where anti-social behaviour is not tolerated.*
- There is a vibrant, confident economy that encourages investment.*

• *We have a clean, healthy and sustainable environment that all people, businesses and organisations value and take responsibility for maintaining and enhancing.'*

The Strategy is supported by actions based on five broad themes:

- *Improving our health and well being*
- *Valuing and enhancing the environment*
- *Making our communities stronger and feel safer*
- *Developing a sustainable local economy*
- *Creating learning opportunities for all*
- *Social justice – working for a just society which treats individuals and groups, fairly in which no-one is socially excluded, and where equality of outcomes is sought for all.*
- *Social cohesion – to build communities that are supportive and able to work together to meet needs and accommodate differences.*
- *Localisation – ensuring that wherever possible that public services are provided as close to where people live and that institutionalised forms of services are minimised.*

The photographs provided at the planning committee on the 5th February and 6th of December did not reflect the true nature of this development.

The ones on this Objection should be included to show the true nature of this site.

And this is before it has permission.



History

This site, a Courtyard with high stone walls on four sides with a height between 2 and 4 meters, was used without planning permission back in the 1980's, it failed 2 times to get permission, for housing and garaging, (application numbers 12348, 14476) until it was granted permission in "exceptional circumstances" in 1985.

The application was for a garage to house the applicant's lorry, the applicants were Mr DJ and A Stephens. It is clearly stated on the application form this is for outline planning permission for garaging the applicant's lorry and not for, industrial, office, warehousing, storage or retail. The total area is given as 0.08 ha.

It is also stated very clearly **no storage** will take place on site and a condition is placed stating exactly this.

Exert from the 1985 application, showing the area of the site applied for.

Application No _____

0.08 *ha/acres

_____ *m²/ft²

_____ dwellings

_____ m²/ft²

_____ *ha/acres

21850

_____ See Scale of Fees

_____ Fee £40

_____ Fee £20

_____ No Fee

_____ No Fee


_____ No Fee

_____ No Fee

_____ Fee - 25% of full fee

_____ Fee £40

Signed: R Stephens



* Delete as appropriate

In the covering letter from the applicant's agent for A21850 it explains how the current site for the applicant's lorry is unsuitable and suggests this as an alternative.

It states that there is a 2 to 4 meter high stone wall around the property forming a courtyard, and that there is to be no storage on site of any materials.

It was recommended for refusal by the County Planning Officer, (doc 3) the County Surveyor (doc 4) and the Borough Planning Officer (doc 5), who all objected strongly pointing out it would be a serious breach of policy(s).

However the planning committee went against their own experts, and voted it for approval subject to;

- A. New access to the A48
- B. A Personal Permission to Mr Stephens only
- C. Mr Stephens enters a Section 52 planning agreement.

The approval given was a personal permission for the applicant for a single garage with a high stone wall on all sides, for him to store and maintain his lorry subject to conditions and to a planning obligation being agreed to.

A section 52 agreement was drawn up and signed. This is a legally binding contract and stated that the site was for a single garage for the applicant's own vehicles only and that the site in the village would cease use once the new site was operational.

This agreement nor the planning permission have been adhered to.

Two garages have been built, not one doubling the size of the permitted development, the stone wall protecting views from the Piercefield side were removed and a metal fence put in instead.

The elevations were conditioned to be rendered and painted.

The roof was supposed to be below the height of the rear wall, Mr Stephens insisted the pitch wouldn't be enough and it was agreed it could go slightly higher. (doc 8) On the second garage built with no permission, it's hidden below the height of the wall with a lesser pitch.

The line of the footpath was moved without consent.

They allowed other businesses to use the site; this was against planning permission and the Section 52.

Application DC/2011/00697

This was a retrospective application to gain permission "a proposed change of use for existing workshop and adjacent land to now include for the maintenance of motor vehicles and storage of building materials in addition to the commercial vehicles granted consent under Ref A2180"

This permission was subject to a Judicial Review and quashed in July 2012 after the Council refused to contest the illegality of it.

A new application DC/2012/00243 (another retrospective application) "proposed change of use to allow the storage of metal containers, within the area designated for the storage of building materials. Introduction of an office unit for use in conjunction with the workshops and installation of new gates. Plus a change in operating hours.") also had to be withdrawn.

The site however continued to operate and in fact to develop further.

An application for extant use was made on the site on the 11.07.2012 (DC/2012/00594) "The existing use of the workshop buildings and associated land includes the maintenance, servicing and repair of all classes of motor vehicles including commercial vehicles, motor cars and agricultural machinery."

This remained undetermined until it was withdrawn by the agent on the 25th October 2012.

However a report was written recommending "refusal", having been checked over by the legal team at MCC and then dated 22nd October 2012.

In the meantime another retrospective application DC/2012/00613 ("Proposed change of use to allow the storage of builders' materials, construction machinery and equipment and the storage of metal containers and the security gates") was made on the 13/07/2012.

On the 12/10/2012 an application DC/2012/00886 was made for the removal of a condition.

Both of these latest applications were determined by committee in December 2012 and again on the 4th February 2013. Both of these applications were subject to a Judicial Review and the Council having chosen not to contest agreed to quash the permissions.

These permissions were quashed by consent order on the 23rd May 2013.

Judicial reviews

There have been 2 judicial reviews on this site, resulting in the quashing of 3 planning permissions and the withdrawal of a further application.

The Judicial Reviews need to be read and acted upon by everyone in the planning process for future applications. They cannot be ignored as MCC would appear to be doing. This is at a significant cost to the ratepayer, but more importantly they are seriously undermining the rule of law, and that of fairness.

MCC claim to hold fairness very highly. This is not reflected in how they have dealt with this and many more applications, Councillors you have a public duty to do.

This is a quote from the bar association in regard to amendments to the Judicial Review system:

"Finally, as part of this Overview, we express concern at the Consultation Paper's assertion that, even where the claim is successful, it may only result in a "pyrrhic victory" when the matter is remitted to the decision-making body. That assertion does not reflect the full position. Oral rehearings act as a useful check by judges. Even more importantly, the public law decision-maker will be bound to take a fresh decision in accordance with the law as declared by the court. An unfair decision will need to be taken again fairly. A decision based on irrelevant factors will need to be taken again based only on relevant factors. There cannot be – and must not be – any foregone conclusion that the decision will be the same. Moreover, it is inherently in the public interest that public authorities take fair and lawful decisions. The scrutiny imparted by judicial review proceedings serves to ensure high standards of public decision-making generally and permits public confidence in the decision-making process. The public interest in lawful decision-making goes above and beyond the eventual outcome for any particular claimant. "

Applications

Validation

Monmouthshire has set criteria for Validation of Planning applications.

This application does not meet these requirements and should therefore be rejected.

S3 Block Plan of the Site

The existing site plan should be drawn to a scale of 1:500 or 1:200 and should accurately show:

- a) The direction of North.*
- b) The existing development in relation to the site boundaries and other existing buildings on the site, with written dimensions including those to the boundaries.*
- c) All the buildings, roads and footpaths on land adjoining the site including access arrangements.*
- d) All public rights of way crossing or adjoining the site.*
- e) The position of all existing trees on the site and those on adjacent land that could influence or be affected by the development.*
- f) The extent and type of any hard surfacing.*
- g) Existing boundary treatment including walls or fencing.*

The proposed site plan should be drawn at a scale of 1:500 or 1:200 and should accurately show:

- a) The direction of North.*
- b) The proposed development in relation to the site boundaries and other existing buildings on the site, with written dimensions including those to the boundaries.*
- c) All the buildings, roads and footpaths on land adjoining the site including access arrangements.*
- d) All public rights of way crossing or adjoining the site.*
- d) The position of all trees on the site, and those on adjacent land that could influence or be affected by the development.*
- e) The extent and type of any hard surfacing.*
- f) Boundary treatment including walls or fencing where this is proposed (new or altered).*

The applicant has failed to show an existing block plan at all and failed on the proposed on points b,c, d ,e ,f and g

The applicant has failed to show the line of the footpath as it leaves his property, failed to include dimensions, buildings, position of trees, hard surfacing and boundary treatment. Failure to include this is material to this application and failure to show this is deliberately misleading.

The plan shows the site for DC/2012/00613, a different size to that that has been constructed; this again is false and deliberately.

S4 Existing and Proposed Elevations

These should be drawn to a scale of 1:50 or 1:100 and show clearly the proposed works in relation to what is already there. All sides of the proposal must be shown and these should indicate, where possible, the proposed building materials and the style, materials and finish of windows and doors. Blank elevations must also be included; if only to show that this is in fact the case.

Where a proposed elevation adjoins another building or is in close proximity, the drawings should clearly show the relationship between the buildings, and detail the positions of the openings on each property.

Written dimensions of the overall length, width and height of the development should be stated. It is not necessary to indicate all detailed dimensions of every element of the work.

None have been provided.

S5 Existing and Proposed Floor Plans

These should be drawn to a scale of 1:50 or 1:100 and should explain the proposal in detail. Where existing buildings or walls are to be demolished these should be clearly shown. The drawings submitted should show details of the existing building(s) as well as those for the proposed development. New buildings should also be shown in context with adjacent buildings (including property numbers where applicable).

Written dimensions of the overall length, width and height of the development should be stated. It is not necessary to indicate all detailed dimensions of every element of the work.

None have been provided.

S6 Existing and Proposed Site Sections and Finished Floor and Site Levels

Such plans drawn at a scale of 1:50 or 1:100 should show a cross section(s) through the proposed building(s) and include written dimensions. In all cases where a proposal involves a change in ground levels, illustrative drawings should be submitted to show both existing and finished levels to include details of foundations and eaves and how encroachment onto adjoining land is to be avoided.

Full information should also be submitted to demonstrate how proposed buildings relate to existing site levels and neighbouring development. Such plans should show existing site levels and finished floor levels (with levels related to a fixed datum point off site) and also show the proposals in relation to adjoining buildings. This will be required for all applications involving new buildings. In the case of householder development, the levels may be evident from floor plans and elevations, but particularly in the case of sloping sites it will be necessary to show how proposals relate to existing ground levels or where ground levels outside the extension would be modified. Levels should also be taken into account in the formulation of design and access statements.

None have been provided. Despite this being a sloping site.

S8 Certificate of Ownership (Not necessary for Reserved Matters)

Under section 65(5) of the Town and Country Planning Act 1990, read in conjunction with Article 7 of the GDPO, the local planning authority must not entertain an application for planning permission unless the relevant certificates concerning the ownership of the application site have been completed. All applications for planning permission must include the appropriate certificate of ownership. An ownership certificate A, B, C or D must be completed stating the ownership of the property.

For this purpose an 'owner' is anyone with a freehold interest, or leasehold interest the unexpired term of which is not less than 7 years.

This site is owned by 3 people they have not been included, the Council are well aware of this and yet have allowed these applications to be validated. A false declaration is an offence, but no action has been taken.

S11 Design and Access Statement (unless exempt)

The Design element of the Statement is required on all applications except:

engineering or mining operations;

material changes of use (see note at foot for Access Statement requirement on certain types of change of use).

The Design element must address the following aspects of design:

accessibility;

environmental sustainability;

character (to include amount, layout, scale and appearance of the development and any landscaping compromised in it);

movement to, from and within the development;

community safety.

The statement will need to explain the design principles and concepts applied to these aspects, and also how the physical, social, economic and policy context of the development has been taken into account. The level of detail is dependent on the scale or complexity of the application.

The Access element of the statement must address inclusive access. It does not include vehicular and transport links. In general it should explain how the proposed scheme enables all users to have equal and convenient access to all buildings and spaces, regardless of age, disability, ethnicity or social grouping. The level of detail is dependent on the scale or complexity of the application.

The primary issues that are to be considered within the Access element are:

o Ensuring paths are firm and level

o Ensuring acceptable gradients

o An explanation of how any specific issues, which might affect people's access to the development have been addressed

o Detail how obvious problem areas such as raised thresholds at entrances are designed

Avoiding obstacles on 'pathways' (e.g. service equipment).

The Access element of the statement is required on applications for material changes of use where access by an employee or the provision of services to the public is involved.

For both of these applications the Design and access statements and not sufficient in detail, both contain falsehood and are both misleading, this is dealt with in detail later.

D3 Biodiversity Survey and Report

D3A General

Where proposals are being made for mitigation on wildlife and biodiversity, information should be provided on existing biodiversity interests and possible impacts on them to allow full consideration of those impacts.

Where proposals are being made for mitigation and/or compensation measures information to support those proposals will be needed. Where appropriate, accompanying plans should indicate any significant wildlife habitats or features and the location of habitats of any species protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994 or the Protection of Badgers Act

1992. Applications for development in the countryside that will affect areas designated for their biodiversity interests are likely to need to include assessments of impacts and proposals for long term maintenance and management. This information might form part of an Environmental Statement, where one is necessary.

Where proposal are likely to affect a protected site (SSSI, SAC, etc) applicants should contact the Countryside Council for Wales to discuss proposals and ascertain whether any specific specialist surveys may be necessary.

Certain proposals which include work such as the demolition of older buildings or roof spaces, removal of trees, scrub, hedgerows or alterations to water courses may affect protected species and will need to provide information on them, any potential impacts for them and any mitigation proposals for such impacts.

Government planning policies for biodiversity are set out in Planning Guidance (Wales) TAN 5 Nature Conservation and Planning.

UDP DES8 DES9 NC1, NC2, NC3, NC4, NC5 and NC6

None have been provided.

DB3 Bats in Buildings

The Council has specific requirements where development affects buildings where bats may be present.

1. A completed Bat Survey (checklist) assessment, which determines if the structure subject to a planning application is likely to be used by bats.

2. Photographs of the structure.

3. If triggered by the checklist, an appropriate bat survey must be undertaken and a report submitted before the application is registered by the council.

UDP DES8 DES9 NC4

None have been provided.

D4 Economic Statement:D4A Commercial Development

A supporting statement may be necessary of any regeneration benefits from the proposed development, including: details of any new jobs that might be created or supported; the relative floorspace totals for each proposed use (where known); any community benefits;

and reference to any regeneration strategies that might lie behind or be supported by the proposal. The loss of existing business sites or premises may also require justification

UDP E2 E3

None have been provided.

D5 Environmental Statement

The Town and Country Planning (Environmental Impact Assessment) Regulations (SI 1999/293), as amended, set out the circumstances in which an Environmental Impact Assessment (EIA) is required. EIA may obviate the need for other more specific assessments.

Where an EIA is required, Schedule 4 to the regulations sets out the information that should be included in an Environmental Statement. The information in the Environmental Statement has to be taken into consideration when the local planning authority decides whether to grant planning consent. It may be helpful for a developer to request a 'screening opinion' (i.e. to determine whether EIA is required) from the local planning authority before submitting a planning application. In cases, where a full EIA is not required, the local planning authority may still require relevant environmental information to be provided.

None have been provided.

D6B B Drainage Strategy

Proposals for the disposal of surface water and the treatment of any existing land drainage arrangements must be shown. On larger schemes the Council expects Sustainable Urban Drainage Systems to be used. At the very least on smaller schemes proposals should indicate how water drainage to the ground can be slowed down such as through the use of porous surfaces. Guidance on SUDS is given in Planning Policy Wales TAN 15 (Appendix 4).

UDP ENV10 ENV15

None have been provided.

D7B B Non Mains Drainage

Where connection to the mains sewer is not practical, then the foul/non-mains drainage assessment will be required to demonstrate why the development cannot connect to the public mains sewer system and show that the alternative means of disposal are satisfactory. Guidance on what should be included in a non-mains drainage assessment is given in WO Circular 10/99 and Building Regulations Approved Document Part H and in BS6297.

Details of the siting, specification and capacity of any means of foul drainage that does not connect to the mains - Guidance on private means of foul drainage is available in an Environment Agency publication "Treatment and disposal of sewage where no foul sewer is available: PPG4" and can be obtained from the Council (paper copy) or Environment Agency web site.

If the proposed development results in any changes/replacement to the existing system or the creation of a new system, scale plans of the new foul drainage arrangements will also need to be provided. This will include a location plan, cross sections/elevations and specification. Drainage details that will achieve Building Regulations Approval will be required. If connection to any of the above requires crossing land that is not in the applicant's ownership, other than on a public highway, then notice may need to be served on the owners of that land. If developers follow a sewer requisition route under the provisions of S98-101 of the WIA, the statutory undertaker has statutory powers to lay pipes through third party land.

UDP ENV13

Given the nature of the proposed development and the resultant significant increase in foul sewage disposal the applicant should be required to submit full details and calculations given the sensitive location of the proposed development and the anticipated increases in-demand on site.



D8 Heritage Statement

The scope and degree of detail necessary in a Heritage Statement will vary according to the particular circumstances of each application. Applicants are advised to discuss proposals with either a planning officer or a conservation officer before any application is made. The following is a guide to the sort of information that may be required for different types of application.

For applications either related to or impacting on the setting of heritage features a written statement that includes plans showing historic features that may exist on or adjacent to the application site including listed buildings and structures, historic parks and gardens, historic battlefields and scheduled ancient monuments and an analysis of the significance of archaeology, history and character of the building/structure, the principles of and justification for the proposed works and their impact on the special character of the listed building or structure, its setting and the setting of adjacent listed buildings may be required.

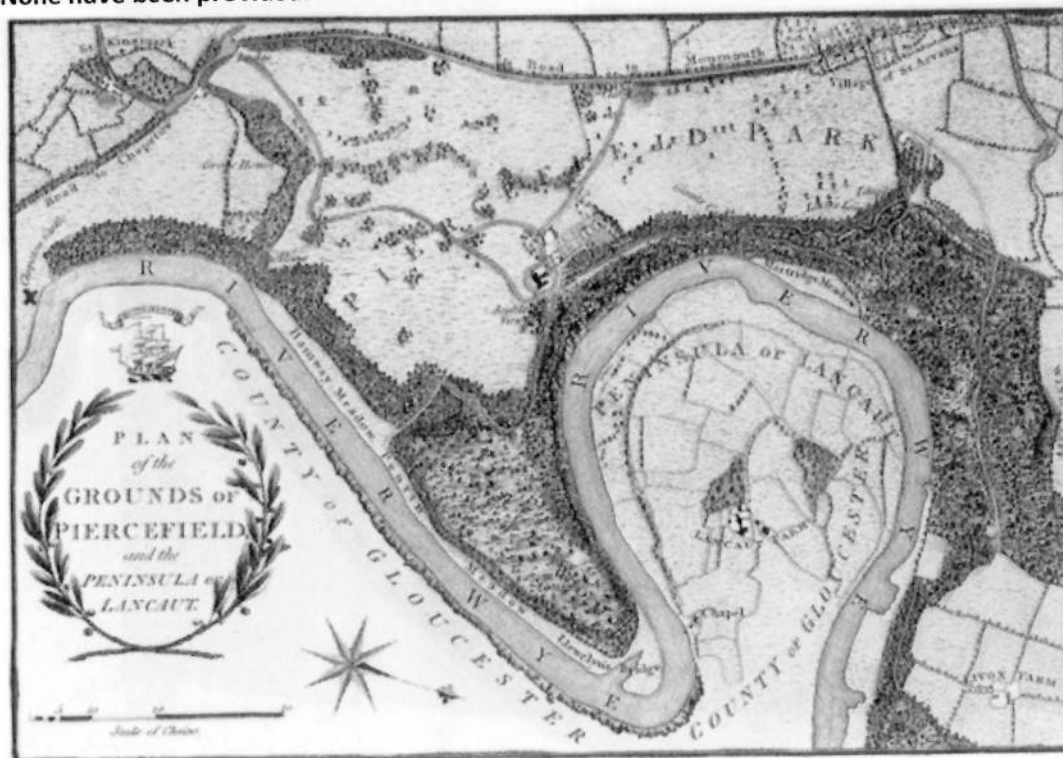
For applications within or adjacent to a conservation area, an assessment of the impact of the development on the character and appearance of the area may be required. This can be part of the Design and Access Statement.

For all applications involving the disturbance of ground within an Archaeologically Sensitive Area, as defined in the Development Plan, and all applications for new buildings or significant infrastructure works an applicant may need to commission an assessment of existing archaeological information and/or archaeological evaluation (trial excavation) and submit the results as part of the heritage statement. Applicants are strongly advised to contact the archaeological planning service of the Glamorgan-Gwent Archaeological Trust (telephone 01792 655208 e-mail planning@ggat.org.uk) to discuss their proposals.

Guidance is available from Glamorgan Gwent Archaeological Trust.

UDP CH1-13 DES1

None have been provided.



D11 Landscape Appraisal

Where development has an impact on the wider landscape the applicant must demonstrate through a strategic landscape assessment the capacity of the natural environment to absorb the proposal. The appraisal should also provide a broad context for decisions on appropriate scale, form and layout and determine which landscape features need to be protected or enhanced. Detailed site appraisal may provide information on hydrology, microclimate, soils, plant communities, historic features and all visual qualities including views and vistas. Design solutions should demonstrate clearly how the strategic assessment and site appraisal have informed the detailed design of development and planting proposals.

The Council has assessed the relative qualities of the local landscape through the LANDMAP landscape quality assessment method in terms of geology and geomorphology, vegetation and habitats, visual and sensory quality and historic and cultural quality. Applicants should have regard to the LANDMAP assessment in preparing their assessments.

UDP ENV1 DES1 DES5 DES6 DES7

None have been provided.

D12 Landscaping details

Applications may be accompanied by landscaping details and include proposals for long term maintenance and landscape management. There should be reference to landscaping and detailed landscaping proposals which follow from the design concept in the Design and Access Statement, if required. Existing trees and other vegetation should, where practicable, be retained in new developments and protected during the construction of the development.

Landscaping details will normally be required where applications are for larger scale development such as new residential or employment estates. They will also be required for developments that are judged to be in sensitive landscape locations. Where landscaping is submitted the details should indicate the position, size and species of new planting and trees and hedges that are to be retained. (See D26 for further information on retention of trees).

UDP ENV1 DES1 DES5 DES6 DES7





Trees cut down rubbish dumped the trees planted are too close to this wall, and too thinly planted to make any difference, it will take some 50 years plus for these trees to mature.

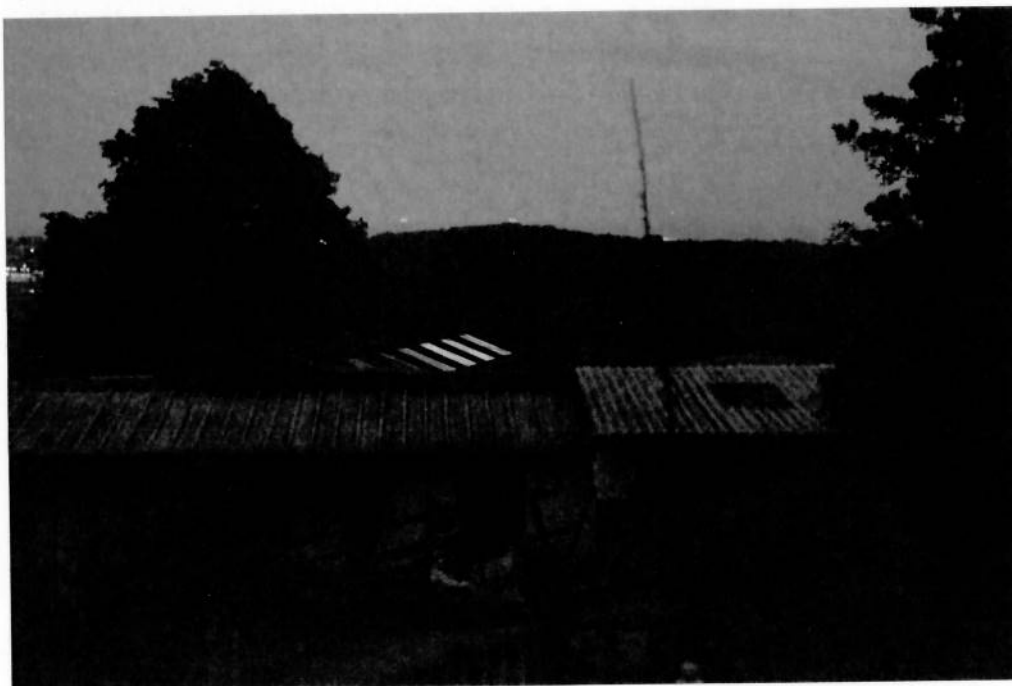
D13 Lighting assessment

Proposals involving the provision of publicly accessible developments, in the vicinity of residential property, a listed building or a conservation area, or in open countryside, where external lighting would be provided or made necessary by the development, should be required to be accompanied by details of external lighting and the proposed hours when the lighting would be switched on. These details shall include a layout plan with beam orientation and a schedule of the equipment in the design. Lighting in the countryside:

Towards good practice (1997) is a valuable guide for local planning authorities, planners, highway engineers and members of the public. It demonstrates what can be done to lessen the effects of external lighting, including street lighting and security lighting. The advice is applicable in towns as well as the countryside.

UDP ENV14

None have been provided.



Workshops in use until Midnight, viewed from our patio. Our horses stabled at night in the adjoining stables were disturbed, as were we due to noise. This also demonstrates the light pollution from the use of these workshops.

D14 Noise assessment

Applications for developments that raise issues of disturbance by noise to the occupants of nearby existing buildings, and for developments that are considered to be noise sensitive and which are close to existing sources of noise should be supported by a noise assessment prepared by a suitably qualified acoustician. Further guidance is provided in Planning Policy Wales TAN 11

UDP ENV6

None have been provided. This is for a development which has and is likely to generate a considerable amount of noise. It is in a noise sensitive area, adjacent to a residential property, equine property, SSSI, and in an AONB.

D17 Planning Obligation – Draft Head(s) of Terms

Planning obligations (or “section 106 agreements”) are private agreements negotiated between local planning authorities and persons with an interest in a piece of land (or “developers”), and are intended to make acceptable development which would otherwise be unacceptable in planning terms.

UDP H9 RL3

None have been provided. No declaration of the Planning obligation on this site has been made by the applicant. This is lying by omission.

D18 Planning Statement

A planning statement identifies the context and need for a proposed development and includes an assessment of how the proposed development accords with relevant national, regional and local planning policies. It may also include details of consultations with the local planning authority and wider community/statutory consultees undertaken prior to submission.

None have been provided. This should be provided given the sensitive location of this development.

D19 Public Right of Way Diversion Statement

Where a public right of way is to be diverted as the result of the proposed development indicative proposals of the proposed diversion shall be submitted with the application.

UDP MV4

None have been provided. The public footpath has been diverted.

D22 Structural Survey

A structural survey of the existing building by a qualified structural engineer for all barn and other rural building conversion applications.

UDP H7 RE1

None have been provided.

D26 Tree survey/Arboricultural implications

Where there are trees within the application site, or on land adjacent to it that could influence or be affected by the development (including street trees), information will be required on which trees are to be retained and on the means of protecting these trees during construction works. This information should be prepared by a qualified arboriculturist.

Full guidance on the survey information, protection plan and method statement that should be provided with an application is set out in the current BS5837 'Trees in relation to construction – Recommendations'. Using the methodology set out in the BS should help to ensure that development is suitably integrated with trees and that potential conflicts are avoided.

UDP DES5 DES6 DES7

None have been provided. There are trees adjacent which have TPO's, a large number of trees were removed in the creation of the DC/2012/00613 site, see details further on in this objection.

D28 Ventilation and Extraction Statement

Details of the position and design of ventilation and extraction equipment, including odour abatement techniques and acoustic noise characteristics, will be required to accompany all applications for the use of premises for purposes within Use Classes A3 (i.e. Restaurants cafes, the sale of food and drink for consumption on the premises, drinking establishments – use as a public house, wine-bar or other drinking establishment), Hot food takeaways – use for the sale of hot food for consumption off the premises), B1 (general business) and B2 (general industrial). This information (excluding odour abatement techniques unless specifically required) will also be required for significant retail, business, industrial or leisure or other similar developments where substantial ventilation or extraction equipment is proposed to be installed.

None have been provided.

Requirement of Accurate Completion

The local planning authority should see to it, in the public interest that questions on the application forms and design and access statements are answered in sufficient detail to enable the true nature of the proposal to be understood. The applicant has failed to complete the application form with sufficient' diligence and the answer to some questions is incomplete or simply inadequate.



View from the footpath to the East of the Workshops.

A washing facility has also been applied for, with no information as to how the waste water will be dealt with.

This same washing facility applied for retrospectively that Mrs Paula Clarke, failed to see when investigating Enforcement on the site earlier this year:

From: Clarke, Paula Sent: Thursday, February 14, 2013 9:26 AM

Dear Mr Hatcher

I would advise that an unannounced visit was undertaken to the premises on 12 February 2013.

There was no-one on site at the builders yard. There was a worker in the office of the car repair garage however no work was being undertaken either in the garage or outside.

Builders yard – there were no builders materials stored outside of the approved area; no materials stored in excess of 2 metres in height; the shipping containers were within the approved area. There were 4 vehicles in the yard however there was no indication that these were not in connection with the use as a builders yard.

Car repair garage – there was no evidence of a car wash facility on the site. *There were 2 vehicles being offered for sale in the premises, this is considered to be ancillary to the main use of the site and does not constitute a material change in use requiring planning permission. There were no vehicle repairs being done outside the building. The landowner has been advised of the need for planning permission for the small office*

building and has stated his intention to submit an application for its retention. The landowner has advised that the container on the land to the east of the repair garage has been there for many years and is now lawful, it does appear to have been in situ for many years. It is the landowners intention to show that the container is lawful and immune from enforcement action.

With regard to the hours of operation, the owner of the repair garage has stated that his normal hours are 8.45 till 5.00. However one of the landowners keeps his vehicle on the site which is collected around 7am. I have been advised that the applicant intends to appeal against the hours of operation imposed on both sites to allow for continuation of these practices. Furthermore I understand you have applied for judicial review to seek the quashing of the recently approved planning permissions therefore any enforcement action is unlikely to be taken until the resolution of these courses of action.

I trust this is of assistance to you

Paula Clarke

Planning Control Manager

Despite me providing Mrs Clarke with a photograph and statements that this is in use, and that there is a notice saying "washing down area" she still failed to acknowledge its existence.

Perhaps now the applicant has applied for it to have permission Paula Clarke will acknowledge its existence?



Photo of "Wash Area" note this is outside of the area granted permission in 1985.

The design and access statement is wrong, on both these applications and should be removed.

They provide false and misleading information, biased directly in favour of the applicant.

It is claimed for application DC/2012/00623 that it is for a change of use from B2 to B8, the land it is on does not have B2 permission, it has no permission at all. This application is therefore flawed from the outset and should not have been accepted, I am requesting its withdrawal.

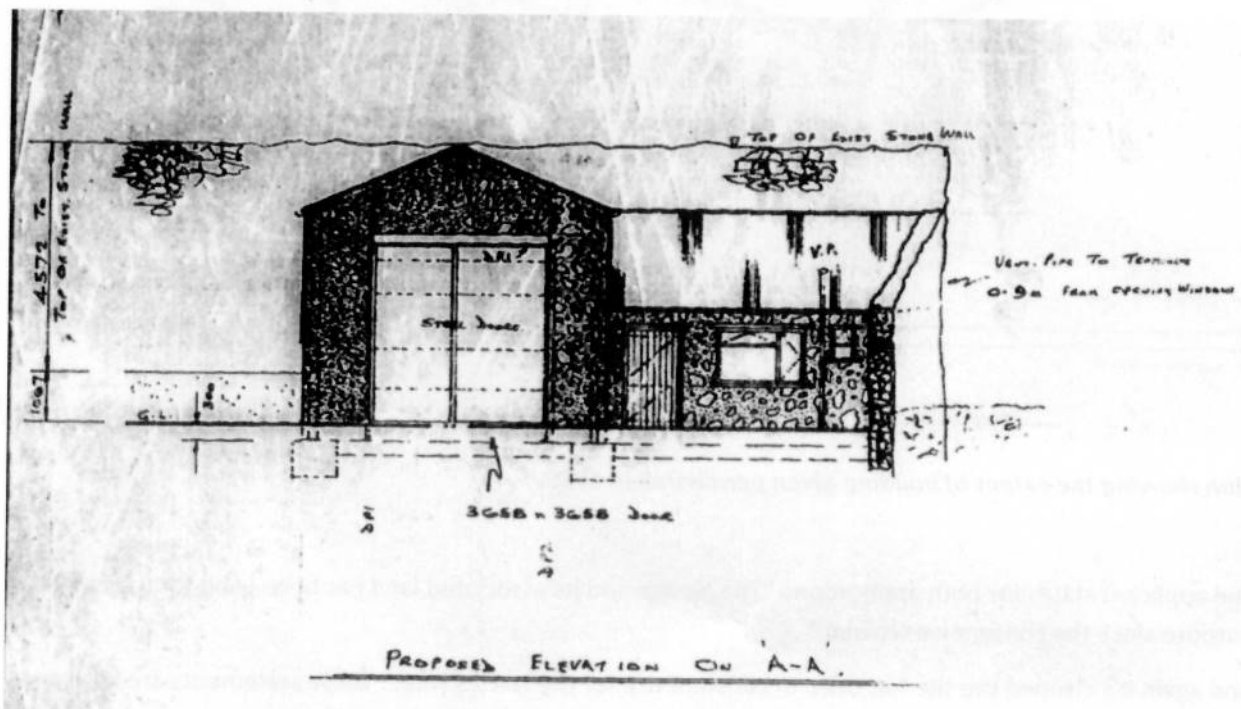
The decision isn't between B2 and B8 use but from "no use" to B8.

This is completely unacceptable in an AONB; this is unacceptable next door to a residential property, who has been disturbed ever since this illegal activity started 2 years ago.

It is claimed for both applications "Planning consent Ref A21850 granted on 8th February 1985, gave consent for "The erection of a garage for storage and maintenance of commercial vehicles.""

This was for a garage, singular, **one garage** (see picture from the original application below) and for only a small area of the land **0.08 Hectares**, even then it was a **personal permission limited to the vehicles owned by Mr DJ Stephens only**.

Not for the whole site as has been claimed, the site for DC/2012/00613 is not part of this at all.



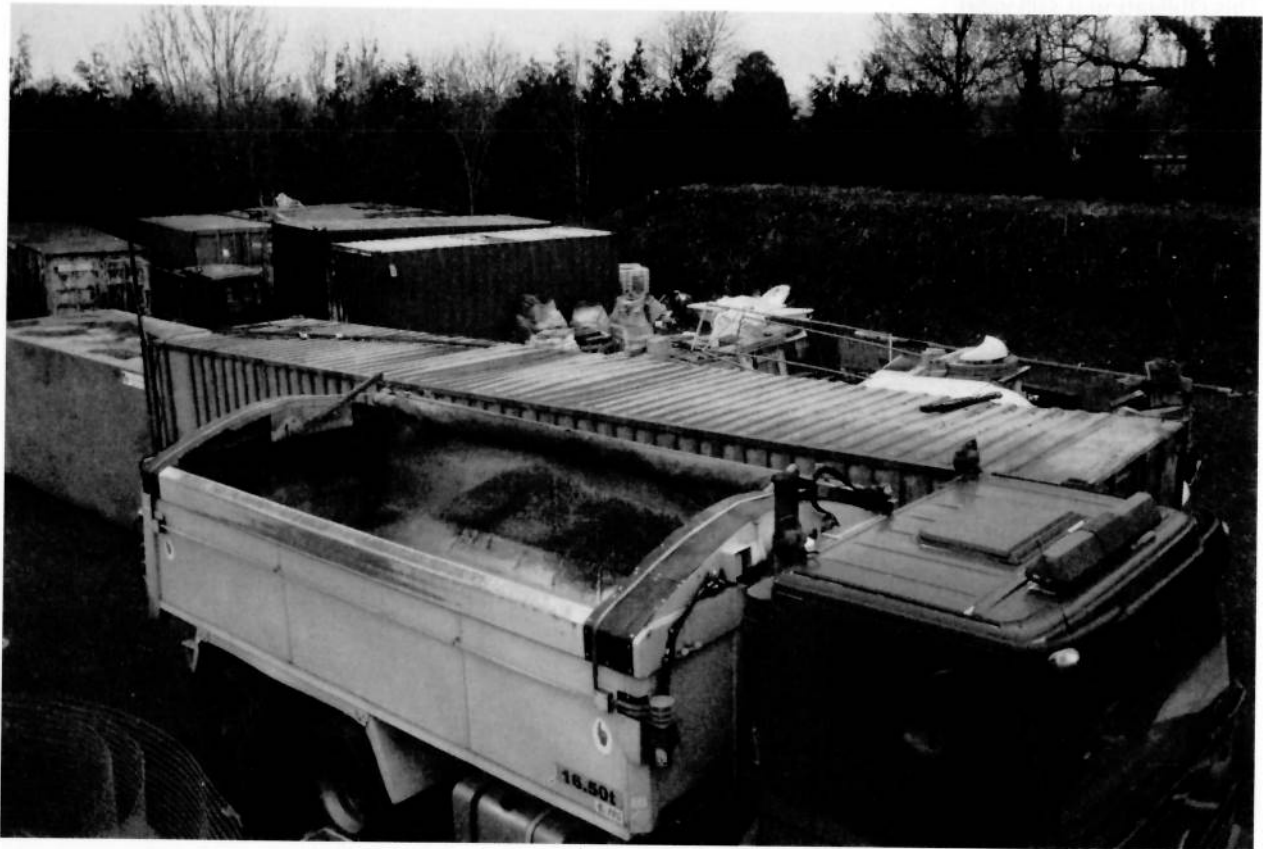
Elevation showing the extent of buildings given permission in 1985

The majority of DC/2013/00456 is also not included in this.

The second garage has been erected without permission, and the stone wall to the East which protected the views into the site from the historic Grounds of Piercefield House, (and was there when permission was granted) has been removed, and replaced by an open metal fence, which offers no screening at all.

With the lack of that stone wall the site is open to views from the East, including from the footpath, Wye Valley walk, racecourse, and wider landscape.

Mr Peter Stephens has got no permission to store or maintain his lorry on this site.



DC/2013/00456 the applicant says

"In this case the scheme as proposed, will not impact unreasonably on the one adjoining residential property, which has existed alongside the workshops etc for many years, without creating any nuisance issues and any resident of the adjoining dwelling, is living there in the full knowledge of the lawful use of the workshop site, which has been carried out since 1985."

This Statement is fundamentally untrue, yet again the applicant has lied in an attempt to mislead.

The workshops as proven above were granted very restrictive permission for a personal use of the applicant at the time only, and a section 52 agreement entered. The applicant knows this as he was present at the time.

There has been continuous disturbance of our residential property, under the applications, which were quashed by the High Court, the conditions were constantly broken. We have submitted almost daily log of all the instances of these breaches. This proves the unsuitability of this kind of development in a residential area. As the resident next door I can assure you we have suffered.

Environmental Health has been called on many occasions, we have compiled numerous noise logs and an Odour abatement notice served.

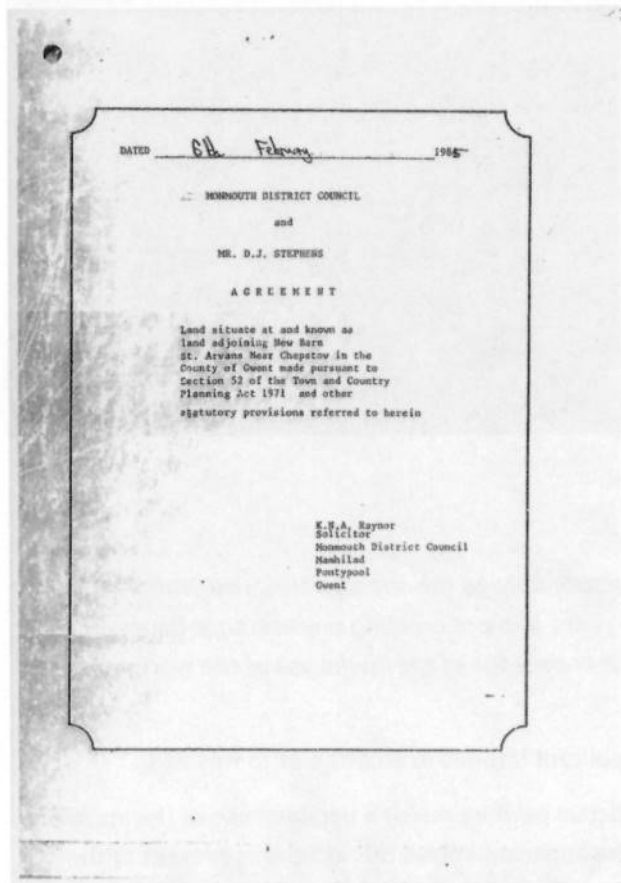
The 1985 permission was a **Personal Permission** applicable to the applicant, Mr D.J Stevens, only and as such a Planning Obligation was entered to that effect.

This Obligation is still valid.

Section 52 was repealed when the Town and Country Planning Act 1990 came into force, and although the section 52 agreement still binds the land no specific legislation exists to vary it.

Although the use of a property becomes lawful under planning legislation, if it can be established that it has been used for the existing purpose for over 10 years, a Section 52 agreement is on-going and is not immune from enforcement after 10 years.

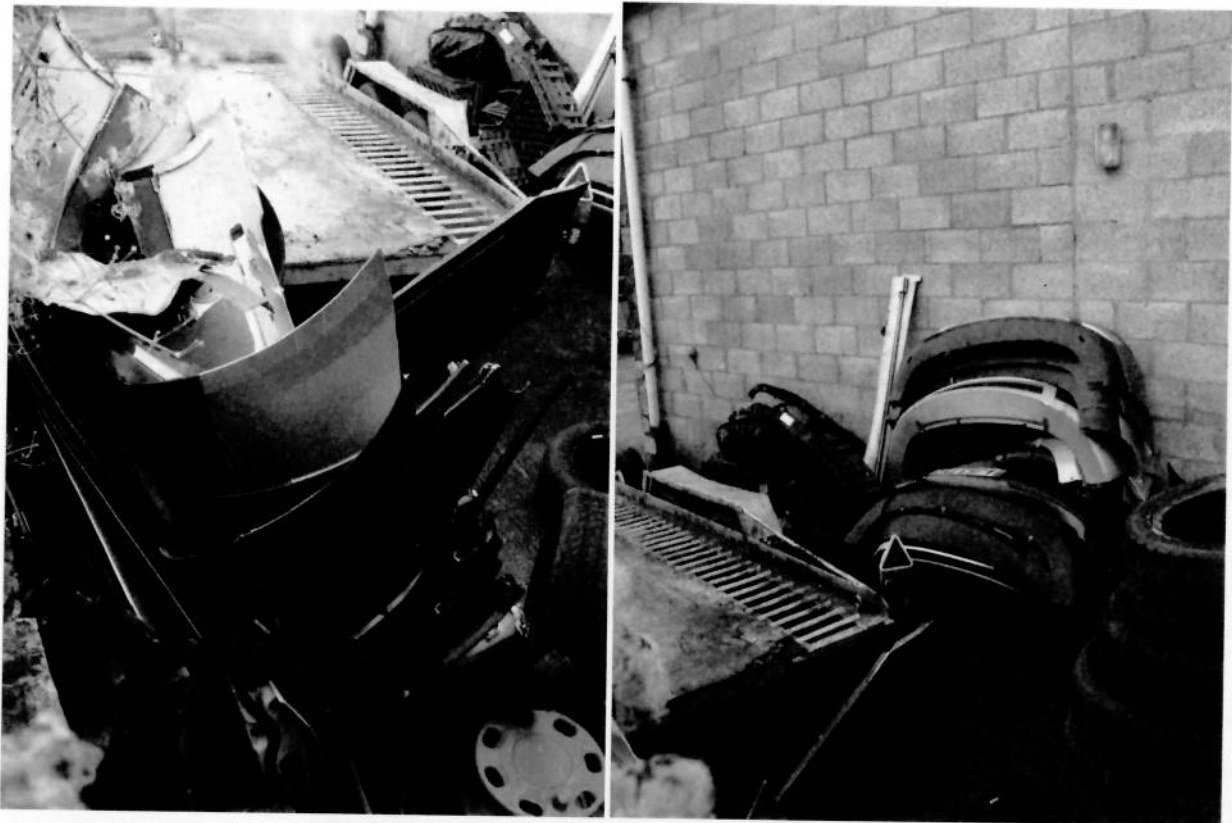
Therefore although the buildings have been here for over 10 years those outside of the section 52 agreement should be removed and the land re-instated.



The Planning Permission ceased to be valid when Mr D.J Stevens no longer used the site.

The 1985 permission, A 21850 is no longer valid. This has been clarified at Judicial Review.

This site and the whole site including the workshops have **no planning permission**.



The public footpath runs through this site and adjacent to it too. The line of the footpath has been moved without permission despite informatives to do so over the last 2 years, nothing has been done about this.

There is not the space on the driveway for 2 vehicles to pass, and not enough space for pedestrians to pass large vehicles. Add into this the reversing of lorries across the footpath into the site, and there is certainly a conflict between the safety of walkers and potential users of this site.



This whole site is a complete eyesore, shipping containers and rubbish are dumped into this yard, and old vehicles are left. This site is in full view from the adjacent footpath, the applicant has lied that it is well screen it is not. The metal gates are not rural in nature nor of a high design, they are themselves industrial and ugly and detrimental to the AONB. Being metal they bang about in the wind causing a noise nuisance, 24 hours a day.



This site is in plain view from our property, as we are elevated in relation to this site. A 2m high fence will make no difference to the visual impact nor the impact from noise.



Above, the view of the site from our garden

The site can be seen from the race course, A466, the surrounding countryside, footpaths and Wye Valley Walk.

This is detrimental to the AONB and to Tourism.

This site does not need to be in the AONB, the builders work mostly in Chepstow/Caldicot they have to travel extra miles into the AONB this is not environmentally beneficial.



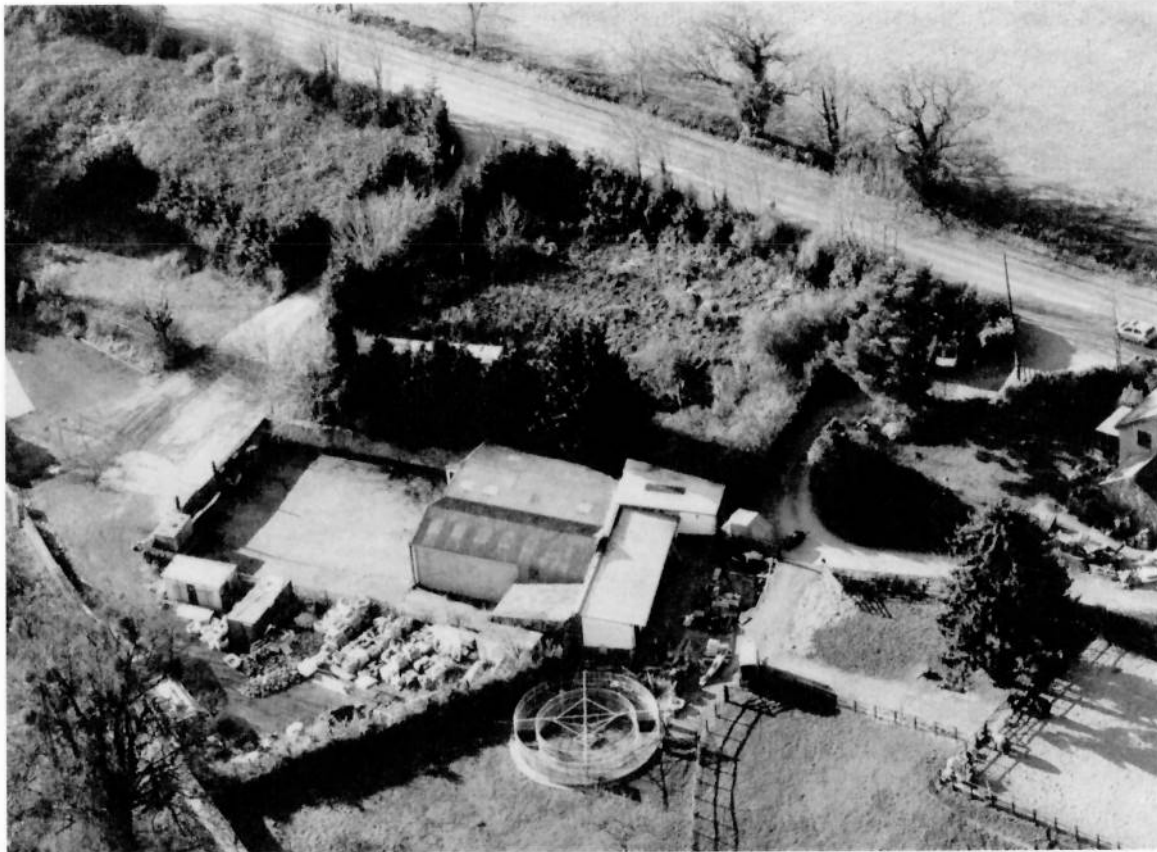
Above the site from our garden

11.3 WYE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY

"C2 Within the Wye Valley Area of Outstanding Natural Beauty, any development must be subservient to the over-riding necessity to conserve the natural beauty of the area. In considering an application for development the planning authority will have regard to:

- (a) the long term effect of the proposal, and the degree to which its nature and intensity is compatible with the character, purpose and overall management of the AONB;*

This is for a NEW application, albeit retrospective, however this should be treated in law as a new application on this land, please see the photograph below, taken February 28th 2012 to show the site as the field it was. Permission should be refused and the field reinstated.



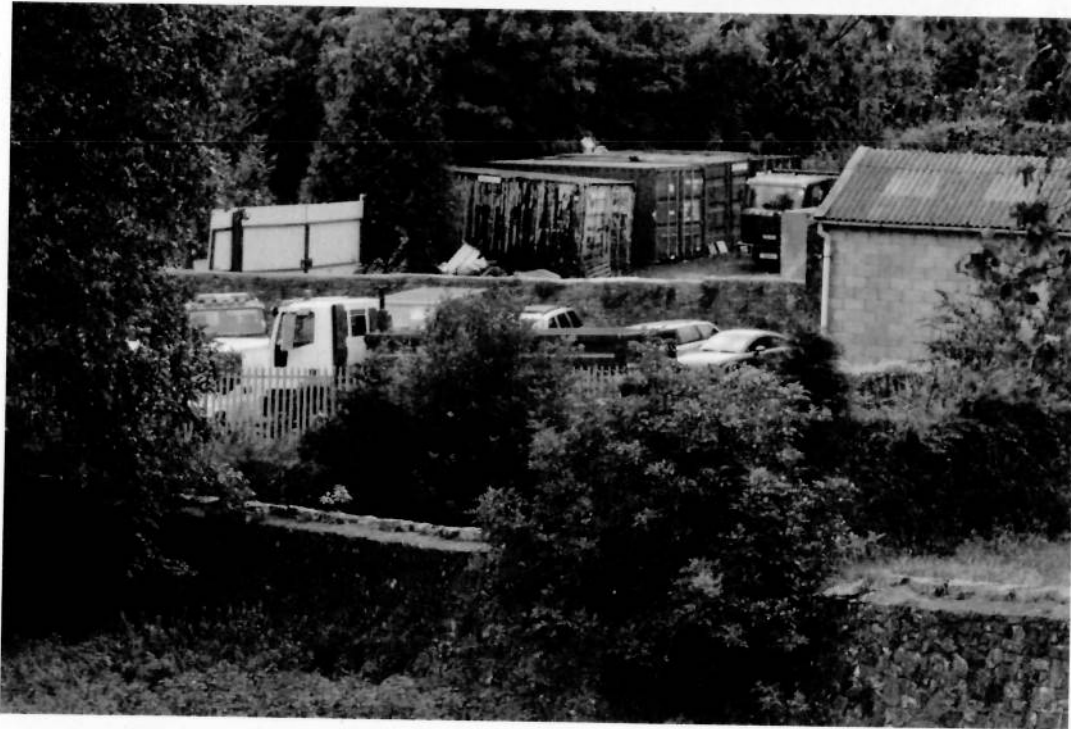
Above photo taken 28th February 2012 note the field to the top of the workshops this is now the “Builders Storage Area”

This development has a major detrimental impact on the AONB it is not remotely subservient to the overriding necessity to conserve the natural beauty of the area, it’s a rubbish dump, old fridges, broken chairs, dumped vehicles, old tyres and loads of rubbish, a total mess and that is in the short time it’s been there. It’s noisy and is spreading rubbish over the AONB too.

(b) the degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and its built heritage;



Shipping containers, metal doors, lorries and builders rubbish are not appropriate in the AONB they do not harmonise with the surrounding landscape no effort has been made at all do so.(see photo)



They have bulldozed the field into banks of earth, and dumped hard core as a floor. The historic stone walls have been knocked down. The new planting is so close to the Piercefield Ground's walls it will destroy them. Again the field should be reinstated.

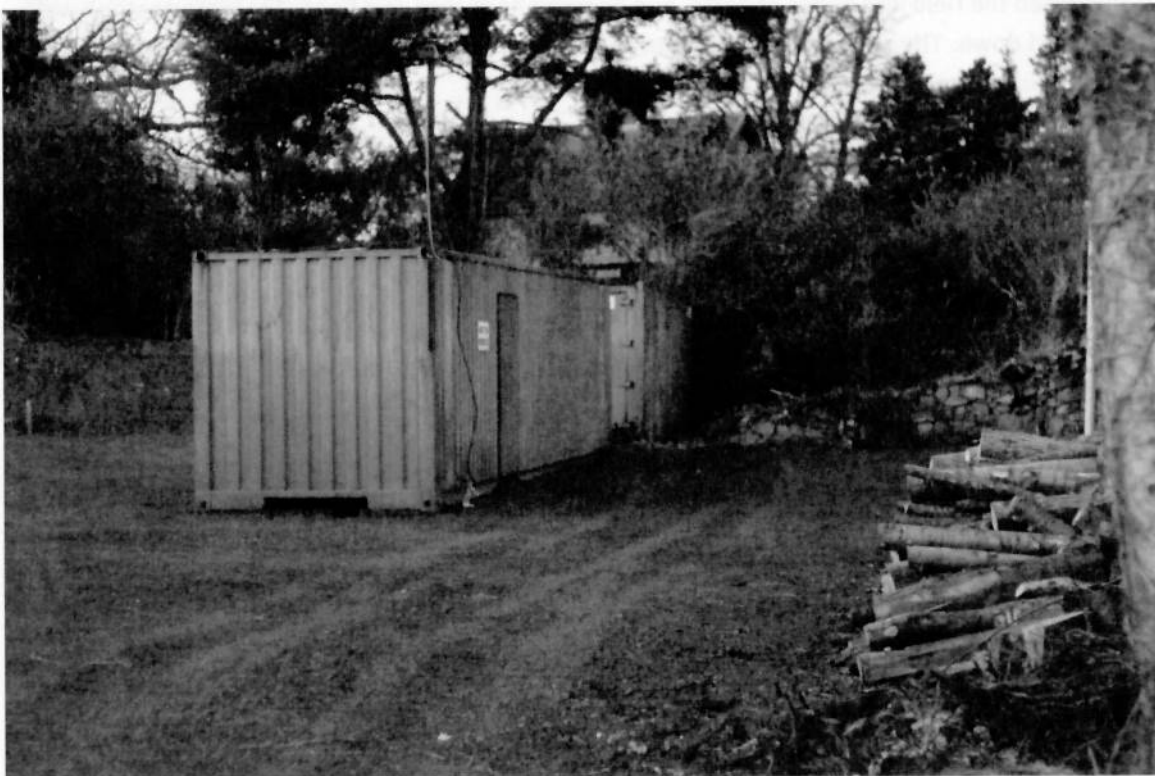


(c) the extent of landscaping proposed;

This site was well screened but the applicant cut down the 40 foot trees shown below:



The ground bulldozed into banks and hard core then crushed tarmac put down, over a much larger area than permission was ever granted for.



(d) the extent to which a proposed new building or use will generate additional traffic and the requirement for improvement of existing roads and lanes, including the surfacing of green lanes; and

(e) the impact of the proposed development upon nature conservation interests.

There was no environmental impact done on this site before it was developed, considering it is within a couple of hundred meters of an Site of Special Scientific Interest and the extent of environmental concern shown by the CCW about the site next door, this was a major oversight by the Councils Planners. To help preserve the nature conservation this site should be reverted back to a field.

Further recreational, tourism or other development will be permitted only where consistent with the conservation objectives and to improve facilities for the benefit of people living within or adjoining the AONB.

This development is clearly not improving facilities for the benefit of people living within the AONB; indeed it is detrimental to tourism, one of the most important economic sectors in the AONB. It does nothing for conservation, the opposite in fact.



Major development should take place in the Wye Valley AONB only when proven national interest and lack of suitable alternative sites can justify an exception.

There are many suitable sites for this type of operation outside of the AONB and nearer to where the tenants operate.

Any construction or restoration should be carried out to high environmental standards.

This is clearly not the case with this application.

Development proposals that are outside the AONB but would detract unacceptably from its setting will not be permitted.

Therefore those detrimental to its setting should definitely not be allowed with in it!

Some more policy from the AONB

11.3.1 The Wye Valley was designated as an Area of Outstanding Natural Beauty in 1971, the main purpose of its designation, as outlined in the National Parks and Access to the Countryside Act 1949, being to

conserve and enhance 'natural beauty', which includes protecting flora, fauna and geological as well as landscape features. Due to its national importance, it is essential that this area is protected from unsuitable development to maintain its character. National planning guidance relating to AONBs and National Parks now states that an equal level of landscape protection should be given to each designation.

This development is clearly outside of these guidelines, the applicant has made no justifications otherwise, and therefore this application should be refused.

11.3.2 The special character of the Wye Valley Area of Outstanding Natural Beauty was re-appraised in a 1992 'Wye Valley Study' and in 1996 in the 'Wye Valley Landscape' a joint CCW/Countryside Commission document. Both of these reports have been accepted by the AONB Joint Advisory Committee and commended for inclusion in the Wye Valley AONB Management Plan. These reports assessed the topographic, land use, ecological and historic components of the landscape to identify zones or components sensitive to change or deterioration. The essential landscape qualities which made the area distinct and 'outstanding' are identified so that the fine qualities can be safeguarded. This will necessitate higher than average design and control standards being applied to development proposals affecting the AONB, including alterations and extensions as well as new build. The major landscapes of the AONB include the Wye Gorge from Monmouth to Chepstow and the more open Trellech Plateau.

This application is within the major landscapes as described. This means the application should come under the highest scrutiny. It simply does not meet the criteria of higher than average design; it is detrimental to the whole AONB. Look at the gates and landscaping does this look like the highest standard of design to you?

11.3.3 Applications for all such development must be subject to the most rigorous examination.

Consideration of applications for major development should include an assessment of:

- 1.the need for the development, in terms of national considerations, and the impact of permitting it or refusing it upon the local economy.
- 2.the cost of, and scope for, developing elsewhere outside the area or meeting the need for it in some other way.
- 3.any detrimental effect on the environment and the landscape, and the extent to which that could be moderated.

11.3.4 Reference should also be made to the draft Landscape Study Volumes 1-6 and the Draft Design Guide supplementary planning guidance which encompasses and offers guidance on the quality of landscape and design within the AONB and informs the Management Plan.

The applicant has failed to address any of these points, why does this sort of development need to be in the AONB? Simply it does not, there are many sites in Chepstow and Bulwalk which are suitable to this sort of industrial urban development, and therefore this simply should not be here. There is a garage just outside the AONB by the racecourse roundabout that has been for rent for months, this could be used instead of this new development and the AONB protected.



Landscape; MCC's Issues and Vision Report

"Landscape protection was seen as a priority, of designated areas and the countryside in general"

Rural Environment

"Monmouthshire is largely a rural county and has major biodiversity and landscape resources that require protection and enhancement."

ENV1 Development, including proposals for new buildings, extensions to existing buildings and advertisements, should:

- (a) pay regard to existing building densities, whilst encouraging higher densities especially near public transport nodes or corridors well served by public transport;*
- (b) be of a good standard of design;*

This is clearly not be designed at all let alone be of good design it's a dumping ground with shipping containers dumped at random, outside of the area given by the permissions, now quashed by the High Court

- (c) incorporate appropriate energy efficiency features;*
- (d) have regard to the privacy, amenity and health of occupiers of neighbouring properties, where applicable;*

No regard has been made at all for the privacy amenity nor health of the neighbouring properties.

We have been disturbed all hours of the day, from 0600 until gone midnight, all days of the week including bank holidays, we are an equestrian property and our animals have also been constantly disturbed. Conditions placed upon the applicants are completely ignored; a breach of condition has already been served on this site. Metal gates and doors on the metal containers make a lot of noise, in this otherwise peaceful rural location. Hard surfaces are noisy also and the builders' dump scaffolding, and building materials out of lorries, making a lot of noise causing a large disturbance, including lorry reversing alarms.



We have complaints about breaches on a daily basis.

- (d) have regard to the additional traffic generated by the development in relation to the capacity of the existing road network and provide a safe and easy access without causing harm to the safety and convenience of road users;*

The driveway is not wide enough for pedestrians and lorries to pass each other safely. The movement of vehicles across the footpath is dangerous, particularly when they are being reversed perpendicularly across the footpath.

- (e) incorporate appropriate crime prevention measures;*

We have had much police activity to the site, it has been broken into this is because of its isolated position, it's vulnerable to crime.

- (f) take into account biodiversity considerations;*

See notes above in regard to the field and trees.

- (g) not prejudice the qualities of the countryside, in particular any qualities that have resulted in areas being designated as having special nature conservation, landscape, geological or historic importance;*

This certainly does prejudice the qualities of the countryside and it is within an AONB!

- (i) ensure that adequate infrastructure and services, including water, sewerage, sewage treatment, transport, electricity and gas exist or can be readily and economically provided;*

- (j) maintain and, where appropriate, improve and/or develop the existing public rights of way network;*

This increasing use of the site is detrimental to the enjoyment and safety of those using the rights of way network.

(k) make appropriate provision for access and use by all potential users including those with restricted mobility;

(l) incorporate appropriate landscaping that takes into account and where appropriate retains existing trees, hedgerows and other important landscape features; and

Please see the comments in the AONB section about the removal of trees and the field.

(m) have regard to the operational, safety and security requirements of the railway operators in respect of development adjoining or in close proximity to railway lines.

Proposals that would result in significant adverse effects are unlikely to be acceptable and should be supported by a detailed justification.



Foot path blocked by vehicles

3.2 General Design CONSIDERATIONS

DES1 All development should be of a good standard of design and respect the qualities of the character of its context. It will be required to:

(a) Ensure a safe, secure, pleasant, and convenient environment that is accessible to all members of the community.

This site is not a secure nor pleasant environment, it's noisy dangerous and full of rubbish.

The structures are industrial in look and hence intimidating, as are the banging of metal against metal.

(b) Contribute towards sense of place whilst ensuring that the amount of development and its intensity is compatible with existing uses.

There is no "sense of place" in this proposal, there is no vernacular used, the whole site is industrial at best and a dump at worst.

The applicant claims "No new development is proposed" this is **new development**, it maybe retrospective but it need to be treated as new development.

(c) Respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings.

Considering all the neighbouring buildings are stone the metal is incongruous, the scale of the site is well out of keeping with a rural location.

(d) Maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties where applicable;

Please see the comments above, in the AONB section.

(e) Respect built and natural views and panoramas where they include historical features and / or attractive or distinctive built environment or landscape.



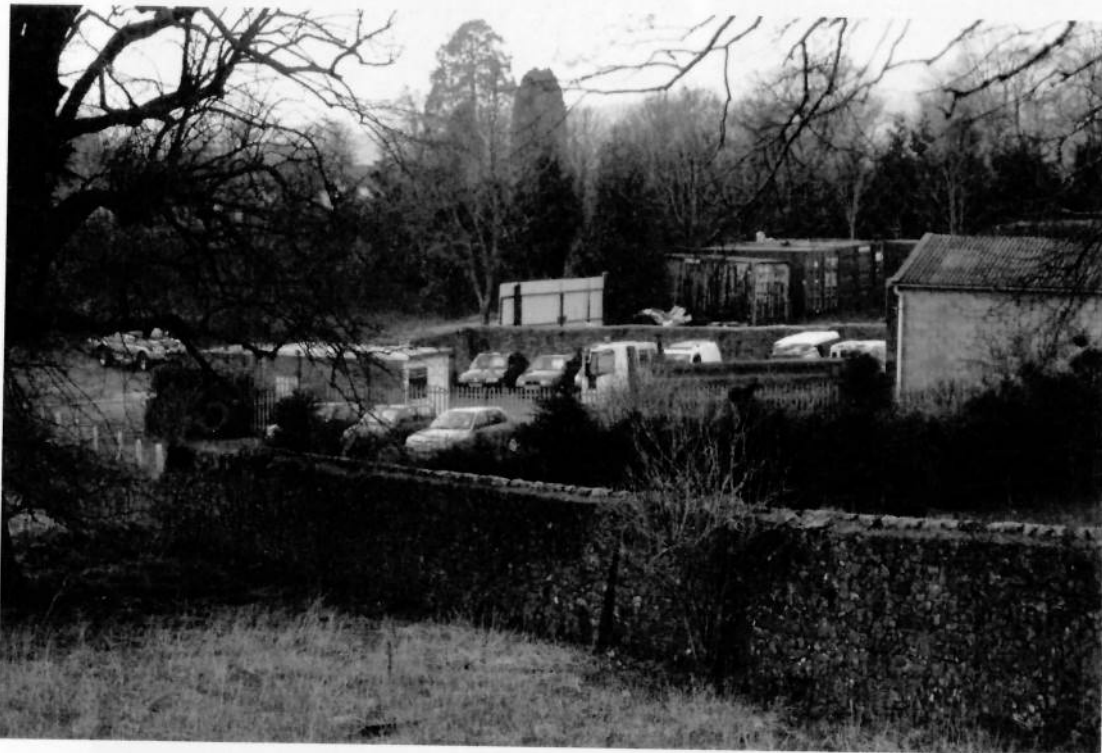
Blocked access to the footpath

This site is in a very prominent position, it can be seen from many vantage points. The natural views have been harmed greatly by this development, it uses materials not in harmony with the surroundings, and parking of vehicle in open countryside detracts from the rural nature of that countryside. The banking up of earth is artificial, the gates are very industrial in look, and no attempt has been made to harmonise anything in this development to the surrounding area. The storage of building materials is congruous to the rural outlook.

Metal storage containers are ugly and totally out of keeping in the AONB.

Rubbish is being dumped in full view, old fridges, tyres, plastic bits of wood all of which is not in keeping and has the potential to migrate into the greater landscape.

The historic grounds of Piercefield Park and landscape of the AONB have equally been harmed.



Area of Outstanding Natural Beauty.

(f) Use building techniques, decoration, styles and lighting to enhance the appearance of the proposal having regard to texture, colour, pattern, durability and craftsmanship in the use of materials.

This clearly had not been adhered too. Just a mishmash of whatever was about or cheapest.

The result is simply poor. Please see the next 3 photos:



Purely utilitarian shipping contains and incongruous surface treatment.



Poorly executed and utilitarian metal gates more akin to a junk yard.



(h) Incorporate existing features that are of historical, visual or nature conservation value, and use the vernacular tradition where appropriate.

On the contrary historical stone walls have been demolished, mature trees removed and the vernacular ignored.

(i) Include landscape proposals for new buildings and land uses in order that they integrate into their surroundings, taking into account the appearance of the existing landscape and its intrinsic character.

See note regarding tree and field removal

(j) Make the most efficient use of land compatible with the above criteria.

This development is incongruous to the criteria above, it should be refused and the field and trees reinstated.

The application should be determined in accordance with the Development Plan; in this case the Monmouthshire County Council Adopted Unitary Development Plan, unless material considerations indicate otherwise. That is that the statutory test for deciding any planning application and is set out in section 38(6) of the Planning and Compulsory Purchase Act 2004.

Hours of use

Hours conditions were applied recently to the quashed applications DC/2012/00613 and DC2012/00886 to protect the amenity of the residential property, with advice given from the Environmental Health department.

The applicant has stated on these new applications, this is unworkable and requests hours well outside of these, thereby directly affecting the residential amenity of my property, this proves the unsuitability of these applications, and therefore they need to be refused and prompt enforcement action finally taken.

Planning Policy Wales

1.1 Chapter 7 of PPW 'Supporting the Economy'

The applicant has quoted this policy and yet provided no further information.

This site does not provide employment, the builders can store their materials elsewhere, Mr Stephens can store and maintain his lorry elsewhere, as he has done before, the garage proposed can operate out of other premises. However this development is detrimental to Tourism, the third most important sector in Monmouthshire. This site is in a prominent position seen in the background Horse Racing, not a good advertisement for the Wye Valley, nor the Race Course. We run a cattery business next door this business does and will greatly affect ours and we do employ 2 local people and hope to expand further.



Racecourse with development site in the background. This is detrimental to the tourist trade in advertising Monmouthshire's Wye Valley.

The primary reasons within the AONB however should not be economic. Policy states that everything should be for the benefit of protecting and enhancing the natural beauty of the AONB, this development certainly does not. Please refuse these permissions and protect the AONB for future generations.

Landscape

Land Map Assessment

This site is under the highest classification for Key Characteristics and Sensitivity of LLCAs.

This is classified as "High"

High Key characteristics of landscape are very vulnerable to change and/or have significant value as a landscape resource. Development should not be taking place in these areas.

The Character Capacity is the lowest possible being that of "low"

This means that any development will have a high impact upon the landscape.

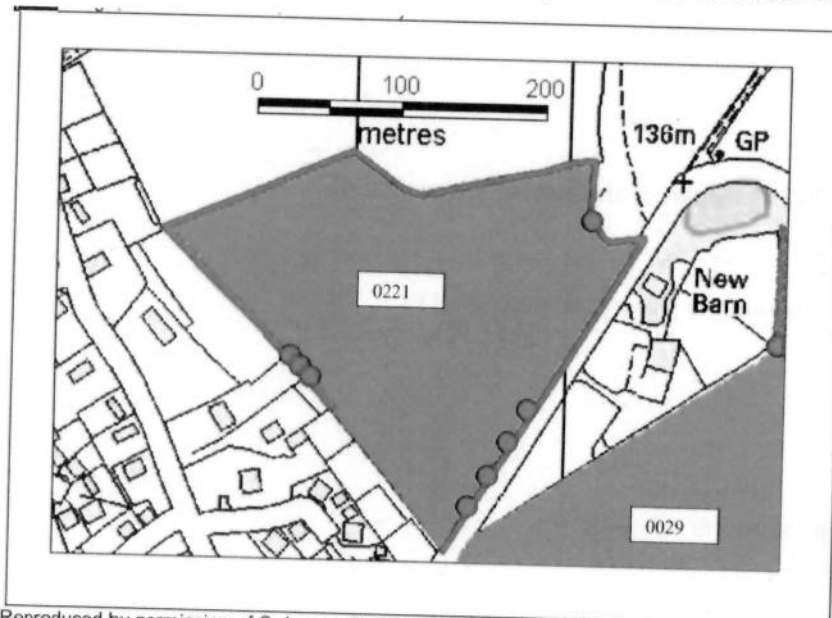
Ecology

The Ecology report written by MCC is somewhat at odds with the ecology report written for the racecourse CS/0029 and the assessment done on our property, both of which adjoin this site and the assessment of the field adjacent to the A466 directly opposite the site CS/0221

The evidence from the surrounding areas shows that this is an ecologically sensitive area and there should be no development of this sort here at all. Extra surveys have been requested, bat surveys particularl should have been carried out **BEFORE** development, this not being done is unforgivable at best possibly criminal.

The removal of a field in such an important area and the laying down of so much hard standing is totally at odds with the policies set out and should be refused and as it's a retrospective application, the owner should be made to reinstate it all. This is simply not acceptable.

The fact this site has already been developed should not prevent an assessment based upon the surrounding countryside being made. I have provided the reports on the areas surrounding this site below.



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CS/0029

Site General Information

Name: Chepstow Racecourse

Location: Chepstow

Grid Ref: ST 5257895640

Site Area (ha): 149.6

Proposed Development: Hotel & Exhibition

Hall/Conference Centre

Current Use: race course complex

General Features:

- semi-improved species rich grassland
- semi-improved species poor grassland
- improved grassland
- unimproved grassland
- arable land
- amenity grassland
- deciduous woodland
- standing dead wood
- veteran and mature trees
- pond
- scrub and tall herb
- buildings/hard standing

Note: propose extension to existing SINC. Only part of site due to be developed.

Identified Biodiversity Value: Medium

Are biodiversity constraints significant enough to prevent development of:

The whole site? No

Part of the site? Yes

Protected Species

Are there European Protected Species issues for this site? Yes

List Species:

SEWBRcC record	Potential to be present on site (habitat and location mean that it is likely)
Greater horseshoe bat	Bats
Lesser horseshoe bat	Dormouse

Myotis bat (unspecified species)

Great crested newt

Soprano pipistrelle

Common pipistrelle

Natterer's bat

Brown long-eared bat

Whiskered bat

Noctule

Are there issues for species protected under UK legislation (not included above)? Potential.

SEWBRc record

Potential to be present on site (habitat and location mean that it is likely)

Bluebell

Badger

Common frog

Breeding birds

Slow worm

Grass snake

Are there records for UK or Wales Priority Species (not included above)? Potential.

SEWBRc record

Potential to be present on site (habitat and location mean that it is likely)

Pretty chalk carpet

Hedgehog

Skylark

Brown hare

Tree pipit

Harvest mouse

True fox-sedge

Polecat

Hawfinch

Common toad

Common cuckoo

UKBAP invertebrates

Lapwing

UKBAP fungi

Yellowhammer

Common kestrel

Spotted flycatcher

Curlew

Dunnock

Marsh tit

Wood warbler

Bullfinch

Scarce hook-tip

Song thrush

Lesser spotted
Woodpecker
Narrow-leaved
Helleborine

Are there records for Monmouthshire LBAP Species (not included above)? Potential

SEWBReC record Potential to be present on site (habitat and location mean that it is likely)

Lapwing Silver- Washed fritillary

Designated Sites

Is the site within or adjacent to an International or European Designated Site?

(Special Area of Conservation) **Directly Adjacent/Within 250m Buffer**

Is the site within or adjacent to a Nationally Designated Site?

(Site of Special Scientific Interest) **Directly Adjacent/Within 250m Buffer**

Is the site within a Locally Designated Site?

(Site of Importance for Nature Conservation) **Within and Directly Adjacent/Within 250m Buffer.**

SAC: River Wye.

SAC: Wye Valley Woodlands.

SSSI: Pierce, Alcove and Piercefield Woods.

SSSI: River Wye.

SINC: Chepstow Racecourse.

SINC: Wyndcliffe Wood Meadow

SINC: see below

Is the whole site or part of the site of SINC (Local Wildlife Site) quality?

(underline whole or part as appropriate)? **YES**

To be verified by SINC panel (proposal to extend existing SINC)

Qualifying criteria; **H1 Woodlands**
 H2 Parkland, veteran trees
 H16 Standing Open Water
 Other features – anthills
 Potential for bats

The application site is next to the area marked **high** for Site Habitat Value

Does the site have any connectivity value to either adjacent habitat or the wider landscape? **Yes**

Conclusions

What additional ecological surveys/assessments will be required?

Ecological survey of pond.

Bat survey of mature/dead trees and any buildings.

General ecological survey prior to development.

Assessment of woodland for potential for dormice.

Depending on development details, Habitat Regulations Assessment may be required due to proximity to the Wye Valley Woodlands SAC and River Wye SAC.

Summary of biodiversity features to be considered

Notable species identified

Pond

Mature and veteran trees

Woodland

Species-rich grassland

Adjacent habitats

Connectivity feature

SAC: River Wye

SAC: Wye Valley Woodlands

SSSI: Pierce, Alcove and Piercefield Woods

SSSI: River Wye

SINC: Chepstow Racecourse

SINC: Wyndcliffe Wood Meadow

Candidate SINC

Recommended measures

Trees

Protect retained trees during construction according to BS 5837.

Grassland

Fence off areas of species-rich grassland prior to and during construction.

Wetlands and Watercourses

Retain habitat on either side of watercourses and fence off prior to and during development.

Control pollution from development site.

Retain area around pond as a buffer and fence off during development.

Connectivity

Development should retain or increase linear features (such as hedgerows and watercourses).

Development should retain or create semi-natural habitat as ecological corridors or stepping stones (see connectivity study).

CS/0221

Site General Information

Name: Land adjoining Tintern Road

Location: St. Arvans

Grid Ref: ST 5188696720

Site Area (ha): 4.46

Proposed Development: Residential with open space and landscaping

Current Use: general agricultural, 1 field

General Features:

- improved grassland
- species-rich hedgerow
- mature/veteran trees
- dead standing Oak tree

Identified Biodiversity Value: **Medium**

Are biodiversity constraints significant enough to prevent development of:

The whole site? **NO**

Part of the site? **YES**

.

• **Protected Species**

Are there European Protected Species issues for this site? **Potential**

List Species:

SEWBRc record

Potential to be present on site (habitat and location mean that it is likely)

Lesser horseshoe bat

Bats

Soprano pipistrelle bat

Dormouse

Common pipistrelle bat

Brown long-eared bat

Natterer's bat

Are there issues for species protected under UK legislation (not included above)? Potential

List Species:

SEWBReC record

Potential to be present on site (habitat and location mean that it is likely)

Bluebell

Breeding birds

Slow worm

Badger

Are there records for UK or Wales Priority Species (not included above)? Potential

SEWBReC record

Potential to be present on site (habitat and location mean that it is likely)

List Species:

Skylark

Polecat

Tree pipit

Hedgehog

Hawfinch

Harvest mouse

Common cuckoo

Lapwing

Yellowhammer

Common kestrel

Spotted flycatcher

Curlew

Marsh tit

Wood warbler

Dunnock

Bullfinch

Song thrush

Scarce hook-tip

Lesser spotted

woodpecker

Are there records for Monmouthshire LBAP Species (not included above)? No

Designated Sites

Is the site within or adjacent to an International or European Designated Site?

(Special Area of Conservation) **Directly adjacent/within 250m buffer.**

Is the site within or adjacent to a Nationally Designated Site?

(Site of Special Scientific Interest) **Directly adjacent/within 250m buffer.**

Is the site within a Locally Designated Site?

Site of Importance for Nature Conservation **Directly adjacent/within 250m buffer**

SAC: Wye Valley Woodlands

SSSI: Pierce, Alcove and Piercefield Woods

SSSI: Blackcliff-Wyndcliff

SINC: Wyndcliff Wood Meadow

SINC: Lover's Leap and Piercefield Cliff Woods

Conclusions

What additional ecological surveys/assessments will be required?

Bat survey of mature/dead trees.

General ecological survey prior to development.

Assessment of hedgerows for potential for dormice.

Depending on development details, Habitat Regulations Assessment may be required due to proximity to the Wye Valley Woodlands and River Wye SAC.

Summary of biodiversity features to be considered

Notable species identified

Connectivity feature

Hedgerow

Mature and veteran trees

SAC: Wye Valley Woodlands

SSSI: Pierce, Alcove and Piercefield Woods

SSSI: Blackcliff-Wyndcliff

SINC: Wyndcliff Wood Meadow

SINC: Lover's Leap and Piercefield Cliff Woods

Recommended measures

Hedgerows and Trees

Protect retained hedgerows and trees during construction according to BS 5837.

Species

Species mitigation may be required depending on the results of further surveys.

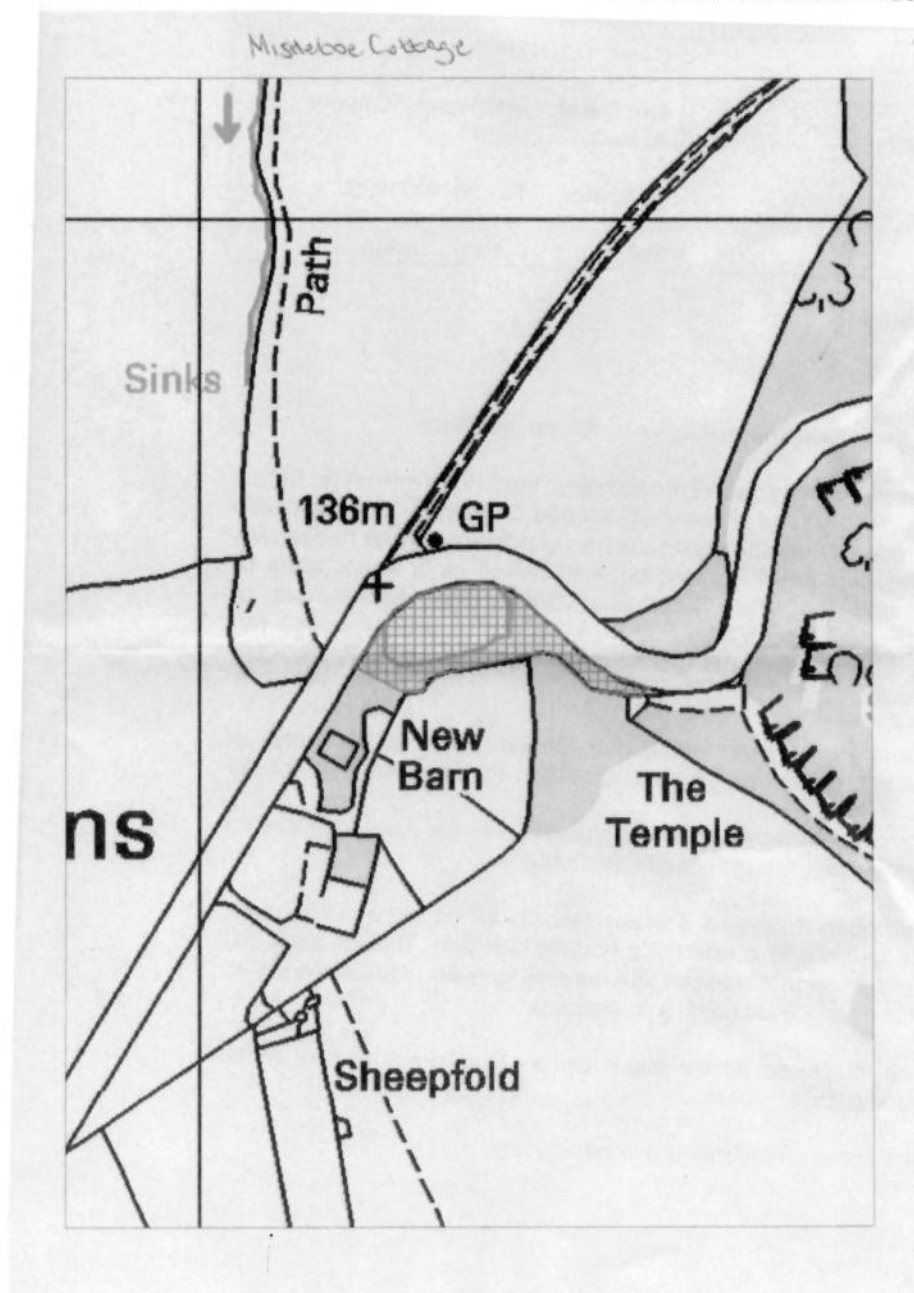
Connectivity

Development should retain or increase linear features (such as hedgerows and watercourses).

Development should retain or create semi-natural habitat as ecological corridors or stepping stones (see connectivity study).

Mistletoe Cottage

In November 2012 we had an assessment done on a part of our land the hatched area shown below.



This has been recognised as a Local Wildlife Site, which forms part of Monmouthshire's Natural Assets Project.

I have also included the report form MCC's Biodiversity and Ecology Officer when we applied for the cattery.

As can be seen our site is considered part of a major route of habitat connectivity through the area, surely the same must be true of the proposed site next door.

MONMOUTHSHIRE COUNTY COUNCIL Regeneration Environment and Resources Directorate MEMORANDUM	
To: David Wong	Date: 17/05/2010
From: Danielle Fry Biodiversity and Ecology Officer	Our Ref: Proposed Cattery, St. Arvans Your Ref: DC/2010/00120 Tel. No. Ext. 4963

RE: Proposed cattery building

Dear Dave,

Please accept my apologies for the late response to this consultation.

The proposal lies in close proximity to (approximately 1km from) the Wye Valley Woodlands SAC, Pierce, Alcove and Piercefield Woods SSSI and the Wyndcliffe Wood Meadow SINC. These designated sites together with the trees and hedgerows surrounding the proposed new building have been identified as a major route of habitat connectivity through the area (Ecological Connectivity Assessment of Settlements in Monmouthshire Report, May 2010). Although the proposal does not directly impact on these features, there is the potential to do so indirectly and this should be taken into account.

Local policy DES7 states that "*trees must be fenced prior to the start of construction...to enclose and protect an area not less than the branch spread of the trees...*"

It is not clear from the plans whether this is achievable in the space proposed between the trees, hedgerow and the proposed construction.

There are numerous European Protected Species records in the surrounding area. Many of these will make use of the connectivity feature identified. Bats in particular could be impacted by any additional artificial lighting spill in such close proximity to this feature and again this needs to be taken into account.

The design and materials proposed do not allow for any biodiversity enhancement features to be incorporated (DES9).

If you have any questions about any of the above please ask.

Kind Regards

Danielle Fry
Biodiversity and Ecology Officer
For Corporate Director Regeneration, Environment and Resources

Monmouthshire County Council Bias.

The grounds for judicial Review have not been put onto the website.

The quashing orders have not been put on the website.

The applicant was allowed to appeal the conditions when the council had already signed the quashing order.

The applicants reasoning's for the appeals are on the website and the objections are not.

Monmouthshire planners have withheld the information about the failed applications.

Monmouthshire planners have withheld the information about the Planning Obligation.

Monmouthshire planners have withheld the information about the breach of condition notice.

The planning enforcement officer and the agent been allowed to conspire to prevent enforcement.

Mr Wong in his planning reports has ignored the views from the footpath to the East, views from which were very important in our application next door by the same officer.

Applications have been validated when it is clear they should not have been.

The applicant has not been reported for the false statements on all of his applications.

Monmouthshire planners have erred in law throughout all these applications and lack of enforcement since March 2011.

Monmouthshire planners has erred in law relying on the fall back position of existing use, and they have allowed the applicant to repeat this on these applications, despite being fully aware of the Judicial Reviews decisions.

The Council has allowed multiple applications, 7 in the last 2 years, which has resulted in the Council refusing to take any enforcement action. Not when the site has permissions and it breaks the conditions or indeed when it has no permission at all.

The Highways have claimed on previous applications that the driveway is wide enough for 2 vehicles to pass this is not the case with the size of Lorries on site.

The Ecology report written by MCC is at odds with the ecology report written for the racecourse CS/0029 and the assessment done on our property, both of which adjoin this site and the assessment of the field adjacent to the A466 directly opposite the site CS/0221

