

Report

Planning Committee

Part 1

8 June 2011

Item No 3a

Subject **Planning Application Schedule**

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

Author Head of Regeneration and Regulatory Services

Ward As indicated on the schedule

Summary The Planning Committee has delegated powers to take decisions in relation to planning applications. The Committee publishes a schedule of decisions taken.

Proposal 1. **To resolve decisions as shown on the attached schedule.**
 2. **To authorise the Head of Regeneration and Regulatory Services 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

The Officer recommendations detailed in this report are made following consultation with local residents, Members and statutory consultees 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.

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 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 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.	L	L	<p>Ensure reasons for refusal can be defended at appeal.</p> <p>Ensure planning conditions imposed meet the tests set out in Circular 35/95.</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>Principal Planning Officer (Appeals and Enforcement)</p>
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	<p>Planning Committee</p> <p>Development Services Manager</p>

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Council's Corporate Plan 2009-2012 identifies three corporate aims, including making our City a better place to live for all our citizens, and working hard to provide what our citizens tell us they need. Key priority outcomes include continuing the City regeneration programme; tackling the effects of the economic downturn; working with partners to help all its communities thrive and develop; maintaining the City and its assets in good order; and allowing local people the opportunity to influence decision making.

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.

The Corporate Plan links to other strategies and plans, the main ones being:

- Community Strategy;
- Children and Young People's Plan;
- Health, Social Care and Wellbeing Plan;
- Unitary Development Plan 1996-2011 (Adopted May 2006);
- Community Safety Plan.

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Unitary Development Plan (Adopted May 2006) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

Options available

- 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).

Comments of Chief Financial Officer

There are no new financial implications arising from the determination of planning applications. There is a risk of decisions being challenged at appeal. The costs of defending decisions and any award costs must be met by existing budgets.

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.

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.

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 4 (February 2011)
Minerals Planning Policy Wales (December 2000)

PPW Technical Advice Notes (TAN):

- TAN 1: Joint Housing Land Availability Studies (2006)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Town Centres (1996)
- 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 9: Enforcement of Planning Control (1997)
- TAN 10: Tree Preservation Orders (1997)
- TAN 11: Noise (1997)
- TAN 12: Design (2009)
- 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: The Welsh Language: Unitary Development Plans and Planning Control (2000)
- TAN 21: Waste (2001)
- TAN 22: Planning for Sustainable Buildings (2010)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)
Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

LOCAL POLICY

Newport Unitary Development Plan (UDP) 1996 – 2011 (Adopted May 2006)

Supplementary Planning Guidance (SPG):

- Accessibility Design Guide
- Alway Regeneration Area Development Brief (November 2005)
- Crindau Development Brief Planning and Design Guidelines (September 2008)
- Eastern Expansion Area Development Framework (May 2007)
- Flat Conversions and Houses in Multiple Occupation (June 2006)
- Flood Risk and Sustainable Drainage Systems (December 2005)
- George Street Development Brief (November 2003)
- House Extensions (January 2005)
- Infill and Backland Development (September 2009)
- Lower Dock Street Conservation Area Appraisal
- Masterplanning Principles (2004)
- Newport Public Realm Strategy (July 2006)
- Newport 2020 Unlimited Vision
- Old Town Dock Development Brief (December 2005)
- Outdoor Play Space Provision (February 2007)
- Parking Guidelines Revised Edition (1993) Including Revised Central Area Requirement
- Pillgwenlly Regeneration Framework (May 2009)
- Planning Obligations (December 2007)
- Redwick Conservation Area Appraisal SPG (September 2002)
- Repairs and Alterations to Listed Buildings: Supplementary Planning Guidance
- Residential Design Guide (May 2007)
- River Usk Strategy (July 2009)

Rodney Parade Development Brief (July 2006)
Security Measures for Shopfronts and Commercial Premises (March 2006)
Station Yard Urban Design Framework (September 2008)
Town Centre Shopfront Policy
Wildlife and Development (September 2010)

OTHER

The CSS Wales Parking Standards 2008 are now used by the Highways Section for development management purposes. This document is not adopted policy but is a material consideration in making planning decisions.

The Colliers International Retail Study (July 2010) is not adopted policy but is a material consideration in making planning decisions.

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.

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 Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (Wales) Regulations 2008 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.

Planning Application Schedule

APPLICATION DETAILS

No: 10/0876 Ward: **ST JULIANS**

Type: OUTLINE

Expiry Date: 10/11/2010

Applicant: **LINC-CYMRU HOUSING ASSOCIATION LTD**

Site: **DURHAM ROAD INFANT SCHOOL DURHAM ROAD NEWPORT SOUTH WALES NP19 7DS**

Proposal: **DEMOLITION AND RESIDENTIAL DEVELOPMENT OF FORMER DURHAM ROAD INFANT AND JUNIOR SCHOOL TOGETHER WITH ASSOCIATED VEHICULAR AND PEDESTRIAN ACCESS, CAR AND BICYCLE PARKING AND LANDSCAPING (OUTLINE)**

1. INTRODUCTION

- 1.1 This application seeks outline planning permission (with all matters reserved for subsequent approval) for the demolition of the redundant Durham Road Infant School buildings and the erection of 45 [No] residential apartments (43 [No] two bedroom and 2 [No] one bedroom flats) to be accommodated within a 'U' shaped building fronting onto Rockfield Street, Elysia Street and Durham Road. It is proposed that the Rockfield Street and Durham Road frontages would be two storeys in height, whilst the Elysia Street frontage would be three storeys in height. The indicative layout also proposes the erection of a smaller two storey residential building to the north of the site, adjacent to the proposed entrance.
- 1.2 The site is irregular in form having an area of 0.4 hectares. The surrounding area comprises predominately two storey bay fronted terraced and semi-detached houses fronting the street. The existing buildings on the site are typically brick construction and are the equivalent of between two and three residential storeys in height. The site has been vacant since the closure of the school in December 2009.

2. RELEVANT SITE HISTORY

- | | | |
|---------|--|-------------------------|
| 99/0502 | Erection of an extension to provide additional service/fire escape stairs. | Granted with Conditions |
| 04/1793 | Redevelopment to form 44 [No] sheltered apartments for the elderly including staff accommodation together with 12 open market flats. | Withdrawn |

3. POLICY CONTEXT

- 3.1 **Planning Policy Wales (Edition 4) (February 2011)**
This document sets out the Welsh Government's land use planning objectives for sustainable development, natural heritage, supporting the economy, transport, housing, retailing, sport and recreation, infrastructure and services, and minimising and managing environmental risks and pollution.
- 3.2 **Wales Spatial Plan: People, Places, Futures**
This Welsh Government document sets out a vision for the sustainable development of Wales, and develops a framework for collaborative working and decision making across administrative and functional boundaries.
- 3.3 **Technical Advice Notes (TANs)**
TAN 2 Planning and Affordable Housing – This sets out guidance for ensuring that affordable housing is delivered and sustainable communities are created.
TAN 5 Nature Conservation and Planning – This provides advice to ensure the protection of designated nature conservation sites and conservation of the natural environment.
TAN 8 Renewable Energy – This provides advice on various renewable energy technologies including Community or District Heating using low carbon technologies. It considers that the standards established under the EcoHomes scheme for residential development and BREEAM scheme for non-residential development form a useful framework for energy efficiency consideration.
TAN 11 Noise – sets out the Welsh Government's core policy on noise. It seeks to ensure that sufficient consideration is paid to both noise sensitive developments and those developments which will generate noise. It introduces the concept of noise exposure categories for residential

development and recommends appropriate levels for exposure to different sources of noise. Where appropriate, it also advises on the use of conditions to minimise the impact of noise.

TAN 12 Design – This provides advice on good design which achieves sustainable design solutions, sustaining or enhancing the character of the area, promoting innovative design, a successful relationship between public and private space, high quality in the public realm, ensuring ease of access for all, promoting legible development, designing for change by promoting adaptable development, and promoting quality, choice and variety by way of mixed use and/or density of development.

TAN 15 Development and Flood Risk – advises on development and flood risk as this relates to sustainability principles and provides a framework within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.

TAN 16 Sport and Recreation – this provides advice to Local Authorities on the minimum levels of sport and play space that should be provided.

TAN 18 Transport – This provides advice as to the role of the planning system in facilitating sustainable travel patterns, guiding the location of development, reducing the need to travel, and promoting transport choices which are less polluting.

TAN 21 Waste – This advice is intended to facilitate the introduction of a comprehensive, integrated and sustainable land use planning framework for waste management.

TAN 22 Sustainable Buildings – This provides new policy on sustainable building standards and promotes sustainable buildings.

3.4 **Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006)**

The proposal has been assessed with regard to the Newport Unitary Development Plan 1996-2011 Adopted Plan May 2006. The following policies are considered the most relevant:

Policy SP1 (Sustainability) states that proposals will be favoured which make a positive contribution to sustainable development. Criteria for assessment include: energy conservation; minimising the need to travel by car; supporting access to public transport and facilities for walking and cycling; re-use of previously developed land; conservation and enhancement of the natural environment; improving the environment, facilities and services for the wider community; conservation and efficient use of resources such as water and minerals; minimisation and re-use of waste.

Policy SP2 (Quality of Development) seeks to ensure high quality in all development proposals.

Policy SP10 (Housing) sets out the need to make sufficient land available to provide additional dwellings primarily on previously developed land.

Policy SP17 (Urban Regeneration) favours proposals which assist the regeneration of the urban area, and in particular their potential contribution to the vitality, viability and quality of environment of the City Centre, the provision of residential and business opportunities within the urban area and the reuse of vacant, under-used or derelict land.

Policies SP24 (Flood Risk) and U6 (Development AND Flood Risk) relate to development and flood risk. Developments should not result in an unacceptable risk of flood either on or off site.

Policy SP27 (Flood Consequence Assessments) states that where a proposed development is identified as being at risk from flooding it will be necessary to undertake a detailed Flood Consequences Assessment to determine whether the consequences of flooding are acceptable.

Policy CE9 (Species Protected by European Legislation) provides protection for species protected by European legislation.

Policy CE10 (Species Protected by UK Legislation) provides protection for species protected by United Kingdom legislation.

Policy CE30 (Regeneration) encourages urban regeneration schemes, particularly those which will result in the protection and enhancement of the built and natural environment, townscape qualities and the condition and appearance of buildings; reuse of vacant and derelict land and buildings provided design policies are met and a reduction in the adverse effects of road traffic.

Policy CE31 (Residential Areas) seeks the maintenance and improvement of environmental quality for residents in predominantly residential areas.

Policy CE38 (Quality of Design) states that good quality design will be sought in all forms of development and that in considering development proposals the following design principles should be addressed; context of the site, access and permeability, preservation and enhancement, scale and form of the development materials and detailing and sustainability.

Policy CE36 (Derelict Land) refers to derelict land and states that the reclamation of derelict land and environmental improvements to prevent additional, or reversion to, dereliction and will favour similar action by other organisations and individuals.

Policy CE38 (Quality of Design) requires good quality design in all forms of development. Fundamental design principles should be addressed including the context of the site, access and permeability; preservation and enhancement which should reflect the character of the locality, but encourages creativity and innovation in new contemporary design; scale of development; the use of high quality materials and sustainability.

Policy CE39 (Residential Design and Layout) requires proposals for new residential development to respect or complement existing surroundings and neighbouring buildings.

Policy CE44 (Access Arrangements) adequate arrangements for securing an accessible environment for everyone will be required in the development proposals, especially where the public would reasonably require having access.

Policy CE45 (Safety and Security) considers that safety and security should be taken into account in the design of schemes, particularly in relation to matters such as the siting of buildings, design and location of policy, open space, landscape, access provision and lighting provision.

Policy H2 (Housing Sites within Settlement Boundaries) states that within settlement boundaries proposals for residential use will be permitted subject to certain criteria, including:

- (i) No unacceptable loss of open space important for amenity or conservation value;
- (ii) No adverse effects on existing residents;
- (iii) Acceptable residential amenity for future residents;
- (iv) Adequate open space can be provided;
- (v) No unacceptable highway implications;
- (vi) Adequate services exist or can be readily provided;
- (vii) Design and environment policies of the plan will not be compromised.

Policy H5 (Housing Mix and Affordable Housing) seeks a mix of housing types and sizes capable of meeting a range of housing needs to be included in schemes of a substantial scale. The Council will seek to negotiate appropriate elements of affordable housing.

Policy ED5 (Derelict, Underused or Vacant Land) states that development of derelict, unsightly, underused and vacant urban land will be permitted provided that any development or activity is compatible with surrounding land uses.

Policy U5 (Water Supply) states that development will not be permitted which results in demand for water not being adequately met; has an unacceptable impact on the quality and/or quantity of surface water or groundwater resources; has an unacceptable adverse impact on the integrity of watercourse corridors, water features, nature conservation interests, archaeological interests or landscape features.

Policy U8 (Energy Conservation) states that development proposals should assist in the conservation of energy by location and design of buildings and of site layouts; minimising the need for road journeys by private and freight vehicles; optimising use of public transport; catering for cyclists and pedestrians.

Policy U13 (Contaminated Land) requires development on contaminated sites to be subject to comprehensive site assessment and mitigation measures.

4. CONSULTATIONS

- 4.1 ENVIRONMENT AGENCY: The application site lies within zone C1, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15 Development and Flood Risk (July 2004). Section 6 of TAN 15 requires the applicant to undertake a Flood Consequence Assessment to assess the risks and consequences of flooding and ensure that if practicable appropriate controls can be incorporated into a permission. The impact of climate change should be considered for the lifetime of the development. In line with current planning policy, a 50 year lifetime of development is deemed to be suitable until an alternative is justified through emerging policy. In view of this and considering the FCA that has been submitted in support of the proposal, which proposes to set the minimum build level as 8.5m AOD, no objection is offered. Also advised that a condition is attached requesting the submission of an emergency flood plan.
- 4.2 DWR CYMRU – WELSH WATER: Advise that foul water and surface water must be discharged separately from the site. No surface water or land drainage run off shall be allowed to connect to the public sewerage system.
- 4.3 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area and safe working procedures.
- 4.4 FIRE AND RESCUE SERVICE: The developer should consider the need for the provision of adequate water supplies on the site for firefighting purposes; and access for emergency firefighting appliances.
- 4.5 COUNTRYSIDE COUNCIL FOR WALES: No objection, subject to the imposition of a condition ensuring compliance with the Bat Survey Report.
- 4.6 HEDDLU GWENT POLICE ARCHITECTURAL LIAISON OFFICER: The current crime levels for Newport East are considered to be 'average' compared to the rest of Gwent. The proposed development would increase the volume of vehicular traffic in the area, but there is provision for on-site parking which would mean that there is unlikely to be an impact on existing parking issues. This is a 'Secured By Design' application and the Police has no objection to the proposal, which is in Outline form only. Provides general security advice.
- 4.7 NEWPORT ACCESS GROUP: Disability parking is neither shown nor mentioned in the application. Such parking is required.

5. INTERNAL COUNCIL ADVICE

- 5.1 ECONOMIC REGENERATION AND POLICY MANAGER (URBAN DESIGN): Supports the redevelopment of the Durham Road Infant School in principle. Raises concern that no outdoor amenity space is proposed. Also cautions that at the detailed design stage the elevations fronting Rockfield Street and Durham Road must be given as much consideration as the elevation fronting Elysia Street.
- 5.2 HEAD OF STREET SCENE (HIGHWAYS): No objection, subject to the imposition of conditions regarding refuse collection and cycle storage.
- 5.3 HEAD OF CONTINUING LEARNING AND LEISURE: Owing to the limited size of the development site, no on-site leisure provision will be required. The St Julians Ward has a surplus of formal play space, which means that this figure can be deducted from the calculations. Therefore the amount of commuted sum requested for off-site provision for play is £83,221.82. This funding will be used to improve play facilities at the Glebelands Recreation Grounds and is based upon the development parameters stated by the applicant.
- 5.4 HEAD OF STREET SCENE (ECOLOGY OFFICER): No objection, subject to any demolition taking place outside of the breeding bird season (March – August), unless a thorough check of the building is undertaken and no nesting birds are present. In addition, requests that native plants are used for the landscaped areas.
- 5.5 PUBLIC PROTECTION MANAGER (ENVIRONMENTAL HEALTH): No objection to the application in principle, however, concerns are raised in respect of the proximity of the St Julians Conservative Club. Noise from comings and goings and the externally mounted air conditioning units has the potential to cause noise and disturbance to future residents. As such, a noise assessment should be submitted, together with any necessary proposals for mitigation against noise, prior to approval of the building layout. In addition, it is advised to condition hours of construction (non-piling) and that details of dust mitigation are submitted.
- 5.6 PUBLIC PROTECTION MANAGER (CONTAMINATION): The previous investigation appears to have identified a layer of made ground with elevated levels of contaminants. As such, it is advised to attach full contaminated land conditions to any permission.
- 5.7 HOUSING AND COMMUNITY DEVELOPMENT MANAGER (AFFORDABLE HOUSING): Offers support for the proposal on the basis that there is a considerable need for affordable housing in the ward for both rent and low cost homeownership. The site is located close to schools, shops, health facilities as well as transport links. The full obligation of 30% affordable housing should be met under this application, however, it is acknowledged that the applicant is a registered social landlord and therefore there is an opportunity for all of the properties to be affordable and encompass all tenure options. This would be welcomed, especially if the flats could be allocated for over 55s.

6. REPRESENTATIONS

- 6.1 All properties within 50m of the application site were consulted (152 properties), a site notice was displayed on the lamppost adjacent to the site on Elysia Street, and a press notice was published in South Wales Argus on the 28 August 2010.
- 6.2 NEIGHBOURS: 8 emails/letters (one letter sent on behalf of four properties) have been received objecting to the proposal on the following grounds:
- whilst the current school building does extend along Elysia Street, it does not extend along the whole of the street and the upper portions are mainly glass but do not allow people to look into the house across the road given that the school is single storey on this elevation;
 - the proposed building would be much taller than existing and would dominate and overshadow the street and its houses;
 - the proposal would be overbearing and would overlook the properties fronting Elysia Street;
 - the houses fronting Elysia Street face north and already get limited sunlight. The proposal would significantly reduce the available light and would result in gloomy and dark front rooms;
 - the proposal would lead to an increase in the volume of traffic to and from the site at all hours of the day and night;
 - the provision of one parking space per unit is insufficient and will lead to congestion;
 - there would be an increase in noise, particularly from bathrooms/kitchens fronting Elysia Street which would have ventilation fans and/or windows fronting the street;
 - the proposal vehicular access to the site is a dangerous spot, and this coupled with the additional traffic would be detrimental to the health and safety of local residents;
 - the proposal is considered to be an overdevelopment of the site;
 - fire engines may have difficulty accessing the area around the existing houses due to limited turning space at the street corners;

- the school was only occupied during the day during school terms. The proposal would be residential and would be occupied in a very different way. The proposal would be out of character with the area currently occupied by two storey domestic terraced houses;
- there are problems with flooding in the area and the ability of the existing drainage system to cope with the demands placed upon it.

7. ASSESSMENT

Principle of Development

- 7.1 The site is designated as 'education' space by the proposal map accompanying the Newport Unitary Development Plan 1996-2011 (Adopted May 2006). Whilst the school buildings and associated facilities remain in situ on the site, the school closed in December 2009 with the pupils being relocated to a new facility on the Glebelands site, known as Glan Usk Primary School. In view of this, the Durham Road School site is now redundant and is no longer required for the purposes of education. Furthermore, the introduction of a significant additional residential element to the area, replacing a large school use close to existing residential uses would in principle improve the environmental quality for existing residents in the vicinity.
- 7.2 The location of the site within the urban envelope, its position amongst existing built development and its close proximity to a range of essential services and facilities afford merit to the principle of residential development in this location. Nevertheless, the site is surrounded by a number of buildings and is tightly constrained by other material planning constraints. In view of the relevant planning policies, the principal issues with this application relate to the potential impacts on the existing residential properties, impact on highway safety, the amenity of future occupiers of the units, and issues of flood risk, drainage, and features of ecological importance.
- 7.3 The Council's Housing Department fully supports the application to provide both market and affordable housing. This location provides the opportunity to develop housing in a well established part of the City. The provision of affordable housing in this area of the City is to be welcomed, the exact type and mix of properties would be determined at the reserved matters stage, however they would be of neutral tenure which means occupiers would have the option to rent or part purchase their home.

Residential Amenity

- 7.4 Given that all matters have been reserved for future consideration, the submitted site layout plan is only indicative. Nevertheless, it does indicate the provision of a 'U' shaped apartment block wrapping around Rockfield Street, Elysia Street and Durham Road. This would be three storeys in height on Elysia Street, stepping down to two storeys on Rockfield Street and Durham Road. The maximum ridge height of the development is to be set at 14.3m.
- 7.5 A number of the main concerns raised by local residents relate to the impact that a three storey form of development would have on the residential amenities of the occupiers that reside in the terraced row opposite the site and fronting Elysia Street. Residents are concerned that the development would have an overbearing impact, create an unacceptable level of overshadowing, reduce the level of sunlight entering their homes making the front rooms dark and gloomy, and result in a loss of privacy to the front rooms of their dwellings. These concerns are noted, however, in considering the existing scale of development (the school buildings) that front Elysia Street, coupled with the nature of the proposed scheme, the third storey of which would be set in the roofspace that pitches away from Elysia Street, it is considered that the resulting harm would not be significant. Moreover, the bulk of this elevation would be set back from the edge of the footway (aside from four two storey projecting gable features) further reducing any detrimental impact on the neighbouring dwellings. In terms of privacy, views would mainly be across the public highway, so would not be materially worse than views that could be obtained from these public vantage points.
- 7.6 The bulk of the development proposed to front Rockfield Street and Durham Road is shown to be two storeys in height, which is not dissimilar from the dwellings located on the opposite side of the road on either highway, and does not give rise to any significant amenity concerns.
- 7.7 The smaller block to be sited within the courtyard towards the northern boundary of the site would be set at an angle to No 2 Rockfield Street with its rear aspect facing the rear elevation of the terraced row known as Orchard Mews. It is considered that there is sufficient separation distance (21m between windows) between this block, the properties in Orchard Mews and between blocks within the development to avoid any significant level of overlooking. Careful landscaping and positioning of windows at the reserved matters stage would also mitigate for any impact upon those properties along Rockfield Street and Durham Road.

Design

- 7.8 Comments have been received from the Council's Principal Urban Designer who has offered support for the principle of redeveloping the school site for residential purposes. However, caution has been

raised regarding the elevational treatment of the Durham Road and Rockfield Street facades which should be given as much consideration as the Elysia Street elevation. These issues form a detailed design consideration which will be addressed at the reserved matters stage.

- 7.9 Concern has also be expressed regarding the lack of amenity space on the site, however, the applicant has agreed to provide commuted sums to be used to upgrade and maintain leisure facilities in the local area. Moreover, it is noted that there is a surplus of formal play space in the locality. The Glebelands fields are also located within approximately 10 minutes walking distance of the site.
- 7.10 The parameters set down on the indicative plans and in the Design and Access Statement, including the proposed heights of buildings, are considered appropriate in the context of existing housing in the surrounding area. Whilst concern has been raised by some residents who regard the scheme as an overdevelopment of the site that would be out of character with the surrounding housing, it is considered that this is a previously developed, vacant, urban site and represents a significant opportunity to contribute to the supply of much needed new homes. Planning policies encourage the efficient use of Brownfield sites in sustainable locations, such as this site. As such, the proposed scheme is considered to achieve the best and most effective use of the land. It should be noted that more detailed design considerations would be considered at the reserved matters stage.
- 7.11 Newport Access Group has commented on the proposal stating that there in no mentioned of disabled parking bays. Following discussions with the applicant, an amended site plan has been submitted indicating an uplifted number of spaces to include visitor parking and two disabled bays with increased width and depth. This is considered to be acceptable.

Highways

- 7.12 In respect of highways issues, a Transport Statement has been submitted in support of the proposal. This indicates that the proposed development would generate less total person trips than the extant use as a school (during the critical am peak period), less vehicle trips, and less walking/cycling trips. The development site is considered to be located within a sustainable area being within easy walking distance (400m/5 minutes) of bus stops on Caerleon Road, and is 2km from the City Centre and mainline railway station. Caerleon Road provides a number of shops and local amenities.
- 7.13 The Transport Statement concludes that the local highway capacity would not be adversely affected by the proposal and given the sustainable location of the site; the Head of Street Scene (Highways) has raised no objection to the scheme.
- 7.14 The indicative site layout plan indicates that vehicular access could be gained from Rockfield Street and parking for 54 cars (including 9 visitor spaces) could be accommodated in the centre and towards the northern boundary of the site. This level of parking provision is considered to meet the required standards and can be secured by way of condition. The relationship between the parking areas and neighbouring properties is also considered to be acceptable.

Ecology

- 7.15 Bats and Barn Owls are European protected species classified under the Conservation (Natural Habitats, &c.) Regulations 1994 and continue to experience significant population declines. The welfare of European protected species is a material consideration in the determination of planning applications and buildings that have been vacant for considerable periods of time have the potential to offer roosting opportunities for bats and/or nesting barn owls. A full bat survey of the school buildings has been carried out and found no evidence of use by bats either internally or externally, however, a moderate number of features were identified that could be exploited by some bat species. The survey also noted the presence of protected birds on the site. The Council's Ecology Officer has requested that conditions are imposed on any permission to prevent any demolition taking place within the breeding bird season unless a thorough building search has taken place.

Environmental Impact Assessment Regulations

- 7.16 The proposed development, including the demolition of the existing school buildings, has been considered in the light of these Regulations (as amended in Wales) and it is considered that the development is not EIA development and does not require an Environmental Statement. Recent case law has resulted in an amendment to planning legislation such that 'demolition' is now 'development' as defined in the Planning Act. In the interests of clarity, this application includes the demolition of the existing buildings and as such any permission would grant planning permission for those works.

Flood Risk

- 7.17 The site lies within flood zone C1 as defined by the Development Advice Map (DAM) referred to under TAN 15 Development and Flood Risk (July 2004). New development within flood zone C1 can only be permitted if it can be justified by the Local Planning Authority that there will be no additional

risk to human life. Section 6 of TAN 15 requires the applicant to undertake a Flood Consequence Assessment to assess the risks and consequences of flooding and ensure that if practicable appropriate controls can be incorporated into the permission. The impact of climate change should be considered for the lifetime of the development. In line with current planning policy, a 50 year lifetime of development is deemed to be suitable until an alternative is justified through emerging policy. The applicant has submitted a Flood Consequences Assessment in support of the proposal which has used a lifetime of development value of 70 years. This states that the proposed development would be set at a minimum level of 8.5m AOD, which is above the 0.5% annual probability tidal flood event (for 2080). In view of this, the development can be designed to comply with the acceptability criteria as set out in A1.14 of TAN15 and therefore no objection is offered from the Environment Agency. Whilst the ground would be raised, this will have no impact on flood storage as the flood risk is tidal. The FCA suggests the preparation of a flood emergency plan and future occupiers signing up to the Environment Agency Flood Warning Scheme. This can be controlled by way of planning condition.

- 7.18 The Environment Agency has advised that a condition should be imposed on any permission to ensure that the finished ground floor level of the buildings would be set at a minimum of 8.5m AOD. The topographical survey indicates that the existing site levels range from approximately 8.30m AOD to 9.10m AOD. In view of this, it is considered that finished floor levels of 8.5m AOD would not appear out of character with the street scene or result in an unacceptable impact on the amenities of neighbouring residents.

Drainage

- 7.19 In respect of foul and surface water drainage from the proposed development, it is proposed to install a new foul connection that would link into the existing combined sewerage system located within Rockfield Street. The surface water would be discharged separately and is proposed to be held in a storage tank before being released into an existing surface water system to the north of the site at a controlled discharge rate of 6 litres per second via a hydra brake. This would link into a nearby culvert. Given that development already occupies the site, Dwr Cymru-Welsh Water has provided no objection to these proposals.

Sustainability

- 7.20 The applicant has submitted a pre-assessment in relation to Code for Sustainable Homes and has indicated that the development can achieve the Planning Policy Wales requirement for Code 3 and 6 credits under the heading of Dwelling Emission Rate. The development was registered in August 2010 and would therefore be required to comply with the Technical Guide (May 2009). It is considered that further details can be secured by condition in the event that planning permission is granted.

Noise/Contamination

- 7.21 The applicant has undertaken and submitted a site investigation report in relation to the ground conditions of the site. This has recorded a small amount of elevated contaminants within a thin layer of made ground. There remains some uncertainty concerning the source of elevated PAH and Hydrocarbons. In view of the uncertainty of contaminants being present on the site the Public Protection Manager has requested that full contaminated land conditions are imposed on any permission granted.
- 7.22 In respect of noise and disturbance, concerns have been expressed regarding the close proximity of St Julians Conservative Club located on the corner of Elysia Street. Noise is likely to be generated by comings and goings as well as the externally mounted extraction systems on the side of the building. In view of these constraints the Public Protection Manager has requested the submission of a noise assessment prior to the approval of the building layout. This can be controlled by way of suitable condition.

Planning Obligations

- 7.23 The proposal comprises the erection of 45 [No] housing units (ie 43 two bed flats and 2 one bed flats), triggering a requirement for planning obligations to mitigate its impact and thereby provide a sustainable development.
- 7.24 Being an outline application, the final figures for the planning obligations related to this development proposal would be based on the formula set out in the Council's adopted Planning Obligations Supplementary Planning Guidance (2007).
- 7.25 The developer has agreed to provide a minimum of 30% affordable housing, which complies with the Council's policy. However, there is the potential for the site to be developed as 100% affordable housing. This is largely dependent on the availability of the social housing grant from the Welsh Government. The Council's Housing Manager has confirmed that a scheme for 100% affordable

housing for over 55s, together with provision for some units to accommodate disabled persons, would be fully supported.

- 7.26 In terms of education contributions, these would be payable for any market housing based upon the formula in the SPG, which would look at the size and number of the units. A leisure contribution is required regardless of the tenure and would be used to provide/improve off-site play facilities at Glebelands Recreation Grounds. The final figure would be formula based, but based on 43 two bed flats and 2 one bed flats, it would be £88,221.82.

Monitoring Fees

- 7.27 A Monitoring Fee (15% of the planning application fee) will be required to cover the Council's cost incurred in entering into early negotiations and ongoing monitoring of the planning obligations. The applicant would be expected to contractually agree within the legal agreement to make this payment prior to the commencement of development.

Other Considerations

- 7.28 Eight letter/emails have been received from local residents raising concerns in respect of the proposed size of the development, its overbearing nature along Elysia Street, the fact that it could result in a loss of privacy and sunlight to the dwellings opposite, that there is a lack of parking proposed, the access is unsuitable, there would be increased noise/disturbance from the dwellings, fire engines would be unable to access and turn in the area, and there are drainage and flooding issues in the vicinity. These concerns are considered to have been addressed in the relevant section of the above assessment.
- 7.29 This represents a vacant, urban site in a sustainable location on which development is encouraged and supported by local and national planning policies. None of the concerns raised lead the Authority to consider this development unacceptable.

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 planning application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision. Gwent Police has been consulted and offers no objection to the proposed development.

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 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

9. CONCLUSION

- 9.1 In conclusion, the proposed scheme is considered to comply with the relevant policies contained within the Newport Unitary Development Plan 1996 - 2011 (Adopted May 2006) and it is therefore recommended that planning permission be granted subject to the following conditions and a Section 106 Legal Agreement.

10. RECOMMENDATION

GRANTED WITH CONDITIONS AND SUBJECT TO A SECTION 106 LEGAL AGREEMENT

01 Approval of the details of the layout, scale, appearance of the building(s), access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority. These details shall accord with the principles laid out in the Site Layout Plan

(Ref.G2668(05)1010 RevA) and the design parameters and illustrative massing elevations contained within the Design and Access Statement.

Reason: To safeguard the rights of control of the Local Planning Authority in respect of the reserved matters and to comply with the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2008.

02 The development shall comprise a maximum of 45[No] residential units made up of 43 [No] two bedroom and 2 [No] one bedroom units.

Reason: In the interests of residential and visual amenity and highway safety and to comply with the development parameters set out in the Design and Access Statement.

03 The reserved matters referred to in Condition 1 shall include a detailed noise assessments and appropriate mitigation measures which shall be submitted to and approved in writing by the Local Planning Authority pursuant to the approval of those reserved matters. The approved mitigation measures shall be implemented in accordance with the approved details prior to first occupation of any dwelling to which the measures apply.

Reason: In the interests of residential amenity.

04 The reserved matters referred to in Condition 01 shall demonstrate parking provision to meet CSS Wales Parking Standards. The parking provision shall be completed in accordance with the approved details prior to the occupation of the associated unit.

Reason: In the interests of highway safety and residential amenity.

05 Prior to development commencing on the erection of the buildings hereby approved, plans/details relating to the collection of refuse for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved bin storage areas shall be erected prior to the first occupation of the associated unit.

Reason: To ensure the facilitation of suitable refuse collection for the site in the interest of visual and residential amenity.

06 Prior to development commencing on the erection of the buildings hereby approved, details of an emergency plan showing how the consequences of a flood event will be managed, shall be submitted to and approved in writing by the Local Planning Authority. Future occupiers of the development are advised to have regard to the terms of the emergency plan.

Reason: In the interest of flood safety.

07 Full details of the surface water drainage systems shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing on the erection of the buildings hereby approved. The details shall be implemented fully in accordance with the approved scheme prior to the occupation of any unit.

Reason: To ensure adequate drainage is provided.

08 No part of the development hereby permitted (including demolition) shall commence until:

(a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.

(b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2001), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.

(c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

(d) Following remediation a Completion/Validation Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

(e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

09 Full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing on the erection of the buildings hereby approved. The boundary treatments shall be constructed in accordance with the approved details prior to the first occupation of the first unit and then maintained thereafter.

Reason: To ensure the development is completed in a satisfactory manner.

10 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

11 Full details of the bin storage, to include elevations and finish detail, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved prior to the first beneficial occupation of any unit hereby approved and then maintained thereafter in that state.

Reason: To ensure adequate bin storage is provided for the site in the interest of visual and residential amenity.

12 Each dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve 6 credits under category Ene1 in accordance with the requirements of Code for Sustainable Homes: Technical Guide May 2009 (or such National Guidance that replaces that Technical Guide).

Reason: In the interests of securing sustainable development.

13 No development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority to demonstrate that each dwelling hereby approved will achieve a minimum Code for Sustainable Homes Level 3 and achieve 6 credits under category Ene1 in accordance with the requirements of Code for Sustainable Homes: Technical Guide May 2009 (or such National Guidance that replaces that Technical Guide). The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority shall otherwise consent in writing.

Reason: In the interests of securing sustainable development.

14 No dwelling shall be occupied until a Code for Sustainable Homes 'Post Construction Stage' assessment has been carried out in relation to it, a Final Code Certificate has been issued for it certifying that Code Level 3 and 6 credits under Ene1 have been achieved and the Certificate has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of securing sustainable development.

15 Prior to the commencement of development (including demolition), full details of dust mitigation methods to be employed during demolition and construction shall be submitted to and approved in writing by the Local Planning Authority. The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition Activities'. The methods as agreed shall be implemented for the duration of the demolition and construction works.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

16 No use shall be made of the dwellings hereby approved until the parking and access areas have been provided and surfaced as indicated on the plan(s) hereby approved. Thereafter, these areas shall be kept available for those purposes at all times.

Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety.

17 Full details of cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved prior to the first beneficial occupation of any unit hereby approved and then maintained thereafter in that state.

Reason: To provide residents a choice of means of travel and to promote sustainable travel.

18 The Finished Floor Levels at ground floor level of the development hereby approved shall be set no lower than 8.5m AOD. Levels and sections through the site shall be submitted to and approved in writing by the Local Planning Authority pursuant to the approval of the reserved matters detailed in Condition 01.

Reason: To reduce the risk of flooding.

19 No works (including demolition and land raising if required) shall be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

20 The works shall be carried out in accordance with the Bat Survey (29 June 2010) prepared by Wildwood Ecology.

Reason: In the interests of nature conservation.

NOTE TO APPLICANT

01 This decision relates to GVAG01, G2668(05)101 RevA, BHP 01 (Drainage Plan), G2668(05)100, Design and Access Statement (August 2010), Planning Statement (August 2010), Bat Survey Report (29 June 2010), Code for Sustainable Homes Pre-assessment Specification (Version 2.1, 2 August 2010), Transport Statement (July 2010), Flood Consequences Assessment (September 2010 – Revision A), Site Investigation Report (10516/RB/09), Supplementary Site Investigation Report (10622/RB/10) and Statement of Community Involvement (October 2010).

02 The development plan for Newport is the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006). Policies SP1, SP2, SP10, SP17, SP24, SP27, CE5, CE6, CE35, CE36, CE38, CE39, CE40, CE44 and H2 were relevant to the determination of this application.

03 The Council's Supplementary Planning Guidance for Infill and Backland Development (Adopted September 2009) was relevant to the determination of this application.

04 Foul water and surface water must be discharged separately from the site. No surface water or land drainage run off shall be allowed to connect to the public sewerage system.

05 It should be noted that this consent is dependant on the applicant entering into a Planning Obligation under Section 106 of the Town and Country Planning Act 1990.

06 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.

07 The applicant should contact the Highway Networks Section on 01633 656656 to arrange for the provision of a dropped kerbs and vehicle crossovers.

APPLICATION DETAILS

No: 11/0335 Ward: **MALPAS**

Type: FULL

Expiry Date: 30/06/2011

Applicant: **BELLWAY HOMES (WALES AND WEST)**

Site: **WESTFIELD LOWER SCHOOL WESTFIELD WAY NEWPORT SOUTH WALES NP20 6EW**

Proposal: **REDEVELOPMENT OF THE FORMER WESTFIELD LOWER SCHOOL TO A RESIDENTIAL DEVELOPMENT CONSISTING OF 24 UNITS WITH GARAGES AND ASSOCIATED HIGHWAY AND DRAINAGE**

1. INTRODUCTION

1.1 This is a full planning application seeking the redevelopment of the former Westfield School building and the construction of 24 dwellings with associated garages and parking, highways and drainage arrangements. The land is currently owned by the Council.

2. RELEVANT SITE HISTORY

2.1 None relevant.

3. POLICY CONTEXT

Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006)

3.1 The application has been assessed with regard to the Newport Unitary Development Plan 1996-2011 Adopted May 2006. The following policies are relevant to the determination of the application: Policy CE38, which seeks good quality design in all forms of development, having regard to the context of the site, access, the character of a locality, scale, materials and issues relating to sustainability.

Policy CE39 states that proposals for new residential development should respect or complement neighbouring buildings and seek to reinforce local distinctiveness, particularly in a village context where local vernacular styles predominate. Design and layout should seek to make a positive contribution to the local character.

Policy H2 supports residential development within settlement boundaries subject to a number of criteria including no unacceptable loss of open space, no significant adverse impact on neighbours, acceptable amenity provision for future residents, adequate open space provision and no unacceptable highway implications.

Policy CE13 states that planning permission will only be granted for development which would damage or destroy one or more trees which are protected, or which are worthy of protection, or hedgerows which have amenity or wildlife value, where:

(i) there is demonstrable environmental, economic or social need for the development sufficient to outweigh the amenity and biodiversity value of the trees or hedgerows;

(ii) the trees or hedgerows can be replaced within the site boundary in a manner which ensures that there is no unacceptably detrimental impact upon the character and visual amenity of the area, nor to local biodiversity.

4. CONSULTATIONS

4.1 DWR CYMRU WELSH WATER: Foul and surface water discharges shall be drained separately from the site. The development is crossed by a public sewer. No part of any building will be permitted within 3 metres either side of the centreline of the public sewer. A water supply can be made available to serve the development.

4.2 HEDDLU GWENT POLICE ARCHITECTURAL LIASION OFFICER: The application is not a secured by design application. No objection is raised subject to full details relating to the proposed means of enclosure for reasons of security.

4.3 WESTERN POWER DISTRIBUTION: No objection.

5. INTERNAL COUNCIL ADVICE

5.1 PLANNING CONTRIBUTIONS MANAGER: A contribution of £169,821 must be paid by the developer towards off site open space improvements in lieu of providing on site open space. The contribution would be used to refurbish the Westfield playing area and play area. No contribution is required towards improvements to local education facilities as there is adequate capacity within local primary and secondary schools to cater for the increase in pupils generated by this development.

- 5.2 HEAD OF CONTINUING LEARNING AND LEISURE: No response.
- 5.3 HEAD OF EDUCATION: No response.
- 5.4 PUBLIC PROTECTION MANAGER (NOISE): Has requested conditions relating to construction hours and dust mitigation measures during the course of construction to protect the amenities of neighbours during this period. A noise impact assessment has also been requested to address any impact from the adjacent retail parade on Maplas Road.
- 5.5 HEAD OF STREET SCENE (HIGHWAYS): The principle of redevelopment of this site for residential purposes is considered acceptable. The Transport Statement submitted in support of the application addresses a number of concerns raised during pre-application stage. The development would not have a detrimental impact in terms of traffic generation and highway safety.
- 5.5.1 Concerns were expressed that the parking spaces for Plot 24 would egress adjacent to the boundary of 43 Westfield Way, resulting in poor pedestrian visibility. It would be more desirable to hand the dwelling unit so the parking spaces egress further away from the boundary improving visibility (these amendments have been made by the developer).
- 5.5.2 Planting along the frontage of plots on Westfield Way (except the proposed trees) shall have a maximum growing height of 900mm to ensure that adequate visibility is retained from the parking spaces. It is noted that the proposed trees are to be set back approximately 1.5m from the back edge of footway which is welcomed.
- 5.5.3 It was also requested that consideration be given to providing some changes in surfacing material within the proposed new access road to avoid a "sea of tarmac" with roads, footpaths, private drives and on plot parking spaces being finished in tarmac. Some areas could be finished in block paviors to break up the extent of tarmac. Examples of this could be an area of block paving within the carriageway, block paving the turning head area and laying the on-plot parking spaces in an alternative material to tarmac. This would enhance the street scene.
- 5.6 HEAD OF STREET SCENE (LANDSCAPE OFFICER): The landscaping proposals, proposed tree planting along Westfield Way, internal tree arrangements and hedge proposals are very good.
- 5.7 HEAD OF STREET SCENE (TREE OFFICER: TPOS AND PRIVATE LAND): Objects to the proposed layout. As Council owned land, the trees were protected by Council Policy, were treated as if they were protected and were inspected and looked after. As the site is leaving the care of the Council, the principle of tree retention should be respected. The existing trees should be incorporated into the development and retained.
- 5.4 HEAD OF STREET SCENE (ECOLOGY OFFICER): No objection.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (66 properties), a site notice displayed and a press notice published in the South Wales Argus. One letter has been received stating that no mention has been made of the extra traffic on local roads. Hollybush Avenue has 2 bad bends and bad access to the Harvester with one of the most dangerous entries to a dual carriageway in the area. Westfield Way gets a lot of illegal entry from the Malpas Court area causing problems. A solution would be to make Westfield Way one way from its junction with Hollybush Avenue and access from the new site to be directly to Malpas Road via Tesco and realignment of the Hollybush Avenue and Malpas Road junction.

7. ASSESSMENT

- 7.1 The site comprises the grounds of the former Westfield Lower School which is located on the eastern side of Westfield Way. The site is bordered on its southern and part of its northern boundaries by existing residential properties. A doctor's surgery is located adjacent to the north eastern boundary of the site and a retail parade is located to the east which is serviced off Malpas Road. To the west of the site, on the other side of Westfield Way, are located detached residential properties.
- 7.2 The proposal involves the creation of a new vehicular access off Westfield Way leading to a single cul de sac. A total of 24 units are proposed comprising 7 [No] 3 bed units and 17 [No] 4 bed units. All units would be two storey in height with a pitched roof design. There would be 6 different house types providing a variation of design, with a number having simple frontages and others having gable features. A number of the units would have integral garages.

- 7.3 The units would be finished in a mix of materials, with predominantly a red brick to the frontage along Westfield Way, with the exception of the units either side of the proposed access which would be finished in render. The properties at the head of the proposed cul de sac would be finished in a buff coloured brick with the remainder of the units being finished in red brick. All units would be finished with a black tile.
- 7.4 The site is located within the settlement boundary for Newport, and so the proposal is acceptable in principle, subject to the criteria in Policy H2 referred to above. The layout is considered to be well planned, with a good presence of development fronting Westfield Way, respecting the character of the area. The layout provides adequate sized gardens and adequate separation distances in accordance with the Council's standards. The scale and design of the proposals is considered to be acceptable.
- 7.5 The site has an awkward topography, rising in level to the east from Westfield Way. There is a steep embankment to the rear of the existing building where the land rises steeply forming a plateau in the eastern part of the site. In order to facilitate development of the site, it will be necessary to undertake significant excavation and earth moving works to provide the necessary gradients. In parts of the site, this would involve excavating a depth of 4 metres from existing levels. A condition has therefore been imposed to require a construction method statement to reduce the impact of these activities and traffic movements on the amenities of neighbouring occupiers.
- 7.6 There are a number of trees on the site that are relatively mature and have some amenity value, although the trees to the rear of the site are not readily visible from any public vantage point. These trees are all proposed to be removed as part of the proposals, and the Council's Tree Officer has objected to this aspect of the scheme. However, the extent of excavation and earth moving works proposed mean that the retention of these trees would not be realistically possible. Furthermore, as an acknowledgement of regret at the loss of these trees, a good landscape scheme has been submitted to mitigate for the loss of the trees and provide a good quality environment for future residents.
- 7.7 A Transport Statement has been submitted with the application which has found that the proposal is acceptable in terms of its highway safety and traffic implications. The Head of Street Scene (Highways) has raised no objection to the proposal, but expressed a number of minor concerns regarding the parking spaces for Plot 24 which would egress adjacent to the boundary of 43 Westfield Way, resulting in poor pedestrian visibility. The scheme has been amended by the developer handing the dwelling unit so the parking spaces egress further away from the boundary improving visibility, and addressing these concerns.
- 7.8 The Highways Engineer has stated that planting along the frontage of plots on Westfield Way (except the proposed trees) shall have a maximum growing height of 900mm to ensure that adequate visibility is retained from the parking spaces. It is noted that the proposed trees are to be set back approximately 1.5m from the back edge of footway which is welcomed.
- 7.9 The Engineer also requested that consideration be given to providing some changes in surfacing material within the proposed new access road to provide visual interest in the street scene. The plans have been amended addressing these concerns.
- 7.10 The Public Protection Manager has requested conditions relating to construction hours and dust mitigation measures during the course of construction to protect the amenities of neighbours during this period. These are considered reasonable given the residential nature of the area and extent of earth moving works proposed as part of the application. A noise impact assessment has also been requested to address any impact from the adjacent retail parade on Maplas Road. These units comprise a mix of retail and takeaway uses which front onto Malpas Road and so the activity associated with these uses are considered unlikely to significantly impact upon future occupiers of the site. However, there are air conditioning units on the rear of the building which may impact upon the amenities of adjacent future occupiers, and so a condition is also imposed to require a noise impact assessment.
- 7.11 A pre-assessment has been submitted with the application which states that the development will achieve a Code Level 3 in accordance with national policy. A condition is attached to ensure that this is achieved.

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 planning 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 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

9. **CONCLUSION**

9.1 The scheme is considered to be well planned. The scheme would result in the loss of a number of trees which is regrettable, but unavoidable, given the extent of earth moving works required as part of the development. There is no requirement for a contribution towards education facilities, given that the local schools are below capacity. However, a financial contribution is requested towards improvements towards off site leisure facilities. The developer has agreed to a Unilateral Undertaking to secure the required contribution. It is therefore recommended that planning permission be granted subject to the following conditions.

10. **RECOMMENDATION**

GRANTED SUBJECT TO A SECTION 106 AGREEMENT/UNILATERAL UNDERTAKING REQUIRING A FINANCIAL CONTRIBUTION TO BE PAID TO THE COUNCIL TOWARDS THE IMPROVEMENT OF OFF SITE OPEN SPACE AND SUBJECT TO THE FOLLOWING CONDITIONS:

01 No construction work (including earth moving works) shall be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

02 No construction work involving piling shall be carried out on the site other than between the hours of 08.00 and 17.00 Mondays to Fridays and no construction work involving piling shall be carried out on Saturdays, Sundays or Bank Holidays, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

03 Prior to the commencement of development, full details of dust mitigation methods and wheel wash facilities to be employed during construction shall be submitted to and approved in writing by the Local Planning Authority. The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition Activities'. The methods as agreed shall be implemented for the duration of the demolition and construction works.

Reason: In the interests of highway safety and to ensure that the amenities of occupiers of other premises in the vicinity are protected.

04 Prior to the commencement of development, a noise assessment shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation measures recommended by the findings of the noise assessment shall be implemented in full as part of the development prior to the occupation of the associated unit.

Reason: To ensure that the amenities of future occupiers are protected.

05 Prior to the beneficial occupation of any dwelling, the means of enclosure relating to that property shall have been constructed in accordance with the details hereby approved together with additional details (to be submitted to and approved in writing by the Local Planning Authority) relating to retaining boundary treatment to the rear of plots 1 and plots 8 to 18.

Reason: In the interests of visual amenity and security.

06 Prior to the beneficial occupation of any dwelling, the parking spaces (including garages) shall be provided for that unit in accordance with the plans hereby approved. The parking facilities shall

thereafter be kept available for such use at all times thereafter. The garages hereby permitted shall only be used for the parking of private motor vehicles and for no other purpose, including any other purpose incidental to the enjoyment of the dwelling house.

Reason: To ensure that adequate parking provision is made off the highway in the interests of road safety.

07 No house shall be occupied until the roads and footpaths to provide access to them have been completed in accordance with the approved plans.

Reason: To ensure that the development is carried out in a proper and coordinated manner.

08 The approved landscaping scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be adequately maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

09 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces (including highway surfaces) have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

10 The development shall be implemented in full accordance with the details of levels hereby approved.

Reason: In the interests of the amenities of future occupiers of the adjacent housing development and adjoining occupiers and in the interests of visual amenities.

11 Prior to first beneficial occupation of any dwelling hereby approved, the foul and surface water drainage system shall be constructed in accordance with details which shall first be submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure an orderly form of development.

12 Each dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve 6 credits under category Ene1 in accordance with the requirements of Code for Sustainable Homes: Technical Guide April 2009.

Reason: In the interests of securing sustainable development.

13 No development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority to demonstrate that each dwelling hereby approved will achieve a minimum Code for Sustainable Homes Level 3 and achieve 6 credits under category Ene1 in accordance with the requirements of Code for Sustainable Homes: Technical Guide April 2009. The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority shall otherwise consent in writing.

Reason: In the interests of securing sustainable development.

14 No dwelling shall be occupied until a Code for Sustainable Homes 'Post Construction Stage' assessment has been carried out in relation to it, a Final Code Certificate has been issued for it certifying that Code Level 3 and 6 credits under Ene1 have been achieved and the Certificate has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of securing sustainable development.

15 No building work shall commence until the visibility splays and sight line areas shown on the approved drawings have been provided. All these areas shall thereafter be kept free of all obstructions to visibility over a height of 0.9 metres.

Reason: In the interests of road safety and traffic movement.

16 Gradients to roads and driveways shall not exceed 1 in 8 unless the Local Planning Authority agrees in writing to any variation.

Reason: In the interests of highway safety.

17 Prior to the commencement of development, full details of the layout, widths, gradients and means of construction of all carriageways and footpaths, details of means of access from existing roads and details of all foul and surface water sewers shall be submitted to and approved in writing by the Local Planning Authority. With the exception of the final wearing course, the development

shall be completed in accordance with the details as approved prior to the first occupation of any building. The final wearing course shall be completed prior to the first occupation of the last building. Reason: To ensure that the roads shall be constructed and sited to the satisfaction of the Council so far as to provide a proper means of access for traffic and to ensure that the land can be adequately drained.

NOTE TO APPLICANT

01 This decision relates to plan Nos: location plan 9999/LC01, Planning Layout 9999/PL01 Rev A, Topographical Survey West 01, External Finishes plan 999/FIN01 Rev A, Proposed Slab levels 9999/PSL Rev A, Detailed planting scheme 381.02 Rev C, External works details, Street Scenes and sections 9999/SS01 Rev B, Brockweir Design Sheet 9999/BR, Somerton Plot 6 9999/SOM, Somerton Plot 19 9999/SOM/2, Worston Design Sheet 9999/WO, Huntington Plots 5 and 21 9999/HU, Huntington Plots 4, 8, 15, 16 and 20 9999/HU, Pembroke Design Sheet 9999/PE, Warmley Design Sheet 9999/WA, Garage Design Sheets 9999/GAR and Transport Statement March 2011.

02 The development plan for Newport is the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006). Policies CE13, CE38, CE39 and H2 were relevant to the determination of this application.

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 No part of any building will be permitted within 3 metres either side of the centreline of the public sewer.

APPLICATION DETAILS

No: 11/0337 Ward: **LANGSTONE**

Type: FULL

Expiry Date: 26/05/2011

Applicant: **S. BEYNON**

Site: **RED HOUSE MILLBROOK LANE LLANVACHES CALDICOT SOUTH WALES NP26 3AZ**

Proposal: **ERECTION OF ONE AND A HALF STOREY AGRICULTURAL / GENERAL STORE (RESUBMISSION OF REFUSAL 10/1089)**

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the erection of an agricultural/general storage building. The building would measure 6m in width, 6m in height, and 9m in length. An additional lean-to element measuring 900mm in width, 7.8m in depth, and 3m in height would be attached to the main structure. The front elevation of the building would be random rubble stone and vertical timber boarding, the side elevations would be rendered, the rear elevation would comprise render and vertical timber boarding. The roof would be natural slate roof. The applicant has stated that the building is required for the storage of agricultural implements and space for animal feed.

2. RELEVANT SITE HISTORY

00/0538	Erection of stable block with hay barn and use of land for the keeping of horses.	Granted with Conditions
03/0849	Creation of equestrian manege.	Granted with Conditions
08/0706	Change of use from general store to holiday home.	Granted with Conditions
10/1089	One and a half storey agricultural building.	Refused

3. POLICY CONTEXT

Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006)

- 3.1 Policy SP6 Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposals map) will only be permitted where the use is appropriate in the countryside, respects the character of the surrounding area and is appropriate in scale and design. Policy CE38 Good quality design will be sought in all forms of development. The aim is to create a safe, attractive and convenient environment.

4. INTERNAL COUNCIL ADVICE

- 4.1 HEAD OF STREET SCENE (HIGHWAYS): No objection.

5. REPRESENTATIONS

- 5.1 COUNCILLOR ATWELL: Requested that the application be considered by the Planning Committee. Stated that the development is disproportionate in size for the proposed use and is a new build in the countryside, contrary to the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006).
- 5.2 LLANVACHES COMMUNITY COUNCIL :
- it would be a large new building in the open countryside;
 - the relevant operations at the Red House site are 'small holding' agriculture with most of the land being used for equestrian purposes on a 'domestic' scale. Do not consider that the size of the building proposed is justified on agricultural grounds;
 - the described need for a new agricultural store appears to have been generated by the conversion of redundant agricultural storage for a holiday let;
 - it would appear that there has been no considerable recent increase in the extent of relevant agricultural operations. The only significant change has been the granting of permission for the holiday let in 2008. The lack of the new building will not threaten the relevant operations because agricultural storage facilities must have been reviewed at that time;
 - the applicant is arguing that there is a close comparison between the proposed building at Red House and the garage building at Ty Bach (No 03/1561) for which permission was granted on appeal in 2004. A more pertinent comparison would be with the application for a barn conversion at Red House, which was refused on appeal in September 1990. The Inspector said that the completed structure would be seen as a new dwelling in the open countryside which in his view would be harmful to the pleasing rural character of the surrounding area;
 - the size of the building is not proportional to the agricultural activity on the site. The land extends to about 4 acres: there are no arable crops or cattle, very occasionally sheep are grazed but not lambed. The only consistent agricultural activity is the raising of a few rare breed pigs. The

applicant claims there is considerable grass maintenance activity but the purpose of this activity is for horse grazing, therefore an equestrian activity not agricultural;
- would support a smaller scale building.

6. ASSESSMENT

- 6.1 This application seeks full planning permission for the erection of an agricultural/general storage building. The building would measure 6m in width, 6m in height, and 9m in length. An additional lean-to element measuring 900mm in width, 7.8m in depth, and 3m in height would be attached to the main structure. The front elevation of the building would be random rubble stone and vertical timber boarding, the side elevations would be rendered, the rear elevation would comprise render and vertical timber boarding. The roof would be natural slate roof.
- 6.2 A previous application was refused in January this year. The reason for refusal was that the building by reason of its domestic scale and design and its location away from, and separate to, the existing cluster of buildings and residential curtilage will have an adverse effect on the character of the surrounding area. Insufficient justification has been provided for the provision of a large new storage building within the countryside. The proposal therefore constitutes inappropriate development in the countryside, contrary to Policy SP6 of the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006).
- 6.3 The amended scheme has reduced the height of the building by 500mm. The design of the building has been altered to create a more barn-like appearance. The applicant has provided additional justification regarding the need for additional building. The applicant has stated that they currently have insufficient space to store a Massey 135 Tractor, field roller, field chain harrow, field topper, and general implements. The proposed storage building would also be used for the storage of animal feed and haylage, with more storage meaning goods could be bought on bulk, reducing costs. They have stated that the barn which was granted planning permission for conversion to holiday let was not adequate in size for the storage of the equipment referred to above.
- 6.4 The applicant has also highlighted the appeal decision at Ty Bach which is approximately 170m away on the other side of Millbrook Lane. The Inspector in that case allowed a garage/sheep shelter which measured 6m in width, 6m in length, and 4.8m in height. That building is located 40m from Ty Bach, adjacent to Millbrook Lane. The Inspector was of the opinion that the design of the building and its scale and impact on the rural area was acceptable. The design of the building at Red House is similar, characterised by vertical timber boarding, random rubble stone and natural slate roof. The building at Red House would be 900mm wider when the additional lean-to roof is taken into account, 3m longer and 1.2m higher.
- 6.5 With regard to its siting, the Inspector was of the opinion the Ty Bach building would not be particularly prominent, and that it did relate to Ty Bach as it was orientated towards the property and set in its immediate visual context. With regard to Red House the building would be located 15m away from the main dwelling. The building being in closer proximity to the main dwelling and other out buildings could be considered to be part of the visual context of the property. It is also considered that the building at Red House is in a less prominent location when viewed from Millbrook Lane as it is largely obscured by trees (the building at Ty Bach is located adjacent Millbrook Lane, this proposed building is some 100m from the lane). The Inspector was also of the opinion that the use of the building partly in connection with agriculture meant it was justified. It is considered that the applicant has provided sufficient evidence in relation to the storage of equipment in relation to the maintenance of the land under their ownership, and other storage needs to justify the need for the building. A condition can be imposed to restrict the use of the building to agricultural use and associated storage only.
- 6.6 It is also worth noting that in considering the Ty Bach appeal, the area was designated as a Special Landscape Area in the deposit UDP in force at that time. This extra countryside protection policy was deleted from the UDP on adoption (by a different Inspector) and therefore the development constraints now are arguably less stringent than at the time of the Ty Bach appeal. Whilst the UDP has since been adopted, none of the other relevant policies have changed significantly since the time of that appeal.
- 6.7 With regard to the comments made by Llanvaches Community Council, the issue regarding the scale of the building and the issue of the conversion of the existing barn into a holiday let have been considered in the above assessment. With regard to whether the need for storage having being reviewed at the time of the 2008 application to convert a barn to holiday let, the applicant claims that the barn in question is not adequate for the storage needs outlined above. The Community Council have also highlighted an application for a barn conversion to form a separate dwelling at the property in 1989, however this proposal is for a storage building, which could not be lawfully used as a dwelling. With regard to the concern that the Red House proposal cannot be compared to the Ty

Bach application, it is considered that the uses proposed are similar and the design and scale is not significantly different. It is considered that the proposal overcomes the previous reasons for refusal.

7.0 OTHER CONSIDERATIONS

7.1 *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 planning application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision. In fact, the applicant seeks the storage building to secure agricultural equipment and reduce the risk of thefts.

7.2 *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.

7.2.1 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.

7.2.2 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

8. CONCLUSION

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

9. RECOMMENDATION

GRANTED WITH CONDITIONS

01 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

02 The building hereby approved shall only be used for agricultural purposes.

Reason: To protect the rural character of the area and because the proposal is justified on the basis of this use.

NOTE TO APPLICANT

01 This decision relates to plan Nos: 200/01, 200/03/A, 200/04/A, Planning Design and Access Statement, and the justification letter provided by Sarah Bell.

02 The development plan for Newport is the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006). Policies SP6 and CE38 were relevant to the determination of this application.

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

APPLICATION DETAILS

No: 11/0005 Ward: **PILLGWENLLY**

Type: FULL

Expiry Date: 18/04/2011

Applicant: **THREADNEEDLE PENSIONS LTD**

Site: **UNIT 4 MENDALGIEF RETAIL PARK NEWPORT SOUTH WALES NP20 2NS**

Proposal: **EXTENSION TO EXISTING RETAIL PARK TO PROVIDE A NEW RETAIL UNIT, REARRANGEMENT TO CAR PARKING AND ACCESS ARRANGEMENTS AND ALTERATIONS TO ROUNDABOUT ON DOCKS WAY**

1. INTRODUCTION

- 1.1 Planning permission is sought for the extension of the existing retail terrace at Mendalgief Retail Park. The extension is proposed to the eastern retail terrace. It would consist of a self contained retail unit with a ground floor area of 419sqm and mezzanine of 260sqm. The extension would also include an entrance canopy for the unit, a fire door and service shutter to the rear. The application proposes a new entrance to the retail park which would consist of a new mini roundabout at the entrance to the park on Docks Way. The application also proposes a revised road layout for the internal car parking area in order to improve internal circulation.
- 1.2 The retail park is located at the junction of Docks Way and Mendalgief Road. The park is accessed from Docks Way and an access road which effectively divides the park into two halves.
- 1.3 In the east of the park is an I-shaped retail terrace currently occupied by TKK Max, Pets at Home and Halfords. To the west the retail terrace is occupied by Argos, Next and Dreams. The extension is proposed on the eastern section of the park. The eastern boundary of this terrace abuts the rear gardens of properties which front Mendalgief Road.
- 1.4 In March 2007, consent was granted for the erection of an extension to the existing terrace which would have resulted in a ground floor of some 441sqm; there would have been mezzanine floorspace at first floor, Application No 06/1062. Halfords was the occupant of the unit, the result of the extension would have provided a new unit for Halfords, which would have merged into the existing unit, with a floor space of some 800sqm. A smaller unit would remain in between Halfords and Pets at Home. The planning permission was subject to a condition restricting the type of goods for sale to Bulky Goods Only. The permission is extant. The applicant has identified a tenant who wishes to occupy the extension unit as a self contained unit without a link to the existing terrace. The applicant has no objection to the imposition of a bulky goods condition.
- 1.5 The current application also proposes improvements to the access to the retail park with the provision of a new mini roundabout onto Docks Way. A transport study accompanies the application. The new access has been designed to provide sufficient capacity to deal with forecast flows in this location and prevent internal queuing and congestion caused by vehicles turning right after exiting the park which is an existing problem at certain times. A revised internal car parking layout is also proposed in order to improve internal circulation.

2. RELEVANT SITE HISTORY

06/1062	Extension to existing retail park to provide additional unit (998m ² increase) along with 3 (No) new entrance lobbies and rearrangement to car paking.	Granted with Conditions
10/0810	Erection of 2.1m high palisade fence and erection of 2 (No) 2.4m high palisade gates.	Granted
10/0853	Erection of 2 (No) internally illuminated free-standing signs.	Granted
11/0003	Certificate of Lawfulness for proposed insertion of mezzanine floor.	Undetermined
11/0004	Subdivision of existing unit, creation of two new entrances and re-cladding of the exterior of the unit.	Undetermined
11/0006	Minor external alterations (re-cladding) to existing unit.	Granted with Conditions
11/0007	Erection of a stand-alone unit for use as Class A3 (Restaurants and Cafes).	Granted with Conditions

3. POLICY CONTEXT

- 3.1 In terms of National Policy Planning Policy Wales (PPW) (Edition 4, February 2011) and Technical Advice Note 4: Retailing and Town Centres (1996) are relevant to the determination of this application. Paragraph 10.3.1 of PPW states that the sequential approach should be applied to site selection. PPW also notes that out-of-centre retail developments may seek over time to change the range of goods they sell and applications to remove restrictive goods range conditions, should be considered in accordance with this guidance. PPW (Edition 4, February 2011) made no change to the retail Policy.
- 3.2 Paragraph 6 of Technical Advice Note 4 - Retailing and City Centres requires all applications for retail developments over 2,500 sqm gross floorspace to be supported by an impact assessment providing evidence of:-
- whether the applicant adopted a sequential approach to site selection and the availability of alternative sites;
 - likely economic effects and other impacts on other retail locations;
 - accessibility by a choice of means of transport;
 - likely changes in travel patterns;
 - any significant environmental impacts.

Newport Unitary Development Plan 1996-2011 (Adopted May 2006)

- 3.3 Policy SP18 of the Development Plan states that retail proposals in or adjoining the City Centre or district centres will be permitted where they enhance the retail functions of that centre. Proposals elsewhere will be subject to an assessment of need, phasing considerations and a strict application of the sequential test.
- Policy R12 relates to extensions to large retail units including refurbishment or redevelopment of existing stores, and only allows increases in floorspace provided that the proposed development will not have an adverse effect on traditional retail centres as a consequence of the type and range of goods sold; the proposal would not increase the area of the site; the surrounding highway network has capacity to serve the development and the proposal incorporates provision for sustainable means of transport; local residential amenity would not be adversely affected; a need for the development can be established, and the sequential test can be satisfied having regard to the availability of town and district centre sites and edge of centre sites which could accommodate the proposed retail units separately with less on site car parking.
- Supporting Paragraph 6.37 states that within areas shown on the proposals map as Retail Commitments further development which extends or identifies the retail function of the areas to the detriment of the City Centre or district centres will not be permitted.
- Paragraph 6.38 expands on this by stating that schemes should not result in a significant increase in floorspace for comparison goods, which could adversely affect the City Centre.
- Paragraph 6.39 states that in the context of the above paragraph conditions will be imposed on any consent restricting the type and range of goods to be sold. Under normal circumstances these should be confined to furniture, carpets, DIY, gardening, electrical and motoring. Goods such as clothing, shoes, toys, games, jewellery, books, CD's, cassettes and videos are normally those sold in traditional centres and should therefore be restricted.

4. CONSULTATIONS

- 4.1 DWR-CYMRU – WELSH WATER: Foul water and surface water shall be discharged separately from the site. No surface water or land drainage run off shall discharge into the public sewerage system. A main crosses the site, no development shall be within 3m of the sewer.
- 4.2 WESTERN POWER DISTRIBUTION: Provides information on location of equipment.
- 4.3 WALES AND WEST UTILITIES PLANT PROTECTION: Provides information on location of equipment.
- 4.4 ARCHITECTURAL LIAISON OFFICER: Crime data has been provided for this area, the levels in Pillgwenlly are above average compared with the rest of Gwent. There is no objection to the development and the following issues may wish to be considered by the developer:
- an alarm system on the additional unit;
 - should consider a lighting scheme;
 - CCTV will benefit the security of this type of development;
 - the rear doors should be suitably designed and linked to the alarm system;
 - general comments in relation to security matters are also provided.
- 4.5 ENVIRONMENT AGENCY: The site lies within Zone C1 as defined by the Development Advice Map however the flood map information confirms that the site is outside 1% and 0.1% annual probability fluvial flood outlines. Refer to further advice relating to flood prevention measures and possible localised flooding from adjacent drains and reens.

- 4.6 NEWPORT ACCESS GROUP: Concerned that the safety zone surrounding disabled parking spaces is within the internal road ways, in some circumstances vehicles moving out from other spaces will be manoeuvring within the safety zones this will lead to conflict between motorists. Not all disabled spaces are shown with safety zones. Concerned that the poles will conflict with the poles supporting signage as these will obstruct free access flow to the units. Welcome the provision of a roundabout in order to access or egress the park but query whether or not it is big enough for large lorries to use. Concerned that the roundabout prevent or affect the ability of pedestrians to cross the road.

5. INTERNAL COUNCIL ADVICE

- 5.1 PUBLIC PROTECTION MANAGER (POLLUTION): No objections subject to condition relating to construction hours, opening hours, noise levels and details of flood lighting.
- 5.2 HEAD OF STREET SCENE (HIGHWAYS): No objection subject to amended plans being considered and verbal confirmation at Planning Committee.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted. One letter of response and a petition with 29 signatures objecting on the following grounds:
- any further development use will increase the already intolerable amount of traffic which is currently experienced;
 - object to any further development at the retail park as the infrastructure cannot cope with the existing traffic, the existing traffic ignores current motoring restrictions;
 - if the application is approved it will confirm public opinion that the Authority do not care what the residents of Pill really say and think;
 - concern that the extension will reduce light into adjacent residential properties and gardens.
- 6.2 COUNCILLORS: No response.

7. ASSESSMENT

Planning Policy

- 7.1 Planning Policy Wales (PPW) March 2002 which has now been amended and is version 4 (February 2011) sets out the objectives for retailing and Town Centres. These objectives are to:-
- secure accessible, efficient, competitive and innovative retail provision for all the communities of Wales in both urban and urban areas;
 - promote town, district, local and village centres as the most appropriate centres for retailing and for functions complementary to it;
 - enhance the vitality, attractiveness and viability of town, district local and village centres and to;
 - promote access to these centres by public transport, walking and cycling.
- 7.2 Retail provision should ideally be located in proximity to existing commercial businesses, facilities for leisure, community facilities and employment. Town, district, local and village centres are the best locations for such provision at an appropriate scale. Such co-location of retail and other services in existing centres, with enhancement of access by walking, cycling and public transport, to provide the opportunity to use means of transport other than the car, will provide the greatest benefit to communities. This complementary mix of uses should also sustain and enhance the vitality, attractiveness and viability of those centres, as well as contributing to a reduction of travel demands.
- 7.3 The local authority should consider through their Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) whether new sites should be identified for retail development and in deciding whether to identify sites, the local authority should first consider whether there is a need for additional provision. Need may be quantitative to address a provable unmet demand for the provision concerned. Need may also be qualitative where it is shown that new provision will contribute to meeting policies set out in the Newport Unitary Development Plan 1996-2011 (Adopted May 2006).
- 7.4 Policy SP18 states that the retail proposals in or adjoining the City Centre or district centre will be permitted where they enhance the retail function of the centre. Proposals elsewhere will need phasing considerations and strict application of the sequential test.
- 7.5 Policy R12 relates to the extensions to large retail units and is subject to various criteria: Increases in floor space will only be permitted provided that the proposed development will not have an adverse effect on traditional retail centres as a consequence of the type and range of goods sold.
- 7.6 The applicant has confirmed that subject to planning permission the end user of the proposed unit would be Carpet Right. This type of user tends to be located in out of centre locations for they tend to stock bulkier goods not normally found in traditional centres. The proposal constitutes a small extension of the total floorspace of the existing retail park. The applicant has stated that it is material

that there is an extant consent for this very proposal, as the approval, 06/1062, does not have a condition preventing its subdivision, therefore the permission could be implemented and a unit of the required size created. Consent would be required for a new entrance. The applicant has confirmed that a condition restricting the sale of goods to bulky goods would be acceptable.

- 7.7 The fallback is material, however; the applicant clearly does not wish to implement the permission in that form. In applying for this proposal it is appropriate to consider all issues. There has been a change in circumstances since the previous approval namely in the issuing of an up-to-date retail study.
- 7.8 The second criteria does not permit an increase in the area of the site. The size of the retail park would not increase and the increase in the actual floor space is modest. The extension would utilise land which is currently open as it provides access to the vacant servicing loading doors of the motor service centre and parking spaces. The proposal would not be at odds with this criteria. The third criteria refers to the capacity of the surrounding highway and transportation network to serve the development, the need for adequate servicing arrangements and the provision of sustainable means of transport. A transport assessment has been submitted which the applicant states that there is no adverse impacts on the highway network as a result of the proposal. The proposed access roundabout should improve the functioning of the park easing egress at peak times. The Head of Street Scene [Highways] is satisfied that the remaining parking provision is adequate and accords with the parking standards. They are satisfied with the transport assessment subject to minor amendment to the access plan. The applicants would provide service access at the rear of the units, in line with that which was approved under the previous permission. The tree buffer between this and the residential properties would not be disturbed.
- 7.9 The following criteria states that residential amenity will not be adversely affected. The extension is sited in the same place as that previously approved. A 10m buffer strip currently separates the retail park from the residential properties which front Mendalgief Road. The applicant has confirmed that this buffer is to remain. The extension would be sited some 28m away from the nearest residential property which is considered to be acceptable. The concerns of residents are noted. With regard to parking problems and congestion, the improvements to the junction would help address this. The impact upon residential amenity is considered to be minimal, and it is not considered that the proposed extension would result in an unacceptable over-shadowing or over-bearing impact on neighbouring properties.
- 7.10 Policy R12 specifically requires that there be need for the development, the applicant considers that given the fact that there is an extant consent for the retail floor space being considered and there is no material change in circumstances since this approval, then there is no need to demonstrate need. However, the applicant has submitted a quantitative assessment of need at the Council's request following the Newport City Council Retail Study and Capacity Assessment (July 2010). The applicant concludes that there would be available expenditure for bulky goods in 2016 and that there is sufficient capacity to accommodate the proposal. Colliers have carried out this assessment for the council and have made a number of conclusions which include an assessment of need for additional bulky goods. This is material to the current application. The colliers report concludes that the City Centre does not have substantial retail floorspace to retain sufficient trips to and spend within the City. It has stood still whilst other centres have grown. Since 2001-2010 Newport has dropped from 93rd to 194th in the UK retail rankings.
- 7.11 The Colliers study specifically refers to the supply of out of centre bulky comparison goods units, and has stated that there is no identification of need for further provision across the study period. It is anticipated that there will be pressure to convert existing bulky goods share to non bulky good outlets which could further undermine the vitality and viability of the City Centre.
- 7.12 Finally the sequential test has to be satisfied with regard to the availability, suitability and viability of town and district centre sites, or edge of centre sites. The applicant has submitted a sequential assessment and concluded that there are no suitable available or viable sites within the City Centre that could accommodate the proposed floorspace. Whilst there are vacant sites of this size within the City Centre, the applicant proposes that the use be restricted to bulky goods and the City Centre is not a bulky goods destination.

Other Consultation Responses

- 7.13 Newport Access Group has concerns about the disabled parking space extending into the roadway; their concern is noted however the extended space provides the necessary additional space required to access the vehicle. The highway is still 5m beyond the space which is wide enough to allow vehicles to pass. There is concern about the poles supporting the signage which reduces the pedestrian pathway in front of the unit. Newport Access Group say that these columns could obstruct pedestrian movements particularly disabled pedestrians and that the poles should be clearly identifiable. The comments are noted. However, there is level access from the disabled parking

spaces into the new entrances which is considered to be acceptable although details of the proposed materials would need to be secured by condition should planning permission be granted.

- 7.14 The Architectural Liaison Officer has no objections to the scheme, and provides additional information about good security practice. The Environment Agency has no objection to the proposal and provides information about flood prevention measures. Welsh Water had identified a sewer within the area where any development shall be 3m away from its anticipated location. Western Power provide details of apparatus in the area.

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 planning 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 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

9. CONCLUSION

- 9.1 Whilst it is material that there is an extant consent for an extension of this site, it is considered that circumstances have changed since the previous approval, with the publication of the Colliers Study. The study is clear in its conclusion, that there is ample supply of out-of-centre bulky comparison goods units and does not identify any need for further provision across the study period. For this reason it is considered the applicant cannot demonstrate a quantitative need for additional retail development which would result. The proposed development could therefore result in a detrimental impact on the retail function of the City. The proposal is, therefore, contrary to Policy R12(v) of the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) as a quantitative or qualitative need for development cannot be established. It is recommended that the application be refused for the following reason.

10. RECOMMENDATION

REFUSED

01 A quantitative or qualitative need for the development cannot be established. The proposal is, therefore, contrary to Policy R12(v) of the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006).

NOTE TO APPLICANT

01 This decision relates to plan Nos: 09341 320Rev.D, 321Rev.B, 211, 210, 301B, 212, 322Rev.A, 002Rev.D, Design and Access Statement, Planning Statement Transport Statement.

02 The development plan for Newport is the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006). Policies SP18 and R12 were relevant to the determination of this application.

03 National Planning Policy Wales [PPW] Version 4 [February 2011] and Technical Advice Note 4: Retailing and City Centres were relevant to the determination of this application.

04 The Retail Study and Capacity Assessment carried out by Colliers [July 2010] is a material consideration in the determination of this application.

05 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.

Andy Evans
Head of Regeneration and Regulatory Services

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MH/SAD Wednesday, 01 June 2011