

# Agenda



## Planning Committee

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Date: Wednesday, 8 January 2020

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, G Berry, J Clarke, V Dudley, D Fouweather, J Jordan, C Townsend, R White and M Linton

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### **Part 1**

<b>Item</b>	<b>Wards Affected</b>
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on</u> (Pages 3 - 6)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 40)	
5. <u>Appeal Decisions</u> (Pages 41 - 46)	

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Date of Issue: Wednesday, 1 January 2020

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# Minutes

## Planning Committee

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Date: 4 December 2019

Time: 10.00 am

Present: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, G Berry, J Clarke, V Dudley, D Fouweather, J Jordan, C Townsend, R White and M Linton

In Attendance: Joanne Evans (Senior Solicitor), Tracey Brooks (Development and Regeneration Manager), Stephen John Williams (West Area Planning Manager), Lisa Davies (Governance Officer), Neil Barnett (Governance Officer), Carl Jones (Principal Engineer) and Matthew McEwan (Senior Traffic Transport & Development Officer)

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### 1. **Declarations of Interest**

None

### 2. **Minutes of the meeting held on**

The minutes of the meeting held on 06 November 2019 were submitted.

#### **Resolved**

That the minutes of the meeting held on 06 November 2019 be taken as read and confirmed, subject to the above

### 3. **Development Management: Planning Application Schedule**

#### **Resolved**

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix A

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached

### 4. **Appeal Decisions**

Members' attention was drawn to the Appeals Report, for information.

### 5. **Training - HMOs and Parking**

Members attended HMO and Parking Training

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Appendix A  
PLANNING COMMITTEE – 04 12 2019  
DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
19/0724	<p data-bbox="212 387 763 416"><b>Site:</b> 6, OMBERSLEY ROAD, NEWPORT</p> <p data-bbox="212 485 954 587"><b>Proposal:</b> CHANGE OF USE OF A FOUR BEDROOM DWELLING (C3 USE) TO A SIX BEDROOM HOUSE OF MULTIPLE OCCUPATION (C4 USE)</p> <p data-bbox="212 655 1021 758"><b>Recommendation:</b> GRANTED WITH CONDITIONS THIS ITEM IS BEING PRESENTED TO COMMITTEE AS IT'S BEEN CALLED BY COUNCILLOR EVANS.</p>	ALLT-YR-YN	Lloyd Jones - Agent spoke on the application	Application deferred to request applicant to undertake a parking survey during an early morning

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# Report

## Planning Committee

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### Part 1

Date: 8<sup>th</sup> January 2020

**Subject** **Planning Application Schedule**

**Purpose** To take decisions on items presented on the attached schedule

**Author** Head of Regeneration, Investment and Housing

**Ward** As indicated on the schedule

**Summary** The Planning Committee has delegated powers to take decisions in relation to planning applications. The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

**Proposal** **1. To resolve decisions as shown on the attached schedule.**  
**2. To authorise the Development and Regeneration Manager to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached**

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

The Officer recommendations detailed in this report are made following consultation as set out in the Council's approved policy on planning consultation and in accordance with legal requirements

## **Background**

The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases, or against the imposition of planning conditions. There is no third party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, well-being of future generations, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

## **Financial Summary**

The cost of determining planning applications and defending decisions at any subsequent appeal is met by existing budgets and partially offset by statutory planning application fees. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

## Risks

Three main risks are identified in relating to the determination of planning applications by Planning Committee: decisions being overturned at appeal; appeals being lodged for failing to determine applications within the statutory time period; and judicial review.

An appeal can be lodged by the applicant if permission is refused or if conditions are imposed. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

A decision can be challenged in the Courts via a judicial review where an interested party is dissatisfied with the way the planning system has worked or how a Council has made a planning decision. A judicial review can be lodged if a decision has been made without taking into account a relevant planning consideration, if a decision is made taking into account an irrelevant consideration, or if the decision is irrational or perverse. If the Council loses the judicial review, it is at risk of having to pay the claimant's full costs in bringing the challenge, in addition to the Council's own costs in defending its decision. In the event of a successful challenge, the planning permission would normally be quashed and remitted back to the Council for reconsideration. If the Council wins, its costs would normally be met by the claimant who brought the unsuccessful challenge. Defending judicial reviews involves considerable officer time, legal advice, and instructing a barrister, and is a very expensive process. In addition to the financial implications, the Council's reputation may be harmed.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry and judicial review can be high.

<b>Risk</b>	<b>Impact of risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b>	<b>Who is responsible for dealing with the risk?</b>
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development and Regeneration Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Development and Regeneration Manager
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee  Development and Regeneration Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee  Development and Regeneration Manager

\* Taking account of proposed mitigation measures

### **Links to Council Policies and Priorities**

The Council's Corporate Plan 2017-2022 identifies four themes, including the aim to be a Thriving City. In order to achieve this, the Council is committed to improving:

- jobs and the economy
- education and skills
- fairness and equality
- community safety and cohesion
- the environment, transport, culture and social well-being

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling

economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

The Corporate Plan contains the Council's Well-being Statement and well-being objectives, which contribute to the achievement of the national well-being goals. The Corporate Plan also links to other strategies and plans, the main ones being:

- Improvement Plan 2016-2018;
- Local Development Plan 2011-2026 (Adopted January 2015);

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Local Development Plan (Adopted January 2015) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

### **Options Available and considered**

- 1) To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To grant or refuse planning permission against Officer recommendation (in which case the Planning Committee's reasons for its decision must be clearly minuted);
- 3) To decide to carry out a site visit, either by the Site Inspection Sub-Committee or by full Planning Committee (in which case the reason for the site visit must be minuted).

### **Preferred Option and Why**

To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate).

### **Comments of Chief Financial Officer**

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

### **Comments of Monitoring Officer**

Planning Committee are required to have regard to the Officer advice and recommendations set out in the Application Schedule, the relevant planning policy context and all other material planning considerations. If Members are minded not to accept the Officer recommendation, then they must have sustainable planning reasons for their decisions.

### **Comments of Head of People and Business Change**

Within each report the sustainable development principle (long term, prevention, integration collaboration and involvement) of the Well-being of Future Generations (Wales) Act has been fully considered.

From an HR perspective there are no staffing issues to consider.

## Comments of Cabinet Member

The Cabinet Member for Regeneration and Housing has been made aware of the report.

## Local issues

Ward Members were notified of planning applications in accordance with the Council's adopted policy on planning consultation. Any comments made regarding a specific planning application are recorded in the report in the attached schedule

## Scrutiny Committees

None

## Equalities Impact Assessment and the Equalities Act 2010

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

## Children and Families (Wales) Measure

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

## Wellbeing of Future Generations (Wales) Act 2015

The Well-being and Future Generations (Wales) Act seeks to improve the social, economic environmental and cultural well-being of Wales. Public bodies should ensure that decisions take into account the impact they could have on people living in Wales, in the future. The 5 main considerations are:

- Long term: Decisions made by the Planning Committee balances the need to improve the appearance of areas as well as meeting the needs of residents in order to make places safe to live in and encourage investment and employment opportunities. Planning decisions aim to build sustainable and cohesive communities.
- Prevention: Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable.
- Integration: Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities.
- Collaboration: Consultation with statutory consultees encourages decisions to be made which align with other relevant Well-being objectives.

Involvement: Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

Decisions made are in line with the Council's well-being objectives published in March 2017. Specifically, Objective 9 (Health and Well Being) of the adopted Newport Local Development Plan (2011-2026) links to this duty with its requirement to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

### **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the consultation of these guidance documents.

### **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 10 (December 2018)

Development Management Manual 2016

Welsh National Marine Plan November 2019

### *PPW Technical Advice Notes (TAN):*

- TAN 1: Joint Housing Land Availability Studies (2015)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Commercial Development (2016)
- TAN 5: Nature Conservation and Planning (2009)
- TAN 6: Planning for Sustainable Rural Communities (2010)
- TAN 7: Outdoor Advertisement Control (1996)
- TAN 8: Renewable Energy (2005)
- TAN 10: Tree Preservation Orders (1997)
- TAN 11: Noise (1997)
- TAN 12: Design (2016)
- TAN 13: Tourism (1997)
- TAN 14: Coastal Planning (1998)
- TAN 15: Development and Flood Risk (2004)
- TAN 16: Sport, Recreation and Open Space (2009)
- TAN 18: Transport (2007)
- TAN 19: Telecommunications (2002)
- TAN 20: Planning and The Welsh Language (2017)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)
- TAN 24: The Historic Environment (2017)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

Newport Local Development Plan (LDP) 2011-2026 (Adopted January 2015)

Supplementary Planning Guidance (SPG):

Affordable Housing (adopted August 2015)  
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)  
Flat Conversions (adopted August 2015)  
House Extensions and Domestic Outbuildings (adopted August 2015)  
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)  
New dwellings (adopted August 2015)  
Parking Standards (adopted August 2015)  
Planning Obligations (adopted August 2015)  
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)  
Wildlife and Development (adopted August 2015)  
Mineral Safeguarding (adopted January 2017)  
Outdoor Play Space (adopted January 2017)  
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)  
Air Quality (adopted February 2018)

## **OTHER**

“Newport City Council Retail Study by Nexus Planning (September 2019) “ is not adopted policy but is a material consideration in making planning decisions.

The Economic Development Strategy is a material planning consideration.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

**APPLICATION DETAILS**

**No:** 19/0703      **Ward:** LLISWERRY

**Type:** FULL (MAJOR)

**Expiry Date:** 10-JAN-2019

**Applicant:** AG QUIDNET UK INDUSTRIAL 2 BV

**Site:** STORAGE LAND THE NEWPORT BUSINESS CENTRE, CORPORATION ROAD, NEWPORT, NP19 4RF

**Proposal:** DEMOLITION OF EXISTING INDUSTRIAL UNITS AND CONSTRUCTION OF NEW INDUSTRIAL UNITS

**Recommendation: Granted with Conditions**

**1. INTRODUCTION**

- 1.1 This application seeks consent for the demolition of existing industrial units and the construction of two new industrial units for B1 use at the Newport Business Centre on Corporation Road. The new building would have a gross floorspace area of 1490m<sup>2</sup> and the proposals constitute 'Major' development. Accounting for the loss of the existing unit which has a floor area of 600m<sup>2</sup> this would equate to a net addition of 890m<sup>2</sup>.
- 1.2 The site is located within the urban boundary in an established industrial area which is allocated for employment use. The proposals are therefore acceptable in principle subject to all other material considerations.

**2. RELEVANT SITE HISTORY**

07/0964	PROPOSED CONSTRUCTION OF 7NO. SINGLE STOREY 'TRADE PARK' UNITS	Granted with Conditions
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**3. POLICY CONTEXT**

- 3.1 The following policies of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the application:
- Policy SP1 Sustainability favours proposals which make a positive contribution to sustainable development.*
- Policy SP3 Flood Risk ensures development is directed away from flood risk areas.*
- Policy SP17 Employment Land allocates 172 hectares of employment land for the plan period.*
- Policy GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.*
- Policy GP3 General Development Principles – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.*
- Policy GP4 General Development Principles – Highways and Accessibility states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.*

*Policy GP5 General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.*

*Policy GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.*

*Policy CE6 Archaeology states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.*

*Policy T4 Parking states that development will be expected to provide appropriate levels of parking.*

#### **4. CONSULTATIONS**

- 4.1 NATURAL RESOURCES WALES (FLOODING): We object to the proposed development as submitted. The FCA has failed to demonstrate that the consequences of flooding can be acceptably managed. The proposed development is not designed to be flood free in the 0.5% plus climate change allowance event (CCA), therefore does not meet the criteria in A1.14 of TAN15. Conditions relating to controlled waters are requested if planning permission is granted.
- 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST LTD: No objections to the positive determination of this application.
- 4.3 DWR CYMRU - WELSH WATER: No response.
- 4.4 WALES AND WEST UTILITIES: Provide details of apparatus in the area.

#### **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): Does not oppose the application.
- 5.2 HEAD OF LAW AND REGULATION (NOISE) or (POLLUTION): We have no objections to the proposals; however conditions relating to plant and equipment noise and a construction environmental management plan are requested.
- 5.3 HEAD OF CITY SERVICES (HIGHWAYS DRAINAGE): No response.

#### **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 50m were consulted (38no properties), a site notice was displayed and a press notice published in South Wales Argus. No response received.

#### **7. ASSESSMENT**

- 7.1 The existing building measures 64m in length, 10m in width and 4.5m in height. The proposed units would adjoin one another and would have a combined length of 85m, a height of 8.7m and would have a maximum depth of 18m.
- 7.2 The building would be sited near to the southern boundray of the site. It would be constructed from insulated metal panels to walls and roof with blue aluminium downpipes and guttering. Large roller shutter doors and entrance doors are proposed to the front elevation. 2m high metal mesh fencing is proposed to either side of the buildings.
- 7.3 The scale and design of the proposed building is considered to be in keeping with that of the other industrial buildings in the vicinity and does not give rise to any concerns.

- 7.4 The proposals do not include any changes to the existing access arrangements to the site from Corporation Road. The units would be served by 19 car parking spaces immediately to the front of the buildings. Officers have expressed concerns relating to capacity issues at the Corporation Road/SDR junction and subsequently the applicant has undertaken a Transport Statement in support of the proposals to assess the impact of the proposals on the local highways network. The statement has used observed data as opposed to TRICS data due to weaknesses associated with TRICS including the age of the data available and the limited geographical range of sites. A theoretical exercise has been undertaken whereby the traffic generated by the increase in the ground floor area of the redevelopment (7.6% of the total increase in floorspace for the whole of the Business Park) has been increased by the upper figure of 7.6% of that of the trip attraction of the existing site. Based on the forecast uplift in trip attraction resulting from the proposed redevelopment the forecast change in vehicle movements at the site access, and on Corporation Road and its adjoining junctions (including the NDR) would be negligible i.e. 7 two way movements in the network AM peak and 3 two way movements in the network PM peak period.
- 7.5 With regard to junction capacity analysis it is stated that as there is forecast to be a negligible increase in vehicle trip attraction to the redeveloped units, junction capacity assessments would not be required and have therefore not been undertaken at either the site access or the local highway network in the vicinity of the site including the NDR, on the basis that the redevelopment proposals would have a negligible effect with regard to change in vehicle movements on the adjoining highway network.
- 7.6 The statement concludes as the residual cumulative impacts of the proposed redevelopment of a number of units within the site are considered to be negligible there should be no reason from a transportation viewpoint why planning consent relating to the proposed redevelopment of the site should not be granted. As noted above, officers have expressed concerns about the capacity of the Corporation Road/SDR junction. The information submitted in support of this application concludes that the proposals would have a negligible effect on the highway network. The Head of Streetscene (Highways) has reviewed the information and confirms no objection is offered to the proposals. Future proposals that are considered to result in additional pressure on the junction will need to be carefully considered on a case by case basis.
- 7.7 The level of parking provision proposed accords with the Council's Parking SPG.
- 7.8 The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). NRW Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river.
- 7.9 NRW have reviewed the FCA accompanying the application. The FCA explains that it is not possible to meet the criteria of TAN15 (A1.14 and A1.15) due to site constraints, i.e. the existing site level compared to the predicted flood depths. The FCA explains the site is on a natural low point in the area. The FCA points out that the proposal is a replacement for the existing industrial units on site and proposes betterment in terms of flood risk. The new units will be designed with increased flood resilience and mitigation measures, compared to the existing situation. These measures include an increase in finished floor levels (from 6.50m AOD to 6.80m AOD); raised electrical components and appropriate use of building materials resilient to flood waters. However, as the application proposes a net increase of 890m<sup>2</sup> in floor space, NRW would not consider this application as 'like for like'. When determining this application, but advise that the Authority may want to consider the betterment put forward by the applicant.
- 7.10 **Overview of Technical Advice Note 15: Development and Flood Risk**

TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be

justified on the basis of the tests outlined in the TAN are to be located in such areas. The Council is expected to consult Natural Resources Wales (NRW) when considering development in Zone C1. Where a planning authority is minded to go against the advice of NRW it should inform NRW prior to granting consent allowing sufficient time for representations to be made.

#### 7.11 **TAN 15 Tests**

Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within zone C1 if determined by the planning authority to be justified in that location and demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
  - ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region;
- and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
  - iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

For the purposes of this report, criterion (i) to (iii) are referred to as Test 1 as this relates to the site justification and criterion (iv) which has a number of tests is referred to as Tests 2 to 12.

#### 7.12 **Test 1 – Justification**

**Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement**

Located within the settlement boundary, Officers consider that the development is necessary as part of a local authority strategy required to sustain an existing settlement.

#### 7.13 **It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1)**

PPW defines previously developed land as:

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

The proposal satisfies this test.

#### 7.14 **Tests 2 to 12 – Consequences of Flooding**

Moreover, criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable. These are referred to as tests 2 to 12 below.

***Test 2 - Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a 1 in 1000 chance of occurring in any year)***

NRW have not objected to the development on the basis of inadequate flood defences.

***Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales.***

No flood mitigation measures proposed as part of the development.

***Test 4 - The developer must ensure that future occupiers of the development are aware of the flooding risks and consequences.***

It is intended to notify the developer of this by way of an informative to the planning consent.

***Test 5 - Effective flood warnings are provided at the site***

NRW confirm that flood warnings would be provided. No objection is offered by NRW on this basis.

***Test 6 - Escape/evacuation routes are shown by the developer to be operational under all conditions***

Escape/evacuation routes could flood to depths of 1.4m. The FCA suggests a rate of rise of 0.3m/hr based on tidal cycles but increasing with more extreme tides. TAN 15 specifies a maximum depth of 1m for industrial developments. It can therefore be concluded that at least in part, the evacuation route would not be operational under all conditions and this test is failed.

***Test 7 - Flood emergency plans and procedures produced by the developer must be in place***

NRW advise that if, as the planning authority, you are satisfied that the proposed location is the only possible location in planning terms, only then should you consider whether the above risks and consequences can be managed through measures such as emergency planning and evacuation.

A Flood Emergency Management Arrangement document has not been submitted.

The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements document is acceptable and effective. These procedures would be the responsibility of the developer.

***Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters and Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.***

The depth of flooding to the new units during the predicted 0.5% CCA event would be 1.39m and during the extreme 0.1% CCA event would be 1.57m. This test is failed.

***Test 10 - No flooding elsewhere.***

NRW do not object to the development on this basis.

***Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.5) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.***

The predicted flood level for the 0.5% (1 in 200 year) plus climate change allowance (CCA) tidal flood event is 8.19m AOD. The new building is therefore predicted to experience a flood depth of 1.39m during this flood event. NRW object to the development on this basis.

**Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 1000mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.45m/second in properties and the maximum rate of rise of floodwater would not exceed 0.3m/hour (refer to table at paragraph 7.7.41).**

The predicted flood level for the 0.1% (1 in 1000 year) plus CCA tidal flood event is 8.37m AOD. The new building is therefore predicted to experience a flood depth of 1.57m during this flood event. Using the maximum velocity on site for the 0.1% CCA at 1.53m/s, this is also above the guidance in A1.15.

- 7.15 In summary, when assessing whether the risks and consequences of flooding can be satisfactorily managed, the proposals do not satisfy several of the tests of TAN 15 and most notably, the building would not be flood free during a 1 in 200 year event. NRW object to the development. NRW acknowledge that it is not possible to meet the criteria of TAN15 (A1.14 and A1.15) due to site constraints, i.e. the site is on a natural low point in the area. It is also acknowledged that the new units will be designed with increased flood resilience and mitigation measures, compared to the existing situation. NRW affirm that it is for the planning authority to be satisfied that the proposal is justified, and that the consequences of flooding are acceptable.
- 7.16 The source of potential flooding is from the tidal river Usk or Severn Estuary. The tidal predictions including for surge conditions are undertaken on a 24hr/7days a week basis by NRW. The current flood forecasting models underpinning NRW's Flood Warning Service should be able to provide up to 12 hours advance notice of a significant tidal event. Whilst advance flood notice should not be relied upon in isolation, it is considered that due to the tidal nature of the flood risk in this instance, some weight should be attributed to this in conjunction with all other considerations. The proposed use is 'low vulnerability' and TAN15 acknowledges the differences in terms of different types of development and associated vulnerability. Furthermore, the proposals have merit and include the regeneration of employment land and it has welcomed economic benefits.
- 7.17 On balance, when considering the associated flood risk together with the fact that the proposed use is low vulnerability in its nature, along with the regeneration benefits of the proposals, the development is considered to be acceptable in terms of flood risk subject to a condition restricting the minimum floor level of the buildings.
- 7.18 The site is located within an archaeologically sensitive area. Glamorgan Gwent Archaeological Trust have been consulted and advise that as the proposed works are of a relatively limited scale beyond the footprint of the existing units they offer no objection.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

8.6 ***Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

9.1 The proposals provide economic benefits and do not give rise to any amenity or design concerns.

9.2 It is considered that the proposals would not result in a detrimental impact to the local highways networks and sufficient parking provision is to be provided on site.

9.3 The proposals do not comply with TAN15. However, in this instance when taking into consideration all of the relevant flooding factors, the low vulnerability of the proposals and the merits of the scheme including flood resilience measures, is considered that subject to a finished floor level condition the flood risk is acceptable.

9.4 It is recommended that the application is granted subject to the following conditions.

## **10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: P-110 Revision B, P-111 Revision C, P-112 Revision C, P-210 Revision B, P-211.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

***Pre- commencement conditions***

02 Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality\*, vibration, dust\*\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

\* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

\*\*The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with Policy GP2 of the NLDP.

03 Prior to the commencement of development, to include demolition, full details of foundation designs shall be submitted to the Local Planning Authority together with full details of ground waste methodology and pollution prevention control during construction of foundations and written approval received. The development shall be carried out fully in accordance with the approved details.

Reason: To prevent contamination of controlled waters in accordance with Policy GP5 of the NLDP.

04 Prior to the commencement of development, to include demolition, full details of proposed surface water drainage methods including pollutant infiltration prevention of controlled waters shall be submitted in writing to the Local Planning Authority and written approval received. The development shall be carried out fully in accordance with the approved details.

Reason: To ensure the site is adequately drained and to prevent contamination of controlled waters in accordance with Policy GP5 of the NLDP.

#### ***Pre – construction conditions***

05 Prior to the first beneficial use of the buildings hereby approved, the vehicle parking spaces shall be demarcated as per the approved plans and shall remain available for parking in perpetuity.

Reason: To ensure the development is served by adequate parking provision in the interests of highway safety in accordance with Policy GP4 of the NLDP.

#### ***General conditions***

06 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 and the Town & Country Planning Use Classes Order 1987, as amended (or any order revoking and re-enacting those Orders with or without modification) the premises the subject of this permission shall not be used other than for purposes falling within Class B1 of the Use Classes Order without the prior grant of planning permission from the Local Planning Authority.

Reason: To ensure that the use remains compatible with surrounding land uses in the area.

07 Finished floor levels for development hereby approved shall be set no lower than 6.8 metres above Ordnance Datum (AOD) (Newlyn).

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with Policy SP3 of the NLDP.

08 Noise emitted from plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 5dB below the existing background level, with no tonal element to the plant.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with Policy GP2 of the NLDP.

09 The external circulation areas shall be permanently retained for use by vehicles associated with the development hereby approved and shall be kept free of obstruction at all times.

Reason: To ensure the development is served by adequate circulation area in the interests of highway safety in accordance with Policy GP4 of the NLDP.

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP17, GP2, GP3, GP4, GP6, CE6, T4 were relevant to the determination of this application.

02 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

04 The applicant is advised it is their responsibility to ensure that they secure all other permits/consents relevant to their development. Please contact NRW to discuss these requirements further.

**APPLICATION DETAILS**

**No:** 19/0724      **Ward:** ALLT-YR-YN

**Type:** FULL

**Expiry Date:** 02-SEP-2019 (EXTENDED 04-DEC-2019)

**Applicant:** E COX

**Site:** 6, OMBERSLEY ROAD, NEWPORT, NP20 3EE

**Proposal:** CHANGE OF USE OF A FOUR BEDROOM DWELLING (C3 USE) TO A SIX BEDROOM HOUSE OF MULTIPLE OCCUPATION (C4 USE)

This application was previously brought before the December Planning Committee with a recommendation for approval. Planning Committee resolved to defer the application, requiring the applicant to carry out further parking survey work in order to comply with the Lambeth Methodology. The applicant has subsequently lodged a planning appeal against the non-determination of the application and the Planning Committee now have the opportunity to determine the application before the appeal proceeds. The application is therefore brought back before members to allow a decision to be made without the requested additional information. The officer recommendation to grant permission has not changed.

**Recommendation: GRANTED WITH CONDITIONS**

**1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the conversion of a four bedroom dwelling, known as 6 Ombersley Road, to a six bedroom house in multiple occupation.
- 1.2 The building is a three storey, mid terrace property.
- 1.3 The application is reported to Committee at the request of Councillor Evans and Councillor Ferris.

**2. RELEVANT SITE HISTORY**

- 2.1 None relevant.

**3. POLICY CONTEXT****3.1 Newport Local Development Plan 2011-2026 (adopted January 2015)**

Policy **SP1 Sustainability** favours proposals which make a positive contribution to sustainable development.

Policy **GP2 General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

Policy **H8 Self Contained Accommodation and Houses in Multiple Occupation** sets out the criteria for subdividing a property into self-contained flats. The scheme must be of appropriate scale and intensity not to unacceptably impact on the amenity of neighbouring occupiers and create parking problems; proposals must not create an over concentration in

any one area of the city; and adequate noise insulation is provided and adequate amenity for future occupiers.

Policy **T4 Parking** states that development will be expected to provide appropriate levels of parking.

#### **4. CONSULTATIONS**

4.1 HEDDLU – GWENT POLICE: No response.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection subject to a condition restricting the use of machinery and deliveries to specified hours.

5.2 PLANNING POLICY: No objection. According to GIS, there are no other HMOs within a 50m radius of this property. The application site falls within Lower Super Output Area W01001605 – Allt yr Yn. In the Council's own research, this LSOA is ranked 9<sup>th</sup> in terms of complaints and 38<sup>th</sup> in terms of crime. There's not sufficient evidence to demonstrate an over concentration of HMOs in this area.

5.3 HEAD OF CITY SERVICES (HIGHWAYS): The site is located in parking zone 3. In accordance with the Newport City Council Parking Standards SPG the existing 4 bedroom house requires 3 off-street parking spaces. The site has no off-street parking resulting in an existing parking shortfall of 3 spaces. A 6 bedroom HMO requires 6 residents spaces plus a visitor parking space. Taking into account the existing parking shortfall the development proposal requires 4 off-street parking spaces. The Planning Statement cites sustainability credentials for the site but Appendix 5 of the Parking SPG states that for residential units any reduction in parking shall not result in less than one space remaining. Each individual HMO bedroom is a separate residential unit and no parking reduction would be appropriate.

5.3.1 The application states that parking would be accommodated on street. It must be for the applicant to demonstrate that adequate on-street parking is available. A parking survey using the Lambeth Methodology is required. The applicant should note that this methodology must be strictly applied to include the early morning surveys when parking demand is likely to be at its peak. In the absence of the applicant being able to demonstrate that adequate on-street parking is available by the required method a recommendation of refusal will be forthcoming.

5.3.2 *Following the submission of a parking survey:* No objection. The parking survey submitted by the applicant demonstrates that sufficient on street parking is available to accommodate the additional spaces generated by the proposal in accordance with the Newport City Council Parking Standards.

5.4 HEAD OF LAW AND REGULATION (HOUSING): Provides advice about HMO licensing requirements.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All neighbours within 50m of the application site were consulted (94 properties). 9 representations have been received raising the following:

- Already enough properties with multiple occupancy, with drug problems, dealers and the related anti social behaviours. Another HMO may exacerbate this issue.
- Parking is already an issue on this road, with most households owning multiple cars. Residents from Bassaleg Road and Risca Road also use the road for parking. The addition of a multiple occupancy household could potentially increase the car count considerably.
- The application has used the incorrect address when searching for HMOs within a 50m radius of 6 Ombersley Road. It is considered that there may be a number of HMOs already registered within a 50m radius of the property meaning it would take the area over the 15% allowance.
- Concerns over the safety of residents, in particular young children, due to increased traffic of vehicles and visitors of residents who are likely to park unsafely and illegally due to the lack of parking available.
- The large number of HMO's and flats on this road and in neighbouring roads negatively impacts the local community and the social setting of young families in this area.

- Converting this property to a HMO would be a further loss of a family dwelling on Ombersley Road.
- Increase in general noise from an increased number of residents (volume of people coming and going) and the plans to create a large number of bathrooms. This will especially impact on the adjoining properties.

6.2 COUNCILLOR MATTHEW EVANS: I wish to strongly object to the change of use of 6 Ombersley Road from a four bedroom dwelling to a 6 bedroom HMO. There are already numerous properties in the vicinity which have been turned into HMO's, the applicant states there are none within a 50 metre radius but I would question this because the map provided is in Maindee not Allt-yr-yn. There would be no off street parking provided, in an area which increasingly suffers from a lack of parking. It would not enhance the area at all, so should you be mindful to grant permission I would like the Planning Committee to hear it.

6.3 COUNCILLOR CHARLES FERRIS: I would like to object to the application as there are already too many HMOs in Ombersley Road which is changing the character of the neighbourhood for the worse.

## 7. ASSESSMENT

7.1 This application seeks full planning permission for the conversion of this mid terrace four bedroom house into a six bedroom house in multiple occupation. The conversion would result in a communal kitchen, bathroom and two bedrooms on the ground floor and four bedrooms and a bathroom on the first floor. Each bedroom would have an en-suite toilet room. The attic space would be used for storage.

7.2 The main considerations for this proposal are the impact of the proposal on parking demand and whether the proposal will harm the character of the area and amenity of neighbouring occupiers. Policy GP2 (General Amenity) states that development will be permitted where there will be no significant adverse effect on amenity and provides adequate amenity for future occupants. Policy H8 (Self Contained Accommodation and Houses in Multiple Occupation) states that applications to convert buildings within the defined settlement boundary into HMOs will only be permitted if:

- i. the scale and intensity of use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on-street parking problems;
- ii. the proposal does not create an over concentration of HMOs in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;
- iii. adequate noise insulation is provided;
- iv. adequate amenity for future occupiers.

### 7.3 Concentration of HMOs

7.3.1 The Houses in Multiple Occupation Supplementary Planning Guidance (SPG) seeks to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity. It also states that the Council will not support a planning application that would take the number of HMOs above 15% in defined areas.

7.3.2 Within a 50m radius of the property there are 19 residential units. Calculations indicate that there are no HMOs within a 50m radius of the property as defined by the methodology set out in the approved SPG. If the application is approved it would result in 5.2% of properties within a 50 metre radius of the site being occupied as a HMO. Therefore this proposal would not cause an exceedance of the 15% threshold specified within the SPG.

7.3.3 Having regard to the above, it is considered that this proposal would not result in an over-concentration of HMOs in the area. In addition Councils research identifies that the application site falls with Lower Super Output Area W01001605 – Allt Yr Yn. The area is ranked 9<sup>th</sup> in terms of complaints and 38<sup>th</sup> in terms of crime. Overall it is considered that the proposal would not unduly harm the character of the area nor would it create an imbalance in the housing stock. In this respect the proposal satisfies Policies H8 and GP2 and the guidelines within the SPG. The comments of neighbours are noted.

### 7.4 Parking

- 7.4.1 In accordance with the Councils Parking Standards SPG, the existing house generates a demand for 3 off-street parking spaces. The property does not provide any off-street parking provision. The proposed HMO would generate a demand of 6 spaces at a ratio of 1 space per bedroom and 1 visitor space. The shortfall in parking at the property would therefore increase from 3 to 7, a worsening of 4 spaces.
- 7.4.2 The applicant has submitted a parking survey which considers the availability of parking on both sides of Ombersley Road and the western side of Bassaleg Road. The survey was undertaken in the afternoon and late at night on Thursday 1<sup>st</sup> August 2019 and Sunday 4<sup>th</sup> August 2019. These time periods were chosen as it was considered that most residents would be home and parking demand would be at its highest. On street capacity has been calculated by measuring the length of the kerbside parking available and dividing this by the length of a parking space (6m). The results of the survey are as below:

Street	Available kerbside parking - Length (m)	Available kerbside parking - Parking Spaces Number	Thursday 1 <sup>st</sup> August at 13:15 No of cars (% occupied)	Thursday 1 <sup>st</sup> August at 21:30 No of cars (% occupied)	Sunday 4 <sup>th</sup> August at 12:20 No of cars (% occupied)	Sunday 4 <sup>th</sup> August at 21:00 No of cars (% occupied)
Ombersley Road (North side)	143	23	12 (52%)	17(74%)	16 (70%)	17 (74%)
Ombersley Road (South side)	165	27	15 (56%)	19(70%)	17 (63%)	19 (70%)
Bassaleg Road (West side)	150	25	13 (52%)	14 (56%)	14 (56%)	15(60%)
<b>TOTAL</b>	<b>458</b>	<b>75</b>	<b>40 (53%)</b>	<b>50 (67%)</b>	<b>47 (62%)</b>	<b>51 (68%)</b>

- 7.4.3 The survey shows that during the daytime visits there were 53% and 62% of spaces occupied (47% (35 spaces) and 38% (28 spaces) available). During the night time visits there were 67% and 68% of spaces occupied (33% (25 spaces) and 32% (24 spaces) available). The applicants survey has therefore demonstrated that there would be sufficient capacity on-street to accommodate the additional parking demand.
- 7.4.4 The Planning Officer has visited the site on a late Sunday afternoon (16:20) and a Thursday evening (20:40). During the Sunday afternoon visit 12 available spaces were identified. It is acknowledged that the western end of Ombersley Road had very little on-street availability however, the eastern end, near to the application site had availability. This count also included the east side of Bassaleg Road which was not included in the applicants survey however, as this stretch of road is just 30m from the application site, it is considered to be a reasonable distance to walk.
- 7.4.5 During the Thursday evening visit 11 available spaces were identified. These spaces were identified on the west side of Bassaleg Road, on Ombersley Road and on West Park Road, which was not included in the applicants parking survey. West Park Road was surveyed as this road is within 200m of the application site, with a short cut through a rear access lane, which reduces the walking distance further. 200m is considered to be a reasonable walking distance in a dense urban area such as this. Whilst it is acknowledged that Ombersley Road had limited on-street availability, there were sufficient spaces within a reasonable walking distance from the site.
- 7.4.6 Recent appeal decisions: It should be noted that there have been a number of appeal decisions in relation to HMO applications and these are material to the determination of this application. The results of those appeals are summarised below:

Site address and ref.	Appeal ref.	Parking concerns	Parking survey	On-street capacity	Sustainable site	Decision

66 Argosy Way – 18/1067	APP/G6935/A/19/3226987	Yes	Yes	Yes	Yes	Allowed
221 Chepstow Road – 18/1161	APP/G6935/A/19/3226311	Yes	Yes	Yes	Yes	Allowed
3 York Place – 18/0459	APP/G6935/A/19/3212158	Yes	Yes	Yes	Yes	Allowed
Eveswell Surgery, Chepstow Road – 19/0256	APP/G6935/A/19/3233372	Yes	No	No	Yes	Allowed
28 Lucas Street – 18/0711	APP/G6935/A/19/3230032	Yes	Yes	Yes – concluded by the Inspector	Yes	Allowed
Baneswell Community Centre – 18/1117	APP/G6935/A/19/3231977	Yes	Yes	Yes	Yes	Allowed with costs against the Council

7.4.7 In these cases the Planning Inspectors have considered the availability of on-street parking, where a parking survey had been submitted and in all cases except Eveswell Surgery, the Inspectors accepted that the availability of on-street parking meant that there would not be a harmful impact on highway and pedestrian safety. Further to this and crucially in all cases, the Inspectors attached significant weight to the sustainability of the sites. The Inspectors consider that there is no reason for HMOs to be exempt from consideration of their sustainability credentials. In all of the above cases it was concluded that they were located in sustainable locations and Inspectors have considered the aims of Planning Policy Wales (Edition 10) which states, that parking standards should be applied flexibly and informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car. Inspectors consider that HMOs represent a form of development which would be an attractive form of accommodation to those without regular access to a private car. Overall, Inspectors consider that HMOs are unlikely to generate the demand for on-street parking as recommended by the Parking Standards SPG.

7.4.8 In this case it is considered that the application site is located in a sustainable location. When assessed against Appendix 5 “Sustainability” of the Parking Standards SPG, which sets out sustainability criteria, such as proximity to local facilities and public transport, and awards points against these criteria which justify a reduction in the parking requirement, the proposal would score the following points:

- Shops within the Handpost District Centre within 200m – 6 points (double points are scored for access to a district centre)
- Two GP surgeries within 800m – 1 point
- Bus stop (Handpost) within 200m – 3 points
- Frequency of public transport – there are a number of services operating from this bus stop (56, 151, R1, 50 and 2C). According to Traveline Cymru, service 151 first stops at the Handpost at 06:17 with the last service at 22:54 with a few minutes between each bus – 3 points.
- TOTAL = 13 points

7.4.9 It is considered that the sustainability of the site can justify the maximum 30% reduction in parking provision, which equates to 1.2 spaces. This would result in a shortfall in three spaces, which would need to be accommodated on-street. Given the results of the parking survey it is considered that this demand can be accommodated within the surrounding. The Head of City Services (Highways) is satisfied with the applicants parking survey and as such

it is considered that there would be no harmful impact on highway and pedestrian safety, nor residential amenity.

## 7.5 **Other matters**

7.5.1 The application does not propose any external alterations and as such there would be no impact on visual amenity.

7.5.2 In terms of the residential amenity of future occupiers the Houses in Multiple Occupation SPG does not provide guidance on room sizes and these are controlled by licensing standards. The SPG does advise that HMOs should provide outdoor amenity spaces in which residents can relax, dry their clothes and store refuse bins. The application property has a reasonably sized rear garden which is accessed through the communal kitchen. There is also a front garden which is considered to be of a sufficient size to store refuse bins. It is therefore considered that the HMO would result in an acceptable level of amenity for future occupiers.

7.5.3 The Councils Environmental Health Officer has no objection to the proposal subject to a condition restricting the use of machinery and deliveries to specified hours. As the proposal is for a change of use to residential accommodation, it is not considered necessary to impose such a condition.

## 8. **OTHER CONSIDERATIONS**

### 8.1 ***Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### 8.2 ***Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### 8.6 ***Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

### 8.7 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed

off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

9.1 The proposed development is considered to be acceptable and in accordance with policies SP1, GP2, GP4, H8 and T4 of the Newport Local Development Plan (adopted January 2015). When considering the body of appeal decisions in relation to HMOs and specifically the Inspectors consideration of parking issues, it is considered that there would be no harmful impacts on highway and pedestrian safety, nor residential amenity. It is recommended that planning permission is granted subject to conditions.

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

The development shall be implemented in accordance with the following plans and documents: Existing and Proposed Floor Plans, site location plan and parking survey (LRJ Planning, August 2019).

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

#### *NOTE TO APPLICANT*

01 This decision relates to: Planning Statement (LRJ Planning, July 2019).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP2, GP4, H8 and T4 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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### **APPLICATION DETAILS**

No: 19/0724 Ward: **ALLT-YR-YN**

Type: Full

Expiry Date: 02-SEP-2019 (EXTENDED 04-DEC-2019)

Applicant: **E COX C/O AGENT**

Site: **6, OMBERSLEY ROAD, NEWPORT, NP20 3EE**

Proposal: **CHANGE OF USE OF A FOUR BEDROOM DWELLING (C3 USE) TO A SIX BEDROOM HOUSE OF MULTIPLE OCCUPATION (C4 USE)**

## **1. LATE REPRESENTATIONS**

1.1 NEIGHBOURS: Objection for the following reasons:

- There are two buildings of multiple occupation, both being rehabilitation hostels, one at 2 Ombersley Road and the other at 4 Bassaleg Road. These properties are almost adjacent to the planning application and are frequently visited by support staff and associates of the numerous tenants with no facilities for parking. It is not correct that there are no HMO's within 50m of 6 Ombersley Road.
- Further concerns over the exacerbation of parking problems in the surrounding area.

## **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

- 2.1 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH – LICENSING): No active HMO's on Ombersley Road and no's 3, 4, 5, 6, 7, 8, 9, 11 and 13 Bassaleg Road are not HMO's.
- 2.2 2 Ombersley Road and 4 Bassaleg Road are managed by Gwalia Care and Support, a housing association. Gwalia Care and Support have been contacted and they have confirmed that 2 Ombersley Road and 4 Bassaleg Road operate as one unit. It is a hostel which provides a total of 10 bedrooms across the two buildings, which are interconnected and has one entrance point. The bedrooms have small kitchen facilities, with the remaining facilities such as a bathroom, shared by the occupants. This facility falls within the definition of a HMO, as set out in the Housing Act 2004. The Head of Law and Regulation (Environmental Health, Licensing) has clarified that properties managed by housing associations are exempt from HMO licensing and as such the unit was not previously identified in searches.
- 2.3 In order to take account of this new information the calculations to determine the number of HMO's within a 50m radius of the application site have been revised. Within the 50m radius there are 18 residential units, should the application be approved then there would be 2 HMO's within this area. This would result in 11% of properties being occupied as a HMO. Therefore this proposal would not cause an exceedance of the 15% threshold specified within the SPG.
- 2.4 Having regard to the above, it is considered that this proposal would not result in an over-concentration of HMOs in the area.
- 2.5 The highways consultant stated (paragraph 5.3.1 of the officer report) that 'a parking survey using the Lambeth methodology is required. The applicant should note that this methodology must be strictly applied to include the early morning surveys when parking demand is likely to be at its peak'.
- 2.6 It should be noted that the Lambeth Methodology has not been officially adopted by Newport City Council as Supplementary Planning Guidance. This limits the weight that should be applied to it in any decision making. The highways team have suggested to applicants that it should be used as a matter of good practice to provide a more scientific method of calculating parking availability. The Lambeth methodology Guidance Note states that *'the survey should be undertaken when the highest number of residents are at home; generally late at night during the week. A snapshot survey between the hours of 0030-0530 should be undertaken on two separate weekday nights (ie. Monday, Tuesday, Wednesday or Thursday)*.
- 2.7 To clarify, the surveys were undertaken on a Thursday at 13.15 and at 21.30 and on a Sunday at 12.20 and at 21.00. It is considered by officers that whilst the survey days / times were not strictly in accordance with those suggested by the Lambeth Methodology, a Sunday and the late evening times are considered reasonably representative of times when parking demand is likely to be at its highest.

## **3. OFFICER RECOMMENDATION**

- 3.1 The officer recommendation remains as per the original report, that is, to grant planning permission subject to conditions.

**APPLICATION DETAILS**

**No:** 19/0848      **Ward:** RINGLAND

**Type:** FULL

**Expiry Date:** 10-JAN-2020

**Applicant:** SAM HILL, NEWPORT NORSE

**Site:** RINGLAND PRIMARY SCHOOL, DUNSTABLE ROAD, NEWPORT, NP19 9LU

**Proposal:** REPLACEMENT BOUNDARY FENCE AND GATES

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks planning permission for the replacement of the existing fencing and gates at Ringland Primary School with 2.4m high weld mesh fencing and gates coloured Green (RAL 6005).

**2. RELEVANT SITE HISTORY**

08/0152	PROVISION OF EXTERNAL ACCESS RAMP AND EXTENSION TO ACCOMMODATE NEW LIFT	GRANTED WITH CONDITIONS
09/1260	EXTERNAL CANOPY FOR OUTDOOR PLAY	GRANTED
11/1094	EXTERNAL CANOPY FOR OUTDOOR PLAY	GRANTED
15/1141	SITING OF STORAGE CONTAINER	GRANTED WITH CONDITIONS
17/1122	ERECTION OF 2.4M HIGH WELD MESH FENCING	GRANTED WITH CONDITIONS
19/0193	NON-MATERIAL AMENDMENT TO APPLICATION 17/1122 FOR ERECTION OF 2.4M HIGH WELD MESH FENCING	APPROVED WITH CONDITIONS
19/0536	NON MATERIAL AMENDMENT TO PLANNING APPLICATION 17/1122 FOR ERECTION OF 2.4M HIGH WELD MESH FENCING FOR CHANGE OF FENCE LINE AND INSTALLATION OF DOUBLE GATES	APPROVED WITH CONDITIONS

**3. POLICY CONTEXT**

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: development will be permitted where, as applicable:
- i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
  - ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
  - iii) The proposal seeks to design out the opportunity for crime and anti-social behaviour;
  - iv) The proposal promotes inclusive design both for the built development and access within and around the development.

v) Adequate amenity for future occupiers.

- 3.3 Policy GP6 (Quality of Design) states: good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:
- i) Context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
  - ii) Access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
  - iii) Preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
  - iv) Scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
  - v) Materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
  - vi) Sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.

#### **4. CONSULTATIONS**

4.1 None.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF CITY SERVICES (HIGHWAYS): No objection.

5.2 HEAD OF CITY SERVICES (TREES): No objection.

5.3 HEAD OF CITY SERVICES (PUBLIC RIGHTS OF WAY): The proposed fencing doesn't appear to affect the PROW heading from Downland Close and so I have no comments or objections to make.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary and opposite (80no properties) were consulted and no comments have been received.

#### **7. ASSESSMENT**

7.1 There is existing fencing at the site that is vertical bar measuring a height of 1.4m. The proposal seeks to replace this with 2.4m high weld mesh fencing powder coated green (RAL 6055). The fencing would run along the side (south west), front (south) and other side (north east) of the site. Consent was granted in 2017 for the erection of new fencing at part of the site. This fencing has now been completed and the proposed fencing that forms part of this application would link into the existing fencing at the north east and southwest of the site. There will also be 7no new gates inserted into the fencing along the new fence line that will all measure a height of 2.4m but varying widths.

7.2 There is fencing currently on site that measures a height of 1.4m. The existing fencing represents a security risk and so it is considered necessary to replace this dilapidated fencing with higher more secure fencing. The new fence would measure a height of 2.4m and consist of vertical and horizontal green bars in a mesh pattern which would allow visibility through the fence to be maintained. Despite the increase in height of the fencing and alternative design, it is considered that by reasons of its design, scale and location, it would not introduce an obtrusive feature to the detriment of neighbouring amenity or the visual amenity of the streetscene. The proposed fence would not result in any harm to the residential amenities of the occupiers of nearby properties. There would be no overbearing impact given its distance from neighbouring properties. The proposed fencing would provide a safe and secure boundary treatment for the school that would not result in a harmful impact on the appearance of the school and the streetscene. Fencing is a common feature at

schools. The proposed fencing is considered a suitably designed security measure that will result in both a visual and security improvement. On balance, the proposed erection of fencing is in accordance with policies GP2 and GP6 of the Newport Local Development Plan (Adopted 2015).

- 7.3 There are trees within the site that are within close proximity to the proposed fencing. As such, the Council's Tree Officer was consulted on the application. Following receipt of tree information in accordance with BS5837:2012, the officer has confirmed that they have no objection to the proposal subject to a condition being attached requiring the appointment of an arboriculturalist to oversee the project for the duration of the development.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

- 8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

- 8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### **8.6 *Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

### **8.7 *Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

- 9.1 The proposed development by reasons of its scale, location and design would satisfy policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

## **10. RECOMMENDATION**

## **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Site Plan Drawing No.001, Proposed Fencing Drawing No.008, Proposed Gate 1 Detail Drawing No.009, Proposed Gate 3 Detail Drawing No.011, Proposed Gate 7 Detail Drawing No.013, Proposed Gates 2 and 6 Detail Drawing No. 010, Proposed Gates 4 and 5 Detail Drawing No.012, Tree Constraints Plan 19-032 and Tree Survey, Categorisation and Constraints Report Dated 12<sup>th</sup> October 2019.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

02 No fencing installation shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for –

- (a) Oversee working within any Root Protection Area to allow the fence is installation;
- (b) Reporting to the Local Planning Authority;
- (c) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Councils Tree Officer.

Reason: To protect important landscape features within the site.

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan, Site Plan Drawing No.001, Existing Fencing Drawing No.007, Proposed Fencing Drawing No.008, Proposed Gate 1 Detail Drawing No.009, Proposed Gate 3 Detail Drawing No.011, Proposed Gate 7 Detail Drawing No.013, Proposed Gates 2 and 6 Detail Drawing No. 010, Proposed Gates 4 and 5 Detail Drawing No.012, Tree Constraints Plan 19-032 and Tree Survey, Categorisation and Constraints Report Dated 12<sup>th</sup> October 2019.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 were relevant to the determination of this application.

03 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

04 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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**APPLICATION DETAILS**

**No:** 19/1103      **Ward:** *BETTWS*

**Type:** FULL

**Expiry Date:** 14-JAN-2020

**Applicant:** *K WHITEHEAD*

**Site:** *51, MILL HEATH, BETTWS, NEWPORT, NP20 7RA*

**Proposal:** *RETENTION OF SUMMER HOUSE WITH DECKING*

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the retention of a summer house with decking area at 51 Mill Heath, Newport. The property is a semi detached dwelling located in the Bettws ward.
- 1.2 The application is referred to Planning Committee as the applicant is a councillor.

**2. RELEVANT SITE HISTORY**

None.

**3. POLICY CONTEXT**

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: Development will be permitted where, as applicable:
- i. There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
  - ii. The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
  - iii. The proposal seeks to design out the opportunity for crime and antisocial behaviour;
  - iv. The proposal promotes inclusive design both for the built development and access within and around the development;
  - v. Adequate amenity for future occupiers.
- 3.3 Policy GP6 (Quality of Design) states: Good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:
- i. Context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
  - ii. Access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
  - iii. Preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
  - iv. Scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
  - v. Materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage

vi. Sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.

#### **4. CONSULTATIONS**

4.1 None.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 None.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary with the application site were consulted (3no. properties), and 1 letter of support was received.

#### **7. ASSESSMENT**

7.1 The application seeks permission for the retention of a summer house and decking area. The application property is a semi detached property in the Bettws ward.

7.2 The decking and summer house are located in the rear garden of the property. The summer house measures 3.04m in width, and 4.4m in length (4.9m including the overhanging roof). From the decking level, the ridge height is 2.4m and the eaves height is 1.8m. The summer house has been erected on an area of wooden decking. Due to the sloping gradient of the garden, the front of the decking has a depth of 0.38m from ground level at the south boundary, and a depth of 0.45m at the north boundary. There is a 1.63m high fence located on the north and south boundaries, and a 1.93m high fence to the rear boundary. The summer house is located 1m from the south boundary, and 1.88m from the north boundary with no. 53 Mill Heath. It is finished in wood, with 1no. double door to the front elevation.

7.4 The decking area measures approximately 5.8m in length and 5.9m in width to the front of the decking which is the widest part. The width of the decking reduces towards the rear boundary due to the shape of the garden. The development cannot be undertaken under permitted development rights due to the height of the decking. The General Permitted Development Order (1995) outlines that raised platforms are not permitted development under Development Class E where any part would project more than 300mm above the surface of the ground directly below it. As the raised decking area projects more than 300mm above the ground below it, planning permission is required. Additionally, no part of the development is permitted where it is within 2m of the boundary of the curtilage of the dwellinghouse when it would exceed 2.5m in height. The ridge height of the summer house is 2.4m, when the height of the decking is added to this, it would exceed 2.5m in height within 2m of the rear boundary, therefore it would not be classified as permitted development, and would require planning permission.

7.5 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 are relevant to the determination of this application, as is the Householder Extensions and Domestic Outbuildings Supplementary Planning Guidance.

7.6 The Householder Extensions and Domestic Outbuildings SPG states that a raised amenity space should relate sympathetically to the existing building and streetscape by virtue of its size, design and materials. A raised amenity space that substantially reduces natural light, perceived space or privacy in neighbouring habitable rooms or back gardens will not be acceptable. In some cases, privacy screens can reduce the degree of overlooking that neighbours experience in their homes and gardens. They should be large enough to prevent a material loss of privacy yet small enough not to render a structure obtrusive or unsightly.

7.7 In terms of impact on neighbouring residential amenity, there are no neighbours directly to the south of the site to be affected by the decking and summer house. To the North of the site is the adjoining property, no. 53 Mill Heath. There is a 1.63m high fence located on the boundary with no.53, and it is considered that this fence provides adequate screening to prevent a loss of privacy in the neighbouring garden.

- 7.8 Both dwellinghouses at nos. 51 and 53 Mill Heath are positioned at a lower level than the rear gardens. As such, the decking and summerhouse are positioned at a higher ground level than the properties. Due to the gradient of the rear garden, it is acknowledged that there is a degree of overlooking from the summer house and decking area towards the first floor windows of the neighbouring property. Due to the limited height of the decking, and gradient of the garden, the degree of overlooking experienced on the neighbouring property is comparable to what would be experienced from standing at ground level in that area of the garden, or from any building that could be erected under permitted development rights. Due to the development being located to the rear of the garden, it is not considered it would lead to a loss of light to any habitable rooms of the neighbouring property. Therefore, overall, it is considered that the raised decking area and summer house would not result in a detrimental impact above that already experienced on residential amenity by way of overbearing impact, loss of light or loss of privacy and so accords with policy GP2.
- 7.9 In terms of design, the decking and summer house are both timber, and are not visible from the streetscene. It is considered that the scale and design of the development does not detract from the character and appearance of the property, is modest in scale and commensurate to its domestic garden location. Therefore it is in accordance with policy GP6.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

### **8.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### **8.6 *Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

### **8.7 *Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been

considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

9.1 The raised decking and summerhouse by reason of their location, scale and design preserve visual amenities, access to daylight and privacy to neighbouring properties and would not result in a demonstrable harm on the character and appearance of the property and streetscene. The proposal is therefore in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the adopted House Extensions and Domestic Outbuildings SPG.

9.2 It is recommended that the application be granted subject to the following conditions.

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Front Elevation and Side Elevation, Site Location Plan and photos of the summer house and decking.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

### *NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 were relevant to the determination of this application.

02 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

04 Supplementary Planning Guidance (SPG) 'House Extensions and Domestic Outbuildings 2015 was relevant to the determination of this application.





# Report

## Planning Committee

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### Part 1

Date: 1<sup>st</sup> January 2020

Item No: Insert item number here

**Subject** **Appeal Decisions**

**Purpose** To inform Members of the outcome of recent appeals

**Author** **Head of Regeneration, Investment and Housing**

**Wards** Malpas, Victoria, Pill, Marshfield

**Summary** The following planning appeal decisions are reported to help inform future decisions of Planning Committee

**Proposal** **To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.**

**Action by** Planning Committee

**Timetable** Not applicable

This report was prepared without consultation because it is to inform Planning Committee of appeal decisions already taken.

## **Background**

The reports contained in this schedule provide information on recent appeal decisions.

The purpose of the attached reports is to inform future decision-making. This will help ensure that future decisions benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

The applicant has a statutory right of appeal against the refusal of permission in most cases. There is no Third Party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

## **Financial Summary**

The cost of defending decisions at appeal is met by existing budgets. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

## **Risks**

The key risk relating to appeal decisions relates to awards of costs against the Council.

An appeal can be lodged by the applicant if planning permission is refused, or if planning permission is granted but conditions are imposed, or against the Council's decision to take formal enforcement action. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	<p>Ensure reasons for refusal can be defended at appeal;</p> <p>Ensure planning conditions imposed meet the tests set out in Circular 016/2014.</p> <p>Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p> <p>Ensure appeal timetables are adhered to.</p>	<p>Planning Committee</p> <p>Planning Committee</p> <p>Development Services Manager and Senior Legal Officer</p> <p>Planning Officers</p>
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Development Services Manager

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### Options Available

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

### Preferred Option and Why

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

### Comments of Chief Financial Officer

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications or enforcement action.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

### **Comments of Monitoring Officer**

There are no legal implications other than those referred to in the report or detailed above.

### **Staffing Implications: Comments of Head of People and Business Change**

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

### **Local issues**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### **Equalities Impact Assessment and the Equalities Act 2010**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

### **Children and Families (Wales) Measure**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### **Consultation**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### **Background Papers**

Not applicable

Dated: 1<sup>st</sup> January 2020

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**Planning Application Appeal**

Reference	19/0791
Address	1 Alanbrooke Avenue, Newport, NP20 6QH
Development	Two storey side extension
Appellant	Mr Mark Beynon
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

Reference	19/0653
Address	27 Maindee Parade
Development	Change of use to house in multiple occupation for up to six residents
Appellant	Mr Matthew Layton
Officer Recommendation	Approve
Committee Decision	Refuse
Appeal Decision	Allowed
Award of costs	Refused

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**Planning Application Appeal**

Reference	19/0082
Address	158a Commercial Road, Newport, NP20 2PJ
Development	Converting five bedroom flat into 2no. individual flats
Appellant	Mrs Gulcan Cengiz
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Enforcement Prosecution**

Reference	E14/0096
Address	0lli Wood Farm, Coal Pit Lane, Castleton, Cardiff, CF3 6WQ
Breach	Non-compliance with a notice requiring demolition and removal of various development.
Court	Cwmbran Magistrates
Date of hearing	03/12/2019
Defendant	Clive Coulthard
Fine	£5000 (Reduced from £7500 for guilty plea)
Costs	£565.00

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