

# Delegated Decision Report

<b>Application No:</b>	24/0359	<b>Statutory Period Expires:</b>	3rd November 2024
------------------------	---------	----------------------------------	-------------------

<b>Site:</b>	26 Somerton Road Newport NP19 8LD		
<b>Proposal:</b>	CHANGES TO SHOP FRONT, EXTENSION TO COMMERCIAL UNIT, EXTENSION TO FLAT AND GARAGE CONVERSION TO CREATE AN ANNEXE		
<b>Applicant:</b>	S Reham		
<b>Type:</b>	Full	<b>Ward:</b>	Alway
<b>Decision:</b>	REFUSED		

## 1. BACKGROUND

1.1 None.

## 2. SITE LOCATION AND CONTEXT

2.1 The application building is an end of terrace property located on the corner of Somerton Road and Llewellyn Street in the Alway ward of Newport. The character of the area is predominantly residential intermixed with some commercial uses including the application property itself which is a hot food takeaway at ground floor. The building is prominently located with Somerton Road being a busy thoroughfare. Llewellyn Street is a Victorian terraced street of dwellings. The site has very limited outdoor amenity space with most of the area between the rear 2 storey façade of the application property and the side façade of 2 Llewellyn Street being built out with a single storey extension and high wall to Llewellyn Street.

## 3. DESCRIPTION OF DEVELOPMENT

3.1 The proposals include a first-floor extension to the rear of the building measuring 6.1m in height, 3m in width and 6.8m in length. The extension would be sited directly adjacent to no.2 Llewellyn Street, directly at back of pavement, and would have a hipped roof to the front and rear. The proposals are described as an annex, but in order to constitute an annex the unit would need to have a functional link to an existing residential dwelling, and it is not clear that this is the case. The plans show self-contained accommodation with an open plan dining and kitchen area at ground floor and a bedroom and en-suite bathroom at first floor. An entrance door and window are proposed at ground floor to the front elevation facing Llewellyn Street and a further window above to serve the bedroom. Two small windows are proposed at first floor in the east elevation of the extension serving a staircase and the bathroom with obscure glazing. The height of the flat roof over the ground floor element linking the self-contained accommodation to the host building would be increased in height from 2.8m to 3.5m and roof lights are to be inserted to serve the ancillary commercial accommodation which will extend over the entirety of the rear leaving no outdoor amenity space at all to serve any of the property. There is no link between the commercial ground floor area and the proposed "annex". Access to an internal bin store is adjacent to the door to the annex.

3.2 Ground floor fenestration changes are proposed to the side elevation of the commercial unit with new double doors and a window to be installed.

3.3 To the front of the property a new commercial shopfront is proposed with full height glazing to replace the existing shop window.

## 4. RELEVANT SITE HISTORY

None.

## 5. PLANNING POLICY

5.1 THE NATIONAL DEVELOPMENT FRAMEWORK: FUTURE WALES - THE NATIONAL PLAN 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

## 5.2 PLANNING POLICY WALES (EDITION 12) 2024

3.3 - Good design is fundamental to creating sustainable places where people want to live, work and socialise.

3.4 - Meeting the objectives of good design should be the aim of all those involved in the development process and should be applied to all development proposals at all scales.

## 5.3 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

*Policy SP1 Sustainability favours proposals which make a positive contribution to sustainable development.*

*Policy SP13 Planning Obligations enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.*

*Policy GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.*

*Policy GP4 General Development Principles – Highways and Accessibility states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.*

*Policy GP5 General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.*

*Policy GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.*

*Policy H4 Affordable Housing sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.*

*Policy SP13 Planning Obligations enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.*

*Policy T4 Parking states that development will be expected to provide appropriate levels of parking.*

## 5.4 SUPPLEMENTARY PLANNING GUIDANCE SHOPFRONT DESIGN

PLANNING OBLIGATIONS  
AFFORDABLE HOUSING  
WILDLIFE AND DEVELOPMENT  
NEW DWELLINGS  
OUTDOOR PLAY SPACE PROVISION  
PARKING  
SUSTAINABLE TRAVEL

## 6. CONSULTATION RESPONSES

6.1 Local Highways Authority: **Highway recommendation:**  
Objection on grounds of parking, sustainability and refuse management policies.

### **Highway Comments:**

The proposals involve removing a garage, however this does not raise any objection as it is unsafe to use because it has no pedestrian visibility. We would support the removal of the garage.

We also note the unacceptable existing bin storage on highway and proposal for a store within the curtilage. This element is also supported by highways and should already be the case.

The creation of a flat however raises a number of issues. Firstly, there is no provision for parking, although it could be argued that the H bar marking would be removed (at the developer's expense) creating a small parking space (less than needed).

The flat (and existing business) should have cycle parking which is not proposed and there does not appear to be any space for an appropriate provision for the flat. This raises a further sustainability policy-based objection.

There is no provision for the residential unit to have any bin store, resulting in more bins permanently deposited on highway raising obstruction and amenity issues.

In conclusion the proposals raise several objections from Highways.

6.2 Ecology officer: No response.

6.3 Drainage Manager: No response.

6.4 Senior Scientific officer: No response.

6.5 Dwr Cymru – Welsh Water: We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We recommend that the existing private drainage on site should be utilised to avoid any new direct connection to the public sewerage system.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

### Condition

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

6.3 Waste Manager: We would anticipate the property receive a single 120l bin for kerbside collection with recycling bags, boxes for kerbside collection also with one council tax paid on the property as a whole.

From April 1st 2020, developers or owners of all new residential units will be required to purchase bin provision for each unit serviced to meet the Council's specification. 120L, 180L, 240L and 360L wheeled bins must be purchased/obtained from Newport City Council. 660L and 1100L bins can be purchased elsewhere but it is strongly recommended to speak

to NCC Waste Management Refuse Management beforehand to ensure the bins fit the Refuse Department collection vehicles safely. Failure to purchase correct bin(s) will result in collections being suspended with the Council reserving the right to refuse collection until suitable bin specifications are met.

- 6.4 SAB: Having reviewed the submitted information, a SAB application may not be required but if there are any external works exceeding 100square metres then we would encourage the applicant to visit

<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.newport.gov.uk%2Fen%2FPlanning-Housing%2FPlanning%2FSustainable-drainage-systems.aspx&data=05%7C02%7CVicky.Quinn%40newport.gov.uk%7Ccb0b726e41d745eb7c5308dce7797522%7C2c4d0079c52c4bb3b3cad8eaf1b6b7d5%7C0%7C0%7C638639756046006888%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=G7VHPzphXjxztBBUflI4HI4Xu%2F7GbEq9DhK1GAcBwRQ%3D&reserved=0> for further information, or contact the SAB team [sab@newport.gov.uk](mailto:sab@newport.gov.uk) for further discussions.

## 7. PUBLIC REPRESENTATIONS

Neighbour and Ward member notification letters were sent on 9<sup>th</sup> September 2024.

- 7.1 NEIGHBOURS: No comments received.

## 8. ASSESSMENT

### 8.1 Principle of Development:

The application site is located within the urban boundary wherein the principle of development is deemed to be acceptable subject to compliance with the relevant policies contained within the Development Plan. As noted above, the proposals are described as an annex, but in order to constitute an annex the unit would need to have a functional link to an existing residential dwelling and it is not clear that this is the case. The main building is commercial at ground floor (A3) and appears to have residential accommodation above (and partially at ground floor) accessed via its own entrance off Somerton Road. The plans show new self-contained accommodation at the back of the site but with no shared amenity, access or apparent connection to the accommodation provided in the main property.. The relevant considerations are discussed further below.

### 8.2 Visual Amenity/ Character and Appearance;

The proposed shopfront is considered to be acceptable and is in keeping with the commercial character of the building and neighbouring units. Similarly, there is no objection to the fenestration changes to the side/rear of the property. However, the proposed first floor extension, by reason of its height and proportions which are out of keeping with neighbouring properties, is poor quality design and would result in an awkward and unbalanced form of development, to the detriment of the visual amenity of the street scene. The first floor extension would be divorced from the first floor of the host property and would be sited directly adjacent to no.2 Llewelin Street. The plans show the eaves height of the first floor extension would be approximately 1.2m lower than that of the neighbouring property (and also the host dwelling) and subsequently it would have an awkward appearance. External elevations are indicated as having a render finish which is not objected to. However, the poor design of the extension is further emphasised by the insensitive fenestration which would have a horizontal emphasis compared with that in the neighbouring traditional terrace properties which has a more vertical emphasis.

- 8.3 As noted above, the property is prominently located on a busy thoroughfare and whilst the extension would be to the rear of the building, views of the development would be apparent when travelling north on Somerton Road. In any case, the Council will not support proposals of a poor quality design regardless of its visibility.

#### 8.4 **Residential Amenity:**

The proposed extension would be sited directly to the side of no.2 Llewellyn Street and would not extend any further to the rear, thus not resulting in an adverse impact to the amenity of the occupiers of this property.

8.5 Whilst the extension would be sited very close to the boundary of no. 24 Somerton Road and therefore has potential to result in an over bearing impact to neighbouring occupants in their enjoyment of the garden, this property is in commercial use at ground floor with a flat above and the rear garden appears to have been entirely built out. As such, it is not considered that the proposal would result in an adverse amenity impact to these neighbours.

8.6 The Council's records show a flat at first floor of no. 26 Somerton Road and the proposed extension would be sited within 5m of the rear elevation of the flat. There are windows in the rear elevation of the flat, one of which serves a landing and the other serves a bedroom, as confirmed by the applicant. The bedroom window is a protected window and an assessment of the impact of the proposals having regard to the light tests as set out in the House Extensions SPG has been undertaken and would be passed in the case of both the 25 and 45 degree tests. However, being sited less than 5m away from the bedroom window, the proposed first floor extension is considered to result in an over bearing impact on the occupants of the flat and is unacceptable. The first floor windows in the side elevation of the proposed extension/annex facing the flat would be obscure glazed and this could be secured by condition and so the proposals are not considered to result in increased overlooking although the close juxtaposition of independent living accommodation units in this case is of concern. Nonetheless, by reason of proximity of the development and the rear elevation of no. 26 Somerton Road which contains a habitable room window, the proposals are considered to be an unneighbourly form of development.

8.7 Turning to amenity for future occupants of the accommodation, whilst internally the proposals are considered to offer a basic standard of accommodation for future occupiers (there is a lack of windows at the rearmost part of the unit at ground floor and notably none in the kitchen area), the proposals do not include any outdoor amenity space that is suitable for sitting out in, drying of clothes etc. This is contrary to the Council's New Dwelling and Outdoor Play space Provision SPGs and weighs heavily against the proposal and is a further indication that the proposals represent overdevelopment.

8.8 It is noted that a bin storage area is proposed to serve both the commercial element and the new residential accommodation with a smart lock system for security. This arrangement is considered to be acceptable.

#### 8.9 **Movement:**

The Council's Highways officer has confirmed that there is no objection to the loss of the existing garage as it is unsafe to use because it has no pedestrian visibility. However, the proposed residential unit would not be served by any off-street parking provision. The applicant considers that a space can be provided to the front of the property, accessed via Somerton Road. However, this area is somewhat divorced from the new dwelling and it is therefore considered unlikely to be utilised by the occupants of the accommodation who are more likely to park in Llewellyn Street. Furthermore, a parking space in this location could only be accessed by driving over the footpath which is contrary to the transport hierarchy established in PPW which places pedestrians above motor vehicles and would not be supported. Vehicular and pedestrian visibility is also likely to be sub-standard. Given that properties in Llewellyn Street do not benefit from off-street parking provision, it is likely to be in high demand and it is considered that the proposal would result in a detrimental impact to neighbouring residential amenity given the absence of any dedicated parking provision. That said, the current garage removes an on road space and the proposal will effectively reinstate this part of the highway for parking purposes. On balance, parking impacts are not considered demonstrably adverse.

8.10 The Council's Highways officer also objects on the basis of a lack of cycle parking and bin storage. As noted above, suitable bin storage can be accommodated. However, whilst the applicant suggests that the space to the front of the property can be utilised for cycle storage, this would not meet the requirements of the Council's Sustainable Travel SPG which requires storage to be in the form of a shed or garage. Cycle parking could be provided in the lockable bin store area as there does appear to be sufficient space and whilst the combined use may not be ideal, it is reasonable in this context.

8.11 **Biodiversity:**

Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy SP9 of the LDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. It is considered that such enhancements can be secured by condition if planning permission were forthcoming.

8.12 **Section 106 Planning Obligation matters**

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

a) Necessary to make the development acceptable in planning terms; (the obligations of the Section 106 Agreement are necessary to ensure adequate education provision, secure affordable housing on site, provide sufficient open space and ensure its continued maintenance, monitor air quality, promote local employment benefits, secure appropriate long-term marketing of the retail/ commercial units and to improve accessibility for vehicles and pedestrians to/ from the development to ensure policy compliance.)

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

and

c) Fairly and reasonably related in scale and kind to the development (the obligations as set out in the Section 106 Agreement, both in terms of scale and kind of obligations being required, are fair and reasonable to ensure the aforementioned contributions for the development of this strategic site).

In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, section 106 planning obligations are required to mitigate the impact of the development in accordance with the table below.

<b>Service Area that requires planning obligation</b>	<b>Purpose of planning obligation</b>	<b>Planning obligation initially sought by Planning Authority</b>	<b>Summary Heads of Terms agreed by applicant(s)</b>	<b>Viability Issues?</b>
Regeneration, Investment and Housing	Commutated contribution of £470 for affordable housing provision based on a	N/A	Full Heads of Terms	No

## HEADS OF TERMS AGREED BY APPLICANT

The applicant has confirmed that they agree in full to the above Heads of Terms. Whilst the applicant has agreed in full to the Heads of Terms no signed legal agreement has been provided for the commuted sum contribution. This would ordinarily be dealt with by a Section 106 Legal Agreement if planning permission were forthcoming. However, Dear Chief Planning Officer letter of December 2018 advised that LPAs should consider including the lack of an obligation as a reason for refusal in order to avoid appellants seeking an award of costs on the grounds that the LPA has introduced a new reason for refusal at the appeal stage.

### **9. OTHER CONSIDERATIONS**

#### **9.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### **9.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

#### **9.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

#### **9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.**

#### **9.5 *Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

#### **9.6 *Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **10. CONCLUSION**

- 10.1 The first floor extension constitutes poor quality design that would result in an adverse impact to the visual amenity of the street scene and wider area and a detrimental impact to the amenity of the occupants of the first floor flat at no. 26 Somerton Road.
- 10.2 The residential accommodation would result in a substandard level of amenity for future occupiers by reason of poor quality outdoor amenity space and would adversely impact the amenity of occupants of 26 Somerton Road by reason of overbearing effect and loss of outdoor amenity space.
- 10.3 The application is refused.

## **11. DECISION**

### **REFUSED**

01 The proposed development is poorly designed and unsympathetic to the host building and neighbouring property, namely no. 2 Llewellyn Street and will result in an adverse impact to the appearance and visual amenity of the host building and to the streetscene. This is contrary to Policy GP6 of the Newport Local Development Plan (adopted January 2015).

02 The proposed development will remove existing outdoor amenity space and provide none. It will create a close juxtaposition between the existing residential accommodation at 26 Somerton Road and the proposed annex accommodation. These things combined give rise to an unacceptable level of residential amenity to serve both units and the scheme is overdevelopment. This is contrary to Policies GP2 of the Newport Local Development Plan 2011-26 Adopted Plan January 2015.

03 The proposed annex fails to demonstrate a reasonable degree of dependency between it and the main dwellinghouse contrary to Policy H7 of the adopted Newport Local Development Plan and is therefore tantamount to a new dwelling.

04 The proposed development will have a significant adverse impact upon interests of acknowledged importance, namely affordable housing. No signed legal agreement has been provided for the commuted sum contribution to assist the Council in meeting its on-going requirement for affordable housing. This is contrary to Policy H4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: E1-1, E1-2, E1-3, E1-4, P1-1 Revision B, P1-2 Revision B, P1-3, P1-4, site location plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, GP2, GP3, GP4, GP5, GP6, H4, T4 were relevant to the determination of this application.

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

04 The Council's New Dwellings and Parking SPG's were relevant to the determination of the application.