

# Delegated Decision Report

<b>Application No:</b>	25/0187	<b>Statutory Period Expires:</b>	6th May 2025
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<b>Site:</b>	3B East Market Street Newport NP20 2AY		
<b>Proposal:</b>	CHANGE OF USE OF BUILDING FROM GARAGE WORKSHOP TO RETAIN GARAGE WORKSHOP ON THE GROUND FLOOR AND PROVIDE 1 NO. ONE BED DWELLING ABOVE		
<b>Applicant:</b>	Z Ahammed		
<b>Type:</b>	Full	<b>Ward:</b>	Pillgwenlly
<b>Decision:</b>	REFUSED		

**1. BACKGROUND**

1.1 A previous application was refused in 2023 for four reasons relating to the sites location within a flood zone, impact on residential amenity for any future occupant, overlooking of 30 Dolphin Street and the absence of a signed Section 106 agreement.

**2. SITE LOCATION AND CONTEXT**

2.1 The site is located within an urban area characterized by period terraced properties, narrow streets, on street parking and separation distances of approximately 10m between front elevations of adjacent properties.

**3. DESCRIPTION OF DEVELOPMENT**

3.1 The proposal seeks to provide a 1no. bedroom residential unit with the sleeping accommodation provided via a mezzanine level.

**4. RELEVANT SITE HISTORY**

App Number	Proposal	Decision	Decision Date
23/0694	CONVERSION OF EXISTING WORKSHOP TO RESIDENTIAL DWELLING	Refused	22.09.2023
97/1082	CERTIFICATE OF LAWFULNESS FOR EXISTING USE AS A VEHICLE REPAIR WORKSHOP	Granted	29.04.1998

**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

5.3 Historic Environment (Wales) Act 2023

5.4 Technical Advice Note 5: Nature Conservation and Planning

Technical Advice Note 12: Design

Technical Advice Note 15: Development, Flooding and Coastal Erosion

5.5 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

- SP1 – Sustainability
- SP3 – Flood Risk
- SP10 – House Building Requirement
- SP13 – Planning Obligations
- SP18 – Urban Regeneration
- GP2 – General Amenity
- GP4 – Highways and Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- GP7 – Environmental Protection and Public Health
- CE7 – Conservation Areas
- H2 – Housing Standards
- H4 – Affordable Housing
- H8 – Self Contained Accommodation and Houses in Multiple Occupation
- T4 – Parking Standards
- W3 – Provision for Waste Management Facilities in Development

#### 5.6 SUPPLEMENTARY PLANNING GUIDANCE

- Planning Obligations
- Wildlife and Development
- Flat Conversions
- Waste Storage and Collection
- Parking Standards

### 6. CONSULTATION RESPONSES

6.1 Planning Contributions Manager: Planning contributions required.

6.2 Ecology Officer: No response.

6.3 Environmental Health Officer: No response.

6.4 Highways Officer: Not supported.

Highway Comments: The proposal retains a garage which has no pedestrian visibility. We would therefore not support the proposal due to existing safety concerns.

A single bed unit with storage for cycles and bins would not raise any other issues. We would not therefore object to the loss of the garage (no actual loss of parking as kerbside parking would be resumed) and a small residential unit could be supported, subject to removing the existing garage and footway crossing (dropped kerb arrangement).

6.5 Natural Resources Wales: No objection.

6.6 Dwr Cymru/Welsh Water: **Asset Protection**

This site is crossed by a public sewer with the approximate position being marked on the attached statutory public sewer/watermain record. In accordance with the Water Industry Act 1991, Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs. It appears the proposed development would be situated within the protection zone of the public sewer measured 3 metres either side of the centreline of the sewer. Please note, the distance specified for this protection zone is indicative and based on industry standard guidelines. However, the depth of the asset will need to be verified on site which may infer a greater protection zone. For completeness, we recommend the developer refer to their title deeds to confirm if there are any covenants or restrictions associated with the asset crossing the proposed development site.

It is also recommended that the developer contact our Plan and Protect team (PlanandProtect@dwrcymru.com) to carry out a survey to verify the location of the asset(s) and establish their relationship to the proposed development. Following this we advise the applicant to engage with us to understand the impact of the proposed development and 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.

### **Advisory Notes**

*The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)*

*The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.*

*In accordance with Planning Policy Wales (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.*

## **7. PUBLIC REPRESENTATIONS**

Neighbour notification letters were sent on the 11<sup>th</sup> March 2025.

7.1 NEIGHBOURS: No comments received.

## **8. ASSESSMENT**

### **8.1 Main Issues**

8.1.1 The main issues with the scheme relate to the residential amenity of existing neighbouring properties and future occupants of the proposed unit and the sites' location within a flood zone. Other material considerations shall follow this assessment.

### **8.2 Flood Zone**

8.2.1 The application was validated on the 11<sup>th</sup> March 2025, therefore in line with the Circular 002/2025, the proposal shall be assessed against Technical Advice Note 15 (2012). Furthermore, the Chief Planners Circular of the 15<sup>th</sup> December 2021 also directs developments shall be considered against the most up to date flood data; the Flood Map for Planning.

- 8.2.2 The Development Advice Maps (DAM) identify the site as being in Flood Zone B, with the FMfP identifying the site as being within Flood Zone 3. As such, the up to date information has reclassified the site to be at a higher risk of flooding.
- 8.2.3 As such, it is considered that the justification tests as set out in Section 6 of TAN15 (2012) are applicable to the scheme. The scheme would be considered as a regeneration scheme and is located on previously development land; therefore, the proposal accords with tests (i) and (iii).
- 8.2.4 Regarding test (iv), the application is supported by a Flood Consequences Assessment which shows the highly vulnerable development would be elevated above the flood risk level and there is no change to the vulnerability at ground floor level. Natural Resources Wales have raised no objection and consider the application acceptable subject to the developer being made aware of potential flood risk and are advised to install flood proofing measures. The proposal is acceptable in terms of Policy SP3.
- 8.3 Impact on Residential Amenity**
- 8.3.1 The separation distance from the front elevation to the neighbouring property opposite 8 East Market Street measures approximately 11m; this reflects the existing separation distances between front elevations of immediately neighbouring terraced properties. It is considered this relationship would not result in significant harm on residential amenity when taking into account the character of the area.
- 8.3.2 It is noted that the use of obscure glazing to the first floor south elevation windows attempts to overcome the previous reason for refusal regarding overlooking and overbearing onto the private amenity space of 30 Dolphin Street. It is considered that despite the use of obscure glazing and window openings to be 1.7m above internal finished floor levels, it is considered that the intensification of the use of the building to provide a residential unit would lead to feelings of overlooking to those occupying 30 Dolphin Street resulting in an adverse impact on the privacy and amenity of existing and future occupants contrary to Policies GP2 and H8.
- 8.3.3 Furthermore, the proposed kitchen/diner would cause loss of privacy to No. 30 Dolphin Street as it would have an unimpeded view into the rear garden of that property and towards its rear elevation.
- 8.3.4 The internal floorspace provided measures 37.72sqm as shown on the submitted drawings; the proposed layout continues to have a shortfall of the desired internal floorspace of 45sqm. It is considered that the size of the unit would not afford any future occupant sufficient levels of amenity as the insufficient size would adversely impact reasonable living conditions.
- 8.4 Impact on the Conservation Area**
- 8.4.1 The Historic Environment (Wales) Act 2023 sets out that developments in a conservation area should preserve or enhance the character and appearance of the area.
- 8.4.2 Currently, the site adds very little to the overall appearance of the conservation area; the proposal would bring the building back into use and would thus positively contribute toward enhancing the conservation area. The reuse of the site would not outweigh the other impacts of the scheme in relation to impact upon residential amenity to justify a positive recommendation.
- 8.4.3 The alterations to the elevations include the installation of new fenestration; this is considered to have limited impact on the overall character and appearance of the area.
- 8.5 Impact on Highways and Parking**
- 8.5.1 The proposal does not remove any existing off street parking as the ground floor garage is retained. It is noted that the Highways Officer raises concern regarding existing visibility splays at the garage access/egress, however the proposal does not alter this arrangement, or seek to intensify any potential vehicle movements. Therefore, the status quo remains

and no additional adverse impact would arise should the scheme be permitted regarding highway safety.

8.5.2 The proposal would provide 1no. off street parking space; this accords with the Parking Standards SPG document. The garage has sufficient floor space to also accommodate secure cycle storage.

## 8.6 Impact on Ecology

8.6.1 During the site visit, it was noted that the site has recently had a new roof installed; no information has been provided to confirm if any protected species were present prior to the works being largely completed.

8.6.2 The proposal does not include any details to secure any biodiversity enhancements, or a green infrastructure statement as required by Planning Policy Wales (Ed.12). The absence of a proportionate green infrastructure statement would normally form a further reason for refusal as this is contrary with national policy. However in this instance given the very low ecological value of the site, it is considered that a condition for the submission of details to secure a biodiversity enhancement would be proportionate and appropriate in terms of meeting national and local policies.

## 8.7 Waste

8.7.1 The proposed layout includes sufficient space in the ground floor garage to accommodate the required waste and recycling storage provision in accordance with the Waste SPG document and Policy W3.

## 8.8 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</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>
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<b>obligation</b>				
<i>Regeneration, Investment and Housing</i>	<i>To provide on site affordable housing</i>	<i>A sum of £858 toward off site affordable housing.</i>	<i>Agreed.</i>	<i>No.</i>

## HEADS OF TERMS AGREED BY APPLICANT

### **1. Introduction**

*Based upon a development of a one bed 'market' dwelling, the following S106 planning obligations are required to mitigate the impact of the development.*

### **2. Affordable Housing**

*Commuted sum payments for affordable housing will normally be sought on developments of one to two dwellings anywhere within Newport. The site lies within the Housing Target Area of Newport West. Newport West requires the delivery of 30% affordable housing on new development. The equivalent commuted sum generated is £858*

*This sum will be paid prior to occupation and index linked to the RPI*

### **3. Fees**

#### **Administration Fee**

*In accordance with the Planning Obligations SPG (2020), a £200 administration fee is charged for monitoring the S106 agreement. This is to be paid upon signing of the legal agreement.*

#### **Legal Fees**

*Planning Obligations can be contained in Unilateral Undertakings or s.106 Agreements. Unilateral Undertakings are usually drafted by the developer's solicitors, whereas s.106 Agreements are usually drafted by the Council's in-house solicitors (but there is no general objection to developers arranging for their own solicitors to draft the s.106 Agreement with prior agreement). Either way the developers will be responsible for the Council's legal costs incurred in relation to the process of drafting, approving and completing the s.106 Agreement and Unilateral Undertakings, including costs of title investigation which is necessary to ensure the correct parties enter into the Deed. There is a minimum contribution to legal costs of £700, although more time-consuming and complex documents would require an increased contribution to legal costs.*

*Please Note:*

*Planning Obligations can be contained in Unilateral Undertakings or Agreements. Unilateral Undertakings are usually drafted by the developer's solicitors, whereas Agreements are usually drafted by the Council's in house solicitors (but there is no general objection to developers arranging for their own solicitors to draft the Agreement if preferred). Either way the developers will be responsible for the Council's legal costs incurred in relation to the process of drafting, approving and completing any Deed of Obligation, including costs of title investigation which is necessary to ensure the correct parties enter into the Deed.*

*You are required to agree to these Heads of Terms in writing. In doing so you also agree to an extension of time for the determination of your proposal in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits)(Wales) Regulations 2015 and the Town and Country Planning (Development Management Procedure)(Wales) Order 2012. This will extend the statutory period for determination of your application by 16 weeks from the date the Local Planning Authority resolve to grant your planning permission (i.e. the Planning Committee date or the delegated Agenda date) subject to a legal agreement. This extension of time is required to enable completion of the*

*section 106 Agreement (although the Local Planning Authority will endeavour to determine your application as soon as possible prior to this date).*

*Once your written agreement to the Heads of Terms for section 106 has been received by the Authority and a resolution made on the basis of such agreement, the Local Planning Authority will NOT enter into any negotiations that seek to alter the Heads of Terms in terms of discounting agreed figures due to, for example, viability reasons before the final Notice of Decision is issued. It is important that you check the Heads of Terms you receive thoroughly and if you have any questions regarding the figures included or the justification for them, you must raise these and satisfy yourself that the request is reasonable, relevant and necessary, prior to providing your written agreement to the Terms.*

*Any negotiations must take place before Heads of Terms are agreed by you and if you seek to discuss or re-negotiate section 106 Heads of Terms having agreed them in writing and having received a resolution (but not a decision notice), your application must be withdrawn to enable re-negotiation to take place. Failure to sign a section 106 within 3 months of any resolution being made may lead to your application being refused. Alternatively, you may proceed to complete the section 106, receive a Notice of Decision and then make a new submission to the Authority that will enable altered terms to be negotiated. Please be advised that any such re-submission will likely attract a new planning application fee.*

## **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 proposal would result in harm on the amenity of future occupants due to the size of the unit and overlooking and overbearing of 30 Dolphin Street. It is noted that the draft Section 106 Heads of Terms have been agreed, however in the absence of a signed agreement, this forms a further reason for refusal.

## **11. DECISION**

### **Refuse, for the following reason(s):**

01 The proposal would have a significant adverse impact upon interests of acknowledged importance, namely the residential amenity of 30 Dolphin Street due to overlooking, contrary to Policies GP2 and H8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

02 The scheme would provide a poor level of amenity for future occupants due to the gross internal floorspace, no external amenity area or external waste and recycling storage. The application is not supported by sufficient information to demonstrate that the bedroom area would have sufficient floor to ceiling height or what outlook would be afforded to future occupants from the proposed rooflights and their impact upon overlooking of neighbouring properties contrary to Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

03 The development would have a significant adverse impact upon interests of acknowledged importance, namely it represents an unsustainable form of development which fails to be mitigated by contributions towards affordable housing and off-site leisure improvements. As such, the scheme is contrary to the Planning Obligations SPG dated January 2020 and policies SP1, SP13 and H4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Drawing No. PL01 Rev B – Plans and Elevations as Existing and Proposed.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP10, SP13, SP18, GP2, GP4, GP5, GP6, GP7, CE7, H2, H4, H8, T4 and W3 were relevant to the determination of this application.

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