Dear Councillor

You are invited to attend a MEETING of the PLANNING COMMITTEE to be held on TUESDAY 18 MARCH 2014 at 4pm in COUNCIL CHAMBER, CIVIC CENTRE, PONTYPOOL to consider the business set out in the attached agenda.

Members of the public, who have objected to a planning application, can exercise their Third Party Speaking Rights, provided they have given 2 working days notice to Democratic Services. Members of the public have the right to speak in English or Welsh; instantaneous translation facilities will be provided in Welsh as long as this is requested at the time of notifying Democratic Services that they wish to speak at the meeting. The applicant has the right of reply to the objector.

Yours sincerely

Rosalyn Gwynn
Committee Support Manager
On behalf of
Alison Ward CBE
CHIEF EXECUTIVE

To:

Councillors: Norma Parrish (Chair), Ron Burnett, Pamela Cameron, Leonard Constance, Veronica Crick JP, David Daniels, Stuart Evans, Alan Furzer, Keith James, Robert Kemp, Mandy Owen, Jessica Powell, Philip Seabourne, Barry Taylor JP, Wayne Tomlinson and Neil Waite

Officers: Chief Planning & Public Protection Officer, Head of Development Management, Group Leader, Transportation & Highways Development, Assistant Chief Legal Officer

For Information Only: All Other Members and all other Chief Officers

For Information: Chief Legal Officer and Monitoring Officer, Lead Officer Member Development and Civic Responsibility and Leader’s Office Manager
Additional requirements

Please do not hesitate to contact Democratic Services on the number or email address below if you wish to attend a meeting and you would like us to take into account any special requirements you may have.

Induction loops for hearing aid users operate in Committee Rooms 1, 2 and 3. An infra-red system for use with headsets operates in the Council Chamber, (where we also use microphones). Please contact us if you require a headset.

Agendas and copies of reports can be provided in large print, on audio cassette and, where print deadlines permit, in Braille. Please contact us for further details.

All Committee Rooms are accessible by Wheelchair. Please contact us before the meeting and we can ensure that the room is arranged appropriately.

Cyfieithiadau Cymraeg  Os hoffech dderbyn copio’r agenda hwn neu unrhyw adroddiad arall yn Gymraeg, cysylltwch â ni ar y rhif ffôn neu’r cyfeiriad e-bost uchod.

Welsh Translations  If you would like a copy of this agenda or a particular report in Welsh or any other Community Language, please contact us on the telephone number or email below.

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Telephone: 01495 766057
Email: ros.gwynn@torfaen.gov.uk
# PLANNING COMMITTEE

**TUESDAY 18 MARCH 2014 at 4pm**

**COUNCIL CHAMBER, CIVIC CENTRE, PONTYPOOL**

## AGENDA

<table>
<thead>
<tr>
<th>PAGE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Apologies for absence</td>
</tr>
<tr>
<td>2. Declarations of interest</td>
</tr>
<tr>
<td>3. Minutes of Planning Committee held on 18 March 2014</td>
</tr>
<tr>
<td>4. Planning Appeals</td>
</tr>
<tr>
<td>5. Use of Planning Conditions</td>
</tr>
<tr>
<td>6. Planning Applications</td>
</tr>
</tbody>
</table>

**Date of next meeting:**
4pm, Tuesday 15 April 2014 in the Council Chamber

Members are reminded to consider any possible declarations of interest and to seek advice on these before the committee meeting or site inspection visit. Please contact Tim James on 01495 – 742667 or Lynda Willis on 01495 - 742660 or if you would like to discuss any issues.
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Agenda Item 3

MINUTES OF MEETING OF THE PLANNING COMMITTEE
OF TORFAEN COUNTY BOROUGH COUNCIL
held on Tuesday 18 February 2014 at 4:00pm to 4:50pm
in Council Chamber, Civic Centre, Pontypool NP4 6YB

ATTENDANCE

Members of the Committee: in alphabetical order

Councillor Pamela Cameron Councillor Robert Kemp
Councillor Veronica Crick JP Councillor Philip Seabourne.
Councillor Stuart Evans Councillor Barry Taylor JP
Councillor Alun Furzer Councillor Wayne Tomlinson
Councillor Keith James Councillor Neil Waite

Officers: in alphabetical order

Ros Gwynn Committee Support Manager (CSM)
Tim James Assistant Chief Legal Officer (ACLO)
Norman Jones Team Leader Applications (TLA)
Richard Lewis Head of Development Management (HofDM)
Paul Wheeldon Group Leader Highways and Transportation (GLH&T)

Others:
There were five members of the press and public in the Public Gallery.

Action

The Committee Support Manager advised the committee that the Chair was not available. The Assistant Chief Legal Officer asked for nominations for a member to chair the committee meeting. Members proposed, seconded and agreed that Councillor Philip Seabourne should chair the meeting. Councillor Seabourne then took the Chair.

1. APOLOGIES

1.1 Apologies were received from Councillors Norma Parrish (Chair) Ron Burnett, Len Constance, David Daniels, Mandy Owen and Jessica Powell.

2. DECLARATIONS OF INTEREST

2.1 The Assistant Chief Legal Officer reminded members that they needed to complete the declaration of interest form in the attendance register folder if they were declaring a personal interest in any application.

2.2 The following personal interests were declared:
3. MINUTES OF PLANNING COMMITTEE HELD ON 21 JANUARY 2014

31 The Committee Support Manager (CSM) apologised for omitting Cllr Crick’s name from the attendance list but assured her that her name had been entered on the Master Attendance List.

3.1 Members AGREED that the minutes of the Planning Committee meeting held on 21 January 2013 be confirmed as a correct record, subject to the above amendment and signed by the Chair.

4. PLANNING APPLICATIONS

4.1 Conversion of existing restaurant with takeaway into takeaway & separate retail unit. Creation of 2 no separate accesses to upper floor living accommodation at 25 - 27, Victoria Street, Old Cwmbran, Cwmbran – application number

4.1.1 The Team Leader Applications (TLA) explained that planning permission for the restaurant had been granted in 1977 but had been restricted to non-take away sales. Further applications for take away facilities had been refused but it had been proven that take away sales had, nevertheless, taken place for a number of years. Therefore a Certificate of Lawful Development had been issued in August 2013.

4.1.2 The committee was told that it was proposed to subdivide the ground floor into a takeaway and a separate shop unit. The plan of the development was shown to members and it was explained that two separate external access
staircases would be created for the upper floor flats. Photographs of the premises were also displayed.

4.1.3 The TLA listed the details from the six letters of objections that had been received from residents:
- The restaurant should never have been used as a takeaway
- There would be illegal parking on the street as there was insufficient parking for a take away and a retail unit
- There would be noise and disturbance
- There already were enough take-aways in the vicinity

He added that there had been a further objection from the adjoining landowner regarding the use of the land adjacent to the property. The landowner was concerned that access to his land could be blocked. Following discussions with planners the landowner was happy for a condition to be added if planning permission was granted by members.

4.1.5 Mrs Diane Brain, objector, told the committee was they had been a resident of Victoria Street for 31 years. She made the following points to the committee:
- When the restaurant was originally opened, she had supported the owner receiving deliveries to his premises
- She asked when consultation had actually taken place regarding this application as she felt there had been insufficient consultation on the matter
- There was concern about the prospect of additional noise and increased littering of the area
- If residents were lucky, customers of the restaurant would use the car park, but customers of the take away and shop would just park outside to ‘pop in for a pint of milk’ and this would create traffic congestion. Also as there were bollards in front of the premises, customers would park in front of residents’ homes
- There were only four parking spaces available for the premises and users of the spaces would have to reverse onto a very busy main street
- At the moment, workman working on the building currently obstructed their drive and had to be asked to move and this proved what would happen when the store and takeaway opened
- There were plenty of shops in the area with both the Co-operative supermarket and Cwmbran Shopping close to the area so a convenience store was not needed
- The opening hours would create a nuisance for neighbours
- A similar application on Ventnor Road had recently been turned down due to similar issues

4.1.6 The applicant was present at the meeting but declined to address the committee.
4.1.7 In response to Mrs Brains’ comments, the TLA confirmed that previous applications for take aways had been refused and a Lawful Development Certificate had been issued last year after written evidence had been provided. He explained the following points (in summary):-

- The 20 nearest neighbours had been consulted about the application, however Mrs Brain was not one of those consulted.
- There were parking spaces available to the side of the premises
- There was a mix of commercial properties in the area
- There had been no highways objections
- The application for a take away on Ventnor Road had been turned down by members and also by the Appeals Inspector. It had been considered unacceptable due to the proximity of solely residential character of Ventnor Road and possibility of parking on a narrower road.
- Victoria Street was the main thoroughfare of Old Cwmbran village

He concluded by saying that officers had recommended approval of this application.

4.1.8 The Group Leader Highways and Transportation (GLH&T) said he reinforced what had been said by planning officers. He commented that residential use of the property and a take-away already existed. The GLH&T added that the presence of yellow lines provided efficient movement of traffic and the majority of time traffic did move freely through the village.

4.1.9 The committee was told that Highways Officers had to consider whether stopping outside the premises would be so significant that they should object to the application.

4.1.10 In response to members’ questions officers responded as follows:

- The owners had to show that there had been more than 10 years continuous use before a Certificate of Lawful Development could be granted
- A condition requiring details of the parking layout and to ensure unobstructed access to the adjacent property was being recommended
- Problems with litter would be dealt with under other legislation. However, an advisory note could be added to the Planning Consent Notice.
- It was not unusual for loading and unloading to take place on the street and sometimes double yellow lines allowed for this
- There was potential for the flat roof to be used as an amenity area which could affect the privacy of other residents, so conditions had been attached to prevent this
- As there was already residential use of the premises, approval was not required for that use and a request for additional parking could not now be made to the applicants. It was accepted that there was insufficient parking to comply with conditions of a new application for
THESE MINUTES ARE DRAFT AND WILL REMAIN SO UNTIL CONFIRMED AS A CORRECT RECORD BY THE COMMITTEE AT ITS NEXT MEETING

shop1, residential and takeaway use

- As the application site was in a town centre location and a car park was nearby, there could not be an objection from highways officers

A recommendation to approve the application along with the additional condition regarding access and an advisory note to the applicant, was seconded.

4.1.11 Members agreed with eight members voting for and one member abstaining, to APPROVE the application subject to the conditions in the report, the additional condition and the advisory note.

4.2 The temporary retention (up to two years) of a temporary telecommunications installation consisting of 30m mast, six no. antennae, dishes and four no. ground based equipment within a fenced compound, at the north car park of the former County Hall at Former County Hall Car Park, Turnpike Road, Croesyceiliog, Cwmbran.

4.2.1 Members enquired what would happen when the county hall site was developed. Officers advised that this would be a matter for the Council as landowner.

4.2.2 It was agreed, with eight members voting for and one member abstaining, to APPROVE the application subject to the conditions set out in the report.

4.3 Condition 7 of 12/P/00160 restricts the permission to a temporary consent. This application seeks removal of that condition to allow permanent consent for the retention of the use of land for the keeping of horses and two associated buildings at Poplar Avenue, New Inn, Pontypool.

4.3.1 In response to members’ questions about potential problems with the road, the GLH&T explained that the Council had powers to move mud, materials and excrement off the highways and recharge to the applicant. He added that complaints of this type would be dealt with reasonably quickly.

4.3.2 The committee was told that since a significant amount of work had been done on the land there had not been any reported issues. The GLH&T explained that the mud on the road had been caused by vehicles driving from a muddy field onto the estate road. He felt that the ‘slurry’ referred to in the objectors’ comments was probably mud and the comment about vermin was probably linked to a pipe that had been previously broken. Members were advised that any vermin issues would be dealt with by Environmental Health officers.

4.3.3 The Head of Development Management told the committee that the applicant would be advised that the definitive footpath plan needed to be
amended to reflect the actual position of the footpath on the site.

4.3.4 It was agreed unanimously to APPROVE the application subject to the conditions set out in the report.

4.3.5 The Chair thanked everyone for attending and informed members that the next meeting would be held on Tuesday 18 March. The meeting was then closed at 4:50pm.

Signature …………………………………………… Date…………………………

Councillor Norma Parrish, Chair of Planning Committee

Councillors who left the meeting briefly (e.g. for a comfort break) during an officer presentation or a debate are not listed in the minutes above as having left and returned. Councillors are only listed as having left/returned if they were absent from the Chamber when a decision was taken.

Minutes written by Ros Gwynn, Committee Support Manager on 21 February 2014
PLANNING COMMITTEE  
18 MARCH 2014  

PLANNING APPEALS  

Report submitted by: Duncan Smith, Chief Planning & Public Protection Officer  
Report written by: Richard Lewis, Head of Development Management  

1 Purpose of Report  

1.1 To inform members of planning appeals which have been made to the Welsh Assembly Government and their subsequent determination.  

2 Report  

2.1 Appeals Decided  

2.1.2 APPEAL BY MR PETER COX AGAINST THE REFUSAL OF PLANNING PERMISSION FOR RETENTION OF ‘CASH FOR CLOTHES’ BUSINESS IN GROUND FLOOR OF EXISTING BUILDING AT OLD CHANGING ROOMS, STATION ROAD, PONTNEWYDD, CWMBRAN (12/P/00643)  

DECISION: APPEAL DISMISSED  

In January 2012, an enforcement investigation was commenced relating to the operation of a ‘cash for clothes’ business and unauthorised signage at the site. The appellant submitted a planning application for the retention of the ‘cash for clothes’ business in April 2013 which was refused under delegated powers on 22 May 2013 with the stated reason being the unadopted access lane which is not considered to be of a suitable standard to support the identified business use and is therefore contrary to Policies G1(G) and G5(A) of the adopted Torfaen Local Plan (2000).  

This appeal was determined by means of written representations. In her decision, the Inspector confirmed the main issue to be the effect of the development on highway safety.  

The Inspector noted that the access had recently been re-surfaced and several vehicles were parked to one side. She also confirmed the limited visibility to the west when exiting the access lane onto Station Road.  

The Inspector was not persuaded that the lane would be suitable for the purpose given its limited width and stated that she was of the opinion that there would be insufficient space for cars to turn within the highway and leave in a forward gear which would be likely to result in vehicles reversing out of the access onto a busy classified road. Given that there would be no control over the number of customers visiting the site, the potential for pedestrian and vehicular conflict would be significant. The limited visibility to the west of
Station Road, together with the presence of a bus stop in this direction, would further exacerbate the risk to highway safety arising from vehicular manoeuvres associated with the proposed use and access arrangements.

The Inspector observed a driver reversing a vehicle out onto Station Road during her site visit which added to her concern regarding access and highway safety. She considered that the proposed development would be likely to compromise highway safety and would therefore conflict with adopted policy in this regard. The appeal was therefore dismissed.

The matter will now be referred back to the Council’s Planning Enforcement Team.

2.1.3 APPEAL BY MR OWEN NIBLOCK AGAINST THE REFUSAL OF PLANNING PERMISSION FOR RETENTION OF NEW TIMBER BOUNDARY FENCE AT ROSE COTTAGE, CWMAVON ROAD, CWMAVON, PONTYPOOL NP4 8UZ (13/P/00207)

DECISION: APPEAL DISMISSED

In February 2013, an enforcement investigation was commenced relating to works at the appeal site including the erection of a timber boundary fence. The appellant submitted a planning application for the retention of the timber fence in May 2013 which was refused under delegated powers on 14th August 2013 with the stated reason being the scale, design and materials of the fence at this elevated position having a significant adverse impact upon the visual amenities of the site and the wider Special Landscape Area, also that the development fails to preserve or enhance the Conservation Area and is therefore contrary to Policies E2/4, G1 and H1 of the adopted Torfaen Local Plan (2000).

This appeal was determined by means of written representations. In his decision, the Inspector confirmed the main issues to be the effect of the proposal on the character and appearance of the area which is within a Special Landscape Area; and whether the proposal would preserve or enhance the character or appearance of the Cwmavon Conservation Area.

The Inspector confirmed that the appeal property is in a prominent position with the fence highly visible from public vantage points. He stated that the fence forms a solid screen which blocks views towards the garden and the hillside behind it. In the Inspector’s view, the fence dominates not only the garden at Rose Cottage but also Rose Cottage itself. Moreover, the ‘rough-hewn’ appearance of the timber boards fails to harmonise with the clean lines of Rose Cottage and the retaining wall to the garden.

He concludes therefore that the fence has had a material detrimental impact on the character and appearance of the appeal site and the wider area given its prominent location.
In relation to the Conservation Area, the Inspector reviewed the guidance set out within the Conservation Area Appraisal and concluded that the fence is an alien feature which detracts considerably from the Conservation Area. The fence does not preserve or enhance the character or appearance of the Conservation Area, rather it results in significant harm to both the character and appearance of the Conservation Area.

The suggestion of staining and landscaping to soften the visual impact would not overcome the identified harm. The appellant had raised a number of points in support of his case but when all matters were taken into account, matters in favour of the fence were far outweighed by the significant harm to planning interests. The appeal was therefore dismissed.

The matter will now be referred back to the Council’s Planning Enforcement Team.

Recommendation(s):

1. That the contents of the above report be noted.

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<th>Appendices</th>
<th>None</th>
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Background Papers

Note: Members of the public are entitled, under the Local Government Act 1972, to inspect background papers to reports. The following is a list of the background papers used in the production of this report.

None

For a copy of the background papers or for further information about this report, please telephone: Richard Lewis, Head of Development Management (Tel. 01633 647628)
1. Area Affected

1.1 Development Management Section – Processing of planning applications

2. Purpose of Report

2.1 To make Members aware of proposed changes to Circular 35/95, which gives advice on the use of conditions in planning decisions.

3. Background

Detailed advice on the use of conditions is set out in Circular 35/95. The circular is nearly 18 years old and is due for review in order to take account of current case law and contemporary issues.

The consultation paper is part of the Welsh Governments response to recommendations arising out of the 2010 study by GVA to examine the planning application process in Wales and the report by the Independent Advisory Group on the use of planning conditions. The 2010 study found that an increasing number of onerous conditions were being used by LPA’s resulting in delays and some conditions didn’t go far enough or not being enforced properly.

The study found that:

a) There were inadequate discussions of conditions at the pre-application stage;
b) There was a lack of time to resolve problems because of the pressure on LPA’s to make quick decisions;
c) Applicants want to leave details until after principles have been agreed and;
d) There was justification for better standardisation of conditions.

The specific recommendations of the Study were that:
a) Conditions should be categorised better
b) Conditions should be more proportionate in terms of timing (eg. At pre commencement stage.
c) Conditions should be more flexible
d) Consultees and other groups should be involved in the formulation and discharge of conditions
e) There should be a clear link between effective monitoring and enforcement
f) There should be early discussion of likely conditions
g) Circular 35/95 should be updated
h) Decision notices should be Standardised across Wales
i) LPA’s should co-operate with the applicant in the formulation of conditions
j) The implications of monitoring and enforcement of conditions should be considered.
k) A new list of contemporary model (live) planning conditions should be prepared.

The majority of the above recommendations have been taken forward by the Welsh Government in a new draft circular which provides contemporary guidance on planning conditions and a new list of ‘model’ conditions. It is proposed to issue the new circular to replace Circular 35/95.

Comments on the new draft circular are required by 25 April 2014.

4.0 Proposed Changes

4.1 The main proposals of the draft circular produced by the Welsh Assembly are as follows.

Update Circular 35/95

Whilst in need of updating in a number of areas, there is much in Circular 35/95 which is still relevant and which WG intend to retain. For example the 6 criteria for ‘testing’ the acceptability of conditions: necessary; relevant to planning; relevant to the development; enforceable; reasonable and; precise.

Standard decision notices

It is proposed to make the structure of decision notices consistent throughout Wales. Conditions would be either structured in order of discharge or in terms of topic areas.

Proportionate and flexible conditions

Conditions should only be imposed where absolutely necessary and should not result in unnecessary costs for developers or unnecessary
time for LPA’s in monitoring and enforcing them. Conditions should be as flexible as possible in terms of timing to prevent unnecessary delays to development. For example conditions should be phased to allow the development on one part of the site to continue while waiting for information on another part.

Although proposing more flexibility, WG’s view is that the term ‘unless otherwise agreed by the LPA’ is too vague and should be avoided.

Cooperation and Negotiation

LPA’s are encouraged to enter into pre-application discussions with developers and statutory consultees in order to identify the information that would be expected with any planning application. This would help to speed up the process and reduce the number of conditions that would otherwise be needed.

LPA’s are encouraged to provide advance notice of conditions to the applicant at least a week before a decision is made. This would allow discussion on the likely implications of conditions and allow any potential conflicts to be resolved before a decision is made.

Monitoring and Enforcement

It is important for LPA’s in drafting conditions to consider the implications and practicalities of monitoring and enforcement. Conditions should be sufficiently clear in terms of requirements and timing to enable the LPA and other interested parties to assess whether a development is progressing as approved and to be confident that there are no outstanding matters at any given stage.

Model Planning Conditions

An updated list of suggested model conditions is provided to reflect current case law and contemporary planning issues.

5 Financial Implications

5.1 There are no financial implications associated with these proposals.

6 Conclusion/Summary

6.1 Overall the proposals are positive and should be welcomed. Officers will provide detailed comments by 25 April 2014. In the meantime Members are invited to comment on the proposals and any received will be passed on to the Welsh Assembly.

7 Recommendation(s)

7.1 1) That Members note the contents of this report
2) That Members consider whether they wish to comment on the proposals and provide those comments by 31 March 2014.

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| Background Papers | Note: Members of the public are entitled, under the Local Government Act 1972, to inspect background papers to reports. The following is a list of the background papers used in the production of this report. |

For a copy of the background papers or for further information about this report, please telephone: Richard Lewis, Head of Development Management (01633 647628)
AGENDA ITEM NO. 6

PLANNING COMMITTEE
18 MARCH 2014

PLANNING APPLICATIONS

Report submitted by: Duncan Smith, Chief Planning & Public Protection Officer
Report written by: Richard Lewis, Head of Development Management

1 Purpose of Report

1.1 To present details of and recommendations on, planning applications which this Committee has powers to determine.

INDEX

<table>
<thead>
<tr>
<th>No.</th>
<th>APPLICATION NUMBER</th>
<th>PROPOSAL &amp; LOCATION</th>
<th>WARD</th>
<th>RECOMMENDATION</th>
<th>PAGE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>08/P/00740</td>
<td>Conversion of existing disused hotel to self contained apartments with additional new build apartments at Hanbury Hotel, Windsor Road, Griffithstown, Pontypool</td>
<td>Panteg</td>
<td>Approval Subject to S106</td>
<td>16-31</td>
</tr>
<tr>
<td>2</td>
<td>13/P/00130</td>
<td>Outline application for a dwelling with access from Gifford Close at Land at rear of 8, Garth Road, Ty Coch, Cwmbran</td>
<td>Two Locks</td>
<td>Approval</td>
<td>32-47</td>
</tr>
<tr>
<td>3</td>
<td>13/P/00299</td>
<td>Proposed development of seven flats and associated site works at Land adjacent to 54, King Street, Blaenavon</td>
<td>Blaenavon</td>
<td>Approval Subject to S106</td>
<td>48-62</td>
</tr>
</tbody>
</table>

Recommendation(s):

1. That the contents of the above report be noted.
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<tr>
<th>Appendices</th>
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A resolution to approve this planning application subject to a Section 106 agreement for affordable housing was passed at the Planning Committee in March 2010. Since this date there has been an extensive delay in the completion of the Section 106 agreement and recently the applicant has submitted financial information to demonstrate that the required provision of 30% of affordable housing to be provided on the site would prejudice the viability of proposed development.

This application is being reported back to Planning Committee to determine whether this proposal is acceptable with no provision for affordable housing.

The applicant appointed a Quantity Surveyor to submit detailed information with regard to the costs of the conversion of the building and the new build. Based on this information it is considered that to provide the previously required 30% affordable housing would result in this scheme becoming unviable at this time. Failure to bring this site forward would result in the loss of much needed 1 and 2 bedroom flats and the loss of the opportunity to refurbish the existing Hanbury Hotel Building which has been in a poor condition for a long period of time.

It is therefore considered that the proposal to not provide 30% affordable housing in this instance in the current climate, is acceptable. However, to take into account any future increase in the market, it is considered reasonable to review the provision of affordable housing within an agreed renegotiation clause in a Section 106 Agreement.

A bat survey was also submitted with this application which set out mitigation measures. Due to the length of time that has now passed it is considered that a
condition should be attached requiring an updated bat survey to be undertaken prior to the commencement of development.

Following a request from the ward member, a site visit was undertaken in relation to this application on 24 February 2010.

Due to the length of time that has passed since the application was last reported to Planning Committee, re-notifications were sent out to neighbours. One response was received which is summarised in the Representations section below.

LOCATION AND DESCRIPTION OF SITE

This application site relates to the former Hanbury Hotel located on the corner of Windsor Road and High Street in Griffithstown. The building is a substantial three storey building occupying a prominent corner position. To the side and rear of the building is a vacant area of land used in connection with the hotel. The building is currently unused and is in a poor state of repair but it appears that its last use was a pub with residential use above. The site is located within a predominantly residential area which is characterised by high density terraced housing, narrow streets with on street parking.

PROPOSED DEVELOPMENT

This application is for the conversion of the existing building to apartments and the erection of additional new build apartments with a parking area to the rear. Originally a total of 19 units were proposed, however, in an attempt to overcome concerns, the applicant submitted amended plans reducing the number of units to 17. The development as amended comprises of 12 x one-bed units; 4 x two-bed units and 1 x three – bed units. Nine of the flats will be within the original building and the remaining eight will be in the new build element.

A parking area will be located to the rear of the building and in the basement of the main building. Access will be off High Street and a total of 27 parking spaces will be provided within the site.

POLICY CONTEXT

PLANNING POLICY WALES (5TH EDITION)(NOVEMBER 2012)

Planning Policy Wales (PPW) (5th Edition)(NOVEMBER 2012) sets out the context for planning in Wales and has a series of chapters that deal with particular subjects. Each of the subject chapters contains sections on how the subject should be treated in Development Plans and for Development Control purposes.

Chapter 3: Making and Enforcing Planning Decision:

Paragraph 3.1.8 states that when determining planning applications local planning authorities must take into account any relevant view on planning matters expressed
by neighbouring occupiers, local residents and any other third parties. It continues to state that while the substance of local views must be considered, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting planning permission; objections, or support, must be based on valid planning considerations.

Section 3.7 sets out the policies for entering into Planning Obligations.

**Chapter 5: Conserving and Improving Natural Heritage and the Coast:**

Paragraph 5.1.3 states that a key role of the planning system is to ensure that society’s land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment. However, conservation and development can often be fully integrated. With careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created.

Paragraph 5.5.1 states that Biodiversity and landscape considerations must be taken into account in determining individual applications and contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land. Paragraph 5.5.2 states that when considering any development proposal (including on land allocated for development in a Development Plan) local planning authorities should consider environmental impact, so as to avoid, wherever possible, adverse effects on the environment. Where other material considerations outweigh the potential adverse environmental effects, authorities should seek to minimise those effects and should, where possible, retain and, where practicable, enhance features of conservation importance.

**Chapter 9: Housing:** Paragraph 9.3.1 states that new housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Paragraph 9.3.4 states that in determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area’s character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas.

**LOCAL PLANNING POLICY**

The current Development Plan for this Authority consists of the Torfaen Local Development Plan (LDP), which was adopted by the Council on 3 December 2013.
The following Local Development Plan policies are relevant:

**Strategic Policies**

Policy S1 (Urban Boundaries) - Defines the Urban Boundaries to promote the full and effective use of urban land, to allow for development to contribute to the creation of sustainable communities and define the urban area within which there is a presumption in favour of development. The site is located within the Urban Boundary.

Policy S2 (Sustainable Development) - Gives a set of Sustainable development considerations that should be taken into account in the design of development proposals.

Policy S3 (Climate Change) - Sets out a set of criteria that should be considered to seek to mitigate the causes of further climate change and adapt to the current and future effects of climate change such as promoting sustainable design.

Policy S4 (Place Making) - Seeks that new development must have full regard to the context of the local natural and built environment and its special features including promoting local distinctiveness by sympathetic design, material selection and layout including public art.

Policy S5 (Housing) - Outlines that provision is made for 4700 dwellings in Torfaen between 2006-2021.

Policy S7 (Conservation of the Natural and Historic Environment) - Seeks to ensure the conservation and enhancement of the Natural and Historic Environment.

Policy S8 (Planning Obligations) - Outlines the planning obligations will be required on development proposals to address impacts of development and to make the proposal acceptable in land use planning terms. This outlines that obligations will be specifically targeted to achieve key priorities which includes Open Space, Children’s Play spaces and formal outdoor recreation facilities.

**Borough Wide Policies**

Policy BW1 (General Policy - Development Proposals) - Outlines a set of criteria which, in conjunction with related policies of the Local Development Plan, should be satisfied where relevant for permission to be granted. These include criteria relating to Amenity and Design, Natural Environment, Built Environment, Utilities Provision and Design and Transport.

**Topic Based Policies - Housing**

Policy H4 (Affordable Housing) - The policy seeks to negotiate on all sites of 3 or more dwellings or over 0.1ha the provision of affordable housing, with up to 10% affordable housing being sought in the North Torfaen Housing Sub Market area.

SUPPLEMENTARY PLANNING GUIDANCE: A Development Brief for this site was prepared and adopted as Supplementary Planning Guidance.
Planning Obligations (June 2011) – Planning obligations are an established and valuable tool within the development control process. They provide a means to enable a proposed development to proceed and to meet the needs of the local community associated with the new development by securing developer contributions towards the provision of infrastructure, services and other public benefits. They are commonly used to bring development proposals in line with the objectives of sustainable development as set out in local and national policy. The SPG sets typical criteria and thresholds for contributions towards: Affordable Housing; Highways and Transport; Educational Facilities; Community Facilities and Regeneration; Ecology and Biodiversity and Recreation and Public Open Space.

CONSULTATIONS

HIGHWAYS: “The number of apartments has now been reduced from 19 to 17, made up of 12 x one-bed; 4 x two-bed and 1 x three-bed.

Drawing No. hh/s101 Rev A, shows 20 unallocated parking spaces and 3 disabled persons parking spaces in a parking court which gains access off High Street. Drawing No. hh/p01 Rev A, shows a garage at lower ground floor level off the parking court, able to accommodate 4 cars. I assume that these spaces will be allocated to either the two bed or three bed apartments as otherwise the tandem parking arrangement that has been shown would be unworkable.

The existing site is served by two access points, one off Windsor Road and the other off High Street. The proposal is to close up the access from Windsor Road and have a single access off High Street to serve the parking area. Works will be required to construct a footway and install full height kerbs across the existing vehicular access to the site off Windsor Road. These works have not been shown on any of the plans, however providing this is conditioned to any consent then I would not require an amended plan.

The amended plan now shows the access off High Street serving the parking court, located further west, and although visibility to the right is still limited, this is an improvement on the original proposal.

Currently there is a flight of steps located in the footway that lead to an entrance to the building off High Street, the proposed Site layout Plan does not show these steps as such I assume that they are to be removed, which will improve visibility to the left from the access. Works will be required to reinstate the footway.

The access road has also been widened to 4.1 metres which will allow vehicles to enter and leave the site at the same time. The existing vehicular crossing will need to be widened and improved.

I would not wish to see any gates installed across the entrance to the parking court as they cannot be set far enough back as they would affect access to the parking spaces close to the entrance.
I am aware of the parking problems in the centre of Griffithstown, and the extensive on-street parking which takes place on all streets, I am also concerned regarding the limited visibility onto High Street to the right from the access. However, given the existing use of these premises and the need to bring this building back into use and the fact that the applicant has reduced the number of apartments and provided sufficient parking space, then it would be difficult to oppose the application from a highway standpoint.

I would however wish to see the following conditions attached to any grant of approval:-

1. The required visibility splays for the access shall be a minimum of 2.4 metres x 13.5 metres to the right from the centre line of the access and 2.4 metres x 22 metres to the left from the centre line of the access.

2. Any wall/fence within the visibility splay must not exceed 0.9 metres in height above the existing carriageway level and the centre line of any planting must be set back a minimum distance of 1 metre from the back of the visibility splays.

3. The existing vehicular access off Windsor Road must be permanently closed up and a new footway and full height kerbs installed across the access. The works must be carried out by an Approved Term Contractor as specified by the Highways Development Control Section, Operational Services, Central Depot, Panteg Way, New Inn, Pontypool, NP4 0LS, Tel 01495 742434 and supervised by a Highways Development Control Officer.

4. The access road must be hard surfaced and be a minimum width of 4.1 metres.

5. Grampian Condition - Prior to beneficial occupation of the apartments, the existing vehicular footway crossing on High Street must be extended and constructed to a highway specification in accordance with Drawing No. 1173/B(1). The works must be carried out by an Approved Term Contractor as specified by the Highways Development Control Section, Operational Services, Central Depot, Panteg Way, New Inn, Pontypool NP4 0LS, Tel 01495 742434 and supervised by a Highways Development Control Officer.

6. Grampian Condition - Prior to beneficial occupation of the apartments, a turning facility and a minimum of 27 parking spaces must be provided within the site.

7. The garage must remain for the storage of a vehicle and not be converted at a later date to residential.

8. Where the steps on High Street are to be removed, the existing footway must be reinstated. The works must be carried out to the satisfaction of an Officer from the Highways Development Control Section, Operational Services, Central Depot, Panteg Way, New Inn, Pontypool NP4 0LS Tel 01495 742434
9. No gates shall be erected across the entrance to the parking court off High Street.

10. No surface water from the site shall drain onto the highway or into highway drainage.’

ENVIRONMENTAL HEALTH: Recommended conditions in relation to hours of construction and measures to limit disturbance to existing residents.

ECOLOGY: Further to our conversation regarding the above application, I recommend the following approach.

- Recommendations set out in item 4.5 of the Bat Survey are to be secured as a condition of approval.
- Compliance with the condition is to be agreed and signed off by the applicant’s consultant Ecologist.
- Advisory note to be attached reminding the developer that should bats be discovered during any phase of renovation then work must stop immediately and advice sought from CCW.

HOUSING: ‘I would advise that the housing department requests 30% affordable housing provision. The units should take the form of tenure neutral’

Following re-consultation with regard to the viability issues, Housing are satisfied with the relaxation of the affordable housing requirement in this instance.

DISABILITY ADVICE PROJECT: No response.

WELSH WATER: No objection subject to conditions relating to foul and surface water drainage.

PONTYPOOL COMMUNITY COUNCIL: No objections.

FORMER COUNTRYSIDE COUNCIL FOR WALES: ‘The Countryside Council for Wales does not object to the proposal, provided that the recommendations within section 4.5 of the document ‘Former Hanbury Public House, Griffithstown – Bat Survey’ are converted into appropriately worded and enforceable conditions as part of any planning consent.’

PUBLICITY

PRESS NOTICE: An Article 8 press notice was placed in the Free Press on 21 January 2009.

SITE NOTICE: An Article 8 Site Notice was erected on site on 8 January 2009.
REPRESENTATIONS RECEIVED

Three letters and a petition with 27 signatures has been received. The following is a summary of the objections:

- The car park was previously used as a short cut. Could a path be reinstated?
- The Hanbury Hotel was a local pub for many years but it has recently become run down and a mess with windows smashed, cars dumped and hideous metal gates.
- Although we want the Hanbury restored we don’t want a mass of apartments.
- The additions will ruin the appearance of the building.
- The proposal is overdevelopment.
- The increase in traffic will ruin the small village.
- Lack of car parking will result in vehicles parking on the congested streets.
- The access is inadequate.
- Building works will cause problems.
- Schools in the area are overflowing.
- Access to the side of the dwellings will be obstructed.
- The development will result in loss of light, privacy and an increase in noise.

Following the submission of amended plans reducing the number of units, a further consultation exercise was carried out. As a result of this re-consultation, additional 14 letters were received. A summary of the additional comments made is as follows:

- Hanbury Hotel is in desperate need of renovation.
- However, the extra apartments will put a high demand on local public access, traffic and parking.
- At peak times it will be dangerous, during construction.
- The new build elements are not in keeping with the lovely old building.

Due to the length of time that has passed since the application was last reported to Planning Committee, re-notifications were sent out to neighbours. One response was received stating that they have no objection to the proposal but would like to make the following comments:

- The work should be carried out with proper regard to residents including dust and parking.
- Parking spaces for the flats should be ample.
- A footpath through the car park should be provided through the car park.
ASSESSMENT AND CONCLUSION

This site is located within the urban boundary in a predominantly residential area. Both the national and local policies support the re-use and conversions of existing vacant or underused land. It is therefore considered that the principle of residential development in this location is acceptable. The main issues to consider therefore are its impact on highway safety, whether proposed parking and access is adequate; whether existing highway network is suitable to accommodate additional traffic; its impact on the character and appearance of the area and design of new build sections of the development; its impact on residential amenity of nearby residents by reason of overlooking, loss of light and overbearing impact. Other issues to consider include whether there is adequate capacity in the public sewerage system to accommodate the additional units and whether the proposal will have an adverse impact on bats.

With regard to the first issue, initially the Highway Officer had raised concerns in relation to the visibility and the number of parking spaces. The applicant therefore submitted an amended plan reducing the number of units by 2, improving the access onto High Street and amending the parking layout. The Highway Officer is satisfied with the amended plan. It is accepted that this area suffers from severe congestion and on street parking on narrow streets due to the high density housing in the area with very limited off street parking facilities. Given its existing use and the fact that adequate off street parking spaces can be provided for future residents of the development wholly within the site it is considered that on balance this proposal is acceptable and will not have an adverse impact on highway safety.

The existing hotel building is a prominent feature in the street scene being located on the corner of High Street and Windsor Road. The building and site at present is in a poor state of repair and is currently an eyesore in the locality. Its retention and re-use for residential purposes is welcomed. The new build elements of this development are attached to either side of the main building. It is considered that with careful consideration of the materials to be used, the design of the new build sections are acceptable and reflect the characteristics of both the main building and the adjacent dwellings. It is considered that this proposal, by reason of its design, will not have a detrimental impact on the character and appearance of the area. In fact this development will make a positive contribution to the appearance of the area by bringing back into use a landmark building which is currently in a poor state of repair.

Adjacent to the southern boundary is an end terraced dwelling (No. 33 Windsor Road) and its rear garden extends the length of the shared boundary. To the rear of the site, which is to the east of the site, is the side wall of no. 8 Clifton Square and no. 5 High Street. All of these dwellings have blank gable end walls facing the parking area to the rear of the site. No. 8 Clifton Square does have a first floor rear window overlooking a small part of the parking area. However, due to the location of the windows in the converted original building and the position of the windows in the new build elements, and given its over 21m distance from these nearest dwellings, it is considered that this proposal will not have an adverse impact on the residential amenities of the occupiers of the adjacent dwellings by reason of overlooking or overbearing impact. There are also dwellings on the opposite side of Windsor Road
and High Street. Although these dwellings are relatively close, it is considered that in this instance, given the previous use of the building and positioning of the new build dwellings and the fact that the front of the dwellings are fronting the roads, this relationship is acceptable and is a common feature in this area which is characterised by high density traditional terraced properties fronting directly onto the pavements.

It is considered that the position of the parking area to the rear will not have an adverse impact on noise and general disturbance to those properties bounding the site as the existing area is and has been used as a parking and delivery area in connection with the previous use. Adequate boundary treatments will need to be provided which can be secured by a condition. Many residents have objected to this application, whilst their concerns are appreciated, it is considered that for the reasons stated above a refusal could not be sustained. These comments were fully considered by the Planning Committee in March 2010.

Welsh Water originally objected to this development as they were of the opinion that it could overload the public sewerage system. However, the applicant has been in discussions with Welsh Water with regard to a “trade off” by removing the surface water drainage from the combined system. They have subsequently removed their objection to the development.

A bat survey was originally submitted in support of this application as the proposal includes the conversion of the roof space in the original building. The survey identified occasional use of the building by bats. It concluded however, that a licence is not required and sets out recommendations in relation to the undertaking of the development.

No objections have been received from the former CCW and the Council’s Ecologist has advised that conditions should be attached to ensure that the development is carried out in accordance with the recommendations of the bat survey and that an Ecologist be present during the works and a report be submitted prior to occupation to certify that development was carried out in accordance with recommendations. Due to the length of time that has passed since this bat survey it is considered necessary that a condition be attached requiring an updated survey and any necessary changes to the mitigation measures be carried out and submitted prior to the commencement of development.

As stated in the background above, previously the Councils Housing Section requested a contribution of 30% affordable housing. On this basis it was resolved to grant planning permission subject to a Section 106 agreement requiring the provision of 30% affordable housing. This Section 106 has never been signed and in accordance with the Council’s Planning Obligations SPG, the applicant has submitted financial information which has been verified by officers, with regard to the viability of the site. It is therefore considered that in this current climate the provision of any affordable housing on this site would prejudice the viability of this development and prevent the refurbishment of this building and the provision of much needed one and two bedroom flats. However, to take into account any future rise in the market it is considered reasonable to require a Section 106 Agreement to include a renegotiation clause to allow a review of the viability assessment.
In 2010 the Community Infrastructure Levy Regulations (2010) came into affect. Reg 122 of these regulations sets out limitations on the use of planning obligations. It sets out three tests that planning obligations need to meet. It states that planning obligations may only constitute a reason for granting planning permission if the obligation is:

a) Necessary to make the development acceptable in planning terms; (the obligations of the Section 106 Agreement are necessary to ensure that the site can be developed as proposed with a the provision of affordable housing subject to the review clause)

b) Directly related to the development; (the obligations of the Section 106 Agreement are directly related to the development.)

and

c) Fairly and reasonably related in scale and kind to the development. (The obligations as set out in the Section 106 Agreement, both in terms of scale and kind of obligations being required, are fair and reasonable to ensure a contribution towards affordable housing provision is provided subject to the review clause.)

It is therefore considered that this proposal is acceptable and it is recommended that planning permission be granted subject to the following conditions and a section 106 agreement in relation to a renegotiation clause for the provision of affordable housing.

Recommendation

Upon completion of an Agreement under Section 106 of the Town and Country Planning Act concerning the matters referred to in the above report, the Head of Development Management (Planning and Public Protection) to be authorised to grant permission subject to the following conditions or any amendments additions or deletions of these conditions he may deem necessary.

IT IS RECOMMENDED: Approve with conditions & S106 agreement

1. Prior to commencement of development full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification), no fences, gates or walls (other than the
approved boundary treatments) shall be erected.

REASON: In the interests of the character and appearance of the area.

2. Prior to the occupation of the dwellings hereby permitted, the proposed parking spaces including the proposed garages and turning areas shall be provided with standing spaces fully in accordance with the approved plans and retained as such thereafter.

REASON: To ensure adequate parking space.

3. Prior to commencement of development, samples of all external finishes shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interest of visual amenity.

4. Prior to the occupation of any of the dwellings hereby permitted the visibility splays shown on Drawing No. hh/sl01 Rev B dated 21 December 2009 shall be provided and retained thereafter. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification) no fences, gates, walls, hedges or other obstruction exceeding 0.9m above the level of the adjoining carriageway shall be erected, placed or allowed to grow within this splay.

REASON: In the interests of highway safety.

5. The proposed development is to be carried out and completed in accordance with the application as amended by the plans received on 21 December 2009, Drawing Nos: hh/se01; hh/sl01B; hh/p01A; hh/p02B; hh/p03bhh/p04B; hh/p05B; hh/e10B; hh/e11B; hh/e12A; hh/e13A; hh/ps01; hh/ps02.

REASON: To ensure compliance with the approved plan.

6. In respect of any condition that requires the written approval of the Local Planning Authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved, in writing, by the Local Planning Authority.

REASON: To ensure the development is carried out in accordance with the approved details.

7. Permission is granted subject to the provisions of Section 91(1) of the Town and Country Planning Act 1990, namely that the development to which the permission relates must be begun not later than the expiration of five years beginning with the date on which the permission is granted.

REASON: To comply with the requirements of Section 91, Town and Country Planning Act 1990.

8. Prior to the commencement of development a method statement and full details of the proposed noise and dust suppression measures for the construction phase shall
be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out fully in accordance with the approved details.

REASON: In the interest of residential amenity.

9. Prior to the commencement of development full details of a wheel wash facility for the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out fully in accordance with the approved details.

REASON: In the interest of highway safety.

10. Prior to the commencement of development full details of parking and storage facilities for the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: In the interest of highway safety.

11. Unless otherwise agreed in writing with the Local Planning Authority, no demolition, construction or operational works shall be carried out within the site other than between the hours of:

0800 - 1800 (Mondays to Fridays)

0800 - 1300 (Saturdays)

and at no time in Sundays or Bank Holidays.

REASON: To protect the amenities of residents adjoining and in close proximity to the site.

12. Prior to commencement of development full details of the routes and the management of construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The construction phase of the development shall be carried out fully in accordance with the approved details.

REASON: To protect the amenities of local residents.

13. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

REASON: To safeguard landscape and amenity interests.

14. All planting and grass seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is
the sooner; and any trees or plants which within a period of 5 years from the
completion of the development die, are removed or become seriously damaged or
diseased, shall be replaced in the next planting season with others of similar size
and species, unless the Local Planning Authority gives written consent to any
variation.

REASON: To safeguard landscape and amenity interests.

15. No development shall take place until an updated bat survey has been carried out
and the results and any further/additional required mitigation measures has been
submitted to and approved in writing by the Local Planning Authority. The
development shall be carried out in accordance with the approved details.

REASON: In the interest of Nature Conservation.

16. The development hereby approved shall be carried out in compliance with the
recommendations of the amended Bat Survey report (23 June - 3 July 2009) carried
out by Clarke Webb Ecology Ltd. In particular the development shall be carried out
in strict compliance with recommendations contained in Section 4.5 of the report.
Prior to the occupation of any of the apartments hereby permitted, a competent
Ecologist shall submit a report to the Local Planning Authority certifying that the
recommendations as set out in paragraph 4.5 of the Bat Survey report have been
carried out, unless any alternative mitigation measures are agreed under condition
15 above.

REASON: In the interest of nature conservation.

17. Prior to the occupation of any of the apartments hereby approved the existing
vehicular access off Windsor Road shall be permanently closed up in accordance
with details which shall first be submitted to and approved in writing by the Local
Planning Authority.

REASON: In the interest of highway safety.

18. Prior to the occupation of any of the apartments hereby approved the existing
vehicular footway crossing on High Street shall be extended in accordance with the
approved plans and Drawing No. 1173/B attached to this Decision Notice.

REASON: In the interest of highway safety.

19. No surface water from the site shall drain onto the highway or into highway drainage.

REASON: In the interest of highway safety.

20. Prior to the occupation of any of the apartments hereby permitted, the existing
footway where the steps on High Street are to be removed, shall be reinstated in
accordance with details which shall first be submitted to and approved in writing by
the Local Planning Authority.
REASON: In the interest of pedestrian safety.

21. Prior to the commencement of development full details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure adequate drainage is provided.

Note(s) to Applicant

1. The Development Plan covering Torfaen County Borough is the Adopted Torfaen Local Development Plan (to 2021). The following policies were relevant to the consideration of this application:

   S1, S2, S4, S7, S8, BW1, H4.

2. Should any bats be discovered during any phase of this development, all works should cease immediately and advice sought from Countryside Council for Wales.
DATE OF COMMITTEE: 18-Mar-2014

APPLICATION NO. 13/P/00130 RECEIVED: 02-Apr-2013

PROPOSAL: Outline application for a dwelling with access from Gifford Close.

LOCATION: Land at rear of 8, Garth Road, Ty Coch, Cwmbran, Torfaen, NP44 7AB

APPLICATION TYPE: Outline Planning

APPLICANT: Mr & Mrs Stuart Cameron 8, Garth Road, Ty Coch, Cwmbran, Torfaen, NP44 7AB

AGENT: Derek Prosser Associates 6, Rose Court, Ty Canol, Cwmbran, Torfaen, NP44 6JH

REPORT

BACKGROUND

A committee site visit was undertaken at the request of Councillor Colette Thomas, to assess the impact of the development on adjoining occupiers and Highway safety. The notes of that meeting are reported elsewhere on this agenda.

The application is being reported to planning committee as the application has been made by Councillor Pam Cameron who is a member of planning committee.

When the application was originally submitted the case officer requested that further details be submitted with the application to enable the layout and scale to be considered at outline stage as well as the principle of the development and access. This was undertaken to ensure that the proposed dwelling could be accommodated within the application site. At this time it was suggested to the agent that it may be necessary to increase the size of the application site in order to enable a dwelling to be satisfactorily sited within the plot. The agent was also advised of the highways officers concerns regarding the lack of adequate parking and turning areas within the application site which would result in occupiers of the property having to reverse the whole length of the access road. In response to this the agent amended the application requesting that the scale of the development be considered as part of the application, but reported that they would not increase the size of the application site as they considered that the site could adequately accommodate a two bedroom dwelling. In terms of considering the layout of the site at the outline stage, the agent stated that this would be too restrictive, denying the flexibility of designing a house which sits comfortably within the scale parameters.

The application site was however increased, to include the last single parking space within the adjoining parking court serving Gifford Close, which is owned by the
applicant. Following a further request to increase the size of the application site the land to the rear of the parking space was also included within the application site.

SITE DESCRIPTION

The application site is located to the rear of the property 8 Garth Road, and is adjacent to the modern housing estate Gifford Close (to the south west of this estate). 8 Garth Road has an existing rear access onto Two Locks Road which is within the applicant’s ownership. This access lane is not within the application site. The application site, although within the ownership of the owners of 8 Garth Road, does not form part of this property’s historical residential curtilage with a fence between the application site and the curtilage of 8 Garth Road. The majority of the site is enclosed with a hedge along the western boundary and solid fence along the northern boundary. Beyond this fence is a pedestrian access lane to the rear of 5 properties on Gifford Close. To the east the majority of the site is enclosed from the parking court beyond by a retaining wall and fence above. Part of the application site includes a single parking space off the parking court. The site is generally grass covered; there are no trees on the application site. There is a tree preservation order (No. 57) which covers the trees on the adjoining housing estate Gifford Close. The application site is not covered by this TPO.

The application site includes land which is not in the ownership of the applicant namely the private access route which is via Gifford Close and currently serves a private parking court for residents. As a result of this, notice has been served on 13 residents of Gifford Close (146-158). The applicant does not own the access route through Gifford Close but has provided title deeds that indicate a right of access through this land for vehicular and pedestrian access to the application site.

in addition, the occupier of 152 Gifford Close claims the position of the fence to the north of the application site is in the wrong position and that the area of land which is in the control of the applicant is smaller than the identified application site. This is currently in dispute.

DESCRIPTION OF DEVELOPMENT

The application has been made in outline only with access and scale to be considered as part of this application. Access to the site is via the parking forecourt at Gifford Close. The application indicates that the maximum dimensions of the proposed dwelling would be 10 metres by 7 metres with the maximum height of the proposed dwelling proposed to be 6.5 metres. The design and access statement indicates that the site could be developed as a single bungalow with bedroom accommodation within the roof space. The plans submitted show two parking spaces, one of which currently forms part of the parking forecourt serving Gifford Close and owned by the applicant.

Although siting is not to be considered as part of this application an illustrative plan has been provided showing that the proposed property would be 15 metres away from the dwelling Glan-y-nant (corner to corner); 15.5 metres away from 8 Garth Road (side elevation to rear elevation); and 14 metres to 151 Gifford Close (corner to
corner). The illustrative plan also shows 2 parking spaces and a vehicle turning area all within the site.

**POLICIES**

**PLANNING POLICY WALES (6TH EDITION)(FEBRUARY 2014)**

Planning Policy Wales (PPW) (6th Edition)(FEBRUARY 2014) sets out the context for planning in Wales and has a series of chapters that deal with particular subjects. Each of the subject chapters contains sections on how the subject should be treated in Development Plans and for Development Control purposes.

**Chapter 9: Housing:** Paragraph 9.3.1 states that new housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Paragraph 9.3.3 states; 9.3.3 Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area’s character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing. Paragraph 9.3.4 states; that in determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area’s character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas.

**TAN 15 Development and Flood Risk**

Advises caution in respect of new development in areas of high risk of flooding, and indicates that whether a development should proceed or not will depend upon whether the consequences of flooding of that development can be managed to a level which is acceptable.

**LOCAL PLANNING POLICY**

The current Development Plan for this Authority consists of the Torfaen Local Development Plan (LDP), which was adopted by the Council on 3 December 2013. The following Local Development Plan policies are relevant:-

**Strategic Policies**

Policy S1 (Urban Boundaries) - Defines the Urban Boundaries to promote the full and effective use of urban land, to allow for development to contribute to the creation of sustainable communities and define the urban area within which there is a presumption in favour of development. The site is located within the Urban Boundary.

**Borough Wide Policies**

Policy BW1(General Policy - Development Proposals) - Outlines a set of criteria which should be satisfied where relevant for permission to be granted. These include criteria relating to Amenity and Design, Natural Environment, Built Environment, Utilities Provision and Design and Transport.
CONSULTATION RESPONSES

Community Council: No response.

Highways: “I provided initial comments to you on this application in April 2013. My concerns remain regarding the size of the site and the ability to provide parking provision within the curtilage of the site in accordance with the CSS Wales Parking Standards 2008 and a turning facility within the site to enable all vehicles to enter and leave the site in forward gear.

The application is Outline with all matters Reserved except for Access.

The red line area of the application now includes the section of unadopted access road that leads from the public highway i.e. the turning head in Gifford Close via the undercroft and through the existing car parking area that was provided for the residents of Gifford Close by Barratt Homes as part of the Gifford Close development. I would not object to the principle of access through the car park to the site providing adequate parking and turning facilities can be provided within the site. However, I would require confirmation that Notice has been served on Barratt Homes and that they are in agreement with the right of access, if not I would require a Section 106 Agreement to ensure right of access over this land.

The red line area of the application also includes one of the residents parking spaces in the Gifford Close parking court, however there are notices erected on site stating “PRIVATE – RESIDENTS PARKING ONLY”. I note from site visit that there is no spare capacity within the car park and I would be very disappointed if this parking space had been sold by either Barratts or a resident of Gifford Close to the applicant because this car park was part of the overall parking design for Gifford Close.

Notwithstanding the above comment, if this space were part of the site then it would enable vehicles to turn however it would require more than a 3 point turn to do so and I do not believe that it would be kept clear due to the very fact that it is located in a car park. The distance from the site to the adopted highway exceeds 60 metres and there would be no opportunity to turn if the parking court is full, therefore further consideration needs to be given to providing adequate parking and turning in order to provide satisfactory access to and from the site.

Although access is to be considered as part of this application the small scale Illustrative Layout Plan does not show any details of the access i.e. boundary wall/fence where the vehicular access is proposed. In order to gain access to the site, a section of the existing wall/fence will need to be removed and in my initial comments I stated that this structure should not exceed 0.9 metres in height for a minimum distance of 1 metre to the right of the access. This has not been indicated on the plan.

I would require a plan showing details of the access, to include any gates, the boundary wall/fence referred to above and also details of the boundary between the access and the gated pedestrian access located to the left of the access.
No details of the number of bedrooms have been provided. Parking provision for the new dwelling must be in accordance with the County Surveyors Society (CSS) Wales Parking Guidelines 2008, i.e. 1 parking space per bedroom, with a maximum requirement of 3 spaces. The plan appears to show the parking space in the parking court marked as 1 and then 2 spaces inside the boundary. It is my view that the parking space in the car park should remain for use by residents of Gifford Close and should not be counted as parking space for the dwelling.

Furthermore there is very limited land within the site and one of the two parking spaces shown in the site is extremely close to the boundary and buildings of Glan-y-Nant Bungalow and due to the small scale plan it is difficult to determine the boundary position and confirm two parking spaces can be provided. In addition, if the access is to be gated then gates would have to be inwardly opening and this will mean that this parking area would need to be extended in order to open/close the gates when 2 cars are parked within the site.

Also the applicant needs to consider refuse collection given the significant distance to Gifford Close."

Arboricultural Officer: No response

Welsh Water: No objection to the development; however the site is crossed by services.

Wales and West Utilities: No response

Natural Resources Wales;
“We have no objections to the proposed development as submitted but provide the following advice for your consideration before determining this application.

**Flood Risk** The application site lies entirely within Zone B, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15). Our Flood Map information, which is updated on a quarterly basis, indicates that part of the site (access road) to be within the 0.1% (1 in 1000 year) annual probability fluvial flood outline of the Dowlais Brook. The planning application has incorrectly stated that the site is outside an area at risk of flooding and no supporting information has been supplied in relation to this. We are unable to provide any further advice to you regarding the affects of flooding to the proposed access as this has not been established by the applicant. However, we can advise that the location of the proposed dwelling, as indicated on the site location plan, is considered not at risk of fluvial flooding.

In the absence of a flood consequence assessment, we advise that any risk to the proposed dwelling could be acceptably managed subject to the applicant being made aware of the potential flood risks, specifically to the access, and advised to install precautionary flood-proofing measures as part of the development. In areas at risk of flooding, we recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor, and locating electrical sockets/components at a higher
level above possible flood levels. These should all be considered when preparing detailed plans."

PUBLICITY

19 neighbouring properties were consulted on the application from Gifford Close and Glan-y-nant. In addition 2 site notices were posted in the vicinity of the application site, one at Gifford Close and one on Garth Road.

13 of the neighbouring occupiers have objected to the application (all from Gifford Close). In addition a petition with 10 signatures has also been submitted objecting to the application

The objectors raise the following issues;

- Unacceptable impact on residential amenity
- Lack of parking within the site
- Loss of security
- Site too small to accommodate additional dwelling
- Loss of privacy
- Loss of view
- Devaluation of property
- Disturbance during development
- Damage to property and private road during construction
- Loss of trees from site prior to application being made
- Part of the site is not in the ownership of the applicant
- Poor access to the site
  - Site is accessed through a private cul-de-sac (not adopted road)
  - Unless you own a property on the estate there is no right of access across the private road
  - Consent of owners/residents not given, no legal easement to provide access to new dwelling
  - Restricted vehicular access when car park full
  - Damage to private road from construction traffic.
  - Disruption to residents parking area and private road during construction works
  - Height restrictor prevents access to site by construction vehicles.

In addition one resident has indicated that they have a boundary dispute with the applicant relating to the application site.

RELEVANT CONSIDERATIONS IN THE DETERMINATION OF THIS APPLICATION

Notwithstanding the various comments received from objectors the main issues when determining this application are considered to be; the principle of residential development on the site, highway safety and the impact on residential amenity.
Principle of development

The proposal relates to the erection of a single dwelling within the designated Urban Boundary. The site is not designated for any specific purpose within the adopted Local Development Plan. There is therefore a general presumption in favour of such a proposal, subject to detailed development control considerations as amenity and design, natural environment, built environment, utilities provision and design and transport.

Highway Safety

The existing access to the site through Gifford Close is considered to be physically suitable as a primary means of access to a dwelling; the Council’s Highways Officer has confirmed that the principle of the proposed access to the site is acceptable.

The applicant is satisfied that there is a legal right of access through Gifford Close to the proposed dwelling. Furthermore the applicant has provided the deeds of the land providing evidence that they have a legal right to access the land for residential purposes. The Council’s Legal Officer has advised that from the information provided, the applicant has a legal right to access the land through Gifford Close. However, it is unclear whether the applicant has a definitive right to access a new dwelling if it were erected on the site. This has also been disputed by some of the residents of Gifford Close. However, it is not appropriate to deal with the legal rights of access through this planning application and the applicant will need to be satisfied on this point before the development can proceed. If residents wish to challenge the applicant's legal use of the access this would need to be addressed as a civil matter.

From a legal point of view the situation over whether the applicant has a legal right of access to a future dwelling on the land is unclear and it is difficult to predict how a civil court asked to make a declaration on the point would decide. However, it is considered, on balance, that planning permission could not be refused on these grounds but that appropriate conditions would be recommended to any grant of consent covering issues of access and parking.

The Highways officer has raised concerns regarding the loss of a parking space within the existing parking court, which would have provided parking for the existing residents of Gifford Close. However, the ownership of parking spaces within the private parking court cannot be controlled and whilst it would be desirable to retain the space for the residents of Gifford Close the sale of the space has already taken place and as a result it is no longer available to the residents of Gifford Close even if the application was refused. Given this, it is considered that the loss of the space as part of the private forecourt serving Gifford Close carries little weight in the determination of this application.

The applicant has confirmed that the parking space would be enclosed within the application site and used by the future occupiers of the new dwelling should planning permission be granted. Details of this would be provided as part of any future reserved matters application.

Residential amenity
The proposal is in outline only with the layout and design of the property not being considered at this stage. It is not considered that the development of a dwelling on the application site would automatically result in the loss of privacy to neighbouring properties. A sensitively designed dwelling could ensure that neighbour properties and amenity space are not harmed by the proposed development. The scale of the proposed dwelling being a maximum of 6.5 metres high would not result in the development having an overbearing or overshadowing impact on the neighbouring properties. The position of the application site ensures that a property within the application site would not directly overlook any residential property at Gifford Close. The illustrative layout provided shows that the nearest existing property (corner to corner) is 14 metres away, therefore it is considered that acceptable distances from window to window could be achieved through careful design.

Scale

The proposed dwelling would have a relatively large footprint (9 x 5.5 (min) 10 x 7 (max) metres) although there would be space to the west of the proposed building to provide amenity space for the property (11.5metres in length) the area to the north of the property would be to provide parking for the proposed dwelling. Following amendments to the size of the application site it is considered that the space is sufficient in size to provide adequate parking for the proposed property along with an adequate and safe turning area. Due to the restricted size of the application site and the particular size and layout required to enable vehicles to park and manoeuvre within the application site it is suggested that conditions are attached to any approval restricting the parking and turning space for such purposes and also limiting the scale of the property to the parameters already provided to ensure that both can be provided satisfactorily within the application site.

Flood Risk

The site is located within Zone B of the Development Advice Maps of TAN 15 Development and Flood Risk. However, Natural Resources Wales has not objected to the proposed development and have indicated that the risk to the proposed dwelling could be acceptably managed subject to the applicant being made aware of the risk of flooding and advised to install flood proofing measures.

CONCLUSION

The site is of a scale and in a position which would allow an additional residential dwelling to be erected without there being a harmful impact on the neighbouring properties. The design of any dwelling in this location would have to be sensitive to the surrounding properties and the character of the surrounding area.

The issues over the legal rights of access are unclear, but the applicant is satisfied that the access can be used to serve the new dwelling and has provided documents to support this. In addition there is a dispute on the ownership of a small proportion of the site next to the pedestrian path which serves the rear of some of the properties in Gifford Close. However, these matters are considered to be civil matters which are outside the scope of planning and, therefore, are given limited weight in the
determination of the application. It is important to note that the approval of the application would not influence any legal rights which may or may not exist. The applicant is aware of these issues and wishes the application to be determined.

**IT IS RECOMMENDED: Approve subject to Conditions**

1. The reserved matters referred to in this decision notice shall be submitted for approval not later than the expiration of three years beginning with the date of the grant of outline planning permission and the development to which the permission relates must be begun not later than whichever is the later of the following dates:

   (i) The expiration of five years from the date of the grant of outline planning permission; or

   (ii) The expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

   **REASON:** To comply with the requirements of Section 92, Town and Country Planning Act 1990.

2. No development shall take place until detailed plans showing the appearance and layout of the building to include existing and proposed ground levels shall be submitted for the consideration and approval of the Local Planning Authority.

   **REASON:** The application is in outline only and further details are reserved for further consideration and approval.

3. The external dimensions of the dwelling hereby approved shall not exceed 10m by 7m, and shall be no more than two storeys.

   **REASON:** To safeguard the amenities of the occupiers of the adjoining properties and the proposed dwelling and to prevent overdevelopment of the site.

4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

   **REASON:** This application has been submitted in outline and further details are required and to safeguard landscape and amenity interests.

5. All planting and grass seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or
diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: To safeguard landscape and amenity interests.

6. Prior to the commencement of development a detailed construction statement shall be submitted to and approved in writing by the Local Planning Authority to include;
   * times of operation,
   * management of construction traffic on site in terms of operations, parking and turning.
The development shall be carried out in accordance with the construction statement.

REASON: In the interest of residential amenity and in the interest of highway safety.

7. Prior to the commencement of development details of a minimum of two parking spaces each measuring a minimum of 2.4m by 4.8m and a turning area within the site shall be submitted to and approved, in writing, by the Local Planning Authority. The approved parking and turning area shall be provided and clearly marked out on site prior to the beneficial occupation of the dwelling hereby permitted and thereafter shall be kept free of obstruction and used only for the parking and turning of vehicles.

REASON: To ensure the provision and retention of adequate off street parking facilities and turning area.

8. Prior to the commencement of development details of the means of enclosure for the boundaries of the site shall be submitted to and approved, in writing, by the Local Planning Authority. The approved means of enclosure shall be provided prior to the beneficial occupation of the dwelling hereby permitted.

REASON: To safeguard amenity interests.

9. Prior to the submission of the reserved matters referred to in this decision notice, the proposed residential curtilage and site boundaries shall have been marked out on site in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The Local Planning Authority shall be given 7 days written notice of the setting out of the site.

REASON: To clarify the extent of the site boundaries prior to the consideration of the details of the reserved matters, due to the current nature of the site which includes separated parcels of land.

10. Prior to the commencement of development, detailed plans for the proposed foul and surface water drainage arrangements to serve the development hereby permitted shall be submitted for the consideration and approval of the Local Planning Authority.
The development shall be carried out in accordance with the approved details.

REASON: To ensure the development is serviced and to prevent standing water on hard surfaces.

11. The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category ‘Ene1 - Dwelling Emission Rate’ under version 3 of the Code in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 2010 under which the site is registered. The development shall be carried out entirely in accordance with the approved assessment and certification.

REASON: To ensure the development is climate responsive, sustainable and minimises carbon and other greenhouse gas emissions associated with its design, construction, use and eventual demolition.

12. Construction of any dwelling hereby permitted shall not begin until an ‘Interim Certificate’ has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under ‘Ene1 - Dwelling Emission Rate’, has been achieved for that individual dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 2010, version 3.

REASON: To ensure the development is climate responsive, sustainable and minimises carbon and other greenhouse gas emissions associated with its design, construction, use and eventual demolition.

13. Prior to the occupation of the dwelling hereby permitted, a Code for Sustainable Homes ‘Final Certificate’ shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under ‘Ene1 - Dwelling Emission Rate’, has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 2010, version 3.

REASON: To ensure the development is climate responsive, sustainable and minimises carbon and other greenhouse gas emissions associated with its design, construction, use and eventual demolition.

Note(s) to Applicant

1. The developers are to ensure that any existing public services which pass through the site are not interfered with or damaged and any diversions or alterations to such services must be carried out in agreement with the responsible Authorities before such work commences.

2. Torfaen Local Development Plan covers Torfaen County Borough. The
following policy is relevant to the consideration of this application: BW1

3. The applicant is advised that this permission does not provide any legal right of access to the site for the use as a private dwelling house.

4. The applicant is advised that National Resources Wales have indicated that part of the application site is within 1in 1000 year annual probability fluvial flood outline of the Dowlais Brook. Therefore it is advisable to install precautionary flood proofing measures as part of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor, and locating electrical sockets/components at a higher level above possible flood levels. These should all be considered when preparing detailed plans.
PLANNING COMMITTEE SITE INSPECTION PANEL

WEDNESDAY 5 JUNE 2013

OUTLINE APPLICATION FOR A DWELLING WITH ACCESS FROM GIFFORD CLOSE ON LAND AT REAR OF 8 GARTH ROAD, TY COCH, CWMBERAN, NP44 7AB – APPLICATION No. 13/P/00130

<table>
<thead>
<tr>
<th>Councillors</th>
<th>Norma Parrish (Chair), Stuart Evans and Philip Seabourne</th>
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<tbody>
<tr>
<td>Ward Members</td>
<td>Councillors Ron Burnett and Colette Thomas</td>
</tr>
<tr>
<td>Apologies</td>
<td>Councillors Mandy Owen</td>
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<tr>
<td>Officers</td>
<td>Ros Gwynn, Lead Officer Regulatory Support</td>
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<td></td>
<td>Sarah Hensby, Senior Planner</td>
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<td></td>
<td>Norman Jones, Area Team Leader</td>
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<td>Paul Wheeldon, Group Leader Highways and Transportation</td>
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1. The site visit panel met outside 150 Gifford Close and the Chair welcomed everyone to the site visit and reminded all members to declare any personal interests in the application. As the joint applicant was a elected member of Torfaen County Borough Council, all members declared a personal interest as the councillor was known to them all. Cllr Thomas pointed out that she was also a member of the same local political party as the applicants.

2. The Senior Planner pointed out access to the application site under a canopy and via a car park. She then explained the following points to the site inspection panel:
   - it was proposed to build a dwelling on land on the other side of the fence
   - since the original submission the size of the dwelling had been slightly reduced in size
   - the existing wall would be removed and the new property would face onto the parking area
   - as this was an outline planning application, only the scale, access and principle of the development needed to be considered at this stage
   - access to the application site was via a car park which was owned by residents on a shared basis
   - the applicant had purchased the parking space adjacent to the application site
3. Cllr Thomas, Ward Member, stated that the parking spaces belonged to residents and the road had not been adopted by the Authority. The Group Leader Highways and Transportation (GLH&T) explained that one parking space was needed for a one bedroom property, two spaces for a two bedroom property and three for a three bedroom property. He said that he was concerned to hear that a resident had sold a parking space as that would mean that the property might now have insufficient parking spaces.

4. Cllr Burnett asked if the connection to the utilities would come through the car park as the residents were concerned at the disruption that would cause. Residents were also concerned at potential disruption by construction vehicles if the application was approved. Cllr Thomas pointed out that the canopy at the entrance to the car park would need to be considered if construction traffic was to use that access.

5. The Group Leader Highways and Transportation explained that officers would aim to get construction access from other points and there would be less disruption than if access came through Gifford Close. Although visibility was not good it would be sufficient for construction traffic as vehicles were higher with shorter bonnets.

6. In response to members’ questions regarding parking within the property, the indicative layout was shown to the site panel and it was explained that there would be one parking space in the car parking court and one space within the site. The site panel was shown where access to the site would be situated in relation to the existing fence.

7. The GLH&T expressed his concern that a vehicle would not be able to exit the site in one movement and it would have to reverse out into the car parking space.

8. The Ward Members made the following points to the site panel:
   - the application would change the character of the estate
   - Who owned the wall in front of the plot?
   - Residents were concerned at the additional traffic generated by a property being built there and the loss of their amenities
   - Residents felt secure in the area but the building of the house would open up the area completely
   - Could the applicant use the alternative access?
   - Was the property the correct size for the plot?
   - How would services get connected to the plot, would there be disruption to the car park area?

9. Officers gave the following responses to the panel:
   - The application site included the wall and the car parking space adjacent to the wall
   - There were only two parking spaces shown including the one in
The car park
- The car park was not adopted and in private ownership. The GLH&T was not confident that the applicant could control access to the site
- The GLH&T explained that a private drive could serve only two properties which it already did
- The size of the property had been slightly decreased on the revised plan
- Services could be connected via the nearby properties

10. Members then walked to the alternative access to the plot. The GLH&T explained that it was preferable for access to a plot to be via the closest adoptable road which in this case would be via a modern estate. He said that there would be a problem for vehicles exiting the plot and added that the scale of the development and size of plot did not lead to enough parking spaces being available. The GLH&T suggested that moving the building would create more room to park and turn.

11. The Site Visit Panel asked if the road could be acceptable for access and the GLH&T explained that it was always preferable for access to come off a highway built to modern standards. It was clarified that the parking space was included in the planning application and also that it would be an offence to remove Japanese Knotweed should it exist on the site.

12. The Ward Members re-iterated that residents’ main concern was access to the site via the car park.

9. The Chair thanked all members and officers for attending the site visit.

Site notes written by Ros Gwynn, Lead Officer Regulatory Support on Monday 10 June 2013.
DATE OF COMMITTEE: 18-Mar-2014

APPLICATION NO. 13/P/00299 RECEIVED: 23-Aug-2013

PROPOSAL: Proposed development of seven flats and associated site works.

LOCATION: Land adjacent to 54, King Street, Blaenavon, Torfaen

APPLICATION TYPE: Full Planning

APPLICANT: Mr J Jones and Ms D Ripley, Heritage Town Homes Ltd 1, Roch Street, Abertilleery, Gwent, NP13 1HF

AGENT: Mr Martin Garner, Willdig Lammie Partnership 1, Serpentine Road, Newport, South Wales, NP20 4PF

REPORT

BACKGROUND

A previous application to construct 5 houses at the site was withdrawn in 2007. The application was withdrawn in writing on 12 October 2007 in response to Officer concerns regarding the detailed design of the proposal and land ownership issues (07/P/000302(E)).

The scheme which is the subject of this current application is the result of extensive pre-application discussions with the Case Officer.

A site notice has been displayed at the site and the application has been advertised in the local press.

This application was the subject of a visit by the committee site inspection panel on the 20th March 2014, notes of the visit are included in the agenda.

LOCATION AND DESCRIPTION OF SITE

The application site is located just to the north of Blaenavon town centre on King Street. It is located within both the Blaenavon Town Centre Conservation Area and the World Heritage Site.

The site was previously occupied by houses which were demolished. Since that time, it has remained disused. The site is surrounded by existing residential properties. Housing on the south side of King Street faces the site, whilst housing in Castle Street backs onto the site, overlooking it from a higher level. The gable end of no.54 King Street adjoins the western boundary of the site.
PROPOSED DEVELOPMENT

Planning consent is sought for 7 x 2 bedroom flats at the site. The development would consist of a row of terraced properties fronting onto King Street. The scheme has been designed to resemble the existing terraced properties in the area.

Parking for the properties would be located at the rear of the site and would be accessed via an archway between the properties. The properties would include stone boundary walls onto King Street and small front gardens.

The proposed dwellings would be attached to the side elevation of the adjacent property, 54 King Street.

The scheme includes the construction of a footway along the front boundary of the site.

POLICY CONTEXT

National Planning Policy

Planning Policy Wales - Chapter 6 Conserving the Historic Environment (Para 6.5.24) which outlines "World Heritage Sites are a material consideration to be taken into account by local planning authorities in the determination of planning applications, and by the Assembly Government in determining cases on appeal or following call-in. The impact of development proposals on both the sites and their settings should be carefully considered".

Planning Policy Wales - Chapter 9 Housing (Para 9.1.1, 9.3.1, 9.3.4)

9.1.1 which outlines "New housing developments should be well integrated with and connected to the existing pattern of settlements".

9.3.4 which outlines "In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area’s character and amenity".

Planning Policy Wales (5th Edn, November 2012)
These identify key design and sustainability considerations. Or particular relevance is the need to respect the World Heritage Site and the need to consider the impact of development proposals on the site and its setting.

Local Planning Policy

The Torfaen Local Development Plan was adopted on the 3rd December 2013 and replaces the Adopted Gwent Structure Plan and the Adopted Local Plan as the development plan for the County Borough of Torfaen. The Authority’s Adopted policy documents including the Blaenavon Industrial Landscape World Heritage Site Design Guide SPG and the Developer Contributions SPG are also relevant.

The following Local Development Plan policies are relevant:-
**Strategic Policies**

Policy S1 (Urban Boundaries) - Defines the Urban Boundaries to promote the full and effective use of urban land, to allow for development to contribute to the creation of sustainable communities and define the urban area within which there is a presumption in favour of development. The site is located within the Urban Boundary.

Policy S2 (Sustainable Development) - Gives a set of Sustainable development considerations that should be taken into account in the design of development proposals.

Policy S3 (Climate Change) - Sets out a set of criteria that should be considered to seek to mitigate the causes of further climate change and adapt to the current and future effects of climate change such as promoting sustainable design.

Policy S4 (Place Making) - Seeks that new development must have full regard to the context of the local natural and built environment and its special features including promoting local distinctiveness by sympathetic design, material selection and layout including public art.

Policy S7 (Conservation of the Natural and Historic Environment) - Seeks to ensure the conservation and enhancement of the Natural and Historic Environment, including the need to protect the character of the BILWHS, from both inappropriate development and design.

Policy S8 (Planning Obligations) - Outlines that planning obligations will be required on development proposals to address impacts of development and to make the proposal acceptable in land use planning terms. This outlines that obligations will be specifically targeted to achieve key priorities which includes Open Space, Children’s Play spaces and formal outdoor recreation facilities.

**Borough Wide Policies**

Policy BW1(General Policy - Development Proposals) - Outlines a set of criteria which, in conjunction with related policies of the Local Development Plan, should be satisfied where relevant for permission to be granted. These include criteria relating to Amenity and Design, Natural Environment, Built Environment, Utilities Provision and Design and Transport.

Policy H4 (Affordable Housing) - The policy seeks to negotiate on all sites of 3 or more dwellings or over 0.1ha the provision of affordable housing, with up to 10% affordable housing being sought in the North Torfaen Housing Sub Market area.

Policy H5 (Provision for Recreation, Open Space, Leisure Facilities and Allotments) - This Policy is aimed at securing the provision of recreational open space and other outdoor recreation, children’s play areas and leisure facilities in conjunction with new residential development of 3 dwellings or more.
Policy HE2 (Blaenavon Industrial Landscape World Heritage Site (BILWHS)) - Outlines that development within the BILWHS will be permitted subject to a range of criteria including promoting appropriate design which preserves or enhances the character of the local area, protection of key views and maintaining the integrity of the BILWHS. Proposals should be informed by the guidance in the BILWHS Design Guide.

The Blaenavon Industrial Landscape World Heritage Site (BILWHS) Design Guide SPG includes advice on the design of new development within the BILWHS.

CONSULTATIONS

CONSERVATION
Supports the scheme, describing it as ‘a very well designed development which would significantly enhance the local streetscape’.

BLAENAVON TOWN COUNCIL: No objections raised.

HIGHWAYS: Objects on the following grounds:
- The required visibility splay to the left from the centre line is 2.4 metres x 33 metres. The proposal includes visibility of only 27 metres to the left.
- A new 1.8 metre wide footway must be provided fronting the site in land running to the junction with Phillips Street.
- This current application is to construct 7 no. 2-bedroom flats which would require 16 parking spaces. The application proposes 12 parking spaces, which is insufficient to accommodate this size and number of dwellings.

ENVIRONMENTAL HEALTH: No objections but requests that a number of conditions relating to contamination and advisory notes regarding noise disturbance during the construction phase are attached to any consent granted.

WELSH WATER: No response received.

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: No objections raised.

REPRESENTATIONS RECEIVED

Six letters of objection have been received from local residents. Concerns are raised on the following grounds:

- The owner of 54 King Street is concerned by the proposal to build off her property and states that she will not give her permission for these works. Concerns regarding potential impact to her property if the scheme goes ahead, including interfering with access and also making the property damp or unstable and disruption to her roof and pillars supporting her home.
- The existing footway on the opposite side of King Street from the application site is substandard, not being wide enough for pushchairs or wheelchairs. All pedestrians have to walk in the highway. Requests that this is improved.
- Less than 21 metres would be retained between properties.
- The new houses would overshadow existing properties.
- The residents of 1 Castle Street are concerned that the proposed buildings would impact upon their privacy or cause loss of light.
- Potential noise problems from future residents.
- Impact upon views.
- Problems relating to the anti-social behaviour of residents of existing flats in the area could be replicated in the new development.
- Vehicles associated with the development would be a hazard on King Street which has an existing problem of cars speeding.
- Use of car park does not occur as used by locals as a congregation place.

**ASSESSMENT AND CONCLUSION**

The application relates to the construction of 7 flats on an in-fill site within the Blaenavon Town Centre Conservation Site and Blaenavon Industrial Landscape World Heritage Site. The main issues for consideration are:

1. Whether the proposal meets the design standards required in this sensitive location.
2. Whether the proposed development is acceptable in highway safety terms.
3. Whether the proposed development would have a significant adverse impact upon the amenities of existing local residents.
4. Whether the scheme meets the developer contribution requirements

1. **Design**
   Given the sensitive location of the application site – within the Conservation Area and on a main route through the town - the design of the proposed development has been the subject of extensive Officer Negotiations at the pre-application stage. The proposed dwellings reflect the design and character of existing traditional terraced properties within the World Heritage Site. The proposed development would include natural slate roofs, painted timber sash windows and black aluminium rainwater goods in accordance with the requirements of the BILWHS Design Guide SPG. The Authority’s Conservation Officer supports the scheme. The design of the proposed development is considered to be of a good standard. The proposed development would represent a significant improvement to the visual amenities of this vacant site and King Street.

2. **Highways**

Policy BW1E 1-4 relates to highway safety. It requires that safe accesses are provided to new developments, adequate parking provision is provided within a scheme and the existing road network can accommodate the proposal.

The Authority’s Highways Engineers objects to the proposal on the basis that the development would not provide parking on site in line with the CSS parking standards. The scheme proposes 12 spaces, which is a shortfall of 4 spaces – two for residents and two for visitors. It has been suggested to the applicant that the number of proposed properties be reduced in order to reflect the level of parking which can be achieved within the site. The applicant’s agent advises that the costs of preparing the land for development
would remain constant and that a reduction in the number of dwellings constructed would render the scheme unviable. The agent notes that there is a public car park for visitors at the junction of Broad Street and King Street. He also comments that the site is close to local facilities and public transport and that all the occupants of the proposed dwellings are unlikely to have more than one car. It is considered that, taking into account the visual benefits which this well-designed scheme would bring to this vacant site on a prominent route through the town centre, this marginal shortfall in parking provision is acceptable in this instance.

Highways are also concerned that the required visibility splay to the left from the centre line cannot be achieved and that the footway fronting the site would not be extended to the junction with Phillips Street. The applicant is unable to comply with both of these requirements these Highways requirements as he does not control an area of land adjacent to the application site, to the front of 61 King Street. The applicants’ agent informs us that the applicant has discussed his proposals to develop the site with the adjacent owner on several occasions during the last 8-10 years. The person concerned I understood to have been against ant idea of development, and it is apparently clear that there would be no possibility of the Applicant being able to buy any land concerned.

The visibility splay which could be achieved at the site are 6 metres shorter than those required by the Highways Engineers (27 metres, rather than the required 33 metres). It is considered that, taking into account the visual benefits which this well-designed scheme would bring to this vacant site on a prominent route through the town centre, this marginal shortfall in visibility is acceptable in this instance.

In terms of the footway requirement, it is acknowledged that the existing footway arrangement in the vicinity is poor – the footway on the opposite side of King Street is extremely narrow and there is no footway to the front of 61 King Street. However, given that the applicant has been unsuccessful in obtaining control of this adjacent land over a number of years, a balanced judgement must be made. This is an existing situation and, whist not ideal, the benefits which the scheme would bring would outweigh any issues associated with the absence of a footway in this location.

3. Impact Upon Residential Amenities

The resident of 54 King Street has submitted strong objections to the proposal on the basis that the proposed houses would link onto her home, this is considered to be a Party Wall Act matter which falls beyond the remit of this planning application. Therefore, whilst planning consent can be granted for the scheme, the applicant would have to follow a formal process outside the planning forum to agree for a new dwelling to be attached to the existing adjacent property No. 54. The applicant’s agents state:-

"I would confirm that it would be the responsibility of the applicant (or
subsequent owner if the land changed hands, although I have no reason to believe this would apply) under the Party Wall Act and under common law to carry out the development in such a way as not to cause damage to the adjoining property, including reduction or removal of necessary support, etc and to rectify any damage that were caused accidentally or otherwise, and as part of the process, a suitably qualified engineer would be commissioned to provide appropriate design details. The developer would have no right to damage the adjoining property."

Around 8.5 metres would be retained between the front elevations of existing and proposed properties along this street. Whilst this falls well below the normally accepted level of 21 metres, this relationship is common throughout the historic core of Blaenavon and given the sites position in the Conservation area is considered to be acceptable.

Given that the proposal would be two storey, and taking into account the distance between properties and levels at the site, the proposed dwellings would not have an overbearing impact upon any existing dwelling close to the site.

4. S016 Requirements

In line with the current Planning Obligations SPG the development should provide financial contributions towards children’s play areas, adult recreation & affordable housing. Discussions are on-going regarding the level of S106 contributions in relationship to the viability of the site.

Test for S106

In 2010 the Community Infrastructure Levy Regulations (2010) came into affect. Reg 122 of these regulations sets out limitations on the use of planning obligations. It sets out three tests that planning obligations need to meet. It states that planning obligations may only constitute a reason for granting planning permission if the obligation is:

   d) Necessary to make the development acceptable in planning terms;  
      (the obligations of the Section 106 Agreement are necessary to ensure that adequate mitigation is provided for the provision of children’s play areas and affordable housing provision.)

   e) Directly related to the development; (the obligations of the Section 106 Agreement are directly related to the development.)

   and

   f) Fairly and reasonably related in scale and kind to the development.  
      (The obligations as set out in the Section 106 Agreement, both in terms of scale and kind of obligations being required, are fair and reasonable to ensure a contribution towards play provision and the provision of affordable housing.)
Other Matters

The Council’s Environmental Health Officer has stated the site is made up ground and requires a further assessment in relation to potential contamination.

Conclusion

It is considered that constructing new homes in Blaenavon and bringing back this vacant site into use should be supported. Through officer negotiations a good standard of design and layout is achieved for the site.

Whilst it is acknowledged that the scheme does not fulfil the normal highway requirements, on balance it is considered that approval can be recommended, with implementation of the scheme bringing a significant beneficial development to this part of the Conservation Area.

In conclusion, on balance the benefits of the development outweigh any concerns raised. The proposals are generally in accordance with the LDP. It is therefore recommended

- The application should be approved subject to conditions and an acceptable S106 for the site.
- Delegated powers be granted to the Chief Officer to allow him to agree the final level of developer contributions based upon a viability assessment.

RECOMMENDATION

Upon completion of an undertaking under Section 106 of the Town & Country Planning Act concerning the matters referred to in the above report, the Chief Officer (Planning & Public Protection Service) be authorised to grant permission subject to the following conditions or any amendments, additions or deletion of those conditions he may deem necessary.

IT IS RECOMMENDED: Approve with conditions & S106 agreement

1. Permission is granted subject to the provisions of Section 91(1) of the Town and Country Planning Act 1990, namely that the development to which the permission relates must be begun not later than the expiration of five years beginning with the date on which the permission is granted.

   REASON: To comply with the requirements of Section 91, Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following plans Drawing Nos. 1753(04)02, 03, 04 and 05 received on 11 October 2013.

   REASON: For the avoidance of doubt.
3. Details of the external finishes of the proposed dwellings shall be submitted to and agreed in writing with the Local Planning Authority prior to development commencing.

REASON: In the interests of visibility.

4. 2.4m x site frontage visibility splays shall be provided prior to beneficial occupation in accordance with Drawing No. 1753(04) 05 Rev.D prior to beneficial occupation of any dwelling. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification) no fences, gates, walls, hedges or other obstruction exceeding 900mm above the level of the adjoining carriageway shall be erected, placed or allowed to grow within this splays.

REASON: In the interests of highway safety.

5. A 2 metre wide footway fronting the site as shown on Drawing No. 1753(04)05 Rev. D shall be provided in accordance with details to the submitted and agreed in writing prior to the beneficial occupation of any dwelling hereby approved.

REASON: In the interests of highway safety.

6. Prior to commencement of development details of all window, door and rainwater goods to be used shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented in accordance with the agreed details.

REASON: In the interests of visual amenity.

7. Prior to beneficial occupation of any dwelling, the car parking area shall be surfaced and laid out in accordance with details shown of Drawing No. 1753 (04) 05 Rev D.

REASON: To ensure on-site parking.

8. The garage door(s) shall be of a type or so constructed or adapted that it is incapable of opening outwards over any part of the adjacent highway.

REASON: In the interests of highway safety to prevent any obstruction to the highway.

9. Each new dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes (Level 3) and achieve a minimum of 1 credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.
10. Construction of any dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes (Level 3) and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate' has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (2010).

REASON: In the interests of sustainable development and to meet the requirements of Planning Policy Wales 4th Ed. (2011).

11. Prior to the occupation of the individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning authority, certifying that a minimum Code for Sustainable Homes (Level 3) and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate' has been achieved for that building in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (2010).

REASON: In the interests of sustainable development and to meet the requirements of Planning Policy Wales 4th Ed. (2010).

12. The contractor and their sub-contractors should at all times apply the principle of Best Practicable Means as defined in Section 72 of the Control of Pollution Act 1974 and carry out all work in such a manner as to reduce any disturbance from noise and vibration to a minimum;

All works and ancillary operations which are audible at the site boundary or at such other place as may be agreed with the council shall be carried out only between the hours of 08:00 and 18.00 on Mondays to Fridays; 08.00 and 13.00 on Saturdays and at no other times.

All plant brought on to the Site should comply with the relevant EC/UK noise limits applicable to that equipment or should be no noisier than would be expected based on the noise levels quoted in BS 5228-1:2009. Plant should be properly maintained and operated in accordance with manufacturers’ recommendations.

Note(s) to Applicant

1. Japanese Knotweed is a vigorous growing perennial weed that is spread locally by underground growth. The main method of dispersal is through the movement of infected soil and illegal tipping. It is an offence under the Wildlife and Countryside Act 1981 to knowingly introduce Japanese Knotweed into the wild and all contaminated waste
must be disposed of to a licensed tip. Initial information and advice can be obtained from the Countryside Section of the Regeneration Service, Torfaen County Borough Council, County Hall, Cwmbran (Tel. 01633 648041).

2. The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shaft and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which affect stability, health and safety or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not be necessary be confined to the development site and applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example, the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling along has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal.
mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety, the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surroundings vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 7626848 or at www.groundstability.com

3. Torfaen Local Development Plan covers Torfaen County Borough. The following policy/policies is/are relevant to the consideration of this application: BW1/S1, S2, S3, S4, S5, H4, H5, HE2.

4. Environmental Health notes - applicant be advised.
The site visit panel met on King Street, Blaenavon opposite the proposed land for the construction of seven flats. The Chair was unable to attend and Councillor Phillip Seabourne was nominated to Chair this meeting.

The Chair welcomed everyone to the meeting and reminded Councillors that if they had any personal interests they must declare them. Councillor Stuart Evans stated that he had had dialogue with the residents of 54 King Street regarding parking issues. Councillor Alan Jones also informed the meeting that he had spoken to residents of King Street regarding the issues they had with this application.

The Head of Development Management outlined the application, displayed a map and commented in particular that:

- The site would be tight for the development and car parking
- One of the proposed buildings would be tied into the existing end of terrace dwelling, no. 54. The owner of that house had objected to this.
- He stated that 16 car parking spaces should be provided for the number of flats proposed but only 12 were possible (including two disabled spaces).
- There would be a small garden area and places to keep bins.
- There were at least 6 objectors, their concerns were:
  - over looking
  - loss of open space
  - loss of parking
  - increase in traffic

The Group Leader of Transportation & Highways Development informed the meeting that he has requested a footpath to go down the road, making it safer for

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**PLANNING COMMITTEE SITE INSPECTION PANEL**
**WEDNESDAY 26 FEBRUARY 2014**

### The construction of seven flats and associated site works at land adjacent to 54 King Street – application no. 13/P/00299

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<thead>
<tr>
<th>Councillors</th>
<th>David Daniels, Robert Kemp, Phillip Seabourne (Chair) and Neil Waite.</th>
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<td>Ward Members</td>
<td>Stuart Evans, Alan Furzer and Alan Jones.</td>
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<td>Officers</td>
<td>Rachel Beale-Member Services Trainee</td>
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<td>Ros Gwynn - Committee Support Manager</td>
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<td>Richard Lewis-Head of Development Management</td>
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<td>Paul Wheeldon-Group Leader Transportation &amp; Highways Development</td>
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pedestrians. He informed the meeting that there was an issue with visibility when coming out of the site due to a wall and shrubbery making it hard to see down the road. If the shrubbery were to be cut down this would help significantly with the visibility issue.

The Head of Development Management stated that the wall causing obstruction was privately owned and the developers had been in contact with the owner but had not managed to reach agreement.

The Chair asked whether the road was a one way street. The Group Leader of Transportation & Highways Development informed him that it was.

Councillor Robert Kemp asked why the flats needed to be attached to number 54 King Street. The Head of Development Management told him he thought the reason was to give more space on the development as the site was tight.

The Chair thanked everyone for attending and closed the site meeting.

Notes written by Rachel Beale, Members Services Trainee on 27 February 2014