

Delegated Decision Report

Application No:	25/1000	Statutory Period Expires:	19th December 2025
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Site:	<i>Land Formerly Known As Whitehead Works Mendalgief Road Newport South Wales</i>		
Proposal:	<i>NMA APPLICATION TO VARY CONDITION 3 (APPROVED PLANS) OF 19/0439 REMOVAL OF CONDITION 30 (ACOUSTIC BARRIER/BUND) AND VARY CONDITIONS 01 (RESERVED MATTER REQUIREMENTS OUTSIDE LOCKED DOWN AREA), 02 (RESERVED MATTERS REQUIREMENT WITHIN LOCKED DOWN AREA), 03 (PLANS), 13 (IMPORTATION OF MATERIAL), 14 (PHASING), 15 (BOULEVARD TREE PLANTING), 19 (COIL COLOUR VEHICLE ACCESS), 21 (REMEDIATION VERIFICATION REPORT), 22 (MANAGEMENT AND MAINTENANCE PLAN OF PHASE 4), 28 (BIO DIVERSITY AND ECOLOGY ENHANCEMENTS), 33 (ECO-PARK PEDESTRIAN CROSSING POINTS), 34 (ECO-PARK BOUNDARY TREATMENTS), 35 (DRAINAGE), 41 (MONBANK FOOTPATH LINK), 43 (LAYOUT AND HEIGHT PARAMETERS OF APARTMENT BLOCK IN LOCKED-DOWN AREA), 48 (ASSISTED LIVING UNITS) OF PLANNING PERMISSION 15/0775 FOR CONSTRUCTION OF 529NO. RESIDENTIAL UNITS, 24NO. ASSISTED LIVING UNITS, PUB/RESTAURANT, RETAIL UNITS, PRIMARY SCHOOL AND ASSOCIATED LANDSCAPE AND HIGHWAY INFRASTRUCTURE</i>		
Applicant:	<i>D Ward</i>		
Type:	Non-Material Amendment	Ward:	Pillgwenlly
Decision:	REFUSED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 The application site is the former Whitehead Works industrial site, Mendalgief Road in the Pillgwenlly Ward. The site is over 17ha in size, is located south of the City Centre and was granted Outline planning permission under 15/0775 for the mixed use redevelopment and a subsequent S.73 application reference 19/0439. Reserved matters applications have since been approved for phases of the redevelopment and a Primary School and large number of residential units are currently built out.

3. DESCRIPTION OF DEVELOPMENT

3.1 The proposal is for a Non Material Amendment to Condition 03 (Approved Plans) of planning permission 19/0439 and seeks to amend the location and provision of the Public Open Space (POS).

3.2 The amendment is sought as a result of intentions to construct a care home to the north east of the site (currently being considered under full application 25/0375), which will mean that the existing provision of POS shown on the approved plans and secured through the Section 106 Legal Agreement would be reduced and redesigned. It is advised that as a result of the proposed change in approach there will be no overall reduction in POS as greater areas have been provided elsewhere.

3.3 Figure 1 below shows an extract of the approved parameters plan and the proposed amended area of POS subject to this application.



Figure 1 – Approved Parameters Plan extract & Proposed POS as Amended

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
15/0775	CONSTRUCTION OF 529NO. RESIDENTIAL UNITS, 24NO. ASSISTED LIVING UNITS, PUB/RESTAURANT, RETAIL UNITS, PRIMARY SCHOOL AND ASSOCIATED LANDSCAPE AND HIGHWAY INFRASTRUCTURE (OUTLINE)	GRANTED WITH CONDITIONS SUBJECT TO S106	11.09.2018
19/0439	REMOVAL OF CONDITION 30 (ACOUSTIC BARRIER/BUND) AND VARY CONDITIONS 01 (RESERVED MATTER REQUIREMENTS OUTSIDE LOCKED DOWN AREA), 02 (RESERVED MATTERS REQUIREMENT WITHIN LOCKED DOWN AREA), 03 (PLANS), 13 (IMPORTATION OF MATERIAL), 14 (PHASING), 15 (BOULEVARD TREE PLANTING), 19 (COIL COLOUR VEHICLE ACCESS), 21 (REMEDIATION VERIFICATION REPORT), 22 (MANAGEMENT AND MAINTENANCE PLAN OF PHASE 4), 28 (BIODIVERSITY AND ECOLOGY ENHANCEMENTS), 33 (ECO-PARK PEDESTRIAN CROSSING POINTS), 34 (ECO-PARK BOUNDARY TREATMENTS), 35 (DRAINAGE), 41 (MONBANK FOOTPATH LINK), 43 (LAYOUT AND HEIGHT PARAMETERS OF APARTMENT BLOCK IN LOCKED-DOWN AREA), 48 (ASSISTED LIVING UNITS) OF PLANNING PERMISSION 15/0775 FOR CONSTRUCTION OF 529NO. RESIDENTIAL UNITS, 24NO. ASSISTED LIVING UNITS, PUB/RESTAURANT, RETAIL UNITS, PRIMARY SCHOOL AND ASSOCIATED LANDSCAPE AND HIGHWAY INFRASTRUCTURE	GRANTED WITH CONDITIONS	21.04.2021

5. PLANNING POLICY

5.1 SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT 1990

6. CONSULTATION RESPONSES

6.1 Landscape: No objection.

6.2 Highways: No objection.

6.3 Drainage: No response.

6.4 Ecology: No response.

6.5 Leisure: No response.

7. PUBLIC REPRESENTATIONS

7.1 N/A

8. ASSESSMENT

8.1 There is no statutory definition of what constitutes a non-material amendment as this will be dependant on a number of factors such as the scale of the proposed changes, context of the site and site specific circumstances. In deciding whether or not a proposed change is non-material, consideration should be given to the effect of the change. When assessing and determining whether or not a proposed change would qualify as a non-material amendment, the following tests contained within Welsh Government Planning Guidance: Approving Non-material Amendments to an Existing Planning Permission are applied as a starting point:

- Is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme?
- Would the proposed change result in a detrimental impact either visually or in terms of local amenity?
- Would the interests of any third party or body be disadvantaged in planning terms?
- Would the proposed change conflict with national or development plan policies?

8.2 It is acknowledged that the overall quantum of POS will not be reduced. However, the changes will substantially reduce the POS located to the north east of the site, as shown in Figure 1. It is considered that the scale of the proposed change to the size and form of the POS in this location is great enough to cause an impact that is materially different to that caused by the originally approved development.

8.3 The proposed amendment will also result in a requirement to amend the Legal Agreement for the Outline planning permission for the redevelopment of the site.

8.4 As a result, the proposal would amount to a change that is more than non material.

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 is more than a non material amendment to approval 19/0439.

10.2 The application is refused.

11. DECISION

REFUSED

01 The proposal to alter the approved public open space would result in an amendment that is more than non material.

NOTE TO APPLICANT

01 This decision relates to plan Nos: 17020 (05) 100 Rev A - Site Location Plan; The Urbanists Covering Letter Reference 2507/01; 17073-90-102 D - Proposed Areas of POS; 14022(05)106 E - Final Parameter Plans - Public Open Space and Landscaping.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No policies were relevant to the determination of this application.

03 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.