

PREFACE ITEM

APPLICATION NO. 14/0604/OUT
APPLICANT(S) NAME: SRJ And JG Partnership
PROPOSAL: Erect residential development
LOCATION: Car Park Aiwa Technology Park Newbridge
Newport

This application for residential development on a brownfield employment site was deferred by Committee on 8th July 2015 for Officers to draft four reasons to refuse permission. (It has also been previously deferred for further information and for a site visit).

The following reasons are offered for Members' consideration:

REASON: 1: The application site is in close proximity to existing industrial premises where the impact of noise, particularly at night, upon the proposed residential properties cannot be satisfactorily ameliorated other than by methods such as mechanical ventilation which is not suitable for family accommodation. The development would therefore be contrary to policy CW2 (c) of the Caerphilly County Borough Local Development Plan up to 2021 – Adopted November 2010 because it would be incompatible with the existing adjoining land use.

This reason for refusal can be defended by Environmental Health Officers in the event of appeal.

REASON 2: The application site is a good quality employment site allocated for employment in the Caerphilly County Borough Local Development Plan up to 2021 – Adopted November 2010 and should be retained for modern manufacturing/new technology employment. The development is contrary to policy EM 2.14 of the Caerphilly County Borough Local Development Plan up to 2021 – Adopted November 2010.

This reason for refusal can be defended by the Economic Development Officer in the event of appeal.

REASON 3: The proposed pedestrian link to North Road is not considered to provide adequate security for users particularly the underpass section because of the lack of adequate surveillance.

This reason cannot be defended by Officers at appeal.

REASON 4: The proposed residential development would give rise to a loss of valued jobs at the adjoining industrial site by reason of a perceived lack of security on the part of the occupiers that would cause that company to relocate. The development would therefore be contrary to policy CW2 (c) of the Caerphilly County Borough Local Development Plan up to 2021 – Adopted November 2010 because it would be incompatible with the existing adjoining land use.

This reason cannot be defended by Officers at appeal.

Officers cannot defend two of the reasons above. Reason 3 will need to be defended by Members. It will be necessary for Members to explain that the route cannot be made acceptable in terms of any improvement. Members are concerned with the condition of the railway under-pass. This could be improved and it is likely at appeal comparisons will be drawn with similar routes under the railway in different locations within the county borough. Reason 4 will also need to be defended by Members. It will be necessary for Members to provide a reasoned case as to why residential properties would give rise to a materially adverse impact upon the security of the neighbouring industrial site and why the occupation of the application site by any other use would not give rise to an equal problem (i.e. industrial uses with a wide and changing variety of types of vehicles and individuals visiting the site as opposed to one group of residential occupants).

Another issue that Members will also need to bear in mind is that the company that has stated it would need to relocate has also expressed an interest in buying back the application site at a value it deems appropriate. Given that the site has been marketed for a number of years by a major commercial agent (DTZ) without result, preventing the proposed development, to ostensibly retain jobs may be viewed as being derived from an objector who has an underlying conflict of interest. Similarly it may be viewed as protection of a third party interest. Members will also need to prepare a case to explain that even in the event the current occupier did relocate, there would be no other likely occupier (i.e. there would be no replacement jobs). Such a case would carry with it arguments that would likely undermine the second reason for refusal above (i.e. the need to retain the land for employment use is not justified).

A late letter has been received from the applicant. The letter explains that it is understood that of the four reasons for refusal suggested by Members at Committee, two are not supported by Council Officers (as already explained above – reasons 3 and 4). The applicant also draws attention to the fact that whilst the objector has suggested that there would be negative impact upon the business, i.e. causing it to have to relocate, no tangible evidence has been provided to support that assertion. The letter broadly offers the same reasoning as has been explained previously in Committee report with regard to the poor score that the application site has achieved in the Council's own sponsored review of employment land and again points out that the CCBC housing land supply is one of the lowest in Wales. It is stated that a leading barrister/QC "has been identified to represent the appellant's case and to seek full award of costs" at appeal.

The decision issued and reasons given will form the basis for the Council's case and determine which Officers and/or Members will be required to defend the reasons for refusal at appeal.

RECOMMENDATION: That planning permission is granted in accordance with the attached report but if Members are minded to refuse permission, suggested reasons are set out above.

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
14/0604/OUT 08.09.2014	SRJ And JG Partnership C/o RPS Mr D Williams Park House Greyfriars Road Cardiff CF10 3AF	Erect residential development Car Park Aiwa Technology Park Newbridge Newport

APPLICATION TYPE: Outline Application

SITE AND DEVELOPMENT

Location: The application site is an existing car park within the "Technology Park" industrial estate east of Newbridge adjacent to the A467.

Site description: A flat level surfaced car park with tree screening around most of the boundary and traffic light controlled access onto the A467. The site is 1.2 hectares in size and currently provides 250 parking spaces. To the north is undeveloped land and to the south are industrial buildings that the car park has served in the past. To the west are the river Ebbw, the railway and Newbridge. To the east is the A469 with the Panside housing estate at a higher level beyond that.

Development:

This is an application made in outline with all matters reserved accept access.

An indicative layout has been submitted that shows 45 dwellings at the site. The access point is directly onto the shared access road from the industrial estate onto the A467 via a traffic light controlled junction. A possible variation of the position of the access onto existing access road has been submitted and is discussed in the analysis.

Dimensions:

The upper and lower limits for height, width and length of each building is as follows:

Maximum 9m width, 12m length, 3 storey height.
Minimum 6m width, 9m length, 2 storey height.

Materials: To be agreed at reserved matters stage.

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Ancillary development, e.g. parking: This would be agreed at reserved matters stage.

PLANNING HISTORY

2/08563 - Engineering works for the purpose of land reclamation - clearance of disused buildings, reshaping and levelling of landform, possible river diversion and provision of new access from A.467 road - Granted 15/05/89.

2/08564 - Development of land as an industrial estate forming new access onto A.467 roads, sewers and other infrastructure works, also erection of factory units - Granted 15/05/89.

2/10217 - Land Reclamation to include, general site clearance, earth-works, river diversion, pit shaft capping, access construction and planting to create a 15 acre site for development - Granted 04/10/91.

2/11683 - 305,658 ft. Bespoke Electronics production factory under Planning Use Class B1 - Granted 28/06/94.

P/02/1255 - Vary/amend condition 19 of Planning Consent 2/11683 to permit use of warehouse for storage of non-electronic products - Granted 27/02/03.

07/0008/ADV - Erect illuminated freestanding company directional sign at entrance to site of Technology Park - Granted 17/04/07.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The application site is identified for secondary employment - EM2.14 North Celyn Newbridge.

Policies:

SP5 (Settlement Boundaries), SP6 (Place Making), CW1 (Sustainable Transport, Accessibility and Social Inclusion), CW2 (Amenity), CW3 (Design Considerations - Highways), CW10 (Leisure and Open Space Provision), CW11 (Affordable Housing), CW13 (Use Classes Restrictions Business and Industry) and EM2 (Employment Sites Protection).

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NATIONAL POLICY

Planning Policy Wales (2014) encourages development in locations that increase accessibility by modes other than private car, within existing urban areas, and at higher densities (para. 4.7.4). It also states a preference for the use of brownfield land (para. 4.9.1).

TAN 1 Joint Housing Land Availability.

TAN 11 Noise.

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 comments of The Coal Authority are reported below.

CONSULTATION

Economic Development Officer - It is considered that the employment allocation should be retained and the proposed residential use refused.

The Coal Authority - The site is within a high risk area. The Authority concurs with the findings of the submitted Coal Mining Report. No objection is raised subject to the imposition of a condition requiring an intrusive site investigation and it is further recommended that such an investigation be utilized to inform the site layout with particular regard to two mine entry points (shafts) that consequently may become no build zones.

Natural Resources Wales - No objection subject to a buffer zone being maintained adjacent to the river and conditions to require site remediation.

Countryside And Landscape Services - The Council's Landscape Architect notes that the site is situated within the settlement boundary, though it is isolated from the town centre and the residential area.

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Application No. 14/0604/OUT Continued

The Design and Access Statement discusses a footpath link to the north over an existing footbridge over the river and through a railway underpass to the town centre and local bus stops. The Council's Footpath Officer has also pointed out that whilst it would be a useful link, the route is not recorded as a public right of way, it may not be in the ownership of the applicant and may need to be substantially upgraded.

The sketch layout retains the existing vegetation on the river, road and northern boundaries of the site. This will help retain the wooded feel of this part of the valley floor and A467 corridor, whilst buffering the riverside SINC and providing a noise and visual screen to the proposed development.

The illustrative layout lacks an area of public open space within the site. The reliance on the adjacent site for informal public open space is not acceptable; scrub woodland would be unsuitable for small children and the less able bodied. The illustrative layout is dominated by car parking spaces fronting the properties, particularly along the main access/spine road.

It would appear that this proposal has the potential to be the first phase of a larger development covering this and the area to the north. As such a design style and palette of materials should be put in place now that can be carried forward. Thereby allowing a considered development rather than a piecemeal approach.

Head Of Public Protection - It is noted that the dwellings that would be closest to the A467 may experience unacceptable noise and that the factory to the south also needs to be accounted for in terms of noise. The applicant was requested to provide further information. The Pollution Control Section advise that whilst the site has been demonstrated to be acceptable in terms of a TAN 11 noise assessment a BS4142 assessment has been requested but has not been provided. Accordingly refusal is recommended.

CCBC Housing Enabling Officer - 10% affordable housing is sought in line with policy CW11 of the LDP.

Senior Engineer (Land Drainage) - No objection subject to a condition to require the agreement of surface and land drainage. Drainage advice is provided.

Head Of Public Services - Advice is provided by the waste management section regarding refuse and recycling collection.

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Outdoor Leisure Development Officer - It is pointed out that a site of the size proposed requires integrated open space to comply with policy CW10. Within that area a Local Area of Play (LEAP) should be provided.

Transportation Engineering Manager - An analysis has been requested regarding the amount parking that has been retained to serve the employment site. The applicant who does not have access to the site or details of the use/s within the building has not provided those details.

Police Architectural Liaison Officer - No objection and advice is provided regarding Secure by Design.

Network Rail - No objection is raised and general advice is provided.

Strategic & Development Plans - No objection. It is explained that whilst the site is allocated for employment the declining demand for employment land indicates that the County Borough has a rising surplus, whilst on the other hand there is a decreasing supply of housing land. In particular it is pointed out in the recent Employment Sites Supply and Market Appraisal the site was rated D/E (which is one up from the lowest category in a scale of 8 grades). The scale grades the site as a very poor quality area with widespread vacancy, where alternative uses should be promoted.

Parks And Open Spaces (Derek Price) - It is pointed out that the site does not currently have easy access to public open space or nearby play facilities. It is also noted that the submitted layout does not provide a well designed and useable area of open space with play facilities. It is therefore necessary that the reserved matters require this provision within the application site.

ADVERTISEMENT

Extent of advertisement: The application has been advertised on site, in the press and 31 neighbouring properties have been consulted.

Response: Two letters have been received.

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Application No. 14/0604/OUT Continued

Summary of observations:

The first letter received is from the owners of the industrial land to the south. It raises the following concerns and in subsequent communications additional concerns have been added:

- It is explained that the access road is owned by the industrial owners to the south and its "main and only intended purpose is for industrial use." In subsequent correspondence the owners have described the applicant's right of way over the land as being only "transient" and explained that the applicant does not have an appropriate mechanism for contributing towards the upkeep of the access road.
- The industrial owner is concerned that pedestrians and traffic from the proposed site would come into conflict with heavy goods vehicles.
- It is suggested that pedestrians and the public could "create issues for the security of the Technology Park" leading to loss of employment.
- The development site is on land identified for employment.
- Although the car park is not currently in use it could be rented to future industrial occupiers as demand for parking rises.
- The site should be accessed directly from the A467.
- Questions are raised regarding the accuracy of the supporting information that details the attempts to find a suitable commercial occupier or purchaser for the application site. One of the questions points out that the industrial owner's company has not been approached to purchase the land.
- A quote from this Council in 2009 is cited. The quote states that housing needs will be met through land allocations and windfall sites coming forward.
- There are a number of references to parts of the submitted Design and Access Statement and Transport Statement questioning the suitability of the private road to fulfil the requirements of the proposed development. The veracity of the statements is challenged and the Company request that it be provided with various written "assessments or objective evidence." The Company has also requested that it be provided with the Highway analysis regarding car parking at its site.
- The industrial owner questions the statement that its company has "has not chosen to renew its existing lease" for the application site and goes on to explain that it considers the suggestion that the applicant has sought to find an alternative use for the site based on the cessation of the lease as a "falsehood."

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- It is suggested that if the development is approved the industrial owners will be obliged to erect "chain link or steel fencing with razor barbed wire at a minimum height of 8ft accompanied by surveillance cameras."
- There are a number of requests that the Council provide the industrial owner with evidence to support the submissions of the applicant so that the Company may use the information "to further substantiate our communication with the appointed Planning Inspectorate."

The second letter received is from a department of the Welsh Government (Digital Wales Department for Economy, Science and Transport). That Government Department has been contacted by the author of the first letter. Whilst the department is not suggesting any support or objection to the proposed development the writer requests that the concerns raised by the writer of the first letter be considered with particular regard to the "potential long term impact upon employment uses in this area."

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.

Is this development Community Infrastructure Levy liable? The application is made in outline and CIL would be calculated at reserved matters.

EU HABITATS DIRECTIVE

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

ANALYSIS

Policies:

The application in question concerns the re-development of a currently unused employment car park. The proposed use is residential. Although the proposal is an outline application an indicative layout has been submitted for a scheme of 45 units.

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The application site is identified for secondary employment (EM2.14 North Celynen Newbridge). Policy EM2 (Employment Sites Protection) explains that this protection policy is intended operate in tandem with Policy CW13 that explains in more detail how the different categories of employment (Business Park, Primary and Secondary Sites) will accommodate different employment or ancillary uses.

This application is for residential use and therefore contrary to both policies. The applicant has explained that the site was leased as a car park to the industrial unit to the south but the lease has been terminated. It is further explained that it has been marketed for employment uses consistent with the development plan for 4 years but there has been no interest. It is pointed out that Planning Policy Wales and TAN1 Joint Housing Land Availability Studies advise local authorities that development plans should identify a 5 year supply of housing land and that within this borough the 2013 Joint Housing Land Availability Study has revealed that supply is down to 2.9 years. In addition it is explained that the 2013 Annual Monitoring Report has indicated that the take up of employment land is low with only 3.7 of 101 hectares being developed. It is therefore considered that in view of the low uptake of employment land and lack of housing land supply, the proposal would comply with policy SP5 in terms of making "full and effective use of urban land and thus concentrate development within settlements."

The need to retain this site as employment land therefore needs to be balanced against the need to release it for housing, in an effort to boost the County Borough's housing land supply. The Employment Sites Supply and Market Appraisal undertaken this year to underpin the evidence base regarding employment matters for the LDP review, assessed each existing employment site in terms of its suitability for employment use. EM2.14, of which this site forms part, was given a score of "D/E" with the recommendation that the part of the site north of the car park be considered for release for alternative uses. However, it also made the comment that the car park itself is poorly used. Indeed, it would appear to be the case that the firm located immediately to the south does not make use of the car park since it is fenced off. There is no evidence to suggest that company intends to make use of the car park, for this purpose or for the purposes of expanding its operation, and therefore it is considered that this site could be put to better use as housing land than being retained for employment purposes.

With regard to the employment allocation, it is considered that in principle, this proposal is acceptable, as the need to retain this particular employment site is overridden by the lack of a five-year housing land supply.

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Application No. 14/0604/OUT Continued

The employment site to the south of the development is in B1 use and is separated from the car park by the access road into the estate. The provisions of Policy CW2 (Amenity) need to be borne in mind with respect to any potential impact upon residential amenity, particularly in terms of aspects such as noise, as well as the ability of the existing industrial use to continue operating as it does currently. The issue of noise is considered in more detail below in the section regarding the considerations of the Head of Public Protection.

The proposal will need to have regard for the provisions of Policies CW1 (Sustainable Transport, Accessibility and Social Inclusion) and CW3 (Design Considerations - Highways). Although the Design and Access Statement has commented on this issue, the site is separated from the centre of Newbridge, as well as any associated services and facilities, by the River Ebbw and it is therefore necessary to ensure that those measures proposed to maximise non-car modes of accessibility are adequate.

The application site is within the settlement boundary in accordance with Policy SP5 (Settlement Boundaries). Notwithstanding its location within the settlement it lies to the east of the river Ebbw and the railway such that it is somewhat isolated from the residential and shopping areas of Newbridge. Policy SP6 (Place Making) explains that development proposals should contribute to creating sustainable places, therefore housing sites that rely on car trips would not comply with that policy. Policy CW1 (Sustainable Transport, Accessibility and Social Inclusion) amongst other things encourages walking trips. Policy CW3 also "promotes the interest of pedestrians, cyclists and public transport before that of the private car." The supporting information suggests that there is a pedestrian link to the town from the top/north of the site along the river over a footbridge over the river and through an underpass under the railway. That link would be approximately 250 metres long, but the point where it arrives in north Road whilst it is near bus stops, it is still a considerable distance from local facilities such as shops and schools. Crumlin shops are circa 600 metres north and Newbridge shops are 900 metres south.

It is possible to walk to Newbridge by footpath along the side of the A467; this route is approximately 900 metres long to Newbridge Comprehensive School and a little over one kilometre to the start of the retail area and railway station. The Transport Statement supporting the application explains that whilst a maximum recommended walking distance to a town (800 metres) is exceeded the route is relatively flat and other distances such as the maximum distances to a school (2000 metres) is easily met. The distance to the Newbridge facilities cannot be described as short but they are not unacceptable, for example the walking distance to the town is very similar to that from other parts of Newbridge.

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The additional link offered to the north whilst not offering a shorter distance to the town it does provide a route to other facilities such as a park. In addition it links with a proposed cycleway link (TR1.10) that runs along the eastern bank of the river Ebbw (currently the route is a well walked informal track along the side of the river and it is a claimed right of way). The proposed link will run through a Site of Interest for Nature Conservation (SINC) but there are already informal paths running through that site that link up with the eastern side of the river.

The footpath offered for part of its length will therefore connect with existing informal links and a cycleway identified in the Local Plan both of which have not yet been formally approved or laid out. However, it is considered that it is reasonable that the part of link that is offered in this application be required to enhance pedestrian movements with the paths that are already well walked and to contribute to future connectivity in accordance with policy. It is to be noted that the footbridge was built as part of the 1991 Welsh Development Agency's land reclamation scheme. That scheme included footpath links over the river that do not appear to have been properly completed. The proposed application would make a significant step towards restoring that incomplete part of the scheme by providing a formalized path.

The site is brownfield having been previously used as a car park. Planning Policy Wales paragraph 4.9.1 explains that such sites should "wherever possible be used in preference to greenfield site" (subject to other planning considerations).

CW1 (Sustainable Transport, Accessibility and Social Inclusion) - This policy amongst other things also encourages walking trips. As previously explained the application site has direct pedestrian access onto the A467 and facilities at Newbridge are approximately a 20 minute walk away. Precise times include (from the traffic lights) 12 min to Newbridge School, 15 min to the railway station and 17 min to the town. From the lights walking north along the tracks to the bus stop on North Road takes only 7 min. As previously discussed the applicant has included a footpath link to the north of the site that would further shorten the time for the northern walk. Whilst the site has been described in other parts of this report as isolated the walking distances quoted show that this is not necessarily the case.

CW2 (Amenity)- The application site is adjacent to a busy road and there is the existing industrial estate to the south. The impact of noise upon the amenity of the future residents is therefore a material planning consideration. This is considered in more detail below where the comments of the Head of Public Protection are discussed.

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CW3 (Design Considerations Highways) - The existing access was designed and previously approved by the then County Engineer. It served 250 car parking spaces at the application site and should be more than adequate to serve the much lower number of residential movements. It is noted that a short length of footpath (45 metres) is missing at the southern boundary of the site. It was not needed when the car park served only the employment site. As a residential site that length of footpath would be needed to enable pedestrian access from the A467 and should be required by condition.

CW10 (Leisure and Open Space Provision) - This policy requires the provision of well designed useable open space with appropriate children's play facilities on all new sites capable of accommodating 10 or more dwellings. The Council's Landscape Architect notes that the Design and Access Statement suggests that land to the north of the site may be used as public open space; however, it is not within the application site nor is it approved for such use. The Outdoor Leisure Development Officer has also explained that policy CW10 requires the leisure provision to be within the site and has emphasised the need to require it by condition to ensure it is provided at reserved matters.

CW11 (Affordable Housing)- The applicant has offered 10% affordable housing in line with policy.

NATIONAL POLICY

Planning Policy Wales (2014) at paragraph 4.7.4 explains that Local Development Plan Policies should reflect the need to reduce trips by car. This is reflected in the requirements of LDP policies CW1 and CW3 above. At paragraph 4.9.1 it explains that brownfield land "should wherever possible be used in preference to greenfield sites." The application site is previously used land that complies with this requirement.

TAN 1 Joint Housing Land Availability - This guidance note sets out the framework for local authorities to examine their five year supply of housing land. That process is already underway, and as explained a shortfall in the supply of housing land has been identified by that Department.

TAN 11 Noise - The guidance note explains that planning decisions for noise sensitive development should not normally be approved where there are unacceptably high levels of noise that cannot be adequately mitigated. The TAN separates noise exposure into 4 categories (A, B, C & D). Category D sites are not considered suitable for noise sensitive development (residential) and category A sites are considered acceptable.

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The part of the application site adjacent to the A467 is a category C, therefore a condition may be imposed to ensure that the reserved matters take into account such areas. TAN 11 also points out the need to consider other noise (British Standard) assessments with regard to sources such as the adjacent industrial use. The implications of this are explained in more detail in the Head of Public Protection consultee section below.

Comments from Consultees:

Strategic & Development Plans - This section is responsible for ensuring the Adopted Local Development Plan (LDP) meets projected targets in terms of land supply. The observations above provide that section's detailed policy and land supply analysis. As previously explained it is concluded that the site could be put to better use as housing land rather than being retained for employment purposes.

Economic Development Officer - It is explained that the site forms part of the Newbridge Town Centre Action Plan adopted in 2006. It is suggested that there is a shortage of "good quality employment sites suitable for electronics and technology" with the preponderance of the available sites being at Ty Du and Oakdale. It is stated that the site is identified as part of a "Technology Park" which has good connections to the A467. It is therefore considered that the retention of the site for employment is consistent with the LDP in keeping the "balance of housing sites and employment sites." It is also suggested that "the economic future is uncertain" therefore the retention of the employment allocation would ensure a future supply of land should circumstances change. In considering the observations of the Economic Development Officer it is important to note that the recommendations of the Council's Strategic & Development Plans Department do not support the employment retention because there have been significant changes since the adoption of the Local Development Plan in 2010 that must be taken account of. The cited 2006 Newbridge Town Centre Action Plan is Supplementary Planning Guidance that is now out of date and tied to the former Unitary Development Plan that has been replaced by the Adopted Local Plan. The Adopted Local Plan is itself in the process of revision and it is now evident that currently there is not a "balance of housing sites and employment sites." Whilst the site has been described as being part of a "Technology Park" and the Economic Development Officer as such argues its protection, it is to be pointed out that although the existing employment site to the south is identified as a primary site (EM2.11), the application site itself is identified in the Adopted Local Plan as secondary site (EM2.14). The application site is not therefore a business park (i.e. an EM1 site) nor a primary site that should be protected for "modern manufacturing/new technology employment" as has been suggested.

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TAN 23 (Economic Development) identifies the following, points which justify the release of this site for housing. It explains, "Existing employment sites should only be released for other uses if one or more of the following apply:-

- They have poor prospects of being re-occupied for their previous use;
- The particular market that the site is part of is oversupplied;
- The existing employment use has unacceptable adverse impacts upon amenity or the environment;
- The proposed redevelopment does not compromise unduly neighbouring employment sites that are to be retained;
- Other priorities, such as housing need, override more narrowly focused economic considerations; and/or
- Land of equal or better quality is made available elsewhere, even if this is not within the Local Planning Authority boundary."

In terms of the first of the above points, there is no obvious demand for the EM2.14 employment use, or for any alternative non-class B uses that are permitted on secondary sites by Policy CW13. The prospect of the site being occupied in a way, which complies with local policy as it currently stands, is therefore poor. In relation to the fourth point, there is no physical relationship between EM2.14 and the existing employment site (EM2.11), in terms of operational capability. The two sites are divorced from each other by the access road and the car park is unused. Regarding the fifth point concerning other priorities, the lack of a five-year housing land supply is a material consideration and therefore a considerable degree of weight must be attached to it. That is not to say that it overrides the site's status as employment land as a matter of course, but it must be considered within the context of the attractiveness of the site for employment purposes, the lack of demand for it for that use and the availability of other, more suitable sites elsewhere in the County Borough, both in nearby settlements in the Northern Connections Corridor and to the south in the Lower Islwyn part of the Southern Connections Corridor. In these terms, it is considered that a proposal for housing on this site cannot be objected to on policy grounds.

This leads on to the point raised by the Economic Development Officer, the perceived shortage of "good quality employment sites" elsewhere. Bearing in mind that this site was one of the two worst scoring EM2 sites in the recently undertaken Sites Supply and Market Appraisal, it must be concluded that better quality, currently operating employment sites exist, in addition to the portfolio of allocated land of which there is a surplus. Additionally, it would not be appropriate to formulate a counter argument based on the perceived lack of proximity of some of these sites to North Celynen, as this point has an explicit regional perspective.

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Four of the six points outlined in TAN 23 apply in this instance. Therefore, an in-principle objection to this proposal would not only overplay the importance of a poorly performing employment site in the context of the housing land supply and would be contrary to the approach taken by national policy.

The Economic Development Officer has drawn attention to some of the benefits as an employment site such as its close proximity to the railway station; these attributes do though also lend themselves to supporting the proposed residential use. It has been suggestion that as a cautious approach the employment allocation should be retained because the future is uncertain and "this uncertainty increases the further ahead we look". This approach does not properly address the need to take account of the more certain present situation, which is that there is not currently a shortage of employment land but there is a shortage of housing land. There is therefore a pressing need to consider the redevelopment of brownfield sites within the settlement.

The Coal Authority points out that the site is within a high-risk area. No objection is raised subject to the imposition of a condition requiring an intrusive site investigation and it is further recommended that such an investigation be utilized to inform the site layout with particular regard to two mine entry points (shafts) that consequently may become no build zones. A ground investigation condition should therefore be imposed to require this information at reserved matters.

Natural Resources Wales raises no objection subject to a buffer zone being maintained adjacent to the river and conditions to require site remediation.

The comments of the Council's Countryside and Landscape Services can be accommodated by condition and by securing appropriate facilities at the design stage.

The Council's Head of Public Protection has advised that the dwellings that would be closest to the A467 may experience unacceptable noise and that the factory to the south also needs to be accounted for in terms of noise. The applicant was requested to provide further information. Additional information has been provided. Public Protection explains that both a TAN11 and BS4142 noise assessment have been requested. A TAN11 road traffic noise assessment has been submitted and demonstrates that most of the site is suitable for residential housing, with appropriate mitigation. A BS4142 assessment has not been received. Whilst the TAN11 report assessed the site as a 'mixed source' site, this type of assessment does not take into account 'sudden impulses, irregular noise or noise which contains a distinguishable continuous tone...' It is these sudden impulses and irregular types of industrial/commercial noise that are of concern.

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Application No. 14/0604/OUT Continued

The northern side of the existing industrial building contains 8 loading bays with a large roller shutter door that face the proposed development. The 8 loading bays lead into a warehousing/storage space with associated offices with 24 hour use. If this warehouse/storage area were to come back into operation, it is considered that the residents are highly likely to be exposed to unacceptable levels of noise during both day and night from vehicle movements, reversing alarms and the loading/unloading activities for example. The applicant has pointed out that the doors are some distance from the proposed dwellings (over circa 120 metres). The applicant does not accept the need for a BS4142 assessment given that the industrial site is unlikely to be more noisy than the A467 and points out that mitigation measures such as acoustic glazing and mechanical ventilation can be imposed by condition.

Planning Officers are mindful that the requirement for a BS4142 assessment is a legitimate consideration under the provisions of TAN 11. There are however mitigating considerations. The first is that the original planning consent (ref 2/11683) was for a B1 electronic production use only (a temporary one year warehouse use was approved but that has now expired). B1 uses are defined as "being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes smoke, soot ash, dust or grit" Town and Country Planning (Use Classes) Order 1987. It is also to be noted that the vehicle movements that are of concern to Public Protection already have planning approval in a not dissimilar distance from residential properties, i.e. circa 130 metres from dwellings on North Road. Condition 20 of the planning permission for the premises also excludes any external storage other than in properly screened areas, which should further reduce the likelihood of external activity disturbance. The applicant has pointed out that strict adherence to BS4142 and worst case scenario analysis must be balanced against the sustainable need to provide housing within the settlement where typically employment sites are also likely to be present. The applicant also points to examples of general industrial estates within the County Borough where many residential properties are under half the distance closer to industrial units. Whilst there are loading doors facing the application site the B1 use with no external storage and the separation distance must be taken into consideration. It is considered that at reserved matters a more bespoke layout and mitigation measures can be taken into consideration.

Public Protection have also raised a concern that an air quality assessment should be provided because the development may lead to increased traffic movement through the Hafodyrynys Air Quality Management Area (AQMA). The applicant has explained that the proposal at circa 45 dwellings would likely generate 25 and 27 two-way movements in the AM and PM peak hours respectively.

Cont....

Application No. 14/0604/OUT Continued

Assuming a two way split with most of the traffic (70:30) from the site heading to the south (towards schools, local shops, Cardiff, the M4, etc) this would reduce to only 8 two way movements through the AQMA. Traffic figures held by this Authority suggest that the peak hour rates are 2007 am and 1709 pm. Using these basic figures the percentage increase is circa 0.4% am and 0.46% pm, i.e. less than half a percent in either case. Whilst it may be possible argue the trip rates up or even down this is still a very low level of change and the applicant argues that it is not statistically significant. The applicant has also invited the Local Planning Authority to limit the number of dwellings if it considers there is need. The Head of Public Protection indicates that only a thorough Air Quality Analysis can confirm the level of impact and if necessary the number of dwellings to be restricted. From the Planning Perspective a requirement for additional information must be proportionate and there must be a reasonable expectation of an impact of significance, but the level of significance in this case is considered too low.

The Head of Public Protection has suggested 11 conditions should planning approval be recommended. The conditions include a number that seek to mitigate the potential noise impacts upon residents. The recommended conditions relate specifically to the illustrative layout that has been submitted. That layout is only illustrative as this is an outline application and could be revised at reserved matters. It is also to be noted that Outdoor Leisure Development Officer and the Landscape Architect have both indicated that the illustrative layout must be amended for various reasons. The conditions that have been attached to the recommendation in this report have been amended to enable a more bespoke layout and measures to be presented at reserved matters.

The Housing Enabling Officer considers that 10% affordable housing is sought in line with policy CW11. The applicant has offered a draft legal agreement. The application may be deferred to enable the completion of the necessary legal agreement.

Senior Engineer (Land Drainage) has raised no objection subject to a condition to require the agreement of surface and land drainage. Drainage advice is provided and should be handed on to the applicant.

Head Of Public Services has provided advice regarding refuse and recycling collection. A condition should be imposed to ensure provision kerbside collection.

Cont....

Application No. 14/0604/OUT Continued

Transportation Engineering Manager has requested further details regarding the parking that has been retained to serve the employment site. The applicant who does not have access to the site or details of the use/s within the building has not provided those details. The Planning Officer's report concerning the planning application for building (reference 2/11683) indicated that the car park on the western side of the river was to have 361 spaces. As previously stated, the permission referred to a B1 industrial use, and the aforementioned report indicated that the floorspace of the building was to be 28,400 square metres. On the basis of the adopted parking guidelines the premises would require the provision of 203 spaces for the approved use. Additionally it has to be noted that the employment site owners sold off the application car park and has now operated without it for some years. The employment owners have suggested that it could be of use in the future as additional parking space but this contrasts with the current situation which does suggest that it is surplus to requirement.

Police Architectural Liaison Officer has no objection and advice is provided regarding Secure by Design.

Network Rail has no objection and general advice is provided. This advice should be handed on to the applicant.

Comments from public:

A series of objections have been received from one objector, the industrial owner to the south:-

A question has been raised regarding the status access road to the site from the traffic lights. It has been established that the industrial owners to the south are possibly the owners of the access road. The owners have explained that its "main and only intended purpose is for industrial use." Questions of the legality of the applicant's rights of access and the maintenance of the route have also been raised. From the planning perspective a revised plan of the application site has now been received and it resolves the technical issue that the original site did not take account of the fact that parts of the access road are not part of the adopted highway. The result is that the application site now gains access to the adopted highway over a short length of private road. This is not an uncommon planning situation. If the road owner has a lawful control over the use of that part of the access this will be a private matter between the parties involved.

Cont....

Application No. 14/0604/OUT Continued

The industrial owner is concerned that pedestrians and traffic from the proposed site would come into conflict with heavy goods vehicles. This concern regarding vehicle movements has to be balanced against the fact that the existing car park is designed to accommodate 250 vehicles. Given that the illustrative layout shows a layout of 45 dwellings it is clear that the proposal suggests a significant decrease in vehicular movements is likely. With regard to pedestrian movements the site is currently designed to direct the car park occupants (250 vehicles) into the industrial site, this would need to be varied to enable better pedestrian connections as discussed in other sections of this report.

It is suggested that pedestrians and the public could "create issues for the security of the Technology Park" leading to loss of employment. This suggestion implies that the residents of dwellings pose an unacceptable risk to an employment site's security. It is to be noted throughout the County Borough there are dwellings in similar relationships with employment sites. Given the separation from the employment site (it is on the opposite side of the access road) and in the absence of any evidential basis that there is a significant problem, this concern is not considered sustainable. It should be noted that the applicant has apparently engaged with the adjoining landowner and was given to understand that relocating the proposal site entrance closer to the traffic lights would have allayed the security concern. The offer of relocating the entrance has been made but apparently no acceptance has been received. In the view of officers this solution is unnecessary from a planning point of view as the existing approved entrance is acceptable and does not require relocation. In addition the security concern does not address the possible future continued industrial use of the land, for example if there had been any employment interest as a result of the marketing the owners could have proposed a number of starter employment units. Such units would bring also with them visitors of a greater variety that could pose a security use exceeding that alleged.

The development site is on land identified for employment. This observation is correct and is addressed in the policy section of this analysis.

Although the car park is not currently in use it could be rented to future industrial occupiers as demand for parking rises. On the basis of the adopted car parking guidelines the retained parking provision within the industrial unit/s is broadly acceptable. It must also be borne in mind that the site has been sold off by the objector (or the predecessor) and has been unused for a number of years. It has been marketed for almost 4 years without any interest. The site is now by the passage of time and ownership considered to be in a separate planning unit. It would not be reasonable to require it to be retained for the parking benefit of a unit that is currently not using it, has not done so for approximately 2 years and has relinquished control of it to a new owner.

Cont....

Application No. 14/0604/OUT Continued

The site should be accessed directly from the A467. The Transportation Engineering Manager has not considered this proposal, as the applicant has not offered it in any case but it would be contrary to the Council's restriction on allowing new accesses onto the strategic highway network.

Questions are raised regarding the accuracy of the supporting information, which details the attempts to find a suitable commercial occupier or purchaser for the application site. One of the questions points out that the industrial owner's Company has not been approached to purchase the land. The applicant has pointed out that the Company in question was not approached because it was they that sold off the land and withdrew from leasing it. It is understood that the Company have now been offered the purchase of the land but this is a private matter. Whilst doubt has been cast on the accuracy of the information submitted it is to be noted that it is from a reputable company there is no reason to doubt its veracity, and the unoccupied condition of the site is testimony in itself. The fact that one company was not offered the land may be something of a distraction as the body of evidence provided by the applicant's commercial agent is broadly backed up by the Local Planning Authority's position that reflects the same falling employment need.

The quote from the Local Planning Authority in 2009 states that housing needs will be met through land allocations and windfall sites coming forward. The Local Development Plan position is now significantly different to 2009 as has been explained above.

There are a number of references to parts of the submitted Design and Access Statement and Transport Statement questioning the suitability of the private road to fulfil the requirements of the proposed development. The veracity of the statements is challenged and the Company request that it be provided with various written "assessments or objective evidence." The industrial owner has also requested that it be provided with the Highway analysis regarding car parking at its site. As explained above the redevelopment of the application site will not significantly affect the use of the existing access road. There is adequate parking provision within the industrial site based on the footprint of the building and the existing parking provision.

The industrial owner questions the statement that its company has "has not chosen to renew its existing lease" for the application site and goes on to explain that it considers the suggestion that the applicant has sought to find an alternative use for the site based on the cessation of the lease as a "falsehood." These points whether correct or not do not affect the very clear current position, namely that the application site is vacant and there is a need to consider its reuse as a brownfield site.

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Application No. 14/0604/OUT Continued

It is suggested that if the development is approved the industrial owners will be obliged to erect "chain link or steel fencing with razor barbed wire at a minimum height of 8ft accompanied by surveillance cameras." This objection suggests that residential development in itself is a high risk to the security of employment land. That is not accepted from a planning point of view. It also does not explain why any other use of the application site would not result in the same drastic measures.

There are a number of requests that the Council provide the industrial owner with evidence to support the submissions of the applicant so that the Company in question may use the information "to further substantiate our communication with the appointed Planning Inspectorate." This request appears to be based on a misunderstanding of the planning system. Third parties do not have a right of appeal and the Council is not required to provide supporting information.

In one letter it is requested that the Authority consider the impact of changes the landowner may make to the private access road that would have an impact upon the proposed development (i.e. altering or introducing barriers, traffic humps and changing the position of the security entrance). Some of the changes may require planning permission. The premise for the changes is to improve safety as the result of minor accidents due to inclement weather. It is unclear as to what the accidents were or how the changes improve or relate to those accidents or precisely what the physical alterations would look like. Whilst on the one hand the changes are said to improve highway safety, the implication of the question appears to suggest the works would have the opposite effect to the application site. There appear to be two main implications of the suggested changes: -

1. The introduction of obstructions that would prevent the applicant's access to their site.
2. Re-arrangements that could result in adverse impact upon the traffic within the adopted highway safety.

With regard to the first item, private roads are not uncommon and if a road owner prevents access to an occupier by any re-arrangement that is a civil matter between the parties involved. With regard to the second item if the changes require planning permission or variation of condition clearly the Planning Authority still retains control. If the changes do not require planning permission and would result in a danger to the users of the adopted highway (i.e. the traffic light junction not functioning properly with vehicles backing up onto the junction) this may amount to obstruction which could be an offence under Section 137 of the Highways Act 1980. There would also be the possibility of an actionable highway nuisance.

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Application No. 14/0604/OUT Continued

The other response is a letter from the Welsh Government (The Department for Economy, Science and Transport). The writer explains that the purpose of the letter is that the objector has raised his concerns with that Department who regard his company as "important" in the economy and request that the Planning Authority "ensure that the concerns regarding the potential long term impact upon employment uses in this area are considered by the Planning Committee." Those concerns are addressed above.

Other material planning considerations: A Section 106 Agreement is required to secure the affordable housing at the site. That has to pass the following tests: it must be necessary to make the proposed development acceptable in planning terms; it must be directly related to the proposed development; and it must be fairly and reasonably related in scale and in kind to the proposed development.

In relation to the first test the affordable housing is required to comply with policy CW11. It is clearly related to the proposed development in that it will be housing on a housing site thereby fulfilling the second test. Finally the scale at 10% is fair and reasonable reflecting the viability of development on this area.

RECOMMENDATION: (A) This application be deferred to enable the completion of a Section 106 Agreement that will require the provision of 10% affordable housing and upon the completion of that Agreement (B) the planning permission shall be issued subject to the following recommended conditions:

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) Approval of the details of the access, appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development is commenced and shall be carried out as approved.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 02) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

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Application No. 14/0604/OUT Continued

- 03) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 04) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the access, appearance, landscaping, layout and scale of the development, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 05) Prior to the commencement of works on site a scheme of land, surface and any non-mains drainage 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.
- 06) Before any development commences the developer shall carry out an investigation of the underground strata (the results of which shall be submitted to the Local Planning Authority) in order to satisfy himself as to the stability of the site and the measures, which should be taken to mitigate against the risk of subsidence. Details of the design of the foundations of the proposed building(s) and/or proposals for ground treatment shall take account of the result of the investigation and shall be submitted to and agreed with the Local Planning Authority before development commences. The foundations and/or ground treatment shall thereafter be completed in accord with such details as may be approved.
REASON: To safeguard the buildings against the risk of damage from surface subsidence due to underground mining.
- 07) The development hereby approved shall include a buffer zone of a minimum of 7 metres depth from the River Ebbw along the eastern bank that shall be maintained free from development at all times.
REASON: To preserve the wildlife corridor, the River Ebbw Site of Importance for Nature Conservation and to ensure access to the channel/banks for future maintenance.

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Application No. 14/0604/OUT Continued

- 08) Notwithstanding the submitted illustrative layout, the layout of the site at reserved matters shall include an area of open space with formal children's play facilities proportionate to the number of dwellings proposed at reserved matters. The approved area of open space and equipment shall be provided before 50% of the approved dwellings are occupied.
 REASON: To ensure adequate leisure provision to serve the needs of the residential properties.
- 09) The layout of the development hereby approved shall include off-highway collection areas for refuse, recycling, food and garden waste to be collected by vehicles operating a highway kerbside collection service. The approved collection areas shall be completed before the residential units to which they relate are occupied and thereafter they shall be maintained free of obstruction for the storage and collection of refuse, recycling, food and garden waste only.
 REASON: To ensure that adequate provision for refuse, recycling, food and garden waste collection is included in the site layout in the interest of visual amenity and highway safety.
- 10) All dwellings to be approved at reserved matters shall be fitted with double glazed windows with acoustic trickle vents.
 REASON: In the interest of residential amenity.
- 11) The Site Location Plan hereby approved relates to Drawing Number JPW0343-001 revision C dated February 2015 that was received by the Local Planning Authority on 19 February 2015.
 REASON: To identify the revised site location plan for the avoidance of doubt.
- 12) 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.

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Application No. 14/0604/OUT Continued

- 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) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their 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.

- 15) The layout and design to be provided at reserved matters shall include measures that ensure adequate noise mitigation so that the occupants of the dwellings may enjoy acceptable residential amenity in accordance with Technical Advice Note (Wales) 11. The development shall be completed and maintained thereafter in accordance with the approved noise mitigation measures.
REASON: In the interests of the amenity of the occupants.

Advisory Note(s)

Please find attached the comments of Head of Public Services, The Coal Authority, Senior Engineer (Land Drainage), Heddlu Gwent Police and Network Rail 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: CW2, CW3, CW4 and CW10.

DEFERRED FOR SITE VISIT



PLANNING COMMITTEE – 10TH JUNE 2015

SUBJECT: SITE VISIT - CODE NO. 14/0604/OUT – CAR PARK, AIWA TECHNOLOGY PARK, NEWBRIDGE, NEWPORT, NP11 6EY

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER

PRESENT:

Councillor D.G. Carter – Chair
Councillor W.H. David - Vice Chair

Councillors A. Lewis

1. Apologies for absence were received from Councillors Ms L. Ackerman, Mrs E.M. Aldworth, Mrs K. Baker, J. Bevan, L. Gardiner, G. Johnston and Mrs J. Summers.
2. The Planning Committee deferred consideration of this application on 6th May 2015 for a site visit. Members and Officers met on site on Wednesday, 20th May 2015.
3. Details of the application to erect a residential development, Car Park, Aiwa Technology Park, Newbridge, Newport were noted.
4. Those present viewed the site from the A467, walked the different walking/cycle routes, rights of way paths in and around the site in order to get a better understanding of its sustainability and examined the plans submitted with the application and the additional information provided by the Principal Planning Officer on site to fully appreciate the proposals.
5. Members were asked to note that this is a brownfield site currently used as a car park within a Technology Park industrial estate adjacent to the A467. The proposed development would share access with the B1 industrial estate and Officers confirmed that this use class was one which should be restricted by condition and should therefore sit comfortably with residential use.
6. The Senior Environmental Health Officer expressed concern with regard to 2 potential sources of noise nuisance and advised that although the applicant had provided a TAN 11 assessment he had not responded to the request made for BS4142 assessment without which Officers could not make a recommendation on the application. The Officer confirmed that the BS4142 assessment was a theoretical assessment that would extrapolate the current level of noise experienced in order to give an indicator of the potential noise levels generated should the industrial estate come back into full use. This would allow Officers to gauge the likely impact on houses nearest to the industrial units and mitigate according.

It was noted that there were existing residential properties bordering the site at similar distances to that of the proposed development. However the Senior Environmental Health Officer felt that the positioning of the proposed housing would make them more likely to experience noise nuisance at an unacceptable level should all 8 units become operational.

Clarification was sought as to any previous noise complaints received and the Officer confirmed that she would look at the complaint history of the site and report back to committee.

The Applicant confirmed that they would be willing to discuss further the provision of a 1412 assessment with Officers and Members requested that the outcome of those discussions and the assessment be reported back to Committee.

7. Members noted the land ownership issues and were advised that the access road to the development was not adopted - however this was a civil matter and it was not unusual to have access from a private road. The Principal Planner confirmed that the site did have an unrestricted right of way and given its former use as a car park for 250 vehicles, access would be more than adequate to support residential use. The location of the site with regard to its sustainability and links to walking/cycle paths was explained. The Rights of Way Officer provided an update on the different ownership issues that were currently inhibiting the completion of the cycle path. During the course of debate the Applicant at the request of Members, confirmed that several small pieces of land surrounding the site were also in his ownership, although he was unsure of their location, he agreed to provide further details to Officers in order to establish if they could be used to further the progress of the cycle path.
8. The Senior Engineer Highways expressed concerns regarding the poor pedestrian links from the site to the Town Centre with its associated services and facilities. The southern pedestrian route would involve residents having to walk alongside the busy A467 which forms part of the strategic highway network carrying in excess of 18000 vehicles per day, with traffic speeds of 60mph adjacent to the site. It is considered that the route would not be used by residents due to perceived risk which would result in increase car journeys. The Authority's 'School Travel Plan Coordinator' has assessed the routes as a medium risk due to the speed and high volume of traffic using the A467 and this would mean that the Council would have to provide public transport links from the site to the school. The second route to the north of the site leading to North Road, the Town Centre and Crumlin, if achieved would be excellent. However the present route is very overgrown in places and also required the use of an unlit subway in poor condition which would deter people from its use. Residents would therefore need to rely on cars for even the shortest of journeys, making the site unsustainable. The Senior Environmental Health Officer also expressed concern that this increased reliance on cars would have a detrimental impact on air quality. Having taken into consideration the present links and ongoing difficulties in securing the cycle/path right of way, the Senior Engineering Highway considered the application before Members to be premature and as such has raised an objection to it.
9. Members having noted the concerns raised and the additional information requested, recommended that the Planning Committee deferred the application to the next appropriate meeting that would allow Officers to consider the responses received and provide an update.
10. Officers confirmed that following advertisement to 31 neighbouring properties, advertisement in the press and a site notice being posted, 2 letters of objection had been received. Details of the objections are within the Officer's original report.
11. The initial planning report concluded that having given due regard to relevant planning policy and the comments from consultees and objectors, the application is considered to be acceptable and Officers recommended that permission be granted.
12. A copy of the report submitted to the Planning Committee on 6th May 2015 is attached. Members are now invited to determine the application.

Author:	E.Sullivan	Democratic Services Officer, Ext. 4420
Consultees:	P. Den Brinker	Principal Planner
	J. Rogers	Principal Solicitor
	M. Noakes	Senior Engineer (Highway Development Control)

Planning Committee 10.6.15.

Appendix

C. Davies

Senior Environmental Health Officer

J. Piper

Rights of Way Officer

Appendices:

Appendix 1 Report submitted to Planning Committee on 6th May 2015

DEFERRED FOR FURTHER INFORMATION

PREFACE ITEM

APPLICATION NO. 14/0604/OUT
 APPLICANT(S) NAME: SRJ And JG Partnership
 PROPOSAL: Erect residential development
 LOCATION: Car Park Aiwa Technology Park Newbridge
 Newport

1. The above application for residential development on a brownfield/employment site was deferred by Committee on 10th June 2015 for further information regarding; A) Footpath access to the north of the application site and B) The submission of a BS4142 noise report in respect of the industrial site to the south. Officers have subsequently met with the applicant and his agents to agree the submission of these further details.
2. The applicant has submitted further details of the footpath route to the north showing a connection from the application site to the railway underpass. The route is at slight variance to the previous line as it goes around a slight hump rather than over it. The details submitted indicate that it is possible to achieve a gradient of less than 1 in 12 overall, and along the part of the route that was of concern to the Members who visited site. It should be possible to achieve a gradient as low as 1 in 23 along the length that was of concern. The gradients are of a standard suitable for both wheelchairs and pedestrians. Highways have previously raised a concern regarding this route, that concern is now removed subject to a condition requiring details of lighting as a safe route at reserved matters. The applicant has also confirmed that he is prepared to dedicate the land for that path plus the cost of its creation, including appropriate lighting to meet the Safe Route to Schools standard, as a condition of any permission granted.
3. The applicant has also submitted the requested BS4142 Noise Report. That report has been considered by Environmental Health. The report explains that dominant general noise level from the road will exceed that of the industrial use. (Members will note that the previous Committee report explained that the road noise is not considered to be sufficient to warrant refusal). Environmental Health however remain concerned that particular noises such as impact noises and vehicle reversing warnings will have an adverse effect sufficient to cause unacceptable disturbance.

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Application No. 14/0604/OUT Continued

The applicant has explained that mitigation measures such as sound insulation and mechanical ventilation can be required by condition to mitigate such disturbance if it were to occur. Environmental Health Officers do not consider mechanical ventilation to be an acceptable form of mitigation. The applicant has explained (at the above mentioned meeting) that mechanical ventilation is a form of mitigation that is suggested within BS4142 (part 11 para 3) and such cannot be excluded from consideration. BS4142 also explains that noise must be considered in "context". In support of their position Environmental Health Officers have explained that the application site is considered to be a "semi rural location". From the planning perspective this is not the case, the location is a brownfield site within the settlement boundary, adjacent to both the A467 and an industrial site. It is also within easy walking distance of the town. Planning decisions are made on the balance of probabilities. As explained at the previous Committee there have been noise complaints from existing nearby houses (7 within a period of 15 years), however none have related to the lawful use of the site. The probability of impulse noise type disturbance should therefore be low and mechanical ventilation should be acceptable in the "context." The planning recommendation therefore remains that permission should be granted on that basis. Environmental Health Officers have recommended conditions to be imposed if Members are minded to grant planning permission. Those conditions are:-

- a) All dwellings on the eastern perimeter of the site and on the northeast and southeastern corners of the site to be orientated so that there are no windows to habitable rooms facing the road.
- b) All dwellings to be fitted with double glazed windows with acoustic trickle vents.
- c) All dwellings on the Southern perimeter of the site to be orientated so that there are no habitable rooms facing the industrial units and all windows of these dwellings to be fitted with upgraded acoustic glazing & acoustic trickle vents.
- d) A 2.1m high close boarded fence to be sited along the southern site boundary.
- e) A 2.1m high close boarded fence to be sited on top of the bank along the eastern boundary of the site.
- f) No habitable rooms to be located in the roof space (no attic conversions).
- g) Prior to the commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that gardens shall be designed to a maximum noise level of 50dB(A) Leq 16 hours.

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Application No. 14/0604/OUT Continued

4. A further letter has been received from the objector and owner of the industrial land to the south of the application site. The letter includes a history of the company and emphasises a perceived risk to its future existence posed and the 320 employees of the company by the proposed residential development. The letter does not raise any new planning issues.

5. The pedestrian access concerns have been overcome by the additional details submitted. The applicants have now submitted the noise survey information in a format that is acceptable to the Head of Public Protection who has recommended additional conditions. Whilst the reason for those conditions is clear, the ones restricting the location of windows to habitable rooms and the limitation of noise in rear garden are onerous from a planning point of view, and would unreasonably limit the design and layout of the development. There are examples nationwide of modern housing development in close proximity to highways where habitable room windows and gardens are close to busy highways. It would be reasonable to impose the conditions concerning acoustic glazing and fencing.

RECOMMENDATION: That planning permission is granted in accordance with the previous report which includes a condition concerning double glazed windows and acoustic trickle vents), and subject to the following additional or amended conditions:

Condition 11 – amended to reflect additional plans submitted.

Condition 16 – Prior to the occupation of any dwellings adjoining or adjacent to the southern or eastern boundaries of the site, a 2.1m high means of enclosure shall be erected of a design and appearance, and in a location to be agreed in writing with the Local Planning Authority.

REASON: To mitigate the impact of noise from the surrounding area.

Condition 17 – Prior to the occupation of 50% of the dwellings hereby approved the proposed pedestrian footpath running north-westwards from the housing estate and linking with the footbridge across the River Sirhowy shall be provided in full, including lighting and surfacing, details of which shall have first been agreed in writing with the Local Planning Authority.

REASON: To ensure adequate pedestrian linkage within the locality.

In addition, the Section 106 Agreement shall include a commitment by the applicants to use their best endeavours in co-operation with the Local Planning Authority to promote the provision of a public footpath under the Ebbw Valley Railway to North Road.

