

AGENDA ITEM NO. 4(f)

PLANNING COMMITTEE

5TH DECEMBER 2012

PLANNING APPLICATIONS UNDER THE  
TOWN AND COUNTRY PLANNING ACT 1990  
AND ASSOCIATED LEGISLATION

<b>APPLICATION NUMBER</b>	<b>LOCATION</b>
PREFACE ITEM 11/0367/FULL	Hillside House, St David's Avenue, Woodfieldside, Blackwood
PREFACE ITEM 12/0057/FULL	102 Fair View, Cefn Fforest, Blackwood
PREFACE ITEM 12/0465/COU	Unit 4, Riverbank Court, Newport Road, Trethomas, Caerphilly
10/0808/FULL	Caer-Llwyn Farm, Abertridwr, Caerphilly
12/0219/RET	Bryntirion, Llanfabon, Nelson
12/0510/FULL	Unit 6, Capital Valley Eco Park, Rhymney
12/0559/NCC	Bowls Inn, Bowls Terrace, Penyrheol, Caerphilly
12/0603/TPO	34 Griffin Drive, Penallta, Hengoed
12/0638/FULL	131 Shingrig Road, Nelson
12/0653/RM	Land at Moriah Hill, Risca
12/0657/FULL	4 Heol Derw, Hengoed
12/0740/FULL	GLJ Recycling, Units 5-9, Units 10-11, Units 12 & 13 Fern Close, Pen-y-fan Industrial Estate, Pen-y-fan, Newport
12/0742/NCC	Blackwood Gate Retail Park, Blackwood

## **PREFACE ITEM**

APPLICATION NO. 11/0367/FULL

APPLICANT(S) NAME: Dr P Edwards

PROPOSAL: Erect two-storey extension to front, side and rear plus a replacement garage

LOCATION: Hillside House St David's Avenue Woodfieldside Blackwood NP12 0PD

This application was originally reported to Planning Committee on 3rd August 2011 with a recommendation for refusal for the following reasons:-

- 01) The proposed front extension, by virtue of its siting, scale and design, would destroy the symmetry of the pair of semi-detached cottages, and introduce an incongruous element in the street scene. Such an impact is considered to be detrimental to the visual amenity of the area contrary to Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, as well as guidance contained in Supplementary Planning Guidance LDP7: Householder Developments.
- 02) The proposed development would result in the loss of on-site parking and would thereby increase pressure on on-street parking provision to the detriment of the highway safety of the area, contrary to Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Planning Committee deferred consideration on this application on 3<sup>rd</sup> August 2011 for a site visit. The site visit took place on 11th August 2011. Following that site visit, members resolved that they did not support the first proposed reason for refusal, i.e. the proposed extension introducing an incongruous element in the street scene. However, they did agree that the proposal was contrary to the adopted parking guidelines and the application was deferred for further information to allow the applicant to provide details of additional parking provision to serve the development.

Following the submission of several proposed solutions to the parking issue, officers and applicant have come to an agreement on the proposed replacement car parking arrangement. This agreed arrangement involves replacing the existing double garage with an identical structure that will be physically attached to the proposed extension.

Recommendation: That planning permission be GRANTED subject to the following conditions:-

- (1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
  - (2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building.  
REASON: In the interests of the visual amenities of the area.
  - (3) The extension hereby approved shall not be occupied until the area indicated for the parking of vehicles, i.e. the garage, has been constructed in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of motor vehicles.  
REASON: In the interests of highway safety.
  - (4) The required garage apron shall be constructed in materials as approved in writing by the Local Planning Authority before the garage is brought into beneficial use.  
REASON: In the interests of highway safety.
  - (5) The garage, sited as shown on the submitted plan shall be fitted with inward opening doors or roller shutter, which will not open out over the highway and no doors shall be added or replaced which would open over the highway.  
REASON: In the interests of highway safety.
  - (6) The development hereby approved relates to the details received on 20<sup>th</sup> August 2012, by the Local Planning Authority.  
REASON: For the avoidance of doubt as to the details hereby approved.
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## **PREFACE ITEM**

APPLICATION NO. 12/0057/FULL

APPLICANT(S) NAME: Mr J Dhesi

PROPOSAL: Reposition existing shop with small store and convert existing shop into a lounge

LOCATION: 102 Fair View Cefn Fforest Blackwood NP12 3NL

The Planning Committee deferred this application on the 21<sup>st</sup> June 2012 in order to request amended plans from the developer. The scheme under consideration did not allow for the provision of three off-street parking spaces and this represented a reduction in the number of parking spaces at the property.

Amended plans have now been submitted with the footprint of the extension being reduced to allow for the provision of three off-street parking spaces in accordance with Supplementary Planning Guidance LDP5. This also acknowledges that whilst there is an increase in the size of the net trade floor area of the shop premises is within 200m<sup>2</sup> gross floor area allowed within the SPG. This, together with the controls the Local Planning Authority will have to prevent the remainder of the property from being converted back into a shop is considered to be sufficient to overcome any highway concerns in respect of the development.

Officers have also had the opportunity to reconsider the original conditions in light of the amended details submitted and it is felt that minor alterations should be made to them. Also, in order to ensure that the development is carried out in accordance with the amended details, additional conditions should be attached to any consent granted. In that regard the full suite of conditions that are considered necessary are set out below:-

- The proposed shop area hereby approved shall not come into beneficial use until the existing shop area has been converted into a lounge as shown in the submitted plans and the lounge area shall not thereafter be used for any other purpose.  
REASON: In order to retain control over the future use of the property in the interests of highway safety and residential amenity.

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Application No. 12/0057/FULL Continued

The development hereby approved shall be carried out in accordance with the amended plans received on 9<sup>th</sup> July 2012.

REASON: In order to ensure that the development is carried out in accordance with the correct plans.

- Prior to the installation of any external or roof mounted plant/machinery associated with the development, details of such plant and machinery shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a revised location for the plant and machinery and predicted noise levels (measured as Laeg 1 hour) as measured on the boundary of the application site. The plant and machinery shall be installed in accordance with the approved details prior to being brought into operational use.

REASON: In the interests of public amenity.

- The area indicated for the parking of vehicles shall be kept free of obstruction and shall not thereafter be used for any purpose other than the parking of vehicles.

REASON: In the interests of highway safety.

- Notwithstanding the submitted plans or the provisions of the Town and County Planning (General Permitted Development) Order 1995 as amended the site boundary wall fronting Elgar Close shall not be removed without the prior written consent of the Local Planning Authority.

REASON: In the interests of highway safety.

RECOMMENDATION: That planning permission is GRANTED subject to the additional conditions and those set out in the attached report.

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## **PREFACE ITEM**

APPLICATION NO. 12/0465/COU

APPLICANT(S) NAME: Tesco Stores Limited

PROPOSAL: Change the use from Use Class A1 to Use Class A3 takeaway

LOCATION: Unit 4 Riverbank Court Newport Road Trethomas  
Caerphilly

This application was reported to the Planning Committee on 31<sup>st</sup> October 2012, and was deferred to enable a further report to be prepared to consider possible reasons for refusal. Areas of concern raised at the Planning Committee were:- highway safety issues, existing parking problems in the local area, lack of staff parking arrangements, issues relating to the storage of refuse and food waste, and existing anti-social activities being exacerbated.

A copy of the original report is attached as an Appendix. The application had been recommended for approval subject to conditions.

With regard to the concerns raised at Committee the following should be noted:-

Lack of staff parking: It should be noted that the Transportation Engineering Manager has assessed the proposed use and the required parking provision and found the number of operational spaces to be acceptable.

Storage of refuse and food waste: Whilst the Council's Environmental Health Section have highlighted issues that can occur when operating a food business it has raised no objection to the proposal as appropriate storage facilities can be achieved on site through condition.

Anti-social activities being exacerbated: Whilst the Police Architectural Liaison Officer has highlighted concerns over an increase in crime and anti-social behaviour as a result of an A3 Use Class they have raised no objection to the application.

With regard to highway safety issues and existing parking problems the Council's Transportation Engineering Manager has raised the following concerns with regard to the proposed A3 (Takeaway) Use and the current parking position at the site as a whole.

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Application No. 12/0465/COU Continued

### Parking allocation

When measured against LDP5 Parking Guidelines, the site as a whole (Units 1 - 4) is under provided in terms of available parking. The site should have 26 spaces within the curtilage of the site. A recent site survey showed that the site currently only has 19 spaces, despite 21 being quoted by the applicant. In addition, none of these spaces are of consistent width, ranging between 2.2 metres and 2.52 metres. The current standard size for parking spaces is 2.6m. The narrowest spaces make it very awkward to open car doors when the adjacent space is occupied.

### Deliveries

Most takeaways offer a delivery service to clients, but there is no allowance within the site to cater for delivery drivers. There is potential conflict here with delivery drivers taking up customer parking spaces.

### Overlap in parking demand.

It is likely that, as the site is currently under provided in parking terms, whilst Unit 4 is currently vacant, when this unit is operational there will be even more pressure on the limited parking available.

There is also scope for conflict in terms of peak time (evening) parking demand, as the busiest time for the proposed take-away is likely to be between 5.00 p.m. and 8.00 p.m. Whilst the current uses of Units 3 & 4 (Charity & Bike shops) shut at approximately 5.30 p.m., Tesco is open until 11.00 p.m., so between approximately 5.00 p.m. and 8.00 p.m., when customers are collecting takeaways and buying groceries on the way home from work, parking demand is likely to be high.

Further to the above concerns it should be noted that the applicants own supporting information demonstrates that the number of trips generated by the proposal would exceed those of the existing A1 Use considerably. Ultimately, if granted, a takeaway on this site would further intensify the parking demand on an already under-provided site and is likely to lead to on-street parking, to the detriment of highway safety.

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Application No. 12/0465/COU Continued

Recommendation: If members are minded to refuse the application, the following reasons for refusal are recommended:-

- 01) During peak periods the traffic generation that would result from the proposed A3 (Takeaway) Use would exceed the capacity of the proposed parking provision and is likely to result in on street parking on the busy A468, to the detriment of highway safety. This is contrary to Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, the Local Planning Authority's Adopted Supplementary Planning Guidance LDP5 Car Parking Standards, Technical Advice Note 12: Design (2009) and Planning Policy Wales (2012).
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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
10/0808/FULL 01.12.2010	Mr J McDermott Hill View Poultry Caer-Llwyn Farm Abertridwr Caerphilly CF83 4FG	Erect two bedroom agricultural dwelling supporting organic free range egg production unit Caer-Llwyn Farm Abertridwr Caerphilly CF83 4FG

**APPLICATION TYPE:** Full Application

**SITE AND DEVELOPMENT**

Location: Land at Hill View, Caer-Llwyn Farm, Abertridwr.

Site description: Hill View is a small holding on land at Caer-Llwyn Farm and is currently occupied by a residential caravan, a recently constructed poultry unit, several buildings and storage containers. The site is located outside the settlement of Abertridwr, approximately 800 metres from Bryn Coed Terrace. The site in general rises steeply from the mountain lane that lies to the east, however, there is a relatively level area of land running through the site upon which a static caravan is currently sited.

Development: Erect two bedroom agricultural dwelling supporting an organic free range egg production unit. The footprint of the bungalow measures 13.9m by 8.3m. The height to the ridge is 5.7m.

Materials: Materials of external finish to the proposal will be slate roof, smooth fine down render (painted white) and brown UPVC double glazed windows and doors.

Ancillary development, e.g. parking: A free range poultry unit lies within the ownership and control of the applicant, together with nearby animal shelters and containers, used mainly for storage in connection with the keeping of horses. The site plan submitted with this application indicates 2 parking spaces within the residential curtilage of the agricultural worker's dwelling.

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Application No. 10/0808/FULL Continued

### PLANNING HISTORY

09/0957/FULL - Erect two bedroom agricultural dwelling supporting organic free range egg production unit - Refused 10.12.09.

08/0980/RET - Retain residential caravan for use as an agricultural worker's dwelling (two year temporary consent) - Refused 21.01.09 - Allowed on Appeal 23.06.09.

ES/04/013 - Enforcement Notice issued requiring cessation of use of the land for residential purpose and removal of residential caravan. Appeal dismissed.

P/05/0043 - Erect organic free range egg production unit - Refused 31.03.05 - Allowed on Appeal 04.01.06.

### POLICY

#### Local Development Plan:

Site Allocation: The site lies outside the settlement boundary and within a Special Landscape Area.

Policies: Policies CW2 (amenity), CW4 (natural heritage protection), CW15 (general locational constraints), NH1.3 (Mynydd Eglwysilan Special Landscape Area) and SP5 (Settlement Boundaries).

National Policy: TAN 6: Planning for Sustainable Rural Communities, Chapter 4 - Sustainable Rural Housing (2010) and Planning Policy Wales (November 2012).

### CONSULTATION

The Council's external consultant on agricultural development commented on this application in 2011 and concluded that there was insufficient financial justification to satisfy the planning inspector's requirements for planning consent for a permanent dwelling to be granted. Even though the applicant has submitted additional information, he remains unconvinced by the financial case put forward.

Aber Valley Community Council - raises objection to the proposal unless there is sufficient agricultural evidence of need for the dwelling.

Dwr Cymru - recommends that the applicant consults the Environment Agency (Wales) due to the intended use of a septic tank facility.

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Application No. 10/0808/FULL Continued

Transportation Engineering Manager - raises no objection.

Head Of Public Protection - raises no objection.

Senior Engineer (Land Drainage) - proffers general advice with regard to the surface water drainage of the development and requests a comprehensive drainage scheme indicating how surface, foul and land drainage flows will be dealt with.

Glam/Gwent Archaeological Trust - has not commented.

Countryside And Landscape Services - Raises no objection as the development on balance provides a functional requirement for a full time worker to be located at or close to the enterprise, appears to be profitable and also fulfils other requirements of TAN 6 guidelines.

Minerals Officer - raises no objection.

## ADVERTISEMENT

Extent of advertisement: The occupiers of two nearby dwellings were notified by letter and a site notice was displayed.

Response: None.

## SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? Crime and disorder are not considered to be issues in this case. None.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

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## Application No. 10/0808/FULL Continued

### ANALYSIS

#### Policies:

The planning history for this site dates back to 2005 when an application for a free range poultry unit was granted permission on appeal. Since then, consent has also been issued, again on appeal, under reference 08/0980/RET, for the retention of a residential caravan for use as an agricultural worker's dwelling for a 2-year period on 23 June 2009. That consent was subject to a condition that the caravan was removed by 14 August 2010, and conditions relating to the removal of the caravan should egg production cease. This current full application, dated 1 November 2010, seeks approval for a 2-bed property for the applicants to manage their business.

Initially, the applicant submitted an agricultural appraisal with the application, in accordance with TAN 6 (2010) which included the following:-

- Accounts for the years ending June 2010, 2009 and 2008.
- Letters from Noble Foods re: delivery of 6,012 pullets.
- Quote from Aquaseal (Bath) Limited (for works to Bungalow).
- Costings letter from B Thomas Electrician.

Ongoing discussions between the Council and the applicant has resulted in the submission of additional information:-

- An updated agricultural appraisal (2011).
- Correspondence from the AMC (Loan Offer).
- Free Range Hen enterprise budget for 2012/13.
- Proposed costing for a 2 bed Bungalow.
- Unaudited accounts for year end 2011.

In considering this proposal against national planning policy, Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010) is of main relevance and states that new dwellings should only be allowed to support established rural enterprises providing:-

- a) there is a clearly established existing functional need;
- b) the need relates to a full-time worker;
- c) the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so;

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Application No. 10/0808/FULL Continued

- d) the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned;
- e) other normal planning requirements, for example siting and access, are satisfied.

Dealing firstly with criterion (a) the functional test for this site relates to a requirement for a person to be readily available at most times, and should relate to unexpected situations. The issue of whether there is a requirement for a person to be readily available at this unit was considered as part of the 2009 appeal which was allowed for the siting of a temporary residential caravan. Given the increase in the number of hens and the fact that the operational circumstances remain the same, it is considered that the functional need is met.

With regards to criterion (b) and the functional need for a full time worker on the site, this test did not form part of the previous appeal considerations, as the earlier TAN 6 of 2000 did not have a full time labour test for a temporary dwelling. Labour requirements on farms can be calculated by means of Standard Man Days (SMD) where one SMD equates to 8 labour hours a day and 275 SMDs equates to the labour provided by a farmworker each year. With regards to the size of the unit, it has now risen from 4,800 to circa 6,000 free range organic birds. This increase has led the Council's agricultural consultant to believe that the number of hens located on the site is borderline in terms of being a full time unit in terms of labour input. The Council's Countryside and Landscape Manager concludes that there is strong evidence on site which goes to prove that the increase in hens has resulted in the labour requirement for a full time worker on site. On balance, there would appear to be a functional need for a full time worker on site, in accordance with criterion (b).

With regards to criterion (c), the business has been established for at least three years and has been profitable for at least one of them. The main consideration, therefore, is whether the enterprise/business need for the job is currently financially sound and has a clear prospect of remaining so. To this end, the applicant has submitted 4 years of accounts although they are not audited. The enterprise over the last four years has produced a net annual income of between a loss of £6,278 and a profit of £33,881 with a rolling average of £13,410 for the last three years (2011 - 2009). The proposed budget for 2012/13 does reinstate the anticipated level of profitability but those figures are a projection and not actual results.

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Application No. 10/0808/FULL Continued

Taking into consideration the latest 3 year average, the accounts produced are some £9,000 per year below the level set by the Inspector in his decision notice, i.e. £22,000, which is below the level of pay of a Grade 2 agricultural worker referred to in TAN 6 (2010).

As for constructing the dwelling, the Inspector concluded in the 2009 decision notice that the enterprise could provide the applicants with sufficient money to finance the construction of a modest dwelling, costing in the region of £50,000, assuming they provide some of the labour. He surmised that the build would cost about £6,500 per year on a repayment mortgage over 10 years. The size and cost of the proposed development, however, exceeds this, the projected cost being £87,098 with information showing a £30,000 mortgage, repaid over 15 years. There is no break down or information whether that cost is with the applicant's own labour or in addition to it; similarly, it is not known as to where and at what cost the additional £57,000 that will need to be borrowed to construct the dwelling will come from. Although the increase in stock from 4,800 to 6,000 hens would allow for a higher build cost than originally recommended by the Inspector, the Inspector gave detailed advice under what grounds the financial test would be passed in terms of size and cost of the dwelling and the level of profitability the enterprise needed to be a viable unit. Based on this, it is considered that a convincing financial case that meets the tests set by the Inspector in 2009 has not been demonstrated, contrary to the requirements of criterion (c) of TAN 6 (2010).

With regards to criterion (d), there are a number of outbuildings within the grounds of Hill View Poultry but none are suitable for conversion to a residential use. As demonstrated by the applicant, there are a number of dwellings available in the locality of Abertridwr, the cheapest being £72,000. Whilst the case is not fully proven that such a property would not be affordable for a person on a basic agricultural wage, in light of the applicant's need to be present on site, the development accords with criterion (d).

As far as criterion (e) is concerned, the previous grand porch entrance and brick quoins have been omitted from the scheme of development refused previously in 2009. The result is a modest single-storey bungalow considered more than adequate in terms of size and scale to serve the needs of this enterprise, with parking to the front and side of the dwelling. It has a design and appearance which is acceptable in this countryside location and as well as the satisfying the requirements of criterion (e) of TAN 6, the design and appearance of the proposed dwelling accords with LDP policies CW2 (amenity) and CW4 (natural heritage protection).

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Application No. 10/0808/FULL Continued

Outside of defined settlement boundaries, new dwellings are permitted in association with agriculture under Policy CW15 of the Council's LDP. However, given that this proposal fails to meet the appropriate financial test set out in criterion (c) of TAN 6, the agricultural workers dwelling is also considered contrary to criterion (c) of Policy CW15 and criterion (d) of Policy SP5.

Comments from Consultees: These have been taken into account in the comments above.

Comments from public: None.

Other material considerations: None.

RECOMMENDATION that Permission be REFUSED

The reason(s) for the Council's decision is/are:-

- 01) The proposed agricultural workers dwelling is unacceptable because of the lack of financial justification and therefore it would be contrary to Welsh Government policies CW15 and SP5 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, Technical Advice Note 6: Planning for Sustainable Rural Communities (2010) and Planning Policy Wales (November 2012).
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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0219/RET 17.10.2012	Mr C Williams Bryntirion Llanfabon Nelson Treharris CF46 6PG	Retain renovation of old barn for use as leisure facility/games room Bryntirion Llanfabon Nelson Treharris CF46 6PG

**APPLICATION TYPE:** Retain Development Already Carried Out

**SITE AND DEVELOPMENT**

Location: The application property is situated on the western side of Llanfabon Road and to the north and west of the Llanfabon Inn.

Site description: The application property was a redundant barn within the grounds of the domestic dwelling known as Bryntirion. The building was a Dutch barn structure with a profile sheeting roof and a mixture of stone and concrete block walls and was situated at the south west corner of the rear garden of the dwelling on the boundary with the graveyard to the west and the public house to the south. The southern boundary wall of the garden connected with the corner of the barn and ran to the north at a slight angle to the rear wall of the building. The host dwelling is finished in render with a slate roof.

Development: The application seeks full planning consent for the retention of the conversion of the barn to provide a leisure facility/games room. The building actually incorporates a dance studio for the use of the applicant's daughter on the ground floor with a games room/storage area on the first floor. The redundant barn has been extended to the north to accommodate the conversion and a new roof has been constructed with roof lights on the southern elevation and pitched roof dormers on the northern elevation. Due to a difference in levels between the graveyard and the garden of the dwelling the building is at ground level in the former and set down from ground level in the latter.

Dimensions: The former barn measured 4.5m wide by 10m long whilst the new building is 8.4m wide by 11.5m long. The building is 4.6m high from garden level and 6.2m high from graveyard level.

Materials: The building has been finished in render with a slate roof.

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Application No. 12/0219/RET Continued

Ancillary development, e.g. parking: None.

## PLANNING HISTORY

P/06/0337 - Erect two-storey extension and associated works - Granted  
31.05.06.

06/0390/FULL - Convert roof space into study and playroom accommodation -  
Granted 08.11.06.

## POLICY

### Site Allocation

Local Development Plan: Outside settlement limits in a Special Landscape Area.

### Policies

Local Development Plan: SP5 (Settlement Boundaries), CW2 (Amenity), CW3 (Design Considerations: Highways) CW15 (General Locational Constraints), CW20 (Conversion, Extension and Replacement of Buildings in the Countryside) and NH1 (Special Landscape Areas).

Guidance Note 1 to the Adopted Supplementary Planning Guidance LDP 7 for householder development advises that the purpose of the planning system is to safeguard the existing qualities of buildings and streets and that extensions and alterations should be designed to complement the character of your street or area.

Guidance Note 3 to the Adopted Supplementary Planning Guidance LDP 7 for householder development gives advice on garages and outbuildings.

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

National Policy: Paragraph 4.11.9 of Planning Policy Wales (2012) states:-

"The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

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Application No. 12/0219/RET Continued

National Planning Guidance contained in Technical Advice Note 12 - Design.

## CONSULTATION

Senior Engineer (Land Drainage) - No objection subject to conditions.

Principal Valuer - No objection. The Council accepts that the current building encroaches onto the adjoining cemetery but this encroachment is so minimal that no action is proposed.

Transportation Engineering Manager - No objection.

Head Of Public Protection - No objection.

Countryside And Landscape Services - No objection subject to the provision of biodiversity enhancement.

## ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: One letter of objection was received from the owner of the occupying property.

### Summary of observations:

- When he first complained about these works he was advised that the building could not be more than 4m high and more than 50% of the garden area. When he complained again the Council acknowledged that the building was more than 4m high and that the developer may not get planning consent and was carrying out the works at his own risk.
- Part of the building encroaches on the cemetery. At first he was told that the matter would be dealt with by the Parks Department, then he was told that it was being dealt with by the Planning Department. Nothing seems to be being done about this matter.
- Whilst the plans are drawn to scale there are no measurements on them.
- The building appears more like a house than an outbuilding. There are seven windows at first floor level.

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- Why does the building need patio doors at ground floor level in addition to a main entrance door?
- Why does the building require drainage facilities and a toilet and wash hand basin?
- How can a rainwater butt have sufficient capacity to deal with all of the water from the roof of the building?
- Is the existing septic tank at the property able to take the additional flow from the new building?
- Has a bat survey been undertaken on the barn?
- Has Building Regulations approval been obtained?

## SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? None.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, this is unlikely to be a significant issue in this case, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

## ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The main points to consider in the determination of this application are whether the design and use of the building are acceptable in this location. In that regard the application falls to be considered against Policy CW20 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 and Supplementary Planning Guidance LDP10 - Buildings in the Countryside. In particular Criteria A and B of Policy CW20 state:-

- A The proposed use, scale, form, siting, design and materials are suitable within its context.
- B A conversion is justified by demonstrating that:
  - i The building is not makeshift in nature and is of permanent, substantial construction, and
  - ii The building is structurally sound and capable of conversion or rehabilitation without major alteration or reconstruction,

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Application No. 12/0219/RET Continued

- iii The building is capable of accommodating the proposed use without materially changing its existing character,
- iv The development does not result in the domestication or urbanisation of an otherwise rural setting or the unacceptable loss of undeveloped countryside.

Section 7 of SPG LDP10 also gives detailed guidance on the key principles to be considered in the conversion and extension of buildings outside the defined settlement limits such as setting, location, scale, materials and design.

The application also falls to be considered against SPG LDP7 in that it involves development within the curtilage of a dwelling.

The first point to consider is that the application building is located outside of the defined settlement limits but within the established curtilage of a domestic dwelling. The site is located within a small hamlet that includes a small number of detached dwellings located in pockets adjacent to the highway with a public house adjacent and to the south of the site, a cemetery to the west and north and a church to the east. Therefore, whilst the site is outside of the settlement limits the surroundings of the dwelling are already relatively urbanised with the presence of the adjacent buildings, the host dwelling and the original barn itself. In that regard it is considered that the conversion and extension of the barn to provide ancillary accommodation to the host dwelling is acceptable in principle in this setting. The as-built building is largely within the curtilage of the host dwelling and the boundary wall with the cemetery has been reinstated in the original materials and as such the proposal has had regard for its setting. It should also be noted that the applicant could, if he so wished, erect a number of buildings within the curtilage of his dwelling without planning consent provided that they did not exceed 4m in height or occupy more than 50% of the curtilage of the dwelling. In this instance planning consent is required as the building exceeds 4m in height from the ground immediately adjacent to the building.

As the proposed building is a conversion of an existing building its location is considered to be acceptable.

With regard to the scale of the building it is noted that it exceeds 6m in height at its highest point and that the footprint of the building has been increased by approximately 50%. However, its scale is in keeping with the host dwelling and the other buildings in the area. It is not considered to be overly large in its setting and as a matter of fact the plans indicate that it is no higher than the original building from the garden level of the host building.

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Application No. 12/0219/RET Continued

In terms of the materials and design of the building it is noted that the as-built building has been changed markedly from the original barn. However, it should also be noted that the original structure had no architectural merit and had largely been re-built over time in modern materials. The new building has been built having regard for the character of the main dwelling being finished in render with a slate roof and using dormers on the front elevation. In that respect it is considered that the materials and design of the building are acceptable.

In terms of criterion A of Policy CW20 the scale, form, siting, materials and design have been considered above and are felt to be acceptable. In terms of the use of the building it is considered that an ancillary curtilage building for the personal use of the applicant and his family would be acceptable in planning terms. The applicant has described the building as a leisure facility/games room and an inspection of the building indicates that the ground floor has been created as a dance studio with an open space above which the applicant has indicated will be used partly as a games room and partly for the storage of paperwork in association with his business. It is considered that these uses are ancillary to the domestic use of the main dwelling and are therefore acceptable in planning terms. However, in order to ensure that the building is not used for any purpose that is not ancillary to the domestic use of the host dwelling an appropriate condition should be attached to any consent granted.

With regard to criterion B of Policy CW20 it is considered that the original building was not makeshift in nature and was of permanent, substantial construction. Whilst the extensions and alterations to the building have changed its character, as stated above these do not harm the character of the area and are in fact in keeping with the host dwelling and have regard for its design and use of materials. It is also not felt that the resultant building results in the urbanisation of the curtilage of the host dwelling having particular regard for the other buildings in the area and the fact that the applicant could erect further buildings within his curtilage without the benefit of planning consent.

The development therefore does not have an adverse impact on the Special Landscape Area.

Comments from consultees: No objections raised.

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Comments from public:

1. The applicant initially contacted the Local Planning Authority to seek advice as to whether planning consent would be required for the conversion of a redundant barn within the curtilage of his property into a dance studio for his daughter. He was advised that planning consent would not be required provided that any extensions or alterations to the building did not exceed 4m in height or take up more than 50% of the curtilage of the dwelling. Upon receipt of the initial complaint from the objector he was advised of the same. It later transpired that the building did indeed exceed 4m in height and as such planning consent was required. Any works carried out by the developer without the benefit of planning consent are done so at the risk that enforcement action may be taken at a later date. This does not in any way prevent the applicant from submitting an application to retain the works.
2. It is acknowledged that the as-built building does encroach on a small part of the cemetery to the rear of the building. This has been caused as a result of the angle of the boundary wall of the property to the rear wall of the building and relates to a very small triangular area of land on the very edge of the cemetery. However, the Council also acknowledges that it has encroached onto a larger portion of the applicant's land adjacent to the rear wall of the building. In that respect, and having regard for the fact that the encroachment has no impact on the operational needs in relation to the cemetery, the Council raises no objection to the encroachment. The applicant has served the appropriate notice under the Planning Act on the Council and as such the encroachment is not a matter for consideration in the determination of this application.
3. Plans drawn to an accurate scale do not require dimensions and as such this is not relevant to the determination of the application.
4. The design of the building has been considered above and has been found to be acceptable in planning terms.
5. This is a matter for the applicant. As stated above the design of the building is considered to be acceptable in planning terms.
6. Again this is a matter of personal choice for the applicant. The services provided within the building are not considered to be unreasonable for the use proposed.

Cont....

Application No. 12/0219/RET Continued

7. The use of a rainwater butt is a matter for the Building Regulations and a rainwater butt as part of a sustainable drainage solution is acceptable in this instance.
8. The capacity of the septic tank is also a matter for the Building Regulations and the applicant will need to satisfy the Council that there is sufficient capacity to take the additional flows from the new building.
9. A bat survey was not undertaken prior to the commencement of works on site. In that regard mitigation measures will need to be provided as required by a suitably worded condition attached to any consent granted.
10. The applicant has applied for Building Regulations approval and the works have been inspected at various stages. A completion certificate has not yet been issued.

Other material considerations: None.

In conclusion it is considered that the application complies with national and local plan policy and design guidance, therefore it is acceptable in planning terms and none of the objections raised by the complainant would justify refusal of the application.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) Notwithstanding the detail shown on the submitted plans, revised details of surface water and land drainage shall be submitted to and agreed in writing with the Local Planning Authority within one month of the date of this consent. The agreed scheme shall thereafter be carried out within 6 months of the date of the agreement.  
REASON: In the interests of highway safety.
- 02) Within one month of the date of this consent the applicant shall submit a plan showing the provision of a bat roost on the south west elevation of the building together with details of the bat roost for the approval of the Local Planning Authority. The approved details shall be implemented within two months of the approval of the details and shall be retained in place at all times.  
REASON: To provide roosting for bats as a biodiversity mitigation measure in accordance with paragraph 5.2.8 of Planning Policy Wales (2012), paragraph 1.4.3 of TAN 5 (2009) and Section 40 of the Natural Environment and Rural Communities Act 2006.

Cont....

Application No. 12/0219/RET Continued

03) The building hereby approved shall be used for purposes ancillary and incidental to the use of Bryntirion (Llanfabon, CF46 6PG) as a dwellinghouse, and for the no other purpose.

REASON: To retain effective control of the dwelling in the interests of visual and residential amenity.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2, NH1 and SP10.

Further information in relation to bat roosts can be obtained from the Council's Ecologist on 01495 235450.

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0510/FULL 27.07.2012	NET Energy Group Ltd Mr K Green 9 Catherine Place London SW1E 6DX	Operate a wood pellet production plant with associated ancillary services (CHP plant) involving timber delivery, handling and storage, wood processing, de-barking and chipping, woodchip storage, pellet production, wet milling, drying, dry milling, pelletising, pellet bagging (optional) and pellet loading Unit 6 Capital Valley Eco Park Rhymney Tredegar

**APPLICATION TYPE:** Full Application

**SITE AND DEVELOPMENT**

Location: Unit 6, Capital Valley Eco Park, Rhymney, Tredegar, NP22 5PT. The site is situated within the Rhymney Valley. The valley runs in a northwest to southeast direction with the site situated at its base. Houses are mainly located on the eastern side of the valley and in a pocket below the site. Capital Valley Eco Park is an industrial estate located on the western boundary of the village of Rhymney, to the north of the village of Pontlottyn within the Caerphilly County Borough.

Site description: This application relates to Unit 6 and an area of adjoining land located on the western boundary of the Capital Valley industrial estate. Rhymney train station is located to the north of the site with the railway line running along the eastern boundary of the estate. The A469 road runs along the western boundary of the site and the Heads of the Valleys Trunk road is located at an approximate distance of 1.2 miles to the north of the site. Another industrial building, Unit 5 is located to the south of the site together with other industrial land.

Cont....

Application No. 12/0510/FULL Continued

The estate currently contains a number of industrial units that house light industrial and general industrial businesses, including a waste electrical and electronic equipment (WEEE), facility, a metal, plastic and waste wood recycling facility operated by CA Recycling Ltd and a pilot gasification test plant (Hudol). There are also a number of vacant warehouses around the periphery of the estate, including Unit 6 subject of this application. The central core of the estate is devoid of buildings.

Development: Full planning permission is sought to operate a wood pellet production plant with associated ancillary services, including a Combined Heat and Power Plant (CHP), involving timber delivery, handling and storage, wood processing, de-barking and chipping, woodchip storage, pellet production, wet milling, drying, dry milling, pelletising, pellet bagging (optional) and pellet loading.

The project will be a fully integrated facility capable of producing 39,000 tonnes of wood pellets per year. A total incoming feedstock of approximately 97,000 tonnes per year will be delivered to the site predominantly in the form of logs, but also woodchip and forestry brush, from nearby sustainably managed and harvested forests in the Brecon Beacons National Park Forest Area. The logs will first be de-barked, then chipped to produce domestic (premium) and industrial grade pellets. No waste wood will be used within the process - only clean virgin wood to produce clean biomass pellet fuel. The heat and electrical power requirements to operate the pellet plant will be supplied by a combined heat and power (CHP) plant fuelled by clean biomass (bark and woodchip). The intention is that the overall energy requirements for the pellet plant will be 100% renewable.

The various stages of the pelletising process, from arrival of the raw material to the production of wood pellet are as follows:-

- Timber delivery, handling, storage. The log storage will be an outdoor open area.
- Wood processing: This will include de-barking and chipping of wood, as well as woodchip storage. These will be fully enclosed within the Wood Processing Building, with the necessary dust extraction and filtration equipment.
- Pellet production: The existing Unit 6 Warehouse will become the Pellet Production building, the Pellet production will be fully enclosed with automatic filling and discharging. The pellet production will include the following processes:-

- Wet milling
- Drying
- Dry milling

Cont....

Application No. 12/0510/FULL Continued

- Pelletising
- Pellet bagging (optional)
- Pellet storage and Loading: Three steel pellet bulk storage silos will be provided; two silos for the storage of industrial grade pellets and one for domestic grade. Pellets will be loaded onto trucks at the pellet loading station which includes a parking bay and overhead gantry. This system will be fully enclosed with automatic filling and discharging.

Ancillary Services (CHP Plant): The CHP will provide all the heat and electricity required to operate the pellet plant and will comprise of the following elements:-

1. Fuel storage and Handling - Fuel will be metered and conveyed to the boiler at the required rate; a total 26,000 t/yr of woodchip and bark is estimated to be consumed.
2. Furnace and boiler - The fuel will be burnt in the combustor to generate heat for the thermal oil system, giving a total thermal input of 8MWth. The thermal oil is used to transfer heat to the ORC turbine unit.

The main solid by-product from the combustion process associated with the CHP plans is ash. There are two types of ash generated: 'bottom ash' from the furnace, and 'fly ash' contained in the flue gas. It has been estimated that a total of 780t/yr will be produced (520 t/yr bottom ash and 260 t/yr fly ash). Bottom ash will drop through the furnace grate into storage hoppers. A conveying system will remove ash from the hoppers beneath the furnace, and convey via a fully enclosed screw conveyor system into a sealed external container.

The flue gas from the combustion process will first pass through multi-cyclones, before passing through bag filters/ESP's. Ash collected from the cyclone will be mixed with bottom ash and conveyed to the enclosed container located outside of the building. After passing through the multi-cyclones the flue gas will pass through an electro-static precipitator for the removal of fine particulates. Ash is removed from the ESP by mechanical vibration of the plates and drops into an enclosed hopper. The fly ash storage system will be physically separate from the bottom ash storage system. The enclosed ash containers will be removed from site by truck. There will be no fugitive dust emissions during conveying, storage and removal. Bottom ash can be a valuable fertiliser and will be used as a part of sustainable forestry operations. Fly ash, however, will be treated with more caution since heavy metals present in the biomass tend to be concentrated in the fly ash; this will be treated as a hazardous waste and disposed of accordingly to a licensed hazardous waste disposal facility.

Cont....

Application No. 12/0510/FULL Continued

The proposed facility will employ 27 full-time and 5 part-time workers.

It is proposed that the facility will remain operational 24 hours a day and 7 days a week. However, all external activities, such as heavy goods vehicle movements to and from the site, and mobile plant within the site are anticipated to fall within the periods 7.00 a.m. to 6.00 p.m. Monday to Friday and 7.00 a.m. to 12.00 p.m. Saturday.

It is anticipated that on average the proposed development would attract a total of 22 deliveries per day, 44 two-way movements. In addition it is assumed that 16 members of staff will travel to and from the site by private car. The total daily traffic attraction is therefore expected to be 76 two-way movements. Access to the estate is gained from the A469 which links to the Heads of the Valleys Trunk Road.

Although the site is a working industrial space, it is proposed to carry out some landscaping to include a combination of native and amenity planting to provide an attractive operational site with some screen planting on the north-east boundary of the site.

The application is supported by a Design and Access Statement, Transport Statement, Noise Impact Assessment and Flood Consequences Assessment.

Dimensions: The dimensions of the buildings and plant are as follows:-

- Pellet Production building - 67m x 32m x 8.5m (ridge height).
- CHP building - 30m x 31.5m x 20m (highest part of monopitch roof) x 13m (lowest part of monopitch roof).
- Wood processing building 45m x 31.5m x 20m (highest part of monopitch roof) x 13m (lowest part of monopitch roof).
- Admin / Control building - 20m x 10m x 9.5m (highest part of monopitch roof) and 5.5m (lowest part of monopitch roof).
- Truck loading station - 25m x 8m x 7m (ridge height).
- 3 Pellet storage silos 19m high x 6m diameter.
- Dry milled wood silo 15m high x 9.7m diameter.
- Stack 30m high.

Materials: Walls and roof - Coated galvanised steel or aluminium cladding with 200mm rockwool insulation or approved equivalent. Doors to large external openings to be top hung steel roller shutter doors. Personnel doors and fire doors to be proprietary steel door sets.

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Application No. 12/0510/FULL Continued

The existing estate has a 2.5 metre high steel mesh fence, with concrete posts. The permanent boundary to the project will consist of a 2.4 metre – 3 metre high anti-intruder fence. To the north of the site it is proposed to erect a close boarded timber fence or a solid concrete blockwork barrier to provide additional noise screening.

Ancillary development, e.g. parking: 19 car parking spaces including 1 disability space and 3 cycle spaces.

### PLANNING HISTORY

P/02/1243 - Change the use to storage of carcasses of disused refrigerators and freezers - Granted 05.12.02.

P/04/1883 - Change the use of buildings to incorporate the storage and processing of electrical goods, plastics and materials - Granted 27.01.05.

P/06/0610 - Erect plant for the production of wood fuel pellets - Granted 04.01.07.

11/0894/NCC - Vary Condition (1) of planning permission P/06/0610 to extend time condition for the erection of plant for the production of wood fuel pellets - No decision as yet.

## POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: On a protected employment site within settlement boundaries.

Policies: EM2.3 (protected secondary employment site), SP1 (development strategy in the Heads of the Valleys Regeneration Area), SP4 (settlement strategy), SP5 (settlement boundaries), CW1 (sustainable transport, accessibility and social inclusion), CW2 (amenity), CW3 (design considerations - highways), CW5 (protection of the water environment), CW13 (Use class restrictions - business and industry).

NATIONAL POLICY Planning Policy Wales 5th edition 2012 sets out the land use planning policies of the Welsh Government. Relevant chapters are 4 - Planning for sustainability; 7 - Economic Development with particular reference to para. 7.1.3

Cont....

Application No. 12/0510/FULL Continued

"The planning system should support economic and employment growth alongside social and environmental considerations within the context of sustainable development. .." and para 7.6.1 " Local planning authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence.

In assessing these benefits, key factors include:-

- the numbers and types of jobs expected to be created or retained on the site;
- whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;
- a consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas;
- 22 - Infrastructure and Services, with particular reference to para 12.8.9 which encourages local planning authorities to facilitate development of all forms of renewable energy and low carbon energy; and 13 - Minimising and managing environment risks and pollution, with particular reference to flood risk, noise and air quality.

Technical Advice Notes 8 (Renewable Energy), 11 (Noise), 12 (Design), 15 (Development and Flood Risk), 18 (Transport), 21 (Waste) and 22 (Planning for Sustainable Buildings).

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes.

Was an EIA required? No.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Yes. The Coal Authority has considered the submitted mining report and recommended a condition be attached to any permission granted.

Cont....

## Application No. 12/0510/FULL Continued

### CONSULTATION

Countryside And Landscape Services - Request a condition is attached to any consent requiring a reptile mitigation strategy and also a condition that no demolition or site/vegetation clearance is carried out during the bird breeding season from March to July inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority. A bat and bird advisory note is provided to be conveyed to the developer.

Transportation Engineering Manager - No objection subject to conditions requiring the car parking to be in place, revised cycle parking arrangements to be submitted and in place, and the submission and implementation of a Green Travel Plan, all before the occupation of the development.

Head Of Public Protection - Having considered the submitted air quality information and the noise assessment, it is recommended that conditions be attached to any permission granted dealing with the following:-

1. Schemes to deal with any contamination on the site and to test for contamination of any material imported to the site.
2. Dust and noise suppression during the construction phase.
3. Site lighting.
4. Control of external storage.
5. Control of hours of operation of all activities.
6. Noise attenuation measures to be incorporated into the buildings and plant in accordance with the recommendations in the submitted Noise Assessment.
7. Maintenance schedule for the biomass boiler.
8. Control of the wood to be used in the biomass boiler.
9. Annual sampling for NOx and PM10s.

Senior Engineer (Land Drainage) - Request a condition is attached to any consent requiring comprehensive proposals showing how surface water and land drainage flows from the site will be dealt with. He provides advice to be conveyed to the developer in respect of land drainage matters.

Head Of Public Services - The Authority can provide kerbside refuse and recycling collection service at a charge, with the onus on the developer to provide suitable off road storage.

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Application No. 12/0510/FULL Continued

Dwr Cymru - Request a condition is attached to any consent requiring comprehensive proposals showing how foul water, surface water and land drainage flows from the site will be dealt with. They provide advice to be conveyed to the developer.

Police Architectural Liaison Officer - Has no objections but recommend security standards are considered as a condition of any planning consent. Commercial Development Physical Security Recommendations are provided to be conveyed to the developer.

Rights Of Way Officer - FP88 Gelligaer passes the boundary of the site and must not be obstructed.

Environment Agency (Wales) - The Agency has provided extensive comments having considered the submitted Flood Consequences Assessment and supplementary information provided by the applicant. They note that the buildings will be sited outside the flood limits during a 1% plus climate change scenario and within tolerable levels for the 0.1% event. Provided that ground levels remain at current level and are not lowered (any lowering may have the effect of increasing risk to the development) they have no objection to the proposals, although they note the risk to the loading bay/ access areas. They note that raising finished floor levels will assist in mitigating against flood risk during a 0.1% event, and that the consequences of this need to be considered. They note that the FCA advises that any proposed flood mitigation measures will reduce extreme flooding at the existing site and should be designed in such a way as not to increase flood risk elsewhere. It is considered that in comparison with the size of the industrial buildings currently at the site there is no negative effect on floodplain storage. However, the volume of floodplain storage and effect on flood levels at neighbouring sites should be quantified prior to development to ensure that there is no increase in risk elsewhere. They also advise that should the mitigation option of a relief channel or other mitigation options be proposed then the impact to the development and wider area should be considered further and assessed, being validated by a hydraulic model. A holistic view should be taken. The Local Planning Authority may wish to consider the implications for any future development proposals in the area. Should the Local Planning Authority be mindful to grant planning permission and permit development then they request that a condition be attached requiring the development to be in accordance with the proposed development plans.

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Application No. 12/0510/FULL Continued

The Coal Authority - Having considered the submitted Coal Mining Risk Assessment, no objection is raised to the proposed development subject to the imposition of a condition requiring appropriate intrusive site investigation works to be undertaken to confirm coal mining conditions prior to the commencement of development.

## ADVERTISEMENT

Extent of advertisement: The application has been advertised in the press, on site and neighbouring properties have been consulted.

Response: None.

Summary of observations: Not applicable.

## SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? Heddlu Gwent Police have no objections to the development but recommend security standards are considered. Commercial Development Physical Security Recommendations are provided to be conveyed to the developer.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? The Divisional Ecologist has inspected the site to assess for potential impacts on protected species and habitats of nature conservation value. He has concluded that a reptile survey is not required, but recommends a planning condition requiring a survey to be undertaken prior to development. He has also recommended conditions to control development during the bird nesting season.

## ANALYSIS

Policies: Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Cont....

Application No. 12/0510/FULL Continued

Policy SP1 requires proposals in the Heads of the Valley Regeneration Area to promote the north of County Borough as a tourist, employment and residential area at the heart of the valleys city region. The proposed development meets the employment objectives of that policy. Policy EM2.3 protects the site as a secondary employment site, and Policy CW13 restricts development on such sites to development within use classes B1, B2 or B8 and appropriate sui generis uses. The proposed development is consistent with those policies.

Policy CW2 requires that development proposals should satisfy the following requirements:-

- A There is no unacceptable impact on the amenity of adjacent properties or land;
- B The proposal would not result in over development of the site and/or its surroundings;
- C The proposed use is compatible with surrounding land uses and would not constrain the development of neighbouring sites for their identified land uses; and
- D Where applicable, the viability of existing neighbouring land uses would not be compromised by virtue of their potential impact upon the amenity of proposed new residential development.

The application site sits within an established and protected employment site and as such the proposed development is compatible with the adjoining land uses and therefore does not conflict with criteria B and C. The viability of neighbouring land uses would not be compromised so criterion C is satisfied also. With regards criterion A it considered that noise, air quality and visual impact require assessment.

With regards noise the Public Protection Officer, having considered the submitted Noise Assessment and taken account of the proximity of housing to the north and east of the site, and the position of the application site on the valley floor in relation to the elevated position of the housing to the east, has concluded that the development is acceptable subject to conditions to control many of the operational elements of the development.

With regards air quality, the Head of Public Protection has inserted the emissions data provided in to an air quality screening model based on a 30m high chimney and the results of the screening model have concluded that, based on the emissions rates provided for Nitrogen Oxides and Particulate Matter, the contribution from any emissions relating to this process are negligible.

Cont....

## Application No. 12/0510/FULL Continued

However, this is based on an assumption that the plant will only produce the emissions specified when operating at optimum performance. As part of the Local Air Quality Management regime, Local Authorities are required to monitor air quality within their area and produce an annual air quality report to Welsh Government. This report lists specific items in relation to air quality that need to be considered for reporting purposes and biomass installations are one of the specified items. The size of the installation falls under the limit for permitting purposes so the process will not be required to operate to specific emission limits. On the basis of the above, whilst there will be abatement equipment in place within the installation to control emissions of particulate matter, there is still the potential for the abatement equipment to fail if not maintained and serviced in accordance with the manufacturers instructions. Consequently, the Public Protection Officer has recommended several conditions requiring measures to ensure that all equipment is serviced appropriately and emissions are regularly sampled to ensure compliance with relevant limits.

In terms of visual impact the application site itself is located along the western and central part of the overall industrial estate. The development comprises several large buildings and pieces of plant. Two of the buildings rise to a height of 20 metres at the highest part of their monopitch roofs, one building (the wood processing building) positioned at the northern end of the site with the wood storage area between it and the site boundary and the other building (the combined heat and power building) on the eastern edge of the application site, but approximately in the centre of the overall estate. Three silos rising to a height of 19 metres are positioned between Unit 6, (which would be the pellet production building) and Unit 5 (a separate industrial unit) to the south of the application site. Another silo rising to a height of 15 metres is positioned approximately between Unit 6 and the combined heat and power plant. The stack associated with the combined heat and power plant would be adjacent to the southern side of the plant and rise to a height of 30 metres. By comparison, the average height of the existing units on the estate is 8.5 metres to the ridge, with one building rising to a height of 13.5 metres at the ridge.

The Design and Access Statement (DAS) contains some photomontages of the proposed development with viewpoints from Duffryn View, to the east of the site, from land above the Rhymney RFC grounds close to Thomas Fields, but on higher ground, and from the west side of the valley at the corner of Fochriw Road and Hill Road. It is evident from these photomontages that the buildings and plant will be clearly visible in the setting of the industrial estate and in the wider landscape, albeit that the estate is set in the valley floor.

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Application No. 12/0510/FULL Continued

The DAS states that the "overall image of the site is intended to be one of a contemporary functional, modern, industrial with some green landscaped areas offering architectural character and visual quality." The colour of the cladding material will be muted green to blend in with the surroundings. It recognises that the most dominant and visible elements of the proposed development will be the wood processing building and the CHP building and associated stack, but states that the visual appearance of these buildings is mostly influenced by their scale, which is dictated by the size of the plant and machinery that they will be housing. The DAS suggests that the proposed development will have a beneficial impact on the industrial character of Capital Valley Industrial Estate, as it will contribute to the regeneration of an underused industrial estate.

As indicated above it is considered that the scale of the development will result in a significant change to the existing industrial estate as it is viewed in the local and wider setting. However, it is also considered that the benefits that would accrue from the regeneration of the estate and the provision of additional employment would meet the objectives of Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 and national policies as referred to above. It is therefore concluded that, on balance, the visual impact of the proposed development is acceptable.

Comments from consultees: It is noted that no objections have been raised by any of the consultees, but many have recommended conditions to be attached to any permission granted to control various aspects of the proposed development. Those conditions are contained in the recommendation below.

Comments from public: None received.

Other material considerations: In accordance with the requirements of Technical Advice Note 15 (TAN 15) a Flood Consequences Assessment (FCA) was commissioned by the applicant and submitted with the application. It noted that the site is located within Zone C2 on the Welsh Government Development Advice Map and Flood Zone 3 on the Environment Agency (Wales) Flood map.

The proposed development is considered to be 'less vulnerable development' as defined in TAN 15, and the TAN states that only such development should be considered in this flood zone subject to the application of the justification test and acceptability of consequences.

Cont....

## Application No. 12/0510/FULL Continued

The FCA considered all potential sources of flooding, including fluvial/tidal, pluvial, sewer, groundwater and artificial. In accordance with TAN 15, no flooding should occur for industrial development during the 1% fluvial event. No flooding occurs on site from the River Rhymney during the 1% AEP event and the development is therefore compliant with TAN 15 for this event.

The site is at risk of flooding during the 1% AEP plus climate change allowance. In accordance with TAN 15, industrial development is permitted to flood to specified depth and velocity during extreme flood events. The flood depths are within the tolerable conditions for the whole site and the development subject of this application is within the area of the site that is at tolerable levels. However, if parts of the site flood a Flood Plan is required to provide advice on how to prepare for, respond to and recover from a flood event.

It is noted that following detailed consideration of the FCA the Environment Agency (Wales) raised no objection to the development, although they did provide advice on the need to consider the effect of the development on any further proposals.

The Strategic Planning and Urban Renewal Manager has advised that as a result of the works undertaken as part of the Local Development Plan process, it is recognised that there is a flood risk issue in this area. She notes that the site is protected as a secondary employment site and the application accords with Policy CW13 on use class restrictions, and that the application is therefore acceptable in principle. The LDP does not specify that Capital Valley site should be re-developed in a comprehensive manner and therefore there is no objection to the proposal on this basis. However, should this application not proceed and other redevelopment proposals emerge on Capital Valley and Maerdy Industrial Estates in the future we would seek to reconsider the suitability of the whole site through future reviews on the LDP.

TAN 15 advises that development should only be permitted within flood zones C1 and C2 if determined by the planning authority to be justified in that location. Development will only be justified if it can be demonstrated that:-

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement<sup>1</sup>; or,
  - ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
- and,

Cont....

Application No. 12/0510/FULL Continued

- iii It concurs with the aims of Planning Policy Wales and meets the definition of previously developed land (PPW fig 2.1); and,
- iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

The development strategy for the Heads of the Valleys Regeneration Area seeks to exploit appropriate development opportunities where they exist in the deprived northern part of the County Borough with a view to creating a viable future for all of the communities in this area. The application site is a protected employment site in the LDP. The site meets the economic objectives of PPW and comprises previously developed land. The potential flooding consequences for the development proposal have been considered and, subject to the imposition of certain planning conditions, have been found to be acceptable. It is therefore concluded that the proposed development is justified in this location.

**RECOMMENDATION that Permission be GRANTED**

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall not be brought into beneficial occupation until the area indicated for the parking of vehicles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of vehicles.  
REASON: In the interests of highway safety.
- 03) Notwithstanding the submitted plans prior to the commencement of work on site after revised details of the cycle parking shall be submitted to and agreed in writing by the Local Planning Authority which provides for 7 secure cycle parking spaces within the curtilage of the site. Such provision shall be completed in accordance with the agreed details prior to beneficial occupation of the development.  
REASON: To ensure that the development is accessible by all modes of transport in the interests of sustainability.

Cont....

Application No. 12/0510/FULL Continued

- 04) Before any of the development hereby approved is occupied, a travel plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with any timescales contained therein.  
REASON: To encourage the use of a variety of transport options.
- 05) Prior to the commencement of the development appropriate intrusive site investigations works shall be undertaken to confirm coal mining conditions and the results of the investigation submitted to the Local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat any mine entries and/or areas of shallow mine workings, details of those works shall be submitted to and agreed in writing with the Local Planning Authority. The agreed works shall be undertaken prior to the commencement of development.  
REASON: To ensure the safety and stability of the proposed development.
- 06) No development or site or vegetation clearance shall take place until a detailed methodology for capture and translocation of reptiles on site including details of any proposed remedial measures has been submitted to and agreed in writing with the Local Planning Authority. The approved measures shall be carried out in accordance with the agreed details.  
REASON: To ensure that reptiles are protected.
- 07) The demolition or site/vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000.
- 08) Prior to the commencement of works on site a scheme for the drainage of foul, land and surface water shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which they relate is occupied.  
REASON: To ensure the development is served by an appropriate means of drainage.

Cont....

Application No. 12/0510/FULL Continued

- 09) Unless otherwise agreed in writing with the Local Planning Authority, the site layout of the development shall be in accordance with Drawing Numbers OST/DR/001/002 and OST/DR/001/0004 included in Appendix B of the Flood Consequences Assessment for the Capital Valley Eco-Park, Rhymney, dated May 2012 prepared by Waterco Consultants.  
REASON: To clarify the layout of the development granted consent.
- 10) Prior to the occupation of the development an Emergency Flood Plan shall be submitted to and agreed in writing by the Local Planning Authority. The agreed plan shall thereafter be complied with at all times.  
REASON: In the interests of public safety.
- 11) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.  
REASON: In the interests of public health.
- 12) Before any soils or hardcore are brought on to site a scheme for its importation and testing for contamination, shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.  
REASON: To prevent contamination of the application site in the interests of public health.
- 13) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.  
REASON: To protect public health.
- 14) Prior to the development commencing on the construction of any roads, drainage, or buildings hereby approved a scheme for dust mitigation shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the agreed scheme shall be employed as necessary to deal with dust arising from construction works.  
REASON: In the interests of the amenity of the area.

Cont....

Application No. 12/0510/FULL Continued

- 15) Prior to the development commencing on the construction of any roads, drainage, or buildings hereby approved a scheme for noise mitigation shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the agreed scheme shall be employed as necessary to deal with noise arising from construction works.  
REASON: In the interests of the amenity of the area.
- 16) Prior to the commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority for external site lighting including details of the lighting units, levels of illumination and hours of use. No lighting shall be provided at the site other than in accordance with the approved scheme.  
REASON: In the interests of residential amenity.
- 17) Unless otherwise agreed in writing with the Local Planning Authority, prior to the commencement of the use hereby approved arrangements for the storage, collection and disposal of commercial waste shall be implemented in accordance with a scheme to be agreed in writing with the Local Planning Authority.  
REASON: In the interest of public health.
- 18) Unless otherwise agreed in writing with the Local Planning Authority, the timber storage area shown on submitted Drawing Number 'Figure 6' shall only be used to store logs.  
REASON: To clarify the use of the storage area in the interests of amenity.
- 19) Unless otherwise agreed in writing with the Local Planning Authority, deliveries shall not be taken at or dispatched from the site outside the following times:  
(a) 0800 and 1800 hrs Monday to Friday.  
(b) 0900 and 1400 hrs Saturday.  
(c) No deliveries permitted on Sunday/ Bank Holidays.  
REASON: In the interests of amenity.
- 20) Unless otherwise agreed in writing with the Local Planning Authority no external machinery shall be operated and no process shall be carried out in the open outside the following times:  
(a) 0800 and 1800 hrs Monday to Friday.  
(b) 0900 and 1400 hrs Saturday.  
(c) No external activities permitted on Sunday/ Bank Holidays.  
REASON: In the interests of residential amenity.

Cont....

Application No. 12/0510/FULL Continued

- 21) The proposed solid, continuous barrier along the Northern and North-eastern boundaries as shown in diagram 2797/D1, under Para. 6.2.3 of the submitted Noise Impact Assessment 2797/NIA1-Rev 1 dated 2nd July 2012 prepared by Hunter Acoustics, shall be designed to provide a minimum of 5dB screening attenuation to protect the existing noise sensitive receptors. Full details of the barrier shall be submitted to and agreed in writing by the Local Planning Authority before construction. The agreed barrier shall be erected prior to the commencement of the use hereby approved.  
REASON: In the interest of residential amenity.
- 22) The building fabric of the of the 3 main buildings shall be designed and completed to achieve the sound reduction performance figures as stated in para 6.2.1 'External Building Fabric Assessments' contained in section 6.0 of the submitted Noise Impact Assessment 2797/NIA1\_Rev 1 2nd July 2012, prior to the commencement of the use hereby approved.  
REASON: In the interests of residential amenity.
- 23) Prior to the construction of the buildings, details of the proposed building fabric, including walls, roofs, doors and any moving conveyors between buildings shall be submitted to and agreed in writing by the Local Planning Authority, along with laboratory test data to confirm the reduction performance figures set out in para. 6.2.1 'External Building Fabric Assessments' section 6.0 of the Noise Impact Assessment 2797/NIA1\_Rev 1 2nd July 2012. The development shall be completed in accordance with the agreed details before the commencement of the use hereby approved.  
REASON: In the interests of residential amenity.
- 24) Lobbied automatic roller shutter doors shall be used as stipulated in section 6.2.1 'External Building Fabric Assessments' section 6.0 of the Noise Impact Assessment 2797/NIA1\_Rev 1 2nd July 2012, in order to control noise break out and achieve the sound reduction performance figures.  
REASON: In the interests of residential amenity.
- 25) Prior to the commencement of the development, details of the design of the mechanical ventilation system, along with appropriate attenuation measures shall be submitted to and agreed in writing by the Local Planning Authority to ensure environmental noise limits are not exceeded. as stated in para. 6.2.2 Ventilation, section 6.0 of the Noise Impact Assessment 2797/NIA1\_Rev 1 2nd July 2012. All ventilation shall be installed in accordance with the agreed details.  
REASON: In the interests of residential amenity.

Cont....

Application No. 12/0510/FULL Continued

- 26) Details of the sound attenuation measures in relation to the fan motors shall be submitted to and agreed in writing by the Local Planning Authority along with laboratory test data to show the limits stipulated in para. 6.2.4 Moisture Vents, section 6.0 of the Noise Impact Assessment 2797/NIA1\_Rev 1 2nd July 2012 will be achieved. All fan motors shall be installed in accordance with the agreed details.  
REASON: In the interests of residential amenity.
- 27) Cumulative noise emanating from the stack shall not exceed 70dB(A) at 10m from the stack (discharge and breakout). Prior to its construction details and design of the stack shall be submitted to and agreed in writing by the Local Planning Authority, along with laboratory test data to ensure the noise level stated can be achieved as stated in para. 6.2.5 'Stack/ID Fan' section 6.0 of the Noise Impact Assessment 2797/NIA1\_Rev 1 2nd July 2012. The stack will then be constructed in accordance with the agreed details and measurements taken at 10m to demonstrate that the 70 dB(A) limit can be achieved.  
REASON: In the interests of residential amenity.
- 28) Prior to the operation of the Combined Heat and Power plant, a written schedule of maintenance for the biomass boiler shall be submitted to and agreed in writing by the Local Planning Authority. The schedule shall include the removal of ash, inspection and maintenance of particulate arrestment equipment, boiler servicing and stack cleaning. Following the installation and first operation of the biomass boiler, service and maintenance reports shall be submitted to the Local Planning Authority on request.  
REASON: To prevent pollution in the interests of public amenity.
- 29) The biomass boiler shall only be operated using clean wood that complies with a recognised fuel quality standard (such as CEN 14961:2005).  
REASON: To prevent pollution in the interests of public amenity.
- 30) Annual non-continuous sampling will be required for NO<sub>x</sub> and PM<sub>10</sub> to ensure the emission limits stipulated within section 4(q) of the Caerphilly County Borough Council 'Biomass Boiler Information Request Form' (copy attached to this permission) are complied with. Results of the annual non-continuous sampling shall be provided to the Local Planning Authority in January of every year that the use hereby approved is operational.  
REASON: To prevent pollution in the interests of residential amenity.

Cont....

Application No. 12/0510/FULL Continued

- 31) Prior to the construction of the foundations of the development hereby approved details showing the finished visual amenity levels of the buildings hereby approved in relation to a fixed datum point off-site shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: In the interests of the visual amenity of the area.

- 32) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used 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 interests of the visual amenity of the area.

- 33) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the of the development. Any trees or plants which within a period of 5 years from the completion of the development die or 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: In the interests of the visual amenity of the area.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW5.

Please find attached the comments of Coal Authority, Senior Engineer (Land Drainage), Environment Agency (Wales) and Dwr Cymru/Welsh Water that are brought to the applicant's attention.

Many species of bat depend on buildings for roosting, with each having its own preferred type of roost. Most species roost in crevices such as under ridge tiles, behind roofing felt or in cavity walls and are therefore not often seen in the roof space. Bat roosts are protected even when bats are temporarily absent because, being creatures of habit, they usually return to the same roost site every year. Bats are protected under

Cont....

Application No. 12/0510/FULL Continued

The conservation of Habitats and Species Regulations 2010 and its amendment 2012, which implements the EC Directive 92/43/EEC in the United Kingdom and the Wildlife and Countryside Act 1981 (as amended). Please be advised that, if bats are discovered, all works should stop immediately and the Countryside Council for Wales should be contacted for advice on any special precautions before continuing.

Please also be advised that works should not take place that will disturb nesting birds from March to July inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. If birds are nesting on/in or within the vicinity of the proposed development, work should be undertaken outside the breeding season for birds to ensure their protection, i.e. works should only be undertaken between August and February. Further advice on the above can be sought from the local authority ecologists (01495 235253) or the Countryside Council for Wales (029 20772400).

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0559/NCC 17.07.2012	Newbridge Construction Mr N Phillips 23A Gold Tops Newport NP20 4UL	Vary Condition 10 of planning permission 11/0481/FULL (Convert and partially demolish existing public house to single retail unit, bulk store and associated ancillary rooms, construct additional two new retail units and site reconfiguration including car parking and reconfiguration of highway) to change the hours in which deliveries can be undertaken to between 0800 hours and 1600 hours on Sundays Bowls Inn Bowls Terrace Penyrheol Caerphilly CF83 2RD

**APPLICATION TYPE:** Development without complying with conds

#### SITE AND DEVELOPMENT

Location: The site is located at the junction of Bowls Terrace, Bowls Close and Station Terrace, in Penyrheol. It is approximately 2km from Caerphilly Town Centre. The Bowls Inn site lies at the entrance to the Aneurin Park, and forms part of a small cluster of shops and services which currently serve the local community.

Site description: The site is currently occupied by a two-storey pitched roof building which, was until recently used as a Public House, on the ground floor and management accommodation on the first floor above. The structure has been extended over the years and has a two-storey side addition which is at a slightly lower level than the main building. The structure is currently not in the best of conditions and needs a substantial level of maintenance. It has recently closed as a functioning public house.

Cont....

Application No. 12/0559/NCC Continued

The site is roughly square in shape, with the building being situated to the back of the plot. The front area is occupied by customer car-parking. There is also a children's play area sited to the east of the building.

The site is bounded to the north by the park, to the east by existing residential dwellings, to the south by the main road, the other side of which is a mixture of shops and houses, and to the west by an open grassed area.

Development: The proposal is for the variation of condition 10 of planning permission 11/0481/FULL. This states as follows:-

"All deliveries must be undertaken between 0700 hours and 2200 hours Monday to Saturday and between 1000 hours and 1600 hours on Sunday.  
REASON: In the interests of residential amenity."

The current application is to vary this wording to read "All deliveries must be undertaken between 0700 hours and 2200 hours Monday to Saturday and between 0800 hours and 1600 hours on Sunday."

These times will accord with the shop opening hours.

Ancillary development, e.g. parking: The parking layout is unchanged from the layout approved under 11/0481/FULL.

### PLANNING HISTORY

5/5/93/0218 - Change the use of existing store room to family room - Granted 28.05.93.

P/03/0133 - Remove existing flat roof to south elevation and replace with pitched roof - public house - Granted 13.03.03.

P/03/0650 - Retain play equipment in pub garden - Granted 03.07.03.

11/0481/FULL - Convert and partially demolish existing public house to single retail unit, bulk store and associated ancillary rooms, construct additional two new retail units and site reconfiguration including car parking and reconfiguration of highway - Granted 16.12.11.

12/0043/NCC - Vary conditions (10) and (15) of planning permission 11/0481/FULL relating to delivery hours and a lockable barrier for the car parking - Refused 08.06.12.

Cont....

Application No. 12/0559/NCC continued

12/0251/FULL - Replace an existing 1.8m high timber close board fence with a new 2.4m high timber close boarded fence - Not yet determined.

## POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: The site is located within the settlement limit identified within the Plan. It is not however indicated for any specific use.

Policies: The policies of relevance to the original conversion of the Former Bowles Inn to a three unit retail operation in the Plan are as follows:-

1. SP3 - Development Strategy.
2. CW2 - Amenity.
3. CW3 - Design Considerations Highways.
4. CW16 - Locational Constraints Retailing.
5. LDP5 - Car parking Standards.

Condition 10 was required in the interests of residential amenity. As such compliance with Policy CW2 remains the main consideration in respect to this proposal.

The other policies quoted above are unaffected by this application.

### NATIONAL POLICY:

On the national Level Planning Policy Wales (Edition 4), TAN 4: Retailing and Town Centres, and TAN 12: Design are all relevant.

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Not required.

Cont....

## Application No. 12/0559/NCC Continued

### CONSULTATION

Penyrheol Treceenydd & Energlyn Community Council - have major concerns regarding the road works involved and the potential for the deterioration of traffic management as a result of the development.

Transportation Engineering Manager - No objection, provided that all relevant remaining conditions relating to the scheme, as approved under planning consent 11/0481/FULL are attached.

Head Of Public Protection - was prepared to amend the wording of the condition only from 1000 hours to 0900 hours, and solely for the delivery of newspapers. If this was acceptable then no objection would be raised.

### ADVERTISEMENT

Extent of advertisement: The application has been advertised by way of site notices and 26 letters to neighbouring properties.

Response: None.

Summary of observations: Not applicable.

### SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? It is not anticipated that the determination of this application will adversely impact on the issues of crime and disorder in this area.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No. At the time of the consideration of the existing approval, which is currently being implemented (i.e. 11/0481/FULL), a survey by a competent ecologist was undertaken at an appropriate time of year. This revealed no indication of any protected species at the site.

Cont....

## Application No. 12/0559/NCC Continued

### ANALYSIS

Policies: As indicated above the policies relating to the conversion and extension works to create the retail development remain satisfied/unaffected.

Policy CW2 is the one which is subject to reconsideration in respect to this proposed conditional variation.

In this respect the comments of the Head of Public Protection are salient. He responded with the following comment. "This department would be willing to agree extended delivery hours on a Sunday but still limited to between the hours of 0900 hours and 1600 hours and be restricted to deliveries of newspapers only."

Bearing in mind this is not what the applicant applied for the response was considered as a negative one to the question asked. The applicants were advised of this situation and responded to the effect that the amendment suggested by the Head of Public Protection was acceptable.

As such the amended hours (the restriction to newspapers only for the first hour on a Sunday), are considered to be acceptable in respect to their impact on the residential amenity of the nearest dwellings.

Policy CW2 is therefore complied with.

Comments from Consultees: The comments of the Head of Public Protection are considered above, whilst those of the Transportation Engineering Manager confirm that no objection is raised, subject to the imposition of conditions which remain relevant from the previous approval.

Penyrheol, Trecenydd and Energlyn Community Council object to the proposal on the basis that they have major concerns with regards to the road works being carried out and the potential issues regarding deterioration of traffic management. As a result the matter is being reported to Committee for consideration.

In response to the Community Council's comments it should be acknowledged that the associated road works relating to the retail scheme have now been finalised and are therefore no longer relevant. With regard to the "deterioration of traffic management", the Transportation Engineering Manager is satisfied with the highway safety aspects of the scheme.

Cont....

Application No. 12/0559/NCC Continued

On this basis it is considered that there are no sustainable objections from the Standard Consultees. All concerns can be adequately controlled by the use of conditions.

Comments from public: None.

Other material considerations: None.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) All deliveries must be undertaken between 0700 hours and 2200 hours Monday to Saturday and between 1000 hours and 1600 hours on Sunday, with the exception of newspapers which can be delivered between 0900 hours and 1600 hours on Sundays.  
REASON: In the interests of residential amenity.
- 02) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used 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 interests of the visual amenity of the area.
- 03) Within fourteen days of the date of this consent a scheme for the drainage of foul, land and surface water shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development is occupied.  
REASON: To ensure the development is served by an appropriate means of drainage.
- 04) The development hereby approved shall be carried out fully in accordance with the recommendations made in sections 5.2, 5.3 and 5.4 of the 'Protected Species Survey Report' dated 21 September 2011 prepared by Soltys Brewster Ecology, and submitted in respect to application 11/0481/FULL. The recommended measures will be strictly complied with.  
REASON: To ensure adequate protection and mitigation for protected species.

Cont....

Application No. 12/0559/NCC Continued

- 05) Within fourteen days of the date of this permission a plan showing details of the provision of roosts and a means of access for bats into the building shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new dwellings hereby approved are first occupied.  
REASON: To provide additional roosting for bats as a biodiversity enhancement, in accordance with paragraph 5.2.8 of Planning Policy Wales (2010), paragraph 1.4.3 of TAN 5 (2009) and Section 40 of the Natural Environment and Rural Communities Act 2006.
- 06) The drainage scheme, required by condition 3, shall include a grease trap, details of which shall be agreed in writing with the Local Planning Authority. Thereafter all works that form part of the agreed scheme shall be carried out before any part of the development is occupied.  
REASON: To ensure the development is served by an appropriate means of drainage.
- 07) Within fourteen days from the date of this permission a scheme for on-site refuse storage and collection of waste material awaiting disposal, including any details of open air storage facilities and its screening, shall be submitted to and agreed in writing by the Local Planning Authority. Such facilities shall be provided in accordance with the agreed details prior to the first occupation of the development and thereafter permanently retained unless otherwise agreed in writing by the Local Planning Authority.  
REASON: In the interests of public health and the amenity of the area.
- 08) The development hereby permitted shall not commence beneficial occupation until a scheme of odour/effluvia/fume control, including the erection of any associated stacks or vents, has been submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out and operated in accordance with the approved scheme.  
REASON: In the interests of the amenity of the area.
- 09) Within seven days of the date of this consent a construction phase noise scheme (to include proposed hours which the developer intends to work) must be submitted to and agreed, in writing, with the Local Planning Authority. Thereafter, this agreed scheme shall be employed to deal with any noise arising from the development.  
REASON: In the interests of residential amenity.

Cont....

Application No. 12/0559/NCC Continued

- 10) Opening hours of the units shall be restricted to 0700 hours to 2300 hours Monday to Saturday and 0800 hours to 2200 hours on Sunday.  
REASON: In the interests of residential amenity.
- 11) Within fourteen days of the date of this permission a scheme shall be submitted to and approved in writing by the Local Planning Authority for external site lighting including details of the lighting units, levels of illumination and hours of use. No lighting shall be provided at the site other than in accordance with the approved scheme.  
REASON: In the interests of residential amenity.
- 12) Details of any external plant shall be submitted to and approved in writing by the Local Planning Authority. Thereafter only this agreed plant/machinery shall be erected/placed on site. Details shall include any technical noise data.  
REASON: In the interests of residential amenity.
- 13) Compaction is not permitted within the service delivery yard.  
REASON: In the interests of residential amenity.
- 14) All car parking areas must have a lockable barrier fitted, which must be used when the facilities are closed. Details of such a barrier must be submitted to and agreed in writing with the Local Planning Authority prior to works commencing on site. Thereafter this agreed barrier(s) shall be completed and functioning prior to any of the units hereby approved commencing.  
REASON: To prevent anti-social behaviour taking place within these areas.
- 15) Within seven days of the date of this permission, a construction phase dust mitigation scheme must be submitted to and agreed, in writing, with the Local Planning Authority. Thereafter, this agreed scheme shall be employed to deal with any dust arising from the development.  
REASON: In the interests of residential amenity.
- 16) Articulated vehicles shall not deliver to the premises. Delivery vehicles shall be limited to a rigid trailer type vehicle (FTA Design LG Rigid Vehicle) not exceeding 10.5m in length.  
REASON: In the interests of highway safety.
- 17) The proposed parking area shall be completed in materials as agreed in writing with the Local Planning Authority, to ensure loose stones or mud etc. are not carried on to the public highway.  
REASON: In the interests of highway safety.

Cont....

Application No. 12/0559/NCC Continued

- 18) The building shall not be occupied until the area indicated for the parking of vehicles and cycles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any other purpose other than the parking of vehicles and cycles.  
REASON: In the interests of highway safety.
- 19) Notwithstanding the submitted plans, commercial trading from the site shall not commence until after a delivery strategy and measures of controlling access and egress of delivery vehicles has been submitted to and approved in writing by the Local Planning Authority. The delivery strategy and measures of access/egress control shall be implemented in accordance with the agreed details prior beneficial occupation first commencing and maintained thereafter.  
REASON: In the interests of highway safety.
- 20) The new unit of 341 sq. m. gross (260 sq. m. net), to be constructed in the extension shall only be used for Class A1 purposes as defined by the Town and Country Planning (Use Classes) Order 1987, or as defined by any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, without the approval of the Local Planning Authority.  
REASON: To retain adequate control over the development.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW3.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0603/TPO 15.08.2012	Mr K Parry 34 Griffin Drive Penallta Hengoed CF82 6AH	Carry out selective coppicing of five silver birch and one goat willow in W1 and the removal of selected hazel stems to clear minimum space to erect a four foot fence 34 Griffin Drive Penallta Hengoed CF82 6AH

**APPLICATION TYPE:** Tree Preservation Order

#### SITE AND DEVELOPMENT

Location: The application site is located at the new Cwm Calon housing estate, and adjoins Clos Bryn Celyn to the west.

Site description: The garden of this modern house includes a buffer zone of trees that runs along the western boundary of Griffin Drive with Clos Bryn Celyn. The trees are protected by a Tree Preservation Order (No. 59 of 2010). The woodland is at a higher level than the house, and is separated from the remainder of the residential curtilage by a 1.8m high timber fence.

Development: It is proposed to coppice five silver birch and one goat willow on the eastern side of the woodland close to the fence, and remove a number of hazel stems within the woodland to allow the erection of a fence to demarcate the property's actual boundary from the neighbouring ones in Clos Bryn Celyn.

#### PLANNING HISTORY

P/99/0768 - Redevelop former colliery for housing, employment (B1, B2 and B8 uses), shop and pub including land reclamation and conversion of pit head buildings - Granted 23.08.02.

Cont....

## Application No. 12/0603/TPO Continued

### POLICY

#### LOCAL DEVELOPMENT PLAN

Site Allocation: The site is within the settlement and allocated for housing.

Policies: Policies CW2 (amenity), and SP10 (Conservation of Natural Heritage), and the SPG LDP4 - Trees and Development.

NATIONAL POLICY TAN 10 (Tree Preservation Orders) and Welsh Office Circular 64/78 - Trees and Forestry.

#### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

#### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? This is not a material planning consideration in this case.

### CONSULTATION

None.

### ADVERTISEMENT

Extent of advertisement: Five neighbouring properties have been received.

Response: Two letters of objection has been received.

Summary of observations: The objections are summarised as follows:-

- the work will result in the felling of mature and healthy trees,
- the proposed fence is not located near to the trees to be felled,
- the trees are only going to be felled to allow more natural light to the applicant's property,
- there will be a loss of natural habitat, and screening,
- there are no objection to the removal of the hazel stems.

Cont....

Application No. 12/0603/TPO Continued

### SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? None.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

## ANALYSIS

Policies: Two tree officers have considered these proposals on behalf of the Local Planning Authority. One raised no objections to the works proposed on the grounds that the woodland has not had any formal management of many years, and now some of the trees on the edge have become over extended, and coppicing the trees will result in a more varied age structure to the woodland edge. The second officer has confirmed that the trees do not need to be removed to allow the fence to be erected at the centre of the woodland.

The trees provide a woodland backdrop to the housing in the streets to the east and west, as well as providing a buffer between the two. The trees to be coppiced are on the Griffin Drive side of the woodland, and their considerable reduction in height would not significantly affect the amenity of the properties in Clos Bryn Celyn, nor reduce the value of the woodland as a buffer zone. In view of the first tree officer's support for the work on woodland management grounds, no planning objections are raised, and the proposal are acceptable in policy terms.

Comments from public: The comments of the neighbours are effectively considered above. An advisory note will be recommended in respect of the impact of the work on wildlife.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) All works hereby approved shall be carried out in accordance with British Standard 3998:1989 "Recommendation for tree work" or any subsequent British Standard amending or superseding that standard.  
REASON: To ensure the works are carried out in accordance with good arboriculture practice.

Cont....

Application No. 12/0603/TPO Continued

- 02) The works hereby approved shall be carried out within two years of the date of this consent.  
REASON: To reflect changes in the tree's/trees' condition.
- 03) The work hereby approved comprise the following:coppice five silver birch and one goat willow, and removal of selected hazel stems.  
REASON: For the avoidance of doubt as to the work hereby approved.
- 04) Prior to the commencement of the work hereby approved, the works to be carried out shall be agreed on site between the applicant and an officer of the local planning authority, with those trees to be coppiced and the stems to be removed clearly marked.  
Reason: For the avoidance of doubt as to the work hereby approved

Advisory Note(s)

Mature trees are potential bat roosts. All bat species and their roosts are protected by the Conservation of Habitats and Species Regulations 2010 and its amendment 2012, which transposes the EC Habitats Directive 1992 into UK legislation, and the Wildlife and Countryside Act 1981. If bats are discovered, then all works should stop immediately and the Countryside Council for Wales should be contacted for advice on any special precautions, and whether a licence is required, before continuing.

Please also be advised that works should not take place that will disturb nesting birds from March to July inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. If birds are nesting on/in or within the vicinity of the proposed development, work should be undertaken outside the breeding season for birds to ensure their protection, i.e. works should only be undertaken between August and February. Further advice on the above can be sought from the local authority ecologists (01495 235253) or the Countryside Council for Wales (029 20772400).

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0638/FULL 28.09.2012	Mr K James 131 Shingrig Road Nelson Treharris CF46 6DU	Erect single-storey extension and decking to rear 131 Shingrig Road Nelson Treharris CF46 6DU

**APPLICATION TYPE:** Full Application

### SITE AND DEVELOPMENT

Location: The application property is situated on the eastern side of Shingrig Road adjacent to the Star Club.

House type: The application property is a semi-detached dwelling with front and rear gardens. The property is finished in rough cast render with brickwork walls below the damp proof course and a tiled roof. The property has a long flat rear garden which is at a lower level than the dwelling and leads out onto a lane at the rear. The application property is attached to another domestic dwelling of the same style and there is a large building to the north that is a club and restaurant.

Development: The proposal seeks full planning consent for the erection of a single-storey extension to the rear of the dwelling. The extension will accommodate a kitchen/dining room and will have an apex roof. Given the lower ground level of the garden in relation to the dwelling a landing and steps will be erected to the rear of the extension.

Dimensions: Amended plans have been submitted for the application which show an extension measuring 6m wide by 4m long by 4.7m high from garden level. The landing measures 1m deep by 2.3m wide by 1m high.

Materials: To match the host dwelling.

Ancillary development, e.g. parking: None.

### PLANNING HISTORY

5/5/90/0450 - Erect conservatory at rear - Refused 15.08.90.

5/5/92/0728 - Retain inflatable pool cover - Refused 11.02.93.

Cont....

## Application no. 12/0638/FULL Continued

### POLICY

#### Site Allocation

Local Development Plan: Within settlement limits.

#### Policies

Local Development Plan: SP5 (Settlement Boundaries), CW2 (Amenity), CW3 (Design Considerations: Highways) and CW15 (General Locational Constraints).

Guidance Note 1 to the Adopted Supplementary Planning Guidance LDP 7 for householder development advises that the purpose of the planning system is to safeguard the existing qualities of buildings and streets and that extensions and alterations should be designed to complement the character of your street or area.

Guidance Note 2 to the Adopted Supplementary Planning Guidance LDP 7 for householder development gives advice on extensions and conservatories.

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

National Policy: Paragraph 4.11.9 of Planning Policy Wales (2012) states:-

"The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

National Planning Guidance contained in Technical Advice Note 12 - Design.

### CONSULTATION

Transportation Engineering Manager - No objection.

Dwr Cymru/Welsh Water - No objection.

Cont....

## Application No. 12/0638/FULL Continued

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: The deadline for commenting on this application ended on the 27th November 2012. At the time of writing the report two letters of objection had been received from local residents.

#### Summary of observations:

1. The applicants have built an extension to the side of their dwelling that houses the kitchen of the Star Club.
2. Applicants claim ownership of the kitchen area to the Star Club. Connection of the waste from this kitchen into the shared sewer could cause an overburden to drainage the system.
3. The walls of the extension could damage the sewer pipe.
4. The applicants claim ownership of part of the rear lane, if this is upheld it would prevent vehicles from reversing out of the garage at number 129.
5. The extension to the Star Club causes a terracing effect reducing the value of 129 and 131 Shingrig Road.
6. The proposed extension length is beyond a line drawn at 45 degrees from the centreline of the nearest principal room window.
7. The extension is 600mm above the normal maximum height for a single-storey extension.
8. The width of the extension takes up most of the rear wall.
9. The proposed decking to the rear is too large.
10. The rainwater from the extension is proposed to discharge to the garden.
11. The extension would have an overbearing impact on number 129.
12. The extension would take away light from number 129.
13. The decking would cause a loss of privacy to number 129.
14. The discharge of rainwater into the ground would cause flooding to number 129.
15. The applicant has erected a boundary fence with the planks facing 131 and not 129.
16. The boundary as shown is not a true depiction of what is on site. It is likely that the extension will encroach onto number 129.

Any new issues that are raised prior to the deadline will be brought to the attention of members at Committee.

Cont....

Application No. 12/0638/FULL Continued

## SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? None.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

## ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The main point to consider in the determination of this application is the effect that the proposal will have on the amenity of the neighbouring dwelling at number 129 Shingrig Road. In that regard Guidance Note 2 of Supplementary Planning Guidance LDP7 states:-

"Extensions and conservatories should not cast large shadows onto neighbour's houses or gardens. As a general rule single-storey extensions near to a ground floor window of any principal room in an adjoining property, should be no longer than 4 metres, whilst two-storey extensions in the same circumstances should be no longer than 2 metres.

A 'principal room' can be defined as one of the main rooms of a house, such as a living room, main bedroom and dining room.

Unless the context allows otherwise, those dimensions could be increased to a maximum of 6 metres and 4 metres respectively, where the extension does not breach a line taken at 45 degrees from the centre of the nearest ground floor window of any principal room in an adjoining property, and it would not have an overbearing effect or an adverse impact on outlook."

The first paragraph of that guidance makes it clear that a 4 metres long, single-storey extension is considered to be acceptable even where it would be near a principal room window. It is considered therefore that this application fully complies with this guidance and as such it is acceptable in terms of overbearing impact. It is acknowledged that the extension is elevated above garden level but the guidance seeks to protect the amenity of the principal room and not the garden of the dwelling. It should also be noted that as the extension complies with the first part of the guidance it does not fall to be considered against the 45 degree rule referred to in the third paragraph.

Cont....

## Application No. 12/0638/FULL Continued

In terms of the privacy of the neighbouring dwelling it was acknowledged that the elevated decking originally proposed would have caused a loss of privacy and amended plans were requested. These have been submitted and the proposed landing and steps providing access from the extension to the garden are considered to be acceptable in both design terms and privacy terms.

The proposed extension is considered to be acceptable from a design perspective and there are no material considerations that would warrant refusal of the application.

Comments from consultees: No objections raised.

Comments from public: The objectors have raised a number of issues, the majority of which are not relevant to the determination of this application. Nevertheless these are dealt with below:-

1. The Council acknowledges that an extension was built between the application property and the Star Club some time between 2001 and 2004 without the benefit of planning consent and that that extension houses the kitchen for the club. As the extension was erected more than 4 years ago it is now exempt from enforcement action. This has no bearing on the determination of this application.
2. The red line boundary shown on the location plan submitted with the planning application does indeed include part of the area where the kitchen of the club is situated. If the applicants have connected the waste from the club into the shared sewer at the application property any subsequent capacity issues would be a matter for the sewerage undertaker. The matter has been considered by the Council's Public Health and Building Control Sections and they have confirmed that there is no legislation to prevent such a connection. In any event this matter is not a material planning consideration in respect of the extension.
3. Building Regulations approval would be required for the extension and it is the responsibility of the Building Control Section to ensure that the works do not damage the line of the sewer.
4. The status of the rear lane is a matter for the Council as Local Highway Authority and has no bearing on the determination of this application.
5. In that the extension is set back from the building line and down from the ridge of the application property it is not felt that it would cause a terracing effect. In any event loss of property value is not a material planning consideration.

Cont....

Application No. 12/0638/FULL Continued

6. As stated above the 45 degree rule does not have to be considered in this instance.
7. It would appear that the objector has taken the criteria contained in the General Permitted Development Order as definitive limits on what is acceptable, whereas the limits only define the thresholds above which planning permission for development is required. They do not define what is considered to be acceptable from a planning perspective. The above order makes it clear that planning consent is required for any extension to a dwelling where that extension would be more than 4m high within 2m of the boundary of the site. It does not then follow that any extension over that height would be unacceptable, merely that planning consent is required. It is then for the Local Planning Authority to determine whether or not the extension is acceptable in planning terms and as stated above the height of the extension has been noted but does not justify refusal of the application.
8. There is no legislation or guidance that prevents an extension from taking up the whole of a rear wall of a property.
9. The decking has now been removed from the scheme and a smaller landing area is now proposed. This is considered to be acceptable in planning terms.
10. The discharge of rainwater from the extension is a matter for the Building Regulations and a connection to a rainwater butt would be unacceptable in this instance.
11. Overbearing impact has been considered above.
12. Loss of light would not be significant in this instance as the application property is to the north of the objectors dwelling and direct sunlight runs in a southerly arc from east to west thereby travelling to the south of the objectors dwelling.
13. Loss of privacy from the decking has been addressed above and has been resolved by the removal of the deck and the replacement with a much smaller landing.
14. The discharge of water is addressed above.
15. Whether a developer erects fencing with the planks facing his property or the neighbour's property is not a material planning consideration.

Cont....

Application No. 12/0638/FULL Continued

16. The amended plans received on 19th November give an accurate depiction of the location of the boundary fence in relation to the extension. There is an existing concrete block wall of approximately 2m in length attached to the rear wall of the objector's property that is not shown on the plan. The planning officer has visited the application site and measured the width of the property from the pine end to the original boundary of the dwelling with number 129 (as marked on site by a concrete fence post) and the 6m extension width shown on the amended plans can be accommodated between these two points without having to encroach onto the neighbours property.

Other material considerations: The objector has also written to give background to his complaints in relation to issues at the property that arose prior to the applicants owning the property. They have not been listed here as it is not considered that they have any relevance to the determination of this application.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development hereby approved relates to the details received on 19th November 2012 by the Local Planning Authority.  
REASON: For the avoidance of doubt as to the details hereby approved.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2.

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0653/RM 05.09.2012	Greenhill Construction Mr K Lewis The Green House Esperanto Way Newport NP19 0RD	Erect development of fourteen dwellings and associated landscaping Land At Moriah Hill Risca Newport

**APPLICATION TYPE:** Approval of Reserved Matters

### SITE AND DEVELOPMENT

Location: On the western side of Moriah Hill immediately to the south of its junction with Mount Road.

Site description: The site comprises a former quarry which has been filled to form a plateau bounded by banking on the northern and part of the eastern (highway frontage) edges of the site. The western and southern boundaries of the site adjoin the top of the banking to the Monmouthshire and Brecon Canal. There are dwellings to the north and east of the site and a single dwelling adjoins part of the southern boundary.

Development: This is a reserved matters application for the design, layout and landscaping of the site. Fourteen dwellings are proposed. Outline planning permission for fourteen dwellings was approved 10 September 2009 (Ref: 08/1300/OUT).

Dimensions: The site has an area measuring 0.47 hectares.

Materials: To be agreed.

Ancillary development, e.g. parking: The proposed site road runs along the southern boundary of the site and was agreed at the outline stage.

### PLANNING HISTORY

P/06/0129 - Erect residential development - Granted 02.06.06.

08/1300/OUT - Erect residential development comprising 14 dwellings with associated car parking and landscaping - Granted 10.09.09.

Cont....

Application No. 12/0653/RM Continued

10/0939/TPO - Carry out tree works on TPO 58/72/MCC - Granted 11.03.11.

12/0631/NCC - Vary Condition 3 of Planning Consent 08/1300/OUT (erect residential development comprising fourteen dwellings with associated car parking and landscaping) to extend the permission by a further 12 months - Not yet determined.

## POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: The site is located within the settlement boundary.

Policies: Policy CW2 (Amenity), CW3 (Design Considerations - Highways), CW6 (Trees, Woodland and Hedgerow Protection), and guidance contained in Supplementary Planning Guidance LDP6 - Building better places to live (November 2010).

NATIONAL POLICY Planning Policy Wales and TAN12 (Design).

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? No.

## CONSULTATION

Gwent Wildlife Trust - No objection subject to conditions.

Transportation Engineering Manager - No objection subject to conditions.

Head Of Public Protection - No objection subject to conditions relating to soil importation, noise and dust mitigation, and hours of work.

Senior Engineer (Land Drainage) - No objection subject to a condition relating to the drainage of the site.

Cont....

Application No. 12/0653/RM Continued

Dwr Cymru - Provide advice to the developer regarding the drainage of the site.

CCBC Housing Enabling Officer - Requests a 10% affordable housing contribution on site. However as outline permission has been granted with no Section 106 Agreement, the Local Planning Authority can no longer attempt to secure affordable housing on site by way of a Legal Agreement.

Outdoor Leisure Development Officer (Mr R Lloyd) - Requests public open space on site and financial contribution for off-site play provision. However as outline planning permission has already been granted which did not include a Section 106 Agreement, the Local Planning Authority is no longer in a position to seek such a contribution. Furthermore, the layout of the site was agreed at the outline stage, and therefore the Local Planning Authority is bound by the approved layout which did not show an area of public open space within the development.

Police Architectural Liaison Officer - Provide advice to the developer regarding secured by design issues.

Countryside And Landscape Services - No objection based on conditions relating to protected species and the protection of trees and hedgerows along the boundary of the site.

Senior Engineer (Consultancy Manager) - Provide advice to the developer.

## ADVERTISEMENT

Extent of advertisement: Six neighbouring properties were consulted and a site notice displayed near the application site.

Response: Two letters of objection were received.

### Summary of observations:

- Amount of affordable housing proposed;
- Structural damage to surrounding properties during construction;
- Increased number of vehicles using existing lane access;
- Increased pressure on Moriah Hill canal bridge;
- Proposed layout out of keeping with surrounding area, i.e. too dense;
- Increased surface water flows as result of required lane widening;

Cont....

Application No. 12/0653/RM Continued

- Increased hazard of cars sliding on ice as a result of more highway users accessing the site;
- Insufficient sewer capacity to cope with new development.

### SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? Crime and disorder are not considered to be an issue for this application.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No but conditions will be attached to the permission in the interests of protected species.

## ANALYSIS

Policies: The principle of residential development on the site has already been established in the granting of outline planning permission for 14 dwellings in September 2009. This is a reserved matters application that is to consider the design, parking provision and landscaping of a residential development for the 14 dwellings approved at outline.

Policy CW2 (Amenity) states:-

"Development proposals must have regard for all relevant material planning considerations in order to satisfy the following requirements:-

- A. There is no unacceptable impact on the amenity of adjacent properties or land.
- B. The proposal would not result in over-development of the site and/or its surroundings.
- C. The proposed use is compatible with surrounding land-uses and would not constrain the development of neighbouring sites for their identified land-use."

In relation to Criterion A, it is considered that given the topography of the site, i.e. a basin bounded to the north and east by steep banking/former quarry walls, the development will have little impact on the properties adjoining the site to the north and east by way of any overbearing or overlooking impact.

Cont....

Application No. 12/0653/RM Continued

In terms of the potential impact on the existing property along the south east boundary of the site, i.e. The Cottage, No. 9 Moriah Hill, the nearest proposed property to the north of The Cottage, i.e. Plot 14, is located some 18 metres away, and the nearest property to the west, i.e. Plot 1, some 20 metres away. Therefore, in light of these distances of separation, it is not considered that the proposed dwellings will result in an unacceptable overbearing or overshadowing impact on The Cottage. A condition will be attached to the permission to ensure there are no clearly glazed windows that overlook The Cottage within 21 metres.

In terms of the impact of the development on neighbouring properties, one of the main impacts will be the new road within the site which was approved at outline stage. This road will be approximately 4 metres to the north of The Cottage. Landscaping is proposed along this verge to soften its impact on The Cottage.

In relation to Criterion B, with a density of approximately 30 dwellings per hectare it is not considered that the proposal represents a high density development or an over-development of the site. Furthermore, such a density is considered to be in keeping with the surrounding area which is characterised by a mixture of semi-detached and detached dwellings.

It is considered that the proposed development accords with Criterion C as it is bounded to the north, east and south east by existing residential development, and to the west and south west by the canal. Therefore the development forms a natural infill site within the settlement. Furthermore, the development would not constrain the development of neighbouring sites for their identified land-use.

Several conditions will be attached to the permission relating to highway improvement works to the lane serving the development. The outline planning permission for the development requires the widening of the lane serving the site to 5m in width, as well as the provision of a 2 metres wide footway. Based on these highway improvements, as well as the proposed parking provision, the Transportation Engineering Manager raises no objection to the proposal subject to conditions. Therefore it is considered that the proposal accords with the requirements of Policy CW3 (Design Considerations - Highways).

Policy CW6 relates to the protection of trees, woodland and hedgerows. The application site is bounded to the west, i.e. along the canal, by a row of protected trees, and along the eastern boundary with the lane by a hedgerow. Conditions will be attached to the permission to ensure appropriate levels of protection for these existing features.

Cont....

Application No. 12/0653/RM Continued

It is considered that for the above reasons that the layout complies with the relevant policies outlined above.

Comments from consultees: No objection is raised by consultees subject to conditions.

Comments from public: Amount of affordable housing proposed - Although it is a requirement of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 for new residential developments exceeding 5 dwellings (or 0.3 hectares) to provide 10% affordable housing provision, as the outline planning permission was granted prior to the adoption of the LDP, there was no Section 106 Legal Agreement as part of the outline planning permission requiring the provision of affordable housing. Notwithstanding this, it is not the role of the planning system to set a maximum limit on the percentage of a site that may be used as 'affordable housing', as this performs no planning function, and could lead to social exclusion.

The applicant is Greenhill Construction, but it is understood that Seren (formerly Fairlake) have an interest in the site. Therefore it may well be the case that the site will be 100% affordable homes.

Structural damage to surrounding properties during construction - Any damage caused to neighbouring properties during construction is a private legal matter between the interested land owners.

Increased number of vehicles using existing lane access - The access lane serving the site is to be improved in a manner to be agreed by the Local Planning Authority in accordance with guidance from the Transportation Engineering Manager.

Increased pressure on Moriah Hill canal bridge - No objection is raised to the proposal by the Transportation Engineering Manager or the Principal Consultancy Manager (Canals) subject to advice to the developer.

Proposed layout out of keeping with surrounding area, i.e. too dense - At a density of approximately 30 dwellings per hectare, the development does not represent an overdevelopment of the site.

Increased surface water flows as result of required lane widening - With appropriate highway drainage it is anticipated that the development will improve existing highway surface water run off issues.

Cont....

Application No. 12/0653/RM Continued

Increased hazard of cars sliding on ice as a result of more highway users accessing the site - This is not a matter that can be controlled by way of the planning legislation.

Insufficient sewer capacity to cope with new development - Dwr Cymru/Welsh Water have raised no objection to the principle of the development. However a condition is attached to the permission requiring details of proposed drainage to be agreed prior to the commencement of works.

Other material considerations: None.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s):-

- 01) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used 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 interests of the visual amenity of the area.
- 02) The demolition or site/vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000.
- 03) Prior to the commencement of works on site, a scheme to prevent mud and other debris being deposited on the public highway, shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the agreed scheme.  
REASON: In the interests of highway safety.
- 04) 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 enlargement of the dwellings hereby approved shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.

Cont....

Application No. 12/0653/RM Continued

- 05) 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 windows or dormer windows, other than those expressly authorised by this permission, shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.
- 06) 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 building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwelling house as such shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.
- 07) Unless otherwise agreed in writing with 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) the south facing windows in Plot 14 shall be glazed with obscure glass and any replacement or repair shall only be with obscure glass.  
REASON: In the interests of residential amenity.
- 08) Unless otherwise agreed in writing with 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) the east facing windows in Plot 1 shall be glazed with obscure glass and any replacement or repair shall only be with obscure glass.  
REASON: In the interests of residential amenity.
- 09) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die or 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: In the interests of the visual amenity of the area.

Cont....

Application No. 12/0653/RM Continued

- 10) Notwithstanding the provision of Condition 8 of outline planning permission 08/1300/OUT and notwithstanding the submitted plans the proposed estate road shall extend in a northerly direction for approximately 4m in order to incorporate the pedestrian footpaths to plots 6 and 12 within the estate road.  
REASON: In the interests of highway safety.
- 11) The proposed means of access shall be laid out, constructed and maintained thereafter with vision splays of 2.4m x 45m. No obstruction or planting when mature exceeding 900mm in height above the adjacent footway shall be placed or allowed to grow in the required vision splay areas.  
REASON: In the interests of highway safety.
- 12) The buildings shall not be occupied until the area indicated for the parking of vehicles has been laid out in accordance with the submitted plans to the written satisfaction of the Local Planning Authority and that area shall not thereafter be used for any purpose other than the parking of vehicles.  
REASON: In the interests of highway safety.
- 13) The proposed parking areas shall be completed in materials as agreed in writing with the Local Planning Authority, to ensure loose stones or mud etc. is not carried onto the public highway.  
REASON: In the interests of highway safety.
- 14) The applicant shall submit a Green Travel Plan for the consideration and written approval of the Local Planning Authority and shall also implement the agreed Travel Plan content prior to occupation of any dwelling.  
REASON: To promote other forms of transport other than the car.

Advisory Note(s)

Please find attached the comments of Transportation Engineering Manager, Dwr Cymru/Welsh Water, Senior Engineer (Land Drainage), Gwent Wildlife Trust and Senior Engineer (Consultancy Manager) that are brought to the applicant's attention.

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: Policy CW2, CW3, CW6.

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0657/FULL 07.09.2012	Mr T Snailham 4 Heol Derw Hengoed CF82 7NT	Install external wheelchair lifting platform to front elevation 4 Heol Derw Hengoed CF82 7NT

**APPLICATION TYPE:** Full Application

**SITE AND DEVELOPMENT**

Location: The application property is situated on the northern side of Heol Derw.

House type: The application property is a semi-detached dwelling with front and rear gardens and a shed to the side. The dwelling is elevated above road level by approximately 2.2m with the front garden being terraced on three different levels. The dwelling is finished in face brickwork whilst the retaining walls to the front are finished in brickwork with concrete steps leading from the pavement to house level.

Development: The application seeks full planning consent for the installation of an external vertical lift in the front garden of the dwelling. The lift and lift shaft are proposed to be sited immediately to the front of the front door of the dwelling and adjacent to the existing steps in the middle of the front garden. The proposal would include the excavation of the garden to create a lift shaft at ground level and the construction of a hardstand at upper garden level together with the installation of the external lift. The lift shaft would be enclosed within retaining walls that will step up as the garden height increases whilst the lift would also project above the upper garden level by 1.5m. Railings and gates would also be erected either side of the hardstand at the upper garden level.

Dimensions: The lift shaft would be 4m deep by 2m wide by 1.65m high at its highest point whilst the lift itself would be 3.65m high (including the projection above ground level). The side railings and gate would be 1.1m high.

Materials: To match host dwelling.

Ancillary development, e.g. parking: None.

Cont....

Application No. 12/0657/FULL Continued

## PLANNING HISTORY

No previous planning history.

## POLICY

### Site Allocation

Local Development Plan: Within settlement limits.

### Policies

Local Development Plan: SP5 (Settlement Boundaries), CW2 (Amenity), CW3 (Design Considerations: Highways) and CW15 (General Locational Constraints).

Guidance Note 1 to the Adopted Supplementary Planning Guidance LDP 7 for householder development advises that the purpose of the planning system is to safeguard the existing qualities of buildings and streets and that extensions and alterations should be designed to complement the character of your street or area.

National Policy: Paragraph 3.1.1 of Planning Policy Wales (2012) states:-

"The planning system is intended to help protect the amenity and environment of towns, cities and the countryside in the public interest while encouraging and promoting high quality, sustainable development."

Paragraph 3.1.3 states:-

"Factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability."

Paragraph 3.1.6 states:-

"Unless otherwise specified, a planning permission runs with the land and it is seldom desirable to provide for any other arrangement. Authorities should bear in mind that personal permissions will hardly ever be justified for works or uses that will remain long after the personal circumstances of the applicant have changed."

Cont....

Application No.12/0657/FULL Continued

Paragraph 4.10.9 states:-

"The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

National Planning Guidance contained in Technical Advice Note 12 - Design.

## CONSULTATION

Principal Valuer - No objection.

Gelligaer Community Council - No objection.

## ADVERTISEMENT

Extent of advertisement: The application was advertised by means of neighbour letters.

Response: None.

Summary of observations: None.

## SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? None.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

Cont....

## Application No. 12/0657/FULL Continued

### ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The main point to consider in the determination of this application is the effect of the proposal on the visual amenity of the area. In that regard it should be noted that the dwellings in the area surrounding the application site are fairly uniform in terms of their garden layouts with wide open gardens terraced up to the front of the dwellings from low retaining walls at the back edge of the pavement. It should also be noted there are no other similar structures in the front gardens of adjacent dwellings. The proposed lift shaft would require the removal of a large part of the middle section of the front garden of the property, the erection of retaining walls that would be incongruous in the street scene as they are not characteristic of the area, and the installation of a steel vertical lift that would project up from the upper garden level by 1.5m. As such it is considered that the scheme would have a detrimental impact on the visual amenity of the street by virtue of its incongruous design and use of materials. The personal circumstances of the applicant have been considered but it is not felt that they outweigh the harm that would be caused by the proposal, having particular regard for the fact that the works are permanent in nature and would be costly to re-instate should the need for the development cease.

Comments from consultees: No objections raised.

Comments from public: None.

Other material considerations: None.

RECOMMENDATION that Permission be REFUSED

The reason(s) for the Council's decision is/are

- 01) By virtue of its incongruous appearance and use of materials the proposal would be out of keeping with the character of the street and would have an unacceptable impact on the amenity of adjacent properties and land and as such the proposal is contrary to Criterion A of Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.
-

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0740/FULL 23.10.2012	GLJ Mr G Jones Units 5 - 9 Fern Close Pen-y-fan Industrial Estate Pen-y-fan Newport NP11 3EH	Create a new building to collect, sort, grade, process and redistribute ferrous and non ferrous materials; re-organize the existing site accommodation and reposition the weigh bridge to improve the site monitoring and productivity and upgrade the site boundary GLJ Recycling Units 5 - 9, Units 10 - 11, Units 12 & 13 Fern Close Pen-y-fan Industrial Estate Pen-y-fan Newport NP11 3EH

**APPLICATION TYPE:** Full Application

**SITE AND DEVELOPMENT**

Location: The application site is a group of small industrial units that lie towards the end of Fern Close, which is off the main route (Parkway) that passes through the Pen-Y-Fan Industrial Estate.

Site description: The site as originally constructed comprised three buildings that were divided into starter industrial units with associated yards. The original consents were for light/general uses with no external storage or the storage of scrap. In November 2010 an unauthorised use as scrap yard (sui generis use) was noted. Following enforcement investigation an application to retain that use was submitted and subsequently refused in 2011. Following that refusal the external storage of scrap was greatly reduced and the site was made much tidier.

Development: This application is for the retention of the ferrous metal recycling use within a building, the retention of a weighbridge and upgrading of the site boundary. The submitted drawings also indicate the existing buildings being used for the in-building processing of non-ferrous metals.

Cont....

Application No. 12/0740/FULL Continued

Dimensions: The whole site is approximately 0.476 hectare in size. The three existing buildings have a combined footprint of approximately 670 square metres. The proposed building has a footprint of 465 square metres and is just under 10 metres in height.

Materials: The proposed building is a profile steel clad structure similar to the existing buildings that are of a relatively common utilitarian design and finished in muted tones.

Ancillary development, e.g. parking: The layout includes 24 parking spaces to the front of the site with 6 parking spaces within the rear yard.

### PLANNING HISTORY

2/05839 - Link together units 8 and 9 to make 1 No. large warehouse - Granted 30.03.84.

2/10847 - Formation of new bitumen macadam surfaced area to rear of existing industrial units - Granted 18.09.92.

11/0178/COU - Change the use for the collection, sorting, grading and processing of ferrous and non-ferrous materials and onward distribution - Refused 08.09.11.

## POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: The site is within a protected employment allocation and is categorised as primary. The Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 reference number is EM2.10 - Penylan, Croespenmaen.

Policies: CW13 (Use Class Restrictions - Business and Industry), CW15 (General Locational Constraints), CW2 (Amenity) and SP9 (Waste Management).

NATIONAL POLICY Planning Policy Wales 2011 section 7.6.1 (Development Control and the Economy).

Cont....

Application No. 12/0740/FULL Continued

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? - No.

Was an EIA required? - No.

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? - No.

## CONSULTATION

Environment Agency (Wales) - No objections subject to adequate drainage.

Transportation Engineering Manager - No objection is raised on the understanding that the submitted details show the external area being maintained free of obstruction for the parking and turning of vehicles.

Head Of Public Protection - No objection subject to there being no external storage or sorting.

## ADVERTISEMENT

Extent of advertisement: The application has been advertised on site and 18 neighbouring properties have been consulted.

Response: Three letters have been received.

### Summary of observations:

- The scrap metal use attracts a type of vehicle that is often overloaded and has a character that is "not conducive to the type of high profile business that currently occupy the Estate."
- Attention is drawn to previous letters of objection to the previously refused external scrap yard use and the ensuing appeal that was withdrawn.
- It is suggested that the current application is for a "scrap yard use albeit with the inclusion of construction of a building."

Cont....

Application No. 12/0740/FULL Continued

- Attention is drawn to "inaccuracies" in the application details/forms. For example the proposed details show the moving of the weighbridge to a new position when this has in fact already occurred or that the existing layout does not accurately show how the site is currently being used in terms of the external processing of materials.
- It is pointed out that the Environment Agency (Wales) permit for the site allows the storage of waste up to 5 metres in height and notwithstanding the description of the development stating that storage takes place within buildings this is not the case, as has been evidenced by a video passed to the Local Planning Authority.
- There is serious concern that because of the previous extensive external storage and processing of scrap the proposed building cannot adequately contain the use and external activity will inevitably prevail to the detriment of the amenity and character of a primary employment site.
- Environmental doubt is raised regarding the capacity and control of the processes associated with the use, i.e. collection of fluids, the potential for polluting leachates and escape of hazardous materials.
- There is significant noise from the operation of an external mechanical grab and a report commissioned by the neighbouring owners indicates a possible increase in noise by approximately 30 db(a) associated with the scrap yard.
- It is pointed out that neighbours such as a media company would not have located to the estate had they been aware the neighbouring use was a scrap yard. It is explained that the "increased noise and dust levels, as well as frequent heavy traffic" will "undermine efforts to attract more high end businesses to the immediate area."
- It is explained that airborne particles can affect wide areas particularly in dry conditions and the site screening will do little to mitigate this hazard. This air quality problem is a serious concern to neighbouring uses such as a nearby pharmaceutical company and possibly putting at risk their licence.

Cont....

## Application No. 12/0740/FULL Continued

- The need for the use is questioned and it is suggested that whilst it provides a small number of jobs it will put more at risk, for example by discouraging users such as food producers, blue chip companies and B1 offices, being uses for whom image is critical when being visited by their clients etc.
- There will be adverse impact upon crime and disorder as is evidenced by the Police having to stop overloaded vehicles visiting the site and the particular client group being associated with issues such as the theft of metals.
- There has been a lack of local consultation on the part of the applicant.
- Annex C of TAN 21 (Waste) requires that with regard to waste management facilities care should be taken to avoid locations where they may be incompatible with existing uses.
- With regard to Council policies EM2.10 and CW15 the proposal remains contrary and inappropriate sui-generis use.
- It is explained in one letter that the writers as property developers seeking to draw existing and future prestigious businesses to the locality have invested much time and effort that will be severely undermined by the proposed use.

### SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

It is not considered that the proposed development will have a material effect on crime and disorder. Allegations are made about stolen materials being taken to such sites, but that it a matter for the Police, and would not in this case prejudice the determination of the application.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? - No.

Cont....

## Application No. 12/0740/FULL Continued

### ANALYSIS

#### Policies:

The application site lies within a protected primary employment site (EM2.10). Policy CW13 explains that Primary Sites will be protected for B1, B2, B8 or appropriate sui-generis use. Policy CW2 requires the consideration of the impact of a use upon the amenity of adjoining occupiers. In 2011 an application was made to retain the use of this site as a scrap yard. That application was refused for the following reason:-

"The proposed use as a scrap yard by virtue of the adverse visual impact of the external storage of scrap material, together with the noise and dust from the processing of scrap material is not an appropriate sui-generis use within a primary site allocated within the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 contrary to Policy CW13 and as such will discourage future investment by business and industrial uses more appropriate to a primary site."

This is in effect a revised application with the significant difference that the scrap/ferrous metal will be contained and sorted in an enclosed building. This application seeks to address the previous reason for refusal on the basis that policy CW13 is subject to the provision that "every site that is allocated for Use Class B2 is considered suitable, in principle, for the location of in-building waste management facilities." It is also explained within policy SP9 that "many modern waste management/resource recovery facilities on the outside look no different to any other industrial building and on the inside contain de-manufacturing processes or energy generation activities that are no different to many other modern industrial processes in terms of their operation or impact."

Pen-Y-Fan is generally a visually clean and well-organised industrial estate with a considerable amount of landscaping. Along the main road (Parkway) there are views of industrial buildings that have a character of visual quality. Externally stored scrap materials do not project the same character, such uses can be unsightly and this is the primary reason the previous application was refused. The proposed unloading sorting and despatch from within a building overcomes the visual objection as well as addressing the issues of noise and dust. This revised application is therefore considered to comply with provisions of CW13. It is necessary that the permission issued be controlled by a condition that ensures that the processing and storage of the recycled material is contained within the buildings. A condition should also be imposed to restrict the recycling use to ferrous and non-ferrous metals as proposed to retain effective control of the use.

Cont....

Application no. 12/0740/FULL Continued

The proposed weighbridge is considered acceptable being positioned to the side of one of the buildings.

The proposed details include a new means of enclosure. It is to be explained that the applicant has erected a permitted development enclosure comprised of steel girders, posts and rails with profile steel sheeting attached. Although the materials are relatively new they are constructed in keeping with the character of the area and have little design quality to commend them. The information received regarding the design of the new means of enclosure is limited. It is described as being "steel powder coated screening" similar to a waste handling site at Duffryn Business Park. The replacement of the screening is considered to be a visual improvement.

Comments from Consultees:

The Transportation Engineering Manager raises no objection on the understanding that the external areas are kept free for parking and manoeuvring use only.

Head of Public Protection raises no objection subject to there being no external storage or sorting.

Comments from public:

The objections received broadly underline the concerns that were the reason for refusal of the previous application for the retention of an open scrap yard. Those concerns are valid and it remains necessary to address them with regard to the current unauthorised use (discussed further in the "Other material considerations" below).

It is pointed out there may be some discrepancies in the application details but these do not detract from the consideration of the proposed development. There are some issues raised that will lie beyond the control of the planning authority, for example the control of metal theft is unlikely to be influenced by refusal of planning permission and certain controls will remain within the responsibility of others whatever the use of a site, for example such as pollution control that is part of a process that is permitted and monitored by the Environment Agency (Wales) or vehicle overloading as controlled by the Police. The central consideration in this application is the proposed development that is an in-building recycling facility.

Cont....

Application No. 12/0740/FULL Continued

Noise has been a serious concern. One of the writers has engaged consultants to study the problem as part of their preparation for the appeal that was withdrawn. The study results demonstrate levels of noise that whilst not posing an environmental health risk do evidence that the current use has a serious impact upon the character of a primary employment location. The external noise levels do though fall below WHO guidelines for community noise for industrial/commercial areas. Thus if the use is contained and carried out within a building as proposed, logically it will be significantly reduced. Given that the external levels already fall below WHO guidelines the reasonable expectation is that it should be sufficiently reduced in terms of the impact upon the character of the location. The concerns raised regarding dust, particularly in dry weather, should also be sufficiently addressed by an in-building use.

There is concern that scrap metal deliveries, whether they be to an open scrap yard or contained within a building, attracts a type of vehicle that is often overloaded and has a character that is "not conducive to the type of high profile business that currently occupy the Estate." The character of the primary employment site is a key issue and an in-building facility will not affect the visual impact of deliveries. The Council has received photographs of some of the type of vehicle referred to, they appear to be the smaller flat bed trucks typical of small scrap collectors. From the information provided by the applicant it is likely that traffic to the site would range from an average of one vehicle per 6 to 10 minutes (6 to 10 vehicles per hour). Whilst the permanent presence of an open and active scrap yard would have an impact upon the character of the primary employment site, this number of vehicles mixed in with other industrial traffic would have a lesser effect. Given that policy CW13 allows for "in-building waste management facilities" within primary employment sites there is an implicit acceptance of associated traffic.

It is pointed out that the current Environment Agency (Wales) permit (known as a T9 exemption) allows (amongst other things) scrap material to be piled 5 metres high. This allowance does not affect the Local Planning Authority's consideration of the visual impact of such material, nor the ability to consider or impose conditions requiring the complete exclusion of external storage.

Cont....

Application No. 12/0740/FULL Continued

Other material considerations: Following the previous refusal of planning permission the site was tidied and the external storage of scrap material greatly reduced. The owner also indicated an intention to submit the application for planning permission for the development that is now before members. Enforcement action has accordingly been held in abeyance. More recently prior to this application the Planning Department has received further evidence that the storage of scrap metal is again becoming significant. A short video taken from an adjoining site has been received and it shows piles of scrap material being stored externally. A pile can be seen becoming visible above a 2 metre high fence. The video also shows a large grab clearly visible from the neighbouring unit working to sort the scrap and the clatter of materials being dropped/grabbed is clearly audible. More recent site visits by the Council's Enforcement Officer also confirm a return to significant external activity. Whilst the building proposed (subject to conditions) should bring to an end this problem it can only be relied upon if the planning permission is implemented. It is therefore recommended that should members be minded to grant planning permission (in accordance with the recommendation below), that following the issue of that permission officers be authorised to issue an Enforcement Notice that will require the unauthorised external use as a scrap yard to cease within a period of one month from the date of the permission. Once implemented the permission would be subject to the recommended conditions. Given that the site has already been operated in breach of planning control, regarding external storage and processing, concern remains that to retain effective control officers should further be authorised to take breach of condition enforcement action if the permission is implemented but subsequently the applicant further fails to adhere to the planning conditions.

**RECOMMENDATION that Permission be GRANTED**

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The recycling use hereby approved is for the recycling of ferrous and non-ferrous metals only.  
REASON: For the avoidance of doubt as to the extent of the permitted use.

Cont....

Application No. 12/0740/FULL Continued

- 03) There shall be no external storage, loading, unloading or processing of ferrous or non-ferrous materials, and the external area shall be maintained free of obstruction or stored materials and used only for the parking and manoeuvring of vehicles.  
REASON: In the interest of the visual amenity and the character of a primary employment location and to ensure the provision of adequate off-street parking and vehicular operational space.
- 04) Excluding the use of the weighbridge, all the processing of ferrous and non-ferrous metals hereby approved shall take place only within the confines of the buildings within the site.  
REASON: In the interest of the visual amenity and the character of a primary employment location.
- 05) All the loading and unloading of ferrous metals shall take place within the "proposed ferrous metal covered storage" building hereby approved and all the loading and unloading of non-ferrous metals shall ensure that they are transferred directly into or out of any building within the site or shall be carried out entirely within any building within the site.  
REASON: In the interest of reducing disturbance to near by occupiers and the visual amenity and the character of a primary employment location.
- 06) All the processing of ferrous metals shall take place behind the closed doors of the "proposed ferrous metal covered storage" building hereby approved.  
REASON: In the interest of reducing disturbance to nearby occupiers and the character of a primary employment location.
- 07) There shall be no other external openings of the "proposed ferrous metal covered storage" building other than those hereby approved.  
REASON: To retain effective control.
- 08) Prior to the commencement of the development hereby approved the details of the finish and design of the means of site enclosure/screening (including any planting) shall be submitted to and agreed in writing with the Local Planning Authority, the details to be submitted shall ensure that the less visually attractive view of the enclosure/screening is on the internal elevation and the agreed means of enclosure/screening shall be completed within a period of two calendar months from the date of commencement of the development hereby approved and maintained thereafter as approved.  
REASON: In the interest of the visual amenity and the character of a primary employment location.

Cont....

Application No. 12/0740/FULL Continued

- 09) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order) with or without modification, no fences, gates, walls, hedges or other means of enclosure whatsoever shall be erected or planted without the approval of the Local Planning Authority other than those indicated on the approved plans.  
REASON: To retain the open character of the development in the interests of visual amenity.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW13 and CW2.

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Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
12/0742/NCC 17.10.2012	Linnell (South Wales Blackwood) LLP Mr G Tromans C/o Mr S Cullen Consultant Chartered Town Planner 1 Leyshon Way Bryncethin Bridgend CF32 9AZ	Vary condition 6 of outline planning permission reference P/00/1022 (as amended by condition 3 of planning permission reference P/05/1697 and condition 2 of permission reference 11/0861/FULL) to allow open A1 food and non- food retail and bulky goods retail/leisure use Blackwood Gate Retail Park Blackwood

**APPLICATION TYPE:** Development without complying with conds

**SITE AND DEVELOPMENT**

Location: The application site is an existing block of retail units. It is constructed on land to the south of Thorncombe Road and is accessed from the southern cross valley link of the Sirhowy Enterprise Way.

Site description: This retail development was permitted by outline planning permission P/00/1022 and reserved matters approval P/05/0486. The approved plans show a single retail park style building divided into units. The building has been constructed and one unit was occupied by a DIY outlet (Focus) at the northern end, with a further six unoccupied smaller units to the south. All the units are now unoccupied. The development has been amended by subsequent applications and there are various revisions that allow for amended layouts that have not yet been implemented. The permissions remain subject to a planning condition that was imposed at the outset. The condition restricts the use of the site to the sale of bulky goods/warehouse retailing in order to protect the vitality and viability of the town. The condition reads as follows:-

The development hereby approved shall be limited to a total floor space of 7,853 square metres and this shall only be used for the sale of the following goods:- DIY, hardware, furniture, carpets and flooring coverings, soft furnishings/textiles, electric and gas products, motor vehicle accessories and cycles, boats and caravans, office equipment and garden and pet products.

Cont....

Application No. 12/0742/NCC Continued

REASON: In the interests of preserving the vitality and viability of Blackwood Town Centre.

Development: This application seeks to vary condition 6 of outline planning permission reference P/00/1022 (as amended by condition 3 of planning permission reference P/05/1697 and condition 2 of permission reference 11/0861/FULL) to allow open A1 food and non-food retail and bulky goods and retail/leisure use. The detailed amendment seeks to enable a proportion (54%) of the approved bulky goods floor space to be used for "grocery superstore" and additional area (24%) to be used as "open A1 food retail." This amendment is to be achieved by a revised condition 6 that will read as follows:-

"The development hereby approved shall be limited to a total floorspace of 7,853 square metres to be used for the sale of any of the following goods: DIY, hardware, furniture, carpets and floor coverings, soft furnishings/textiles, electric and gas products, motor vehicle accessories and cycles, boats and caravans, office equipment, and garden and pet products. In addition up to 4,274 sq.m. of the floorspace may be utilised as a grocery superstore, and up to 1,858 sq.m. may be utilised for Open A1 (Non-Food), excluding the unit currently occupied by the existing public house unit occupied by Marstons."

The submitted details include an indicative layout that show a potential leisure use possibly within the remaining bulky goods area but no restrictive proportion of the site or floor area is attached to this particular use.

The application is supported by:-

- A Planning Statement (including a Design and Access Statement).
- A Retail Statement.
- A Retail Demand Statement.
- A Market Review of Bulky Goods.
- Transport Assessment.

The Transport Assessment suggests the following mitigation measures: a travel plan that would introduce amongst other things a shuttle bus linking the site with Blackwood bus station, traffic signals at the site access, electronic car park signs, handrails on the steps leading to Thorncombe Road and double-yellow lines within the site.

Cont....

Application No. 12/0742/NCC Continued

Dimensions: The approved bulky good floor area is 7,583 square metres. The area proposed for grocery superstore is 4,274 square metres and the area for Open A1 (Non-Food) is 1,858 square metres. The area for leisure use is taken to be 1,451 square metres in the centre units within the block as shown in the indicative plan accompanying the application. It is also to be noted that the indicative plan shows the leisure area for potential bulky goods.

Ancillary development, e.g. parking: Concurrent with this application is a separate application (12/0743/NCC) proposing the demolition of the garden centre at the northern end of the site and the extension of the parking area together with a new signalised junction. The intention of that application is to cater for the traffic needs of the amended condition hereby proposed.

### PLANNING HISTORY

2/5790 - Erect residential development - Granted 02.01.90.

2/11033 - Erect residential development - Granted 22.07.96.

2/11130 - Erect residential development - Granted 03.07.96.

P/96/0879 - Change the use of land to retail, leisure, restaurant, petrol station and construct roundabout on High Street and first part of southern cross valley link - Withdrawn 04.12.97.

P/00/1022 - Erect retail and leisure development - Granted 09.09.04.

P/05/0483 - Vary condition (13) attached to planning consent reference P/00/1022 to remove reference to the cyclist access - Granted 12.07.07.

P/05/0486 - Erect retail and leisure development - Granted 18.08.05.

P/05/1697 - Vary condition (7) attached to planning consent P/00/1022 to amend minimum individual retail unit size 650 sq. m. to 465 sq. m. - Granted 12.07.07.

08/0587/NCC - Vary condition 6 of planning consent reference P/00/1022 as amended by condition 3 of planning consent reference P/05/1697 - Refused 13.11.08.

11/0861/FULL - Reconfigure existing retail units and provide minor amendment to car parking - Granted 10.01.12.

Cont....

Application No. 12/0742/NCC Continued

12/0064/NCC - Vary Condition 6 of outline planning permission reference P/00/1022 (as amended by Condition 3 of permission reference P/05/1697 and Condition 2 of permission reference 11/0861/FULL) to allow open A1 food retail and bulky goods retail at Blackwood Gate Retail Park and provide minor amendments to car parking. Condition to now read: "The development hereby approved shall be limited to a total floorspace of 7,853 square metres to be used for the sale of any of the following goods: DIY, hardware, furniture, carpets and floor coverings, soft furnishings/textiles, electric and gas products, motor vehicle accessories and cycles, boats and caravans, office equipment, and garden and pet products. In addition up to 4,274 square metres of the floorspace may be utilised as a grocery superstore, excluding the unit currently occupied by the existing public house unit occupied by Marstons" - Refused 19.03.12.

12/0743/FULL Provide increased car parking, demolish the existing garden centre and introduce a signalised junction - Pending a decision.

## POLICY

### LOCAL DEVELOPMENT PLAN

#### Site Allocation:

CM2.1 Retail warehouse park known as Blackwood Gate.

#### Policies:

CM1.2 Principal town centre retail boundaries; CW16 Locational Constraints (Retail), CW2 (Amenity) CW3 (Design Consideration - Highways) and Blackwood Town Centre Action Plan.

### NATIONAL POLICY

Planning Policy Wales (November 2012) and TAN 4 (Retailing and Town Centres).

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? - No.

Was an EIA required? - Not applicable.

Cont....

Application No. 12/0742/NCC Continued

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? - A small part of the car park.

### CONSULTATION

Strategic Planning & Urban Renewal Manager - The proposal will seriously undermine the vitality and viability of Blackwood and other nearby town centres contrary to the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 and Planning Policy Wales.

Transportation Engineering Manager - Has no objection subject to the applicant entering into a Section 106 Agreement to provide car parking in accordance with the proposals submitted under application 12/0743/FULL, together with the implementation of the measures contained in the Transport Assessment and the Travel Plan, with the exception of the proposal to signalise the site entrance junction with SEW, which has to be the subject of a further assessment to establish its necessity and impact.

Head Of Public Protection - No objection is raised and advice is provided regarding food storage and pest control.

Dwr Cymru - No objection.

### ADVERTISEMENT

Extent of advertisement: The application has been advertised on site, in the press and 61 neighbouring properties have been consulted.

Response: Eighty-two letters have been received.

#### Summary of observations:

- two letters express concerns about the impact of the extended car park on the residential amenity of properties in Thorncombe Road.
- the remainder of the letters support the application because the southern end of the town is in need of regeneration; approval would encourage pedestrian movement in this area; and jobs would be created.

Cont....

Application No. 12/0742/NCC Continued

## SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

It is not considered that the proposed development will have a material effect on crime and disorder.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? - No.

## ANALYSIS

### Policies:

The application site is subject to a condition limiting its retail use to the sale of bulky goods in order to protect the vitality and viability of the town. It was at its inception intended only for the sale of bulky goods and not for retail sales that would unacceptably draw away trade from the town. In the Caerphilly County Borough Local Development Plan up 2021 - Adopted November 2010 the site remains allocated for bulky goods use under Policy CM2 and remains outside the town centre boundary identified by Policy CM1.2. Policy CW16 explains that outside CM1 centres additional retail floorspace should not be permitted where it would undermine the vitality and viability of nearby Principle Town Centres or the Council's retail strategy. The Blackwood Town Centre Action Plan explains the aim of strengthening the Town with an anchor food store, that aim has been achieved through the construction of the Asda store. Planning Policy Wales 2012 sets as a central objective the need to promote established towns, to enhance their vitality and viability. Part 10.3.8 goes on to explain that "Out of centre food supermarkets should not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns."

This application seeks two variations of the use restriction condition to enable:-

1. Up to 54% (4,274 square metres) of the building to be used for the excluded high street/grocery retail trade.
2. Up to 24% (1,858 square metres) of the building to be used for any excluded non-food high street retail trade.

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Application No. 12/0742/NCC Continued

For comparative purposes the 4,274 square metres proposed grocery use is approximately 61% the size of the Asda footprint in Blackwood; and the 1,858 square metres high street retail area is equivalent to the footprint of one and a half Wilkinson sized units or approximately the footprint of 23 High Street shops, or around 33 of the smaller Gravel Lane type shops.

Two previous applications have been submitted seeking the same or similar variation as described in number 1 above. Both those applications have been refused. The first application (08/0587/NCC) was refused for the following reasons (excluding highway reasons):-

- 01 The proposed grocery use is contrary to Policy R4 of the Council Approved Unitary Development Plan up to 2021 - Adopted November 2010 that identifies the site for bulky goods retail and would significantly undermine the opportunity for such retail provision that cannot be accommodated within the defined town centres.
- 02 The proposed grocery use would undermine the vitality and viability of Blackwood (a town that already has one vacant food store within the town centre) contrary to Council Approved Unitary Development Plan up to 2021 - Adopted November 2010 Policy R5.
- 03 The proposed grocery use undermines the Council's retail strategy and is contrary to Policy BW2 of the Blackwood Town Centre Action Plan which identifies the site for retail warehousing and leisure uses that cannot be provided for within the defined retail boundary and contrary to Policy R5 of the Council Approved Unitary Development Plan up to 2021 - Adopted November 2010.
- 04 The proposed grocery use is contrary to Ministerial Interim Planning Policy Statement 02/2005 part 10.3.1 due to:-
  - Incompatibility with the up-to-date Council Approved Unitary Development Plan up to 2021 - Adopted November 2010 strategy and its emphasis on town centres.
  - The need for a foodstore outside a defined centre not having been fully established.
  - The site choice failing a sequential test in the light of a large vacant foodstore in the defined Blackwood Town Centre and vacant land at a defined new retail site at Bargoed.

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## Application No. 12/0742/NCC Continued

- The impact of the grocery use upon Blackwood would be unacceptably adverse if one or more of the assumptions in capacity that have been made by the applicants do not occur and would unacceptably draw trade away from the town.
- The application site is not well served by public transport as the existing town centre.
- No material improvement to public transport is proposed.

The second application (12/0064/NCC) was refused in 2012 for the same reasons but updated to reflect the current local plan and guidance.

An appeal was lodged against the first refusal of planning permission. A two day public inquiry resulted in the subsequent dismissal of the appeal. The arguments put forward by the applicants then included the lack of any tenants for the vacant units, except for a major foodstore. The Inspector in dismissing the appeal concluded that:-

"In any event these factors are not an exceptional justification for allowing a grocery superstore on the site, in conflict with the long term national and local policy objectives for retailing and town centres, resulting in the harmful consequences to which I have referred."

This analysis therefore examines any changes that have occurred in the intervening period since the appeal and the March 2012 refusal. The applicant's agent puts forward 4 changes in circumstance since the 2012 refusal, these are summarised as follows:-

1. The continued lack of interest from bulky goods and leisure operators who are put off by the absence of strong anchor tenants within the site.
2. An "absolute commitment from a national retailer to the opening of a foodstore in Bargoed, and clear evidence that further foodstore provision in Blackwood would not affect the development of that store."
3. A high court decision that would suggest the previously accepted sequential test of the appeal decision is unsound.
4. "Imminent changes in national planning policy" that will require authorities to favourably consider economic land uses that are not in accordance with a development plan if the economic benefits outweigh any adverse impact.

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Application No. 12/0742/NCC Continued

To support the first point this application is supported by a market review that plots the decline in the bulky goods sector as a result of the current economic situation and changing shopping patterns. The marketing report that relates to the marketing history of the application site also reflects the conclusion of the market review in that the bulky goods sector is in decline and states that this is a "permanent re-structuring with a major reduction in the numbers of retailers."

The report also suggests that currently the Blackwood catchment is too small to attract any major multiple retailer. The market review and the retail statement posit that the variations of the condition will not result in harm to either Blackwood or Bargoed and that there will be benefits in terms of local jobs (300 new full and part time).

The Retail Statement was produced by Nathaniel Lichfield and Partners for the applicants in September 2012. Section 7 asserts that the proposal will not have a detrimental impact on the vitality or viability of any centre/store. Yet the proposed foodstore is estimated to have an annual turnover of £28 million and although there is no estimate of the impact of the proposed non-food A1 store, the combined impact is likely to be in the region of £30 million. There can be no doubt that such a diversion of trade would have a significant impact on Blackwood Town and other town centres if the proposal for convenience and open A1 retailing on Blackwood Gate were approved.

As far back as 1996, an academic study of retailing, by the Department of the Environment (June 1996), explained that:-

"It comes down to a trade off between the impact of a food store in terms of sucking out spend that would have been spent in the town centre and the potential of the store to bring people from out-of-town into town to spend money there."

The study concluded that:-

"It is seen as vital that those responsible for the future of market towns and district centres take positive steps to improve the range and quality of food shopping in these centres, and adopt a cautious approach to the development of large foodstores in non-central locations."

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Application no. 12/0742/NCC Continued

This advice reflects the Council's retail strategy for Blackwood Town Centre that now has a large foodstore integrated into the centre. To permit a foodstore at an edge of centre location with poor links to the town centre would divert trade away from the town centre without generating any compensating footfall to it. It should also be pointed out that at the time of the appeal the Inspector confirmed the poor physical relationship of the application site to the town. The site is at the edge of the town and does not lend itself well to integrated shopping trips, for example a shopper parking at the application site would be unlikely to walk up onto the High Street and onward into the Town centre to continue shopping.

The Inspector stated:- "I find that the site's physical and visual separation, accentuated by the topography, severely constrain its ability to be integrated into the town centre. I do not consider that it is capable of achieving a successful integration comparable to that achieved by the Asda store where there were also differences in land levels." The Inspector explains that whilst a store like Asda in its position may strengthen the high street the application site would not.

The situation has not changed and the Inspector's view still holds true, more so now that this application also includes a significant proportion of open A1 retail trade.

The retail statement claims that trade for the new store will be derived from two main sources that will not result in any harm to town centre vitality. It is suggested that these sources are 'leakage' of expenditure to stores outside the catchment area and diversion of trade from stores within the catchment that are 'overtrading'. It assumes that a significant amount of convenience expenditure 'leakage' to stores outside the catchment area will be 'clawed back' by the proposed store. Whereas a store on the periphery of the catchment area (for example a foodstore at Bargoed) may achieve clawback of leakage (for example from foodstores in Merthyr Tydfil), there is no logical reason why the proposed store at Blackwood Gate should bring this about, located as it is near to an existing large convenience store.

It is claimed that there is a 'need' for further convenience floorspace because existing stores are 'overtrading', that is to say they may be over a general trading average (it is though acknowledged that the nearby Sainsbury store could be trading at below the company benchmark). This level of trading does not indicate 'need' in planning policy terms. There is no requirement in either local or national planning policy for stores to trade at or below their company average. Logically, around half of stores will always be trading at above and half below their company average.

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Application No. 12/0742/NCC Continued

If stores in town centres are trading at better than their company average, that is a sign of the vitality that planning policy is seeking to achieve. Where stores lose a proportion of their trade (without closing) a proportion of the employment and footfall that they generate would also be lost to the town centre if that trade is diverted to a sequentially inferior location.

Paragraph 5.32 argues that in order to provide 'qualitative choice befitting of a Principal Town Centre, Blackwood needs a second main foodstore. This assertion is not agreed. Higher order retail centres are distinguished by the size and range of their comparison goods stores not convenience (grocery retail). If this were not the case city centres such as Cardiff would contain many large foodstores.

Once the Morrisons store in Bargoed opens, the inhabitants of Blackwood will have a wider choice of foodstores than anywhere else in the county borough, with all four major UK foodstore chains represented within a 10 minute drive time of Blackwood. Within Blackwood itself there is already a wide choice of different and complementary kinds of foodstore, as the plan accompanying the applicants' Retail Statement illustrates.

The planning and retail statements both suggest that there is no suitable location for further food retail in the town including the former Somerfield site and question the relevance of the proposed store at Bargoed. The food superstore at Bargoed Retail Plateau is discounted from the sequential search on the basis that 'the site is no longer available' and that the 'contribution this scheme will make to the quantitative need in the area has already been assessed and will not fulfil all the need in the catchment area.'

Although the Bargoed foodstore is now committed, with completion scheduled for late 2013, it is not yet in existence and, being located within a town centre, is sequentially preferable to Blackwood Gate. A foodstore at Blackwood Gate would not prevent the Bargoed store from being constructed but it would draw trade away from it, thus undermining that town centre's vitality and viability.

It is claimed that the Somerfield store " . . . is not suitable for the operation of a modern supermarket operator and therefore does not represent a sequential alternative." Unlike the units at Blackwood Gate, this unit was purpose built for food retailing with a separate vehicular entrance for servicing and a large car park opposite the store entrance. The site is located within Blackwood Town Centre boundary and therefore when applying the sequential test is preferable to 'edge of centre' locations as paragraph 10.2.11 of Planning Policy Wales states that when adopting a sequential approach "first preference should be for town centre locations."

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Application No. 12/0742/NCC Continued

Para 10.3.1 of Planning Policy Wales is also of relevance to the current proposal. It notes that when determining planning applications for uses preferably located in the town centre, local planning authorities should take into account a list of criteria.

The first criterion is the compatibility with any up-to-date Development Plan. As explained above, the application is clearly not in accordance with the Local Development Plan.

The second refers to the 'need' for development, in deciding whether to identify sites for retail and leisure developments, local planning authorities should in the first instance consider whether there is a need for additional provision for these uses. Such need may be quantitative so as to address a provable unmet demand for the provision concerned. Precedence should be given to establishing quantitative need for both convenience and comparison floorspace, particularly as a basis for development plan allocations before qualitative factors are brought into play.

Evidence from the Council's triennial Shopper Attitude Survey, identifies that whilst there is a demonstrable need for comparison retailing, there is no demonstrable need for further convenience retailing in this location. As has been pointed out above, so-called 'overtrading' in a town centre is not evidence of need.

The third criterion refers to the sequential approach to site selection, in this regard the former Somerfield store in Blackwood Town Centre is clearly preferential as it is located within a town centre, it was purpose built for food retailing with a separate vehicular entrance for servicing and its own car park.

The applicant's quote from a recent appeal dismissed by the Supreme Court as evidence that interpretation of the sequential test has fundamentally changed in favour of the developer. Examination of the statement in that case reveals that it applies to a very particular case and that it does not alter long-established UK and Welsh Government policy on the sequential test. Planning Policy Wales was recently revised in November 2012, and still contains that test.

The fourth criterion refers to the impact on existing centres. The applicant's retail statement claims that there will be no adverse impact from the proposal. It is difficult to believe that £23 million of expenditure can be diverted to a new store without any adverse effects, as is the claim that new jobs will be created rather than displaced from existing stores.

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Application No. 12/0742/NCC Continued

The applicant's case fails on the fact that the majority of the displacement of trade, footfall and jobs will be from town centres stores, as their own analysis clearly demonstrates. This led the inspector at the appeal to conclude in his statement that: "I find that there is a real risk that the proposal would harm Blackwood town centre's trade."

The applicants argue that the current lack of bulky goods retail interest as a justification for abandoning the CM2 allocation. The difficulties facing the Blackwood Gate development and the bulky goods retail sector in particular are explained at length by the applicants in a Marketing Report. A statement from Smith Price includes a lengthy Letting Enquiries list of stores and businesses contacted. This difficulty in this sector is not to be denied but the County Borough's Town Centre shops are also under pressure and their protection must remain the Council's primary concern. The Inspector at the appeal explained "the current unprecedented economic situation has had a severe impact upon the retail property market. The view of Mr Hales (the applicant's letting agent) is that it has never been worse. He contrasts this with the continuing expansion of foodstores and the interest in the site from major superstores. The parties also refer to the effect of internet sales on the retail market.

The Appellants maintain that there has been such a change in shopping habits that bulky goods and DIY will not survive as a separate category in future. This may be a question eventually to be considered elsewhere, but the most up to date planning policy confirms the site's allocation for retail warehousing. In any event these factors are not an exceptional justification for allowing a grocery superstore."

The statements accompanying this application reiterate the downward trend and conclude that big bulky goods requirements are a thing of the past. Whilst the position on Blackwood Gate Retail Park has worsened since 2009, with the closure of the Focus DIY store, this reflects the deterioration in the retail sector in the UK generally. Indeed the closure of Focus was due to the collapse of the national retail chain not the failure of the Blackwood store itself. As pointed out by the Inspector a question of how the site will be used in the future may need to be considered "elsewhere", but it should be emphasized with regard to the current proposal, it is not the only alternative and this is not an "exceptional justification" for the erosion of the Town's vitality and viability.

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## Application No. 12/0742/NCC Continued

Now, more than ever, is not the time to abandon the Council's successful defence of town centres which are currently facing a triple threat to their continued viability:-

1. From the national economic downturn.
2. From increasing trade diversion to internet shopping.
3. From out of town retail complexes selling similar goods to those sold in town centres.

Recently several reports have been published highlighting these threats. Mary Portas, in her recent report on UK high streets, describes high streets as being 'in crisis.' Her research reveals that the proportion of expenditure that takes place in high streets was already less than half by 2000 (49%) and that it would decrease to 40% by 2014. Both she and the Welsh Assembly's Business and Enterprise Committee, in their recent report on town centres, point out that despite national planning policies in favour of town centres, planning consents for out of town retailing have continued to grow at the expense of town centres.

The Assembly's Business and Enterprise Committee specifically recommends that:-

"The Welsh Government should ensure that Planning Policy Wales fully protects town centres from the potential impacts of out-of-town retail developments, and that the Government should also take steps to improve the implementation of national and local planning policy on the ground."

The government research accompanying the recent report by Mary Portas state:-

"Many middle ranking and smaller town centres have also seen a diversion of retail spend away to out-of-centre shopping - the supermarkets, retail warehouses and retail parks and online. The consequence is that town centres became squeezed."

Specialist retail consultants Javelin predict that there will be a 31% reduction in the number of town centre shops by 2020. This influential consultancy even advises its national retail chain clients to consider abandoning their stores in smaller town centres in favour of large out of town retail parks and internet shopping. This trend has already begun with the company owning the Burton, Dorothy Perkins and Top Shop stores announcing that they will close at least 250 of them over the next three years.

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Application No. 12/0742/NCC Continued

Another retail consultancy, LDC, reveals that:-

"Almost 15,000 shops in town centres closed between 2000 and 2009 but a further 10,000 closed in 2010 and 2011. 183 retailers fell into administration in 2011, up significantly on the 165 in 2010."

In addition to the problems described above the credit crunch has made it difficult for new retail and leisure businesses to obtain bank loans to fund new enterprises and the stagnating housing market since 2008 has halted the expansion of retail chains linked to the housing market such as DIY, carpet and furniture stores. It is questionable, however, whether this situation will persist forever, as the applicants claim.

Thus although the Blackwood Gate Retail Park is genuinely experiencing difficulty in attracting tenants, this reflects a general problem across the country. The Gallagher Retail Park in Caerphilly has a similar problem with only one of the six units in its phase 3 development being let.

It is agreed that Blackwood would benefit from strengthening of its retail offer. The question is whether the appeal site would provide that strengthening or simply erode the existing offer. Over and above the impact analysis provided above members should be aware of the liability of granting an open A1 consent on all or part of this site for unidentified shops and stores.

No occupier is identified for either the food store or the A1 unit. The previous application identified an existing large retailer in Blackwood town centre as a possibly occupier. If consent is granted there is a very real danger that such stores currently in Blackwood town centre would migrate to Blackwood Gate, seriously damaging the town centre's viability and vitality, rather than drawing into the area stores that are currently not represented in Blackwood.

In concluding this policy analysis, proposing a use that would undermine the Council's retail strategy, the Blackwood Town Centre Action Plan and the vitality and viability of nearby Principal Town Centres, the proposal now, as before, is contrary to the Council's development plan. The planning policy position has not materially altered since the similar proposal was refused in 2009 except that there is now a recently Caerphilly County Borough Local Development plan up to 2021 - Adopted November 2010 in place and the sequentially preferable Bargoed foodstore site now has planning consent. Ultimately, although the exact figures may be debated, the submitted Retail Statement and the Local Authority assessment of it agree that the main impact of the proposed store would be trade diversion from the three existing and one proposed major foodstore in the catchment area.

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Application No. 12/0742/NCC Continued

Three of those stores are within town centres and therefore the vitality and viability of those centres would be undermined by the proposed sequentially inferior store, contrary to both national and local planning policy. In addition this application would also divert open A1 trade from the town. There has been no material change in policy or circumstance, the previous reasons for refusal remain valid and should therefore be re-imposed with reference to a more up to date policy position.

The provision of the shuttle bus for staff and customers and improvements to the links with Thorncombe Road would not overcome the reasons for refusal.

Comments from Consultees:

The Strategic Planning and Urban Renewal Manager raises concern that the proposal will seriously undermine the vitality and viability of Blackwood and other near by town centres contrary to the Council's adopted development plan and Planning Policy Wales. This concern is explained in more detail in the policy analysis above.

Transportation Engineering Manager has no objection subject to a Section 106 Agreement.

The Head of Public Protection raises no objection is raised and advice is provided regarding food storage and pest control.

The Coal Authority offers no comment (a small part of the site is within a coal referral area).

Comments from public: The concerns of neighbouring residents about the car park would become an issue if this application were recommended for approval, because additional car parking would be sought by condition. The support of the other members of the public is noted.

Other material considerations: The illustrative layout that accompanies this application shows the existing building divided into three areas. At the northern end occupying 54% of the building is the grocery/food retail area. At the southern end occupying 24% of the building is the open A1 retail use. In between and occupying the remaining 22% is an area marked out as "Bulky goods/soft play/leisure units." The planning statement accompanying the application points to the fact that the outline consent granted in 2004 permits both retail and leisure use.

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Application No. 12/0742/NCC Continued

Notwithstanding the fact that the restrictive condition to which the above analysis relates (condition 6 of planning permission P/00/1022) is only concerned with restricting the use of the building to sale of bulky goods, the permitted use of the application site does extend to leisure albeit excluded from the wording of condition 6 regarding how the floor space is to be used. The planning statement takes the view that planning permission is not required for the leisure use of any part of the building. Given that the approved use is for both retail (bulky goods) and leisure, notwithstanding the wording of condition 6, the agent's view is considered to be a reasonable interpretation, but this does not detract from the concerns raised in the policy analysis above.

**RECOMMENDATION that Permission be REFUSED**

The reason(s) for the Council's decision is/are

- 01) The proposed open A1 food retail use is contrary to Policy CM2.1 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 that identifies the site for bulky goods retail and would significantly undermine the opportunity for such retail provision that cannot be accommodated within the defined town centres.
- 02) The proposed open A1 food retail use would undermine the vitality and viability of Blackwood and other nearby town centres contrary to Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010, Policy CW16.
- 03) The proposed open A1 food retail use undermines the Council's retail strategy and is contrary to Policy BW2 of the Blackwood Town Centre Action Plan which identifies the site for retail warehousing and leisure uses that cannot be provided for within the defined retail boundary.

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Application No. 12/0742/NCC Continued

04) The proposed open A1 retail use is contrary to Planning Policy Wales 2011 part 10.3.1 due to:-

- Incompatibility with the up-to-date Development Plan strategy and its emphasis on town centres.
  - The need for a foodstore outside a defined centre not having been fully established.
  - The site choice failing a sequential test in the light of a large vacant foodstore in the defined Blackwood Town Centre and vacant land at a defined new retail site at Bargoed.
  - The impact of the open A1 retail use upon Blackwood would be unacceptably adverse and would unacceptably draw trade away from the town.
  - The application site is not as well served by public transport as the existing town centre.
  - No material improvement to public transport is proposed.
-