

Agenda

Pwyllgor Cynllunio

Date: Dydd Mercher, 1 Tachwedd 2023

Time: 10.00 am

Venue: Siambr y Cyngor, Canolfan Ddinesig

To: Councillors M Spencer (Cadeirydd), M Linton (Dirprwy Gadeirydd), T Harvey, J Reynolds, S Cocks, A Screen, B Perkins, J Jones, M Howells, R Mogford and J Jordan

Item	Wards Affected
1. <u>Ymddiheuriadau dros Absenoldeb</u>	
2. <u>Datganiadau o ddiddordeb</u>	
3. <u>Cofnodion y cyfarfod a gynhaliwyd ar Hydref 2023</u> (Tudalennau 3 - 6)	
4. <u>Rheoli Datblygu Amserlen Ceisiadau Cynllunio</u> (Tudalennau 7 - 20)	
5. <u>Penderfyniadau Apêl</u> (Tudalennau 21 - 26)	

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Date of Issue: Dydd Mercher, 25 Hydref 2023

All meeting recordings can be found [here](#).

Mae'r dudalen hon yn wag yn

Minutes



Planning Committee

Date: 06 September 2023

Time: 10.00 am

Present: Councillors M Spencer (Chair), M. Howells, R Mogford, T Harvey, A. Screen, B. Perkins, S. Cocks and J. Reynolds

In Attendance: Andrew Ferguson (Planning and Development Manager), Joanne Davidson (East Area Development Manager), Joanne Evans (Senior Solicitor- Planning & Land), Alun Lowe (Planning Contributions Manager), Grant Hawkins (Senior Planning Officer)
Emily Mayger (Governance Support Officer), Simon Richards (Governance Team Leader)

Apologies: J. Jones, J. Jordan, M. Linton

1. **Declarations of Interest**

None

2. **Minutes of the meeting held on 04 October 2023**

The minutes of the meeting held on 04 October 2023 were submitted.

Resolved

That the minutes of the meeting held on 04 October 2023 be taken as read and confirmed.

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

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

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

The meeting terminated at 11.41pm

Mae'r dudalen hon yn wag yn

Decision Schedule

Planning Committee

No	Site/Proposal	Ward	Additional Comments	Decision
Tudalen 5	23/0091	Newport West Retail Park Docks Way Newport South Wales NP20 2NZ	Presented to Committee as a major application. Adrian Fox spoke in favour of the application.	Granted with conditions subject to notification to Natural Resources Wales with delegated authority to the Head of Regeneration and Economic Development to issue the decision if no new matters raised.
	23/0651	51 Albert Avenue Newport NP19 8FT	Brought to the Committee at request from Councillor Hussain.	Granted with conditions
	E23/0062	6 Jessop Road, Rogerstone	Brought to the Committee at request from Councillor Reeks. Councillor Reeks spoke on behalf of residents.	No breach – closed case

Mae'r dudalen hon yn wag yn

Report

Planning Committee – Hybrid Meeting

Part 1

Date: 1st November 2023.

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

Author Head of Regeneration and Economic Development

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.

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	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.	Planning and Development Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Planning and Development Manager
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee Planning and Development Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee Planning and Development 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, Policy and Transformation

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 Strategic Planning, Regulation 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.

The Socio-economic Duty, part of the Equality Act 2010, was also enacted in Wales on the 31st March 2021. This requires the Planning Committee, when making strategic decisions, to also pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage. Inequalities of outcome are felt most acutely in areas such as health, education, work, living standards, personal security and participation.

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 11 (February 2021)
 Development Management Manual 2017
 Welsh National Marine Plan November 2019
 Future Wales - The National Plan 2040 (February 2021)

PPW Technical Advice Notes (TAN):

- 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 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

LOCAL POLICY

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

Supplementary Planning Guidance (SPG):

Affordable Housing (adopted August 2015) (updated October 2021)
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
Flat Conversions (adopted August 2015) (updated October 2021)
House Extensions and Domestic Outbuildings (adopted August 2015) (updated January 2020)
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)
New dwellings (adopted August 2015) (updated January 2020)
Parking Standards (adopted August 2015)
Planning Obligations (adopted August 2015) (updated January 2020)
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)
Waste Storage and Collection (adopted January 2020)
Sustainable Travel (adopted July 2020)
Shopfront Design (adopted October 2021)

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 Growth Strategy (and associated Economic Growth Strategy Recovery Addendum) 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 and are available to view on the Council’s website using the application reference number.

1.

APPLICATION DETAILS

No: 23/0749 **Ward:** Liswerry
Type: Full
Expiry Date: 3rd November 2023
Applicant: U Ali
Site: 10A Cromwell Road Newport NP19 0FZ
Proposal: PROPOSED REAR DORMER (RETROSPECTIVE)
Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 Planning permission is sought for the retention of a rear dormer roof extension at 10a Cromwell Road. The dormer has been erected on the rear roof slope and measures a width of 2.9m, a depth of 3.8m and a height of 2.4m. The dormer contains 1no window in the rear elevation which serves a bedroom.

2. RELEVANT SITE HISTORY

22/0521	PROPOSED CHANGE OF USE OF GROUND FLOOR TO RESIDENTIAL AND CONVERSION OF ATTIC TO INCLUDE CHANGES TO ELEVATIONS	GRANTED WITH CONDITIONS
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3. POLICY CONTEXT

3.1 Policies GP2 (General Amenity), GP4 (Highways and Accessibility) and GP6 (Quality of Design) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application. The 'House Extensions and Domestic Outbuildings' Supplementary Planning Guidance (SPG) is also relevant.

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

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

6. REPRESENTATIONS

6.1 COUNCILLOR MORRIS; If officers are minded to approve this application I would like it called to the planning committee because I am concerned that the dormer causes an overlooking issue and loss of light.

6.2 NEIGHBOURS: Three properties were consulted and the following comments were received;

8 Cromwell Road;

- Due to 10 Cromwell Road being an end of terrace house the longer sides of the garden's at 10 and 8 Cromwell Road are joined side by side. Therefore, due to the rear window in the Dormer at 10 Cromwell Road it means that the privacy in my rear garden is completely compromised.
- In comparison, my other neighbour's house next door at 6 Cromwell Road which is designed differently; if number 6 also had a Dormer then it would not impact my privacy in my back garden whatsoever due to the position of our houses and gardens which are not linked together in the same way that my garden at number 8 is with the garden at number 10.

- Also, as you can see when you are standing in my bathroom, the view from my bathroom window of the Dormer means that the natural daylight into my bathroom is completely diminished due to the overbearing nature of the Dormer at 10 Cromwell Road.
- The window in the rear of the dormer looks directly out onto our back garden invading own privacy.
- The dormer has been constructed on the Party Wall without the benefit of a Party Wall Award and without our consent. The nature of the construction will have an adverse effect on our roof.
- The roof drainage to the new dormer discharges onto our property. The dormer as constructed is too wide to accommodate a gutter within the boundary of the property concerned.
- The location of the dormer window does not afford us privacy within our bathroom which can be viewed directly from the dormer window.
- We would state that we have no objection to the dormer provided that the above issues are dealt with to our satisfaction.

7. ASSESSMENT

- 7.1 By way of background, the ground floor unit was previously used as a convenience store however was vacant for some time. The upper floor of the property was a residential use. Planning permission was approved in 2022 (ref no.22/0521) to convert the ground floor of the property to residential use so that the building would become one single dwellinghouse. The permission also allowed for the conversion of the attic to a bedroom and changes to elevations.
- 7.2 The property comprises a corner plot located at the terminal of Slade Street and Cromwell Road. It is finished in red brick and exhibits a pitched roof. A double garage is located to the rear of the building which is accessible from Slade street.
- 7.3 The dormer roof extension is located on the rear roof slope of the property. Typically development on a rear elevation has little to no views from the street however as the property is located on the corner of Slade Street and Cromwell Road, the side elevation is visible from the street. Due to the layout of the property, there are very limited views of the rear elevation of the property resulting in only part of the roof slope of the dormer being visible from the public realm. The external materials are in-keeping with those in the roof of the main dwelling. Therefore it is considered that owing to the scale and location of the dormer roof extension, it does not result in a prominent addition to the streetscape and does not detract from the character and appearance of the dwelling and wider streetscape.
- 7.4 Concerns have been raised by both the Councillor and adjoining neighbouring relating to a loss of privacy and light as well as an overbearing impact resulting from the erection of the dormer extension. Firstly addressing the lack of privacy, concerns have been raised in relation to a loss of privacy to the rear garden of the adjoining property, no.8 Cromwell Road. Located immediately beneath the window in the dormer there is an existing larger first floor window that serves a bedroom. It is considered that the window in the dormer would not provide any further views of the garden over and above the existing first floor window which already overlooks the garden. Therefore it is not considered that the garden would be harmfully impacted over and above the existing situation. There were also concerns relating to a loss of privacy to the adjoining property's first floor window located in the side elevation that faces toward the application site. This window serves a bathroom. The 'House Extensions and Domestic Outbuildings' SPG states that suitable separation distances must exist between new protected windows and the protected windows in neighbouring houses in order to protect privacy. A protected window is a window that serves a habitable room in a dwelling. A habitable room is 'any room used or intended to be used for sleeping, living, cooking or eating purposes. Enclosed spaces such as bath or toilet facilities are excluded from this definition.' As the neighbour's side window serves a bathroom it is not a protected window. Notwithstanding this, the window is obscure glazed, protecting privacy. The neighbour raises concerns that when their bathroom window is open, the dormer window provides views into their bathroom. However, as the bathroom window is top hung and owing to the relationship between the windows being at an oblique angle, these are very limited and not considered to be harmful. Therefore, it is considered that the dormer does not result in a harmful loss of privacy to the adjoining property. Concerns were also raised with regard

to the dormer being overbearing. However, it is considered that owing to the scale and location of the dormer, it would not result in an overbearing impact. The neighbour has stated that 'natural daylight to their bathroom has been completely diminished due to the overbearing nature of the dormer.' As set out in the 'House Extensions and Domestic Outbuildings' SPG, light tests are only undertaken from protected windows. It has been established above that as the window of concern serves a bathroom, this is not a protected window. Therefore, the light tests have not been undertaken. Only protected windows can reasonably be expected to have adequate amounts of light afforded to them whereas rooms such as bathrooms, hallways, utility rooms etc. which are not living spaces are not protected in the same way. Matters relating to the Party Wall Act and roof drainage are not planning matters. Overall it is considered that the dormer roof extension does not result in a harmful impact on residential amenity by reason of a loss of light, privacy or perceived space.

7.5 Finally, dormer roof extensions are often granted permission by way of the Town and Country Planning (General Permitted Development Order) 1995 (as amended) and therefore do not require a planning application. A dormer extension could be erected on the rear roof slope of this residential property and would not require a planning application. Whilst this application has been submitted and will be considered on its merits (and no determination is being made on the lawfulness of this development), the planning fallback and ability to install a dormer roof extension at the property under permitted development rights is a material consideration.

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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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 By reason of its location, scale and design it is considered that the dormer roof extension does not result in a harmful impact on visual or residential amenity.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Proposed Plans Drawing No.KD1868/2B.

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 plan Nos: Location Plan, Proposed Plans Drawing No.KD1868/2B and Existing Plans Drawing No.KD1868/1A.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4 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.

END

Mae'r dudalen hon yn wag yn



Report

Appeal Decisions

Part 1

Date: 1st November 2023

Item No: Insert item number here

Subject **Appeal Decisions**

Purpose To record the outcome of recent planning appeals

Author **Head of Regeneration and Economic Development**

Wards Rogerstone West, Shaftsbury, St Julians

Summary In consultation with the Chair or Deputy Chair of Planning Committee, the Head of Regeneration and Economic Development has delegated powers to determine planning applications previously determined by Planning Committee. The following planning appeal decisions are reported to help inform future decisions.

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

Action by Planning and Development Manager

Timetable Not applicable

This report was prepared without consultation because it is a record of recent planning appeals to help inform future decisions.

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 an application is refused against Officer advice, during this interim arrangement, the Head of Regeneration and Economic Development, along with the Chair/Deputy Chair of Planning Committee 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 major developments, which often require 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 Head of RIH/Chair/Deputy of Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p> <p>Ensure appeal timetables are adhered to.</p>	<p>Head of RED with Chair/Deputy of Planning Committee</p> <p>Head of RED with Chair/Deputy of Planning Committee</p> <p>Planning and Development 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.	Planning and Development Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Not applicable. This report is a record 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.

Preferred Option and Why

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

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. The costs of defending decisions and any award of costs must be met by existing budgets.

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, Policy and Transformation

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 a record 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 a record of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Consultation

Not applicable. This report is a record of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Background Papers

Not applicable

Dated: 1st November 2023

Planning Appeal

Reference	23/0391
Address	5 Copper Grove, Rogerstone West ward
Development	Two storey front and side extension
Appellant	J Destro
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

Planning Appeal

Reference	23/0368
Address	1 Bryn Bevan NP20 5QH
Development	Detached garage/workshop to front of existing property, solar panels on main roof and associated site works
Appellant	A Ridout
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

Planning Appeal

Reference	22/0645
Address	6 Cumbernauld road NP19 7HZ
Development	Display of internally illuminated 48 sheet digital display advertisement
Appellant	Clear Channel UK
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

Mae'r dudalen hon yn wag yn