

**DC/2015/01336**

**PROPOSED CHANGE OF USE TO THE STORAGE AND REPAIR OF LIGHT MOTOR VEHICLES. STORAGE AND REPAIR OF UP TO TWO HGV MOTOR VEHICLES AND A TRAILER. RETENTION OF ANCILLARY PARKING AREAS (REVISED SCHEME)**

**LAND AND EXISTING WORKSHOPS, NEW BARN WORKSHOP SITE, ST ARVANS, CHEPSTOW, NP16 6HE**

**RECOMMENDATION: APPROVE**

Case Officer: Philip Thomas

Date Registered: 9<sup>th</sup> November 2015

- 1.1 This application is a revised proposal following the Council's refusal of planning application DC/2013/00456 for the retention of broadly the same uses now proposed. That application was refused for the following reason:  
  
'The development, which can be clearly seen from a public right of way that leads to and from the Piercefield Park historic parkland, includes the external storage of utilitarian equipment and vehicles of variable condition, and features utilitarian entrance gates and fencing of a significant scale, that, without substantial green infrastructure / landscape mitigation (that is not offered as a part of this planning application), cause unacceptable harm to the local landscape, which forms part of the Wye Valley Area of Outstanding Natural Beauty (AONB). The development is therefore contrary to Policies S11, S13, S17, LC4, LC5, GI1, RE2 and DES1 of the adopted Local Development Plan (LDP).'
- 1.2 The current proposal differs from the earlier, refused scheme because:
  - i) The wheel wash area previously proposed has been omitted;
  - ii) There has been more extensive landscaping (green infrastructure) proposed to mitigate the effects of the proposed use on the surrounding landscape, including the areas formerly occupied by the builders' storage area and the area between the workshop building and the stone boundary wall to the historic Piercefield Park to the south-east of the building.
- 1.3 The site has a long history of applications, the most recent being application DC/2013/00456 which, as referred to above, was refused by the Council having been remitted back to the Council to re-determine following the decision of the High Court to quash the planning permission granted on 4th October 2013.
- 1.4 There was also a separate planning application DC/2012/00613 for change of use of the land to the west of the workshops to the storage of building materials. That application was withdrawn by the applicant in August 2015, having been recommended for refusal by the Council owing to its adverse impact on the landscape which is part of the Wye Valley AONB. An enforcement notice has since been served to cease the builders' storage use, remove the large metal gates and the building materials and equipment and to green up the area. The notice has been partially complied with, the use having ceased and the metal gates removed, although at the time of writing this report there is one storage container still on site and the site has not yet been greened up. Further action is pending in relation to these outstanding matters.
- 1.5 The current application has been screened for the need to submit an Environmental Impact Assessment. The Council's decision was that the proposal would not be likely

to have significant environmental effects by virtue of factors such as its nature, size or location, so that an EIA was not required in this instance.

## **2.0 RELEVANT PLANNING HISTORY**

N.B. The applications below relate to both the application site and the adjacent site for the storage of building materials:

A21850 – erection of a garage for a commercial vehicle. Approved 08.02.1985 subject to a s.52 (now known as s.106) 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. Approved 14/12/2011 Decision Quashed by the High Court of Justice

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

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

DC/2012/00594 – Certificate of Lawful Use of land for vehicle repairs. Withdrawn

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. Decision to approve by the Council was quashed in July 2014 by the High Court of Justice; withdrawn by applicant during August 2015.

DC/2012/00886 – Variation of condition 11 of planning permission A21850. Approved on 06/02/2013; Decision quashed by the High Court of Justice; remitted back to Council to determine but later withdrawn by applicant.

DC/2013/0456 - Change of use 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. Refused 7/10/2015.

## **3.0 STATUTORY OBLIGATION RELATING TO THE AONB**

Section 85 of the Countryside and Rights of Way Act 2000 states:

“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

## **4.0 LOCAL AND NATIONAL DEVELOPMENT PLAN POLICIES**

### MONMOUTHSHIRE ADOPTED LOCAL DEVELOPMENT PLAN 2011-2021

The main relevant policies are: S8 (Enterprise & Economy); S11 (Visitor Economy); S13 (Landscape, Green Infrastructure & Natural Environment); S16 (Transport); S17

(Place Making & Design); DES1 (General Design Considerations); NE1 (Nature Conservation); LC1 (New Built Development in the Open Countryside); LC4 (AONB); LC5 (Protection and Enhancement of Landscape Character); GI1 (Green Infrastructure); EP1 (Amenity and Environmental Protection); EP3 (Lighting); Policy RE2 (Conversion or Rehabilitation of Buildings in the Open Countryside for Employment Use); Policy M2 (Minerals Safeguarding Areas)

### PLANNING POLICY WALES (JANUARY 2016)

With regard to AONBs, the current edition of PPW states:

“5.3.5 The primary objective for designating AONBs is the conservation and enhancement of their natural beauty. Development plan policies and development management decisions affecting AONBs should favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas. Local authorities, other public bodies and other relevant authorities have a statutory duty to have regard to AONB purposes.

5.3.6 National Parks and AONBs are of equal status in terms of landscape and scenic beauty and both must be afforded the highest status of protection from inappropriate developments. In development plan policies and development management decisions National Parks and AONBs must be treated as of equivalent status. In National Parks and AONBs, development plan policies and development management decisions should give great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of these areas.

5.3.7 The duty to have regard to National Park and AONB purposes applies to activities affecting these areas, whether those activities lie within or outside the designated areas.”

### AONB MANAGEMENT PLAN

The Wye Valley AONB Management Plan 2009-2014 is not part of the statutory development plan. Instead, it is a material consideration.

This plan sets a vision and a policy framework for the protection and enhancement of the natural beauty of the AONB. The Plan sets out that the purposes of the AONB designation are:-

- The primary purpose of designation is to conserve and enhance natural beauty
- In pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry, and other rural industries, and of the economic and social needs of local communities.
- Particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment
- Recreation is not an objective of designation, but the demand for recreation should be met so far as this is consistent with the conservation of natural beauty and the needs of agriculture, forestry and other uses.

### Draft Wye Valley AONB Management Plan 2015-2020

The draft AONB Management Plan 2015-2020 has been finalised and is awaiting adoption by the four constituent local authorities. The draft management plan states that most of the issues in the 2009-2014 Plan are still relevant, and the emerging version aims to build on and develop the approach of the previous one, updating and

making changes where necessary, and setting out current priorities and actions. The Strategic Objectives in the last Plan have been reviewed and in some cases updated or refined. An Action Plan is also produced to ensure that these Strategic Objectives are implemented.

The Plan 'is intended to provide guidance and strategic objectives, giving support and direction to help steer positive landscape change, particularly to those bodies that make up the Wye Valley AONB Joint Advisory Committee and the wider AONB Partnership. It also provides guidance to the many landowners, residents and visitors in the area. The Management Plan is thus for all the bodies and individuals whose actions affect the AONB and who can play an important part in helping to conserve and, where appropriate, enhance the outstanding landscape of the lower Wye Valley, for the benefit of both current and future generations. However this Plan does not provide all the answers for the next five years. It addresses the implications for the conservation and enhancement of the natural beauty of the area. Meanwhile it complements a range of plans, strategies and programmes that cover other aspects in the administrative areas covering the Wye Valley AONB. In this context it articulates the value of the landscape and the added value brought by the designation and the role of the partners in the AONB in supporting society's needs through an integrated approach to land management.'

Par. 2.2.1 of the draft plan provides 'a 20 year vision and remains a true encapsulation of how we want the AONB to be in 15 years' time and beyond:

The Wye Valley Area of Outstanding Natural Beauty (AONB) will be a landscape

- that continues to evoke inspiration in a wide range of people
- where some degree of change is accepted and its impacts accommodated through positive management including effective adaptation to and mitigation of climate change
  - where the distinctive mix of steep valley sides and rolling hills, covered with ancient and semi-natural woodland, mixed farmland, and scattered settlement dominate the landscape along with the meandering river
  - where the natural and historic assets are in good order, in fully compatible uses, and not denigrated by unsuitable change
  - with a robust mosaic of inter-connected semi natural habitats for native wildlife, particularly around grassland, wetland and woodland
  - providing functioning services and resources for society, including flood storage, food, timber, tourism and minerals
  - which provides work for local people, who make good use of the varied resources the area has to offer
  - where both visitors and residents are able to enjoy the area, particularly for sustainable tourism, recreation and informed appreciation of the historic and natural environment, with minimal conflict or disturbance from other users
  - where association with the Wye Valley continues to benefit the surrounding villages, market towns and counties
  - supported by the good will, pride and endeavour of local people, visitors, and the public, private and voluntary sectors
  - worthy of its designation as an internationally important protected landscape.'

## **5.0 REPRESENTATIONS**

### **5.1 Consultations Replies**

- 5.1.1 St Arvans Community Council – Approve. NB. If consent is given with conditions, the Community Council would expect
- a) strict enforcement of those conditions.
  - b) consultation should application be made to discharge or change them in any way.
- 5.1.2 MCC Public Rights of Way Officer – The applicant's attention should be drawn to Public Footpath No 32 in the community of St Arvans which runs through the site of the proposed development.  
The alignment of Footpath No 32 is wrongly depicted on the revised application drawing (drawing no. 1123/702D) and is currently obstructed. Countryside Access is however in receipt of an application and is currently processing an order that would resolve this issue.  
Importantly, public path orders are not guaranteed to succeed and if unsuccessful it is possible that Countryside Access will require that the legal alignment of the path is made available.
- 5.1.3 Natural Resources Wales (initial response – December 2015). We have no objection to the application providing that suitable conditions are imposed on any planning permission granted in respect of site drainage, landscape and lighting.  
Otter Hole Geological Conservation Review Site (GCR)  
The application site lies adjacent to the Otter Hole Geological Conservation Review Site (GCR); a nationally important cave that is due to be considered for notification to be designated as a Site of Special Scientific Interest.  
Otter Hole is also a Regionally Important Geodiversity Site (RIGS No. 574), the boundary of which, is identical to that of the GCR. This is a local designation that your Authority should consider in accordance with 5.5 of TAN 5.  
Our maps indicate there is no cave directly below the application site. However, water infiltrating in the area of the site will drain into the limestone below. There is no evidence whether or not these karstic pathways connect into the Otter Hole cave system, however a cave only a few hundred metres away (NW) is considered to be connected, and it would be consistent with the synclinal cave development pattern.  
Therefore, our concern is the potential for pollution from the site to enter the cave system (fuel, oil, dirty water etc.,) in particular, from the vehicle wash area. Effluent and run-off from vehicle washing and cleaning activities have potential to damage the water environment and the cave system. They are classed as trade effluent and should be kept separate from surface water.  
Given the proximity of the cave, the bedrock of the site and the potential risk of pollution from the development site, our advice is that the proposed development will be acceptable providing the following measure is implemented and secured by way of a planning condition on any permission granted.  
Condition  
The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water run-off and trade effluent has been submitted to, and approved in writing by, the local planning authority. This shall include a drainage plan of the site. The scheme shall be implemented as approved.  
Reason - To prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.

#### Further Advice

We note from the Site Plan Drawing No 1123/702E, dated July 2012 that run-off from the vehicle wash area is to go via an interceptor pit, with water to a soakaway and that the residue will be cleared periodically. In view of the risk to the cave system from pollution from the site, we recommend that there should be no discharge to ground. We also advise that effluent containing detergents from the washing process should be discharged to a sealed system (we understand that no mains sewer is available)

and tankered away to a licensed site. However, the details of any scheme should be put forward by the applicant.

Alternatively the applicant could provide information which demonstrates that there no karstic pathways connecting into the Otter Hole cave system.

We refer you and the applicant to the attached pollution prevention guidance contained in the attached Planning Advice Note. We refer the applicant in particular to our pollution prevention guidelines (PPGs). PPGs 13, 8 and 18 are of particular relevance for this development and should be adhered to.

#### Protected Landscape

The site is located within the Wye Area of Outstanding Natural Beauty (AONB), which is a national landscape designation. We note and welcome that a revised landscape appraisal by Anthony Jellard Associates, dated October 2015 has been submitted in support of the application together with the Green Infrastructure plan drawing No 2392/10, dated 21 October 2015. In our opinion the proposal is not likely to have a significant adverse effect on the Wye Valley AONB of the setting of the Piercefield Historic Landscape.

However there are likely to be some adverse effects locally, which could be mitigated in the long term by a landscape and ecological scheme. Therefore, the following condition should be imposed on any permission your authority is minded to grant:

#### Condition -

No development shall take place until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved. Any subsequent variations shall be agreed in writing by the local planning authority.

Reason - To ensure that effective screening is maintained in the long term and that planting does not cause damage to other important historic landscape features such as the stone wall.

We advise that the landscape management plan be ongoing and should be reviewed every five years.

The proposals should adhere to the Development Strategic Objectives within Section 6 of the Wye Valley Area of Outstanding Natural Beauty Management Plan 2009-2014.

#### Protected Species

The proposed site is in close proximity to the Wye Valley Woodlands Special Area of Conservation (SAC). The Lesser horseshoe bat is a designated feature of the SAC and also a European Protected Species. This species of bat is light sensitive and inappropriate lighting can have a negative effect on both flight-lines and foraging behaviour. There should be no external lighting without the written permission of the Local Planning Authority. We, therefore, request the imposition of a suitably worded condition for a lighting plan.

#### Local Biodiversity

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species.

#### Additional Comments

All waste generated must be disposed of under the Duty of Care Regulations to licensed sites/contractors as appropriate. All storage of material must not cause pollution of land, groundwater or surface water.

NRW Subsequent response (8 February 2016) – notes the removal of the vehicle wash facility and advises that the previous comments (above) remain, except those relating directly to the vehicle wash.

5.1.4 AONB Officer – no response received to date. Any received in the interim will be reported as late correspondence.

5.1.5 MCC Biodiversity – (response in relation to EIA screening opinion request): I note that this application is for retention of the existing use and development has already occurred at the site.

The site is very near to the Wye Valley Woodlands SAC. It is not considered that there is a mechanism for direct or indirect impact upon this site.

There should be no further lighting (further to that illustrated on lighting plan and photographs dated Nov 2013) without written approval of the Council. Please secure this through an appropriately worded planning condition.

5.1.6 The Ramblers Association – No comments received.

5.1.7 MCC Highways – agrees that their previous comments still apply - I would offer no adverse comments to this proposal and therefore have no highway objections subject to the following conditions:

The application site outlined on plan 1123/702 [now updated by plan Rev. F] shall hereby be required to retain visibility splays for the benefit of the existing vehicle access off the A466 connecting into the applicant's site. Nothing which may cause an obstruction to visibility shall be placed, erected or grown in the visibility splay areas.

The application site outlined on plan 1123/702E [now rev. F] shall hereby retain vehicle access via the existing A466 access connecting into the applicant's site. A suitable turning area immediately south of the application site access, within ownership of the applicant, shall be retained free from obstruction to ensure all vehicles that enter the site are able to turn and access the County highway in forward gear

5.1.8 MCC Environmental Health – Having reviewed the above application whilst some noise from vehicle repairs and vehicle movements on and off the site has the potential to be audible at the nearest residential property, I am not in a position to substantiate a level of problems on which to base an objection.

In order to minimise any disturbance at the nearest residential property I would recommend that any approval is subject to the following conditions:

1. The hours of operation shall be limited to:

- For the repair of motor vehicles:

08.00 to 19.00hrs Monday to Friday

08.00 to 13.00hrs Saturdays

No operating on Sundays or Bank Holidays.

- For the movement of heavy goods vehicles on and off the site:

06:00 to 19.00hrs Monday to Friday

06:00 to 13.00hrs Saturdays

2. To prevent potential odour nuisance at the nearest residential property I would recommend the following condition:

- No paint spraying shall be carried out within the site at any time.

3. To prevent potential smoke nuisance at the nearest residential property I would recommend the following condition: - No fires shall be lit on the site at any time including the use of any solid fuel appliances.

4. To minimise noise nuisance at the nearest residential property I would recommend the following condition: - Operations including the maintenance and repair of motor vehicles shall be restricted to within the garage building.

EHO additional comments:

This department has investigated a number of complaints of alleged noise nuisance from the site over the past few years. Investigations, which have included the use of noise monitoring equipment set up at the nearest residential property have not provided sufficient evidence of noise nuisance to warrant formal action under the statutory nuisance provisions of the Environmental Protection Act 1990. The proposed development does not indicate a significant change in operations from what has existed during that time. I am therefore not in a position to object the application.

5.1.9 Open Spaces Society – No comments received.

5.1.10 Cadw - Cadw's role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled 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, including issues concerned with listed buildings and conservation areas.

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 important 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. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. The proposed development is located within the vicinity of the scheduled monuments known as The Cold Bath: Piercefield (MM281), St Arvan's Church Cross – slab (MM355) and The Giant's Cave, Piercefield (MM282).

This advice is given in response to a consultation from Monmouthshire County Council regarding a revised planning application (including landscape works to be undertaken), following the quashing of an earlier planning consent, for the use of the site to allow the storage and maintenance of commercial vehicles, the storage and repair of light motor vehicles, storage and repair of up to two HGVs and a trailer, retention of a mobile office, washing area and ancillary parking.

MM335, a medieval cross-slab is located within the churchyard of St Arvan's Church. Views to and from the application area are interrupted by the village of St Arvans. In our opinion, the proposed development will have no physical impact on the monument or impact upon its setting.



MM281 and MM282 are features within Piercefield Park. They are located within thick woodland on slopes overlooking the Wye Valley to the east. There are no views towards the proposed development and, in our opinion: the proposed development will have no physical impacts on the monuments or impacts upon their settings.

From previous experience of the area and from an assessment of the supporting documentation submitted by the applicant, it is concluded that the proposed development will have no impact on the designated assets listed above.

The proposed development is located adjacent to the grade I registered historic park and garden at Piercefield Park PGW (Gt)40 and the Wyndcliffe, an outstanding example of an eighteenth century designed landscape and an essential part of the 'Wye Tour'.

The amended application includes a Landscape Appraisal by Anthony Jellard Associates, which includes an assessment of the impact of the proposals on the setting of the adjacent registered parkland. To mitigate any potential visual impact, the amended application includes a scheme of landscaping works to plant mixed native trees (mix B on the Green Infrastructure Plan by Anthony Jellard Associates) to screen the development site from the registered park. Care should be taken that the proposed works, including tree planting and site use does not impact on the historic boundary wall to Piercefield Park, which appears to share a boundary with the development site. In our view, having read the supporting documents to the application, the revised proposals will not have a significant impact on the registered historic park at Piercefield.

The application area is located outside of the Registered Lower Wye Valley Landscape of Outstanding Historic Interest HLW (Gt) 3 The Lower Wye Valley. There will be limited, local views of the application area from the edge of the registered landscape. In our opinion, these views will be interrupted by existing vegetation and proposed planting.

In our opinion, from previous experience of the area and from an assessment of the supporting documentation submitted by the applicant, it is concluded that the proposed development is unlikely to have a substantial negative impact on the Registered Lower Wye Valley Landscape of Outstanding Historic Interest.

- 5.1.11 MCC - Principal Landscape & Countryside Officer - The application represents a significant step forward from the initial application in relation to the restoration of the area previously identified as a proposed storage area (DC/2013/00456) and this is to be welcomed.

As clarified previously the site is situated within the Wye Valley AONB and is identified as being of outstanding value for its visual and sensory and cultural aspects and of high value for its historical and geological aspects and moderate value for its landscape habitats. It is also situated within the Piercefield Historic Park and Garden, [N.B. In fact the site is adjacent to, but outside the Historic Park and Garden] and on the edge of the lower Wye Valley Landscape of Outstanding Historic Interest.

The site is further highlighted in the Landscape sensitivity and capacity assessment 2010, (LLCA ST02) as of "High" sensitivity and "Low" capacity for development due to location and proximity to the historic park and garden being situated on rising open ground, abutting the Conservation Area and within the AONB.

It is clear therefore that the site is a sensitive one situated on an open rising backcloth to the settlement of St Arvans with mature trees of woodland on the skyline defining the edge of views north east out of the settlement, located within and adjacent to a plethora of landscape and historical designations.

In terms of the Landscape Appraisal submitted it appears that the same report has been submitted and my outstanding comments made on 25th March 2015 and 14th July 2015 still stand in relation to the conclusions of this report. However the removal of the builders' yard and the submission of the GI Plan helps to offsets these impacts

the report should be updated to reflect these changes as they are positive to the application.

Turning to the submission there is some confusion in relation to plan titles for example the amended site plan refers to the Landscape plan? I presume this means the GI Plan?

As stated above the Green Infrastructure Plan this is to be welcomed, however the plan represents a mixture of elements which requires clarification and separation, I would therefore suggest that the following will need to be addressed;

1 The GI Plan should simply be an indicative masterplan indicating the broad structure of the planting. In my previous comments on the last application I had requested that a GI assets and opportunities plan be submitted – this has not been done – therefore I recommend that this can be incorporated in the indicative “GI masterplan” and references to detailed planting be removed.

2 A detailed Landscape Plan be submitted clearly setting out hard and soft details – planting details should include species sizes, numbers, and distances.

3 A GI management plan should be submitted for a 20 year period covering the following;

Green Infrastructure Management Plan shall be for the whole site submitted to, and be approved in writing by, the local planning authority prior to the completion of the development. The content of the Management Plan shall build upon the principles submitted in the GI Masterplan and include the following; Description and evaluation of Green Infrastructure assets to be managed. b) Trends and constraints on site that might influence management. c) Aims and objectives of management. d) Appropriate management options for achieving aims and objectives. e) Prescriptions for management actions. f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period). g) Details of the body or organization responsible for implementation of the plan. h) Ongoing monitoring and remedial measures. J) Monitoring and maintenance of nesting bird and roosting bat provision

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the Green Infrastructure Management Plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning Green Infrastructure objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Further response of the Council’s Principal Landscape & Countryside Officer:

Broadly I am happy with the submission my points 2, 3 and 4 from my earlier memo dated 26th April 2016 have been fully addressed. Point 1 regarding clarification of regraded levels is still outstanding and the suggestion to condition this seems acceptable.

Below is a suggested condition;

#### DETAILS OF EARTHWORKS / MOUNDING / CONTOURING

Before any works commence on site, details of earthworks shall be submitted to and approved by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform.

Reason: In the interest of maintaining the amenity value of the area and in support of policies LC5 Landscape and GI 1 Green Infrastructure.

5.1.12 MCC Planning Policy - I refer to the above application for a revised scheme at the New Barn Workshop Site in St. Arvans which includes the following:

- Proposed change of use to 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 [N.B. now omitted from the proposal]

Strategic Policy S8 relating to enterprise and economy provides some support in principle for the proposal subject to detailed planning considerations.

The site is not allocated as an identified employment site under Policy SAE1 of the Monmouthshire LDP.

The proposal cannot be considered under Policy E2 as this Policy is aimed at new, non-speculative, single-site users that cannot be accommodated on existing or proposed industrial or business sites within the County. The site is located in the open countryside where Policy LC1 contains a presumption against new-build development although identifies those type of developments involving new build that might be acceptable if justified in policies S10, RE3, RE4, RE5, RE6, T2 and National Planning Policy. None of these policies appear to be applicable. Policy LC1 also contains a number of detailed criteria that should be considered.

Policy RE2 relates specifically to the conversion or rehabilitation of buildings in the open countryside for employment use, the policy contains a number of detailed criteria that must be complied with. Criterion (c) in particular notes that design requirements [with regard to new door and window openings, extensions and means of access, service provision and curtilage] will be more stringent for more isolated and prominent buildings, particularly if the site is located in the Wye Valley AONB – to which this site is. Policies EP1 and DES1 should also be taken into consideration in relation to Amenity and Environmental Protection, and, General Design Considerations respectively.

Strategic Policy S13 relating to Landscape, Green Infrastructure and the Natural Environment must be considered. As noted above, the site is located in the Wye Valley AONB, as a consequence Policy LC4 must be referred to along with Policy LC5 relating to the Protection and Enhancement of Landscape Character. Policy G11 relates to Green Infrastructure, it is noted a green infrastructure plan has been submitted, colleagues in the GI team will no doubt provide comment on the details included in this GI Plan. Strategic Policy S11 relating to the visitor economy is of relevance, the second part of the policy refers to development proposals that would have an unacceptable adverse impact on areas of tourism interest and their settings, as this site is located adjacent a key vehicular route into the heart of the AONB and public rights of way also run through/adjacent the site, it must be considered whether the proposed landscaping/GI scheme is sufficient.

Further to this it should be noted that the site is located in a minerals safeguarding area as designated in Policy M2. There is however a need to provide a buffer to protect existing residential dwellings in the locality from the impact of minerals working, as a consequence, minerals extraction would not be feasible in this location. The development would not sterilise land beyond the existing buffer zone site as the proposal does not relate to a residential use. In any event this application is largely for a change of use and will not sterilise any potential mineral deposits, there is therefore no conflict with Policy M2.

Finally the site is located immediately adjacent the Piercefield Historic Park and Garden, as there is no specific local planning policy in relation to this designation it is important to ensure Strategic Policy S17 relating to place making and design is considered along with supporting policies DES1 and EP1 as noted above. Chapter 6 of Planning Policy Wales relating to Conserving the Historic Environment must also be considered.

## 4.2 Neighbour Notification

Two individual emails/ responses from a local resident citing, inter alia, inaccuracies in the submitted Design & Access Statement that refer to previous uses on the site that were not lawful, the successful challenges at the High Court regarding the Council's previous decisions to approve similar proposals at the site, non-compliance with planning policies, adverse impact on the AONB and historic parkland, as well as adverse impacts on the health and well-being of the neighbour and her property from noise, light pollution, general disturbance, breach of opening hours and smoke from fires at the site.

The responses are copied as Appendices to this application.

One email from a former local resident that refers to representations made to the previous applications DC/2012/00613 and DC/2015/00456 that he wishes to be represented. These are made up of fourteen separate grounds of objection on: Policy S13 (LDP), Other Policies, Transport, LDP Policy DES1, Existing Use, Ecology, Environmental Health, Tourism, Policies, Landscape Assessment, Public footpaths, Residential Amenities and St Arvans Community Council representations; for ease of reference these have been reproduced in full as an appendix to this report. That resident also submitted an email referring to a video link of the unauthorised development. (It is understood that this former resident retains a legal interest in an adjacent property, but in any case the issues raised should be taken into consideration insofar as they relate to material planning conditions).

## 4.3 Local Member Representations - application to be presented to Planning Committee.

## 4.4 Other Representations – seven emails/ letters from caving organisations/ individuals raising a concern over the provision of suitable catchment facilities for the run off or potential pollutants from the repair garage and associated hardstanding, particularly from the vehicle washing area [N.B. the latter is now omitted from the proposal]. It is queried whether any consideration been given to long term monitoring to ensure that this run off does not enter the underground water courses and subsequently enter and pollute Otter Hole Cave that lies in very close proximity to the site. Water from the cave discharges into the River Wye [which is a Special Area of Conservation]. Otter Hole is a major cave system of national importance containing a network of 3.5km of natural passages with stalactites, gigantic stalagmite bosses and walls of calcite of spectacular size and colours.

## 5.0 **EVALUATION**

The main issues relating to this application are:

- Planning History
- Visual impact upon the Wye Valley Area of Outstanding Natural Beauty(AONB) including Development Plan and Green Infrastructure issues
- Residential Amenity
- Public Footpath, access and parking
- Other issues
- Socio-economic considerations
- Previous judicial reviews

## 5.1 Planning History

5.1.1 Much of the wider site (which encompasses the current application site and adjoining land edged blue on the application site plan that includes the site of the area used to store building materials as well as land to the south of the access driveway to the site off the A466) 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. Any wider use for vehicles not owned by the applicant would have required the permission of the Planning Authority. A section 52 agreement (now s.106 of the 1990 Act) was signed to ensure an existing non-conforming use of a building at Parkfield, St Arvans for commercial vehicle storage and repair ceased and the building could only be used for storage of up to two private motor vehicles, and be used as a domestic garage in relation to the dwelling, Parkfield, once the building permitted on the current application site was completed. In later years it is evident from aerial photography (2000 and 2005) that the wider application site was used as a bus / coach depot, although this was not authorised. It is evident that uses have changed over time and the land is no longer in use for the purpose it was granted planning permission in 1985. The workshop building (and related stone walls) on the site has been in place since the 1980s and is therefore lawful as operational development in planning terms. The builder's yard was created by the levelling of land and the erection of the industrial style metal gates in 2012. Previously, aerial photography suggests this area was largely undisturbed but was used casually to store a vehicle upon, and later a storage container was located on the part of the site nearer the workshop building (as seen in a 2010 aerial photo). It is also apparent that the historical planning permission granted in 1985 did not envisage this area being developed but being maintained as a largely green space serving as screening for the approved workshop use (A21850), although it is appreciated that the applicants carried out the work to form the builders' yard as part of planning application DC/2011/00697, initially approved by the Council and then quashed. There was also evidence of a non-metalled track crossing the site. The conclusion is that there is no lawful use subsisting on the land, while the workshop building, areas of hardstanding and stone walls relating to the application DC/2013/00456 are immune from enforcement action owing to the passage of time.

5.2 Visual impact upon the Wye Valley Area of Outstanding Natural Beauty (AONB) including Development Plan and Green Infrastructure issues

5.2.1 Having regard to the adopted Local Development Plan (LDP), Strategic Policy S8 provides broad support for business development that supports sustainable economic growth, but includes the caveat that all proposals will be considered against detailed planning considerations including the need to protect natural and built heritage, which itself bring benefits for the economy, tourism and well-being. The site is not allocated for employment use in the Plan and is in the open countryside where Policy LC1 contains a presumption against new-build development, although it identifies those types of developments involving new build that might be acceptable if justified in policies S10, RE3, RE4, RE5, RE6, T2 and National Planning Policy. None of these policies appear to be applicable. In this instance, the proposal is for a change of use of land and building, not new built development and thus Policy LC1 is not applicable. Moreover, the re-use of existing building in the countryside for employment purposes is supported in general by Policy RE2 of the LDP, subject to compliance with specified criteria, including that the form, bulk, general design of the proposal respect the rural character and design of the building; and the more isolated and prominent the building the more stringent will be the design requirements with regard to new door and window openings, extensions and means of access, service provision and curtilage, especially if located within the Wye Valley AONB. In this case the proposal, including its curtilage and access, is in scale and sympathy with the surrounding landscape and does not require the provision of unsightly infrastructure and ancillary buildings.

- 5.2.2 Policy LC4 states that within the AONB, any development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area. A list of criteria is included in the policy including considering 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, and the degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and built heritage.
- 5.2.3 Policy LC5 lists a range of criteria against which proposals would be considered in relation to their landscape impact. Development would be permitted provided it would not have an unacceptable adverse effect on the special character or quality of the County's landscape by, inter alia, causing visual intrusion, significant adverse change in the character of the built or natural landscape, or by being insensitively and unsympathetically sited in the landscape or by introducing or intensifying a use which is incompatible with its location.
- 5.2.4 Policy GI1 states that development proposals will be expected to maintain, protect and enhance Monmouthshire's diverse green infrastructure network by:
- a) Ensuring that individual green assets are retained wherever possible and integrated into new development. Where loss of green infrastructure is unavoidable in order to secure sustainable development appropriate mitigation and/or compensation of the lost assets will be required;
  - b) Incorporating new and /or enhanced green infrastructure of an appropriate type, standard and size. Where on-site provision of green infrastructure is not possible, contributions will be sought to make appropriate provision for green infrastructure off-site.
- 5.2.5 In broad terms, the principle of re-using the building and associated land for employment is acceptable under Policy RE2 subject to considering the impact of the proposal upon acknowledged interests such as the need to conserve and enhance the natural beauty of the AONB, neighbour amenity, access being acceptable and safe, and biodiversity interests being safeguarded. Surface water run-off and effluent/pollution control measures should also be acceptable.
- 5.2.6 One of the main issues, indeed it is a statutory duty, is to consider the visual impact the retention of this change of use and related development would have upon the natural beauty of the Wye Valley Area of Outstanding Natural Beauty (AONB).
- 5.2.7 The AONB Office commented on the application previously and recommended that the application be refused unless additional tree and hedge screening could be guaranteed through conditions attached to any planning permission that may be granted. The updated comments of the AONB Officer will be reported as late correspondence. However, planning officers consider that this issue has now been satisfactorily addressed.
- 5.2.8 This is a retrospective application so that the situation can be seen on site (with the exception of the proposed landscaping). Site inspections have been carried out many times, most of which were unannounced visits without the company of the applicant and the agent in order to gain some insight into the nature of the proposal. During the site inspections, the access / public path leading to the site was kept clear of building materials and vehicles. The building is set back with a surfaced courtyard area to the front bounded by stone walls. The forecourt gates are generally open in the day, as are the workshop doors, so that the site is clearly visible from the public footpath. In previous visits the forecourt has been generally empty with few cars within it relating

to the repair garage, although the latest tenants are parking a greater number of cars in there, suggesting a higher level of activity is taking place. The area to the east of the workshop, separated by a palisade fence, is a triangular area, hard surfaced and bounded to its east by the stone wall to Piercefield Park, that is being used to park cars (and is proposed for parking purposes in this application, subject to a reduction in area and modification by the Green Infrastructure Plans submitted by AJA for the applicants). This triangular area does not appear to have been included within the original limits of the planning approval under A21850 although it has been hard surfaced for many years and the engineered surface would be immune from enforcement action.

- 5.2.9 Along the eastern boundary of the commercial garage site is a row of recently planted trees to provide a screen when mature, although some of these saplings appear to have failed and the screening is ineffective at present. The proposal seeks to replace this planting with a much more comprehensive landscape screen (including oaks, field maple and pine) ranging between 6 and 10m wide. The forecourt gates of the workshop themselves are bare metal and are of a utilitarian, industrial character that does not sit well within this sensitive landscape in the AONB. The proposed landscaping would 'wrap around' the frontage of the site and soften this edge of the development close to the public right of way. In addition, the existing metal gates to the workshop and yard are proposed to be clad in timber panels.
- 5.2.10 As well as the above, the site of the area formerly used to store building materials to the west of the workshop is to be restored and planted up to provide additional green infrastructure (GI) in relation to this proposal. This includes removal of the hardstanding and the grading out of the bunds, as well as the removal of the inappropriate conifer planting and its replacement with a wider grass verges either side of the access and fresh native species planting including hazel, dogwood and holly. The main part of the area that had been used to store building materials is proposed to be planted with native species including field maple, oak, hazel, hawthorn and wild cherry. Either side of the entrance off the A466 the existing roadside vegetation is proposed to be retained. The removal of the inappropriate conifer planting would open up limited views into the site until the new planting has become established, however the extent of this short term increased exposure is considered to be low and outweighed by the wider green infrastructure benefits from the new landscaping.
- 5.2.11 To the south of the access/ public right of way, the areas of hardstanding are proposed to be rationalised and additional native species planting is proposed to contain this area, adding green infrastructure to this part of the wider site which is in the applicant's ownership.
- 5.2.12 The Council's Landscape Officer previously objected to application DC/2013/00456 on the basis that the previously proposed fresh planting / landscape mitigation were 'insufficient to overcome the intensification / industrialisation of use in combination with the garage/workshop and car parking areas that have incrementally spread across this site.... The proposal will have an impact on a small scale...through a creeping urbanising effect – the effects are local in scale but this should not diminish the significance of their impact.'
- 5.2.13 The Council's Landscape Officer notes the site's sensitive location in the AONB and adjacent to the historic Piercefield Park and Garden as well as being on the edge of the lower Wye Valley Landscape of Outstanding Historic Interest. In respect of the revised, current proposal which features more comprehensive green infrastructure mitigation than the earlier refused application, the Landscape Officer comments that the removal of the builders' yard and the submission of the GI Plan helps to offset the

negative impacts of the development. The proposed use would now be softened and framed by extensive GI and any adverse impacts would be very localised, primarily involving views from a short section of the public right of way to the immediate south of the workshop and yard. The significant landscaping now proposed is considered sufficient to overcome the previous landscape concerns of the Council's expert landscape officer and provided the GI that is proposed is implemented and managed in accordance with the submitted GI Management Plan then it is considered that there would no longer be grounds to argue that the use proposed would conflict with the overriding objective to conserve the natural beauty of the AONB and thus, the proposal would no longer conflict with Policy LC4 of the adopted LDP. It would also be compliant with LDP policies S11, S13, LC5 and GI1 in providing extensive GI mitigation.

5.2.14 In relation to LDP Policies S17 and DES1 the use of the workshops, provided it is heavily mitigated as proposed, would not harm local character and would not fail to contribute towards a sense of place or respect the existing form, scale, siting, massing, materials and layout of its setting.

### 5.3 Residential Amenity

5.3.1 The only residential property in close proximity to the application site is the dwelling known as Mistletoe Cottage. Within the curtilage of that dwelling there is an established commercial cattery business along with a horse walker, manege and stables adjacent to the boundary of the application site.

5.3.2 There has been a long history of complaint about the operation of both the former builders' yard and the vehicle repair workshop from the neighbouring householders including noise, disturbance, smoke (from an unauthorised flue – since removed from site), breach of working hours, car breaking, lighting of fires and so on.

5.3.3 MCC Environmental Health (EH) has been consulted on the application and commented that having reviewed the application, whilst some noise from vehicle repairs and vehicle movements on and off site has the potential to be audible at the nearest residential property, it is not in a position to substantiate a level of problems on which to base an objection.

5.3.4 In order to minimise the level of disturbance at the nearest residential property EH recommend that the following conditions are applied:

The hours of operation shall be limited to between the hours of:

For the repair of motor vehicles:

- 08:00 – 19:00 Mondays to Fridays
- 08:00 – 13:00 on Saturdays
- No operating on Sundays or Bank Holidays;

For the movement of heavy goods vehicles on and off site:

- 06:00 – 19:00 Mondays to Fridays
- 08:00 – 13:00 on Saturdays
- No operating on Sundays or Bank Holidays.

5.3.5 Additional conditions are also recommended to prevent paint spraying (to prevent odour problems), no fires to be lit on site at any time and that noise is contained to an appropriate level by ensuring that operations, including the maintenance and repair of motor vehicles is restricted to the inside of the garage building. These are considered reasonable given the proximity of the nearby residential property, except for the lighting of fires which can be controlled under separate legislation. Commercial bonfires are



controlled by the Clean Air Act 1993. It is an offence to produce dark or black smoke from a bonfire at commercial premises.

- 5.3.6 Given the impact of the use of the site as a vehicle repair workshop so far, there would not appear to be grounds to base an objection to its retention owing to any significant adverse effects on residential amenity. Any nuisance reported by the neighbour to the EHO relating to the effects of smoke from the unauthorised flue at the workshops was resolved with the removal of the flue.
- 5.3.7 It is thus considered that subject to careful control of the hours of operation of the business alongside other planning conditions relating to prevention of paint spraying and limiting vehicle repair work to being carried out inside the building only, there would not be likely to be significant harm caused to residential amenity by the proposed development.
- 5.3.8 In addition, the GI proposals feature significant block planting alongside the boundary to Mistletoe Cottage that would help to mitigate any adverse impacts and would in time form a very effective and substantial visual screen between the residential curtilage and the repair garage site.
- 5.3.9 In relation to hours of operation, the applicant has requested that for the storage and repair of light motor vehicles the operating hours of the site should be restricted to 08.00 to 19.00 Monday to Friday; 08.00 to 13.00 Saturdays with no operating on Sundays or Bank Holidays. For the movement of motor vehicles owned by Mr Peter Stephens (i.e. the HGV vehicles and his private vehicles) the hours of operation should be restricted to 06.00 to 19.00 Monday to Friday and 06.00 to 13.00 Saturdays, with no operating on Sundays or Bank Holidays and the maintenance and repair of vehicles owned by Peter Stephens restricted to 08.00 to 19.00 Monday to Friday and 08.00 to 13.00 Saturdays with no operating on Sundays and Bank Holidays (as per the general repair garage use). Environmental Health has advised that the proposed hours of operation, which differentiate between the different uses within the site, would protect local residential amenity having regard to all material considerations such as proximity of the adjacent property, and the nature of the uses at the site. However, from a planning perspective it would seem reasonable to reduce the scope of hours applied for to more reasonable hours having regard to the amenity of the area, including the impression of the site (albeit fleeting) from the nearby public right of way, and the amenity of the occupiers of the neighbouring dwelling. As such it is considered that the uses should be controlled to finish by 18:00 hours (Monday - Friday) rather than 19:00 hours. The earlier start allowable for Mr Peter Stephens' vehicles (the application proposes a start from 06.00) is only considered acceptable in the light of the very limited scale and nature of this element of the use of the site. However, having said that, it is considered that a start from 07:00 is more reasonable in this context, near an existing dwelling. In permitting this earlier start it is acknowledged that the site is adjacent to a busy 'A' road, the A466 which will generate a degree of noise from road traffic in any case. The operating times considered appropriate are set out in condition 7.

#### 5.4 Public Footpath, Access and Parking

- 5.4.1 It is proposed to utilise the existing vehicular access to serve the proposed vehicle repair use. It is considered that there is reasonable visibility at the access onto the A466 together with ample space within the site for turning and parking. A condition is recommended below that would secure visibility splays of 4.5m x the site frontage which would achieve acceptable visibility. Highways' request for an on-site turning area is readily available on site already, and so it would not be necessary to condition this

requirement. There is a public footpath that shares the existing access driveway to the application site off the A466 and has done for many years and the route would remain unaltered and would therefore be open for use and free from obstruction. However, the route of this footpath is shown on the definitive map as crossing the former (unauthorised) yard for the storage of building materials rather than along the access driveway that is within the current application site. There is a current application to divert the footpath lodged with MCC 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. The grant of consent would not authorise any such obstruction. Public path orders are not guaranteed to succeed and PPW states that local authorities should seek to protect and enhance the rights of way network as a recreational and environmental resource. If the diversion application is unsuccessful MCC would need to consider how best to protect and promote the public's right to use the legal alignment of the path.

5.4.2 In terms of impact of the proposed development on users of the public footpath, this would be limited to the short section immediately in front of the workshops. The proposed mitigation offered by the green infrastructure and timber cladding of the gates would green up the immediate area and reduce any urbanising effects of the use, confining views of the development to a brief section of the path. The effects would be limited and not significant to such users, and following the maturity of proposed planting belt the site would be screened as the path runs on eastwards into the historic park. Similarly the impact of noise on such users would be brief, sporadic and insignificant, especially given the proximity to the A466, which would have its own capacity to generate noise.

## 5.5 Other issues

5.5.1 The Council has been pressed by objectors to take enforcement action against both the unauthorised vehicle repair use and the storage of building materials. The applicants have the right to apply retrospectively to regularise the use of the site. Since the application has been submitted and is under consideration it has been considered to be inappropriate and unreasonable to take enforcement action before the determination of this application. However, enforcement action is being pursued in relation to the former builders' yard to restore it as a green space, notwithstanding that it is also proposed to be regraded and planted up as GI in association with the present application for the retention of the repair garage.

5.5.2 As regards concerns about biodiversity matters, the Council's Biodiversity and Ecology Officer has noted the proposal is for the re-use of an existing building and storage (parking) areas at the site. While it is noted that the site is very near to the Wye Valley Woods SAC (Pierce, Alcove and Piercefield SSSI) it is not anticipated that this scheme will have an impact on this site or any of its interest features. The Biodiversity Officer recommends a condition to control any additional lighting should consent be granted. NRW, agrees on the need to control lighting at the site. A condition is set out below.

5.5.3 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 I 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. The impact, therefore, is likely to be no more than local and is not considered to harm the registered park itself. Cadw confirms that there will be limited, local views of the

application area from the edge of the registered landscape but considers that these views will be interrupted by existing vegetation and proposed planting. The substantial planting proposed would further mitigate any existing limited impact and thus, the proposal would be acceptable in this regard.

5.5.4 The application area is also located outside the Registered Lower Wye Valley Landscape of Outstanding Historic Interest (HLW (GT) 3 The Lower Wye Valley). There will be limited close views of the application area from the edge of the registered landscape but in Cadw's opinion these will be interrupted by existing and proposed vegetation and constitute, at most, a local impact that would not cause significant harm. Planning officers agree with this conclusion.

5.5.5 In respect of drainage / surface water matters raised by NRW and pollution concerns referred to by caving organisations in relation to maintaining the integrity of the nationally important limestone cave, The Otter Hole, NRW notes, 'Therefore, our concern is the potential for pollution from the site to enter the cave system (fuel, oil, dirty water etc.) in particular, from the vehicle wash area. Effluent and run-off from vehicle washing and cleaning activities have potential to damage the water environment and the cave system. They are classed as trade effluent and should be kept separate from surface water.

Given the proximity of the cave, the bedrock of the site and the potential risk of pollution from the development site, our advice is that the proposed development will be acceptable providing the following measure is implemented and secured by way of a planning condition on any permission granted.

Condition

The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water run-off and trade effluent has been submitted to, and approved in writing by, the local planning authority. This shall include a drainage plan of the site. The scheme shall be implemented as approved.

Reason - To prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.'

5.5.6 It should be noted that the vehicle wash area has now been removed from the proposed development, although trade effluent may remain an issue to be resolved. Although it is debateable whether the current, unauthorised use may be the source of the pollution (given the proximity of other potential sources including the A466 and the Chepstow Racecourse parking areas) it is accepted that it would be reasonable to apply a condition to control this element of the development. An appropriate condition is therefore proposed below. In this respect the proposal is considered to comply with Policy EP1 of the LDP.

5.6 Socio-economic considerations

5.6.1 The overriding necessity in the AONB is to conserve the natural beauty of the area. The AONB Management Plan refers to other subsidiary purposes: 'in pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry, and other rural industries, and of the economic and social needs of local communities.' The AONB designation in itself does not preclude employment uses such as this proposal. The acceptability of the proposal will be dependent on the impact of the proposed development and its longer term effects. These have been considered above and it has been concluded that, accepting that the building and walls are lawful on the site, the proposal can be sufficiently mitigated by significant landscaping that would effectively screen the impact of parked cars and outside storage of materials such as vehicle parts and tyres. It is considered that there would as a result be no greater harm to the natural beauty of the AONB with the proposed green infrastructure

in place than if the site were vacated and the lawful building and walls were left in situ. The proposal would provide limited benefits in relation to local employment opportunities, although it is acknowledged that this carries less weight than the need to protect the landscape.

## 5.7 Previous judicial reviews

- 5.7.1 As Members will recall, the previous applications, DC/2013/00456 and DC/2012/00613 were originally recommended for approval subject to conditions, under the local policy framework provided by the then Unitary Development Plan (now superseded by the adopted LDP – February 2014). Since then the application decisions were successfully challenged under the judicial review process by a third party, who was also successful in relation to two earlier decisions regarding this site. The challenges were successful in that the Council relied on two key areas that were legally flawed, namely, it was argued by the Council there was a fall-back position concerning the area relating to the builders' yard whereby this area could be used for agricultural storage without the need for planning permission (this view wrongly set the bench mark for the acceptability of a storage use on the two sites too low, especially in such a sensitive location) and secondly that there was a flawed reliance on structures being lawful on the builders yard site i.e. the storage containers (the Court judgement found, 'the activities on the site during the relevant period did not have the degree of permanence and/or fixed relationship with the land itself so as to be regarded as building operations. It was therefore a 10 year as opposed to a 4 year period for enforcement action which needed to be considered.... I consider, having regard to the location of this land, within the area of outstanding natural beauty, and the planning policies against which these applications fell to be judged, that the taking into account of such an erroneously identified baseline of itself necessarily involved the taking into account of an immaterial consideration of sufficient significance to dictate the quashing of *both the grants of permission* [my italics] by which the consideration of such an erroneous baseline is in fact tainted.' This meant the planning authority set the baseline too low in assessing the acceptability of both the builders' yard and the fresh use of the workshop building and associated land for a different use to that originally granted on this site, particularly in the context of the site's location in the AONB.
- 5.7.2 For the avoidance of doubt in the determination of this application, Planning Committee is advised that:
- 1) there is no agricultural storage 'fall back' position;
  - 2) the storage containers on the builders' yard area were not immune from enforcement action under the 4 year rule.
- It should be noted that an Enforcement Notice has since been issued requiring the unauthorised builders' yard use to cease, the containers removed, the gates removed and the site restored.
- 5.7.3 Since those original decisions the LDP policies have come into force and are different to the previous UDP policies and in particular Policies S13, LC4, LC5 and G11 provide the development plan framework against which development should be considered and where appropriate, mitigated, to be rendered acceptable. In this instance, the site is in a particularly sensitive location but the offer of extensive mitigation in the form of green infrastructure to soften and screen the development is now considered sufficient to integrate the currently unauthorised use of the site into the landscape. This includes the complete removal of the area for the storage of building materials and its restoration and planting as a more natural setting for the current proposal at the workshops, which are lawful buildings. Planning conditions to control the hours of use as well as operational issues would also enable the proposed use to be carried out

without unacceptable harmful effects on amenity. It is concluded that the proposal is acceptable and accords with the adopted Monmouthshire Local Development Plan.

## **6.0 RECOMMENDATION: APPROVE**

### Conditions

1. The development shall be carried out in accordance with the list of approved plans set out in the table below.  
Reason: To ensure the development is carried out in accordance with the approved details, for the avoidance of doubt.
2. The Green Infrastructure (GI) shall be implemented in accordance with the Green Infrastructure Management Plan (by AJA, revised version, 11th May 2016) and associated drawings contained in the Management Plan. The GI shall be carried out within six months of the date of this planning permission.  
Reason: To ensure the required GI mitigation is provided in a timely manner, in the interests of landscape protection and amenity.
3. Prior to the Green Infrastructure works referred to in condition 2 above commencing on site, the finished levels of the area to be restored to the west of the application site, formerly occupied by the unauthorised area for the storage of building materials, shall be agreed in writing with the Local Planning Authority. The levels shall be carried out in accordance with the approved details and shall be completed so as to enable the overall GI scheme to be implemented as set out in condition 2.  
Reason: to ensure adequate detail is provided, in the interests of landscape protection and amenity.
4. A scheme to dispose of surface water run-off and trade effluent for the development shall be implemented within six months of the date of this permission in accordance with details to be submitted to and approved by the Local Planning Authority. The submitted scheme shall include a drainage plan of the site. The surface water drainage and trade effluent disposal methods, as implemented in accordance with the approved details, shall be retained thereafter in perpetuity.  
Reason: to prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.
5. The Green Infrastructure/ landscaping shall be maintained in accordance with the GI Management Plan referred to in the list of approved documents in the table below.  
Reason: To ensure that effective screening is maintained in the long term in the interests of landscape protection and amenity and that planting does not cause damage to other important historic landscape features such as the stone wall.
6. The premises shall be used for the storage and repair of light motor vehicles and for the storage and repair of up to 2 heavy goods vehicles owned by the co-applicant Mr P Stephens only, and for no other purpose (including any other purposes in Class B2 of the schedule to the Town and Country Planning (Use Classes) Order 1987) without the prior written approval of the Local Planning Authority.  
Reason: to protect local residential and visual amenity.
7. The hours of operation of the use, hereby approved, shall be limited to between the hours of:  
For the repair of motor vehicles (other than heavy goods vehicles), and including the movement of vehicles associated with that use:  
08:00 – 18:00 Mondays to Fridays  
08:00 – 13:00 on Saturdays  
No operating on Sundays or Bank Holidays;  
  
For the movement of up to two heavy goods vehicles, owned by the co-applicant Mr P. Stephens only, on and off site:  
07:00 – 18:00 Mondays to Fridays

08:00 – 13:00 on Saturdays  
No operating on Sundays or Bank Holidays;

For the repair of up to two heavy goods vehicles owned by the co-applicant Mr P Stephens only:

08:00 – 18:00 Mondays to Fridays

08:00 – 13:00 on Saturdays

No operating on Sundays or Bank Holidays.

Reason: to protect local residential amenity.

8. No paint spraying shall be carried out within the site at any time.  
Reason: to protect local residential amenity.
9. Operations including the maintenance and repair of motor vehicles shall be restricted to within the existing garage building. No repair or maintenance of motor vehicles shall take place outside that building.  
Reason: to protect local residential amenity.
10. The vehicle wash shall not be used at any time.  
Reason: to prevent pollution of the water environment and of the Otter Hole Geological Conservation Review Site.
11. Notwithstanding the site plan 1123/702F, this permission does not include the mobile office unit marked on that plan.  
Reason: for the avoidance of doubt and to clarify the extent of this permission.
12. No more than two heavy goods vehicles shall be kept on site at any time and no heavy goods vehicle shall be kept on site that is not solely owned and operated by Mr P Stephens, co-applicant.  
Reason: in the interests of residential and visual amenity.
13. No additional external lighting at the site shall be provided without the prior written permission of the Local Planning Authority.  
Reason: in the interests of nature conservation.
14. The access shall be maintained with visibility splays of 4.5m x the site frontage at all times.  
Reason: in the interest of highway safety.
15. The existing gates to the site shall be clad in timber within three months of the date of this permission in accordance with details to be submitted to and approved by the LPA prior to those cladding works being carried out.  
Reason: in the interests of visual amenity.

**Informative:**

It appears that the legal alignment of Public Footpath No 32 may be unavailable at the site of the proposed development. Public Right of Way No 32 must be kept open and free for use by the public at all times, or alternatively, a legal diversion or stopping-up Order must be obtained, and confirmed prior to any development further impacting on the availability of the path and/or to remove any existing problems.