

Delegated Decision Report

Application No:	25/0276	Statutory Period Expires:	10th June 2025
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Site:	White Gates Outfall Lane St Brides Wentlooge Newport NP10 8SS		
Proposal:	S73 APPLICATION TO VARY CONDITION 9 (REMOVAL OF PD RIGHTS) OF 23/0379 DEMOLITION AND REMOVAL OF EXISTING DWELLING AND CONSTRUCTION OF NEW DWELLING (RE-SUBMISSION FOLLOWING REFUSAL OF 22/1223)		
Applicant:	N Howells		
Type:	Renewals and Variation of Conditions	Ward:	Tredegar Park And Marshfield
Decision:	REFUSED		

1. BACKGROUND

- 1.1 The previously approved scheme permitted the demolition of an existing dwelling and the erection of a new dwelling in the countryside in 2023. As the proposal is located within the countryside, Policy H12 requires the attachment of a condition preventing further extensions or outbuildings to ensure the open countryside character is retained and any future development is duly considered against relevant local development plan policies.
- 1.2 The current Section 73 application seeks to vary Condition 09 of 23/0379 to allow for the erection of outbuildings under Class E of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is located to the east of Outfall Lane which links to the wider road network B4239 to the north. The application site forms part of a run of 4no. detached dwellings situated within generous plots. Outfall Lane is relatively narrow and leads to the flood defences adjacent the Severn Estuary. The site is surrounded by open fields and commercial developments at Greenmoor Nurseries and Walnut Tree Farm Park.
- 2.2 The application site has a number of land designations which are archaeologically sensitive, Flood Zone 3, undeveloped coastal zone, countryside, Green Wedge, Special Landscape Area, Historic Landscape Area and a Site of Special Scientific Interest (SSSI).

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The proposal seeks to vary the wording of Condition 09 of 23/0379 to allow for the use of permitted development rights as outlined within Class E of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
24/0683	PARTIAL DISCHARGE OF CONDITION 3 (MATERIALS) OF 23/0379 DEMOLITION AND REMOVAL OF EXISTING DWELLING AND CONSTRUCTION OF NEW DWELLING (RE-SUBMISSION FOLLOWING REFUSAL OF 22/1223)	Approved	03.10.2024
23/1146	PARTIAL DISCHARGE OF CONDITION 2 (CEMP) OF 23/0379 DEMOLITION AND REMOVAL OF EXISTING DWELLING AND CONSTRUCTION OF NEW DWELLING (RE-SUBMISSION FOLLOWING REFUSAL OF 22/1223)	Approved	22.02.2024
23/0379	DEMOLITION AND REMOVAL OF EXISTING	Granted with	06.12.2023

	DWELLING AND CONSTRUCTION OF NEW DWELLING (RE-SUBMISSION FOLLOWING REFUSAL OF 22/1223)	conditions	
22/1223	DEMOLITION AND REMOVAL OF EXISTING DWELLING AND ERECTION OF A NEW DETACHED DWELLING	Refused	27.04.2023
03/1280	SINGLE STOREY REAR EXTENSION	Granted with conditions	04.11.2003
99/0341	CHANGE OF USE FROM AGRICULTURAL LAND TO DOMESTIC GARDEN (RESUBMISSION)	Granted with conditions	31.10.2000
98/0978	CHANGE OF USE FROM AGRICULTURAL LAND TO GARDEN	Refused	05.11.1998
95/0239	PROPOSED NEW ROOF STRUCTURE PROVIDING ADDITIONAL RESIDENTIAL ACCOMMODATION AND ASSOCIATED BUILDING WORKS	Granted with conditions	29.05.1995

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 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

- SP1 – Sustainability
- SP3 – Flood Risk
- SP4 – Water Resources
- SP5 – Countryside
- SP7 – Green Wedges
- SP8 – Special Landscape Areas
- GP2 – General Amenity
- GP4 – Highways and Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- GP7 – Environmental Protection and Public Health
- CE4 – Historic Landscapes, Parks, Gardens and Battlefields
- CE6 – Archaeology
- H12 – Replacement Dwellings in the Countryside
- T4 – Parking
- W3 – Provision for Waste Management Facilities in Development

5.4 SUPPLEMENTARY PLANNING GUIDANCE

- Archaeology and Archaeologically Sensitive Areas
- Wildlife and Development
- New Dwellings
- Parking Standards
- Waste Storage and Collection

6. CONSULTATION RESPONSES

6.1 Ecology Officer: No response.

6.2 Landscape Architect: It is noted that this property lies within a particularly sensitive landscape and the following designated areas:

- Special Landscape Area (Wentlooge Levels); ref. LDP - SP8.
- Site of Special Scientific Interest (Gwent Levels – St Brides).
- Green Wedge (Newport and Cardiff); ref. LDP – SP7.
- Countryside; ref. LDP – SP5.

Removing this condition could theoretically allow the applicant to develop further construction of ancillary buildings/structures which could potentially have additional negative impact on the rural setting and surrounding sensitive landscape, and therefore we would object

6.3 Environmental Health Officer: No response.

6.4 SAB Officer: No response.

6.5 Glamorgan Gwent Archaeological Trust: No response.

6.6 Highways Officer: No comment - The PD rights do not appear to be related to highway matters.

6.7 Natural Resources Wales: We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Consultation Topics, *Development Planning Advisory Service: Consultation Topics* (September 2018): <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en>. We therefore do not have any comment to make on the proposed development.
Please note that our decision not to comment does not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

6.8 Dwr Cymru/Welsh Water: Dwr Cymru Welsh Water has no objection to the proposed variation of condition 9 of planning permission 23/0379.

7. PUBLIC REPRESENTATIONS

Neighbour notification letters were sent on the 15th April 2025.

7.1 2no. objections received (summarised):

- Previous consent allowed for over 30% guidelines to 59%.
- Number of land designations on the site including Special Landscape Area, SSSI, Green Wedge and Countryside.
- Increased surface water flooding run off.
- Overdevelopment of the site.
- Neighbouring properties also have the same permitted development restrictions.

7.2 WENTLOOGE COMMUNITY COUNCIL: No response.

8. ASSESSMENT

8.1 The previous application was granted subject to conditions on the 6th December 2023 which included the following condition:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C, D, or E shall be carried out without the express permission of the Local Planning Authority.

Reason: To protect the amenities of occupiers of adjoining properties and to control future development given that this is a replacement dwelling subject to the requirements of Policy H12 and in the interests of the openness of the Green Wedge, in accordance with policies SP7 and H12 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

- 8.2. Since the determination of the application, there has been no change to the local development plan, therefore the material considerations remain as per the previous consent.
- 8.3 It is noted that the applicant did not exercise their right to appeal any of the conditions attached to the previous consent if they viewed them to be *ultra vires*, and the timeframe to challenge this has now lapsed.
- 8.4 The adopted local development plan sets out in Policy H12 that a replacement dwelling in the countryside shall be subject to the attachment of a condition limiting subsequent extension or erection of outbuildings. Therefore, to accord with the requirements of Policy H12, a restriction was attached to the consent relating to permitted development rights for Classes A, B, C, D and E.
- 8.5 The submitted justification sets out that the dwelling is not located within a conservation area, National Park, or a listed building. Furthermore, the submitted justification highlights the previous consent 99/0341 allowed for the use of land as domestic garden.
- 8.6 The justification put forward is lacking as it has no reference or regard to the sites location outside of an established settlement boundary, in a Special Landscape Area and Green Wedge. Therefore, the information put forward is considered to not sufficiently address the special qualities of the surrounding area which are sought to be retained.
- 8.7 It is highlighted to the applicant that where permitted development rights are restricted, this does not curtail the applicant from submitting any future planning applications for proposed development. The purpose of this process is to ensure that any future development is considered fully in the wider context of surrounding sensitivities.
- 8.8 With regard to the previous consent 99/0341 which allowed for the domestic garden, it is noted that this also contained a condition restricting the erection of extensions and outbuildings allowed under permitted development rights.
- 8.9 Under Section 73 of the Town and Country Planning Act 1990, this sets out that *the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and –*
 - a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*
 - b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.*
- 8.10 In line with the above section, it is considered that insufficient information has been submitted to justify the removal of Condition 09 of 23/0379 as the information has had limited regard to the sites location and surrounding context, and the removal of the condition would result in the proposal being contrary to the requirements of Policy H12 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Therefore, the Local Planning Authority consider that planning permission should only be granted subject

to the same conditions as those contained on 23/0379; therefore, the Section 73 application is refused.

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 application is not supported by sufficient information to justify a departure from the adopted local development plan and is therefore refused.

11. DECISION

Refuse, for the following reason(s):

01 The removal of condition 9 is unjustified and would result in harm to the amenities of occupiers of adjoining properties and reduce control to future development to what is a replacement dwelling subject to the requirements of Policy H12, to the detriment of the openness of the Green Wedge, in accordance with policies SP7 and H12 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP4, SP5, SP7, SP8, GP2, GP4, GP5, GP6, GP7, CE4, CE6, H12, T4 and W3 were relevant to the determination of this application.

02 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.