

Delegated Decision Report

Application No:	25/0096	Statutory Period Expires:	3rd May 2025
Site:	<i>Land To South Of 9 Jessop Close Rogerstone Newport South Wales</i>		
Proposal:	<i>S73 APPLICATION TO VARY STANDARD CONDITION 1 (RESERVED MATTERS) OF 15/0726 CONSTRUCTION OF 2NO. DETACHED RESIDENTIAL DWELLINGS AND ASSOCIATED ACCESS WORK</i>		
Applicant:	<i>S Jenkins</i>		
Type:	Renewals and Variation of Conditions	Ward:	Rogerstone North
Decision:	GRANTED WITH CONDITIONS SUBJECT TO S106 WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION		

1. BACKGROUND

- 1.1 The previous outline application was granted in 2022 for the erection of 2no. detached dwellings with all matters reserved.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is located north of the Monmouthshire Brecon canal adjacent existing residential development. The site previously contained water storage equipment which has been partially removed, leaving only the foundation piers. Protected trees lie to the south of the site.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 Proposal seeks to vary the condition relating to the submission of reserved matters.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
15/0726	CONSTRUCTION OF 2NO. DETACHED RESIDENTIAL DWELLINGS AND ASSOCIATED ACCESS WORK	Granted with conditions	31.03.2022

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

SP9 – Conservation of the Natural, Historic and Built Environment

SP13 – Planning Contributions

SP18 – Urban Regeneration

GP2 – General Amenity
GP3 – Service Infrastructure
GP4 – Highways and Accessibility
GP5 – Natural Environment
GP6 – Quality of Design
GP7 – Environmental Protection and Public Health
H2 – Housing Standards
H4 - Affordable Housing
H6 – Sub-division of Curtilages, Infill and Backland Development
T4 – Parking
CE3 – Environmental Space and Corridors

5.4 SUPPLEMENTARY PLANNING GUIDANCE

- Sustainable Travel
- Planning Obligations
- Affordable Housing
- Wildlife and Development
- New Dwellings
- Waste Storage and Collection
- Parking Standards
- Trees, Woodland, Hedgerows and Development Sites

6. CONSULTATION RESPONSES

- 6.1 Principal Heritage Officer: No response.
- 6.2 Ecology Officer: No response.
- 6.3 Tree Officer: No objection.
- 6.4 Housing Development Officer: No response.
- 6.5 Planning Contributions Officer: Planning contributions required.
- 6.6 Environmental Health Officer: No response.
- 6.7 Newport Access Group: No response.
- 6.8 Highways Officer: No objection.
- 6.9 Welsh Water: No objection.
- 6.10 Wales & West Utilities: No response.

7. PUBLIC REPRESENTATIONS

Neighbour and Ward member notification letters were sent on the 13th February 2025 and a Site Notice was put up on the 21st February 2025.

7.1 NEIGHBOURS: 1no. objection (summarised):

- Impact on biodiversity
- Dust pollution
- Air pollution
- Environmental impact
- Garden enjoyment
- Loss of privacy
- Increased traffic
- Impact on weight limited bridge
- Light pollution
- Capacity of existing drainage

7.2 COUNCILLOR REEKES: No comments.

7.3 Rogerstone Community Council: No response.

8. ASSESSMENT

8.1 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.

8.2 The proposal seeks to vary the standard condition 01 of 15/0726 as shown below to extend for a further 3 years, to allow for the submission of the reserved matters.

01 In the case of any reserved matter, application for approval must be made not later than the expiration of THREE YEARS beginning with the date of this permission.

Reason: The application is in outline only and the further details are required to ensure that a satisfactory form of development take place.

8.3 No objection has been raised by relevant consultees and there has been no material change in national or local policies since the determination of the previous consent in 2022. Therefore, it is considered that the application should be granted subject to conditions.

8.4 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.

Service Area that	Purpose of planning	Planning obligation initially sought by	Summary Heads of Terms agreed by	Viability Issues?
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requires planning obligation	obligation	Planning Authority	applicant(s)	
<i>Regeneration, Investment and Housing</i>	<i>To provide a contribution toward off site affordable housing.</i>	<i>A commuted sum of £4,128 toward off site affordable housing.</i>	<i>A commuted sum of £4,128 toward off site affordable housing.</i>	<i>No.</i>

HEADS OF TERMS AGREED BY APPLICANT

Section 106 Planning Obligations – Draft ‘Head’s of Terms’ **(Without prejudice & subject to contract)**

1. Introduction

Based upon a development of 2 x 4 bed houses, the following S106 planning obligations are required to mitigate the impact of the development.

2. Affordable Housing

Commutated sum payments for affordable housing will normally be sought on developments of 1 to 2 dwellings anywhere in 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 £4,128

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

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 accords with the relevant national and local planning policies and is hereby granted subject to the signing of a Section 106 agreement.

11. DECISION

GRANTED WITH CONDITIONS SUBJECT TO S106 WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION:

01 The development shall be implemented in accordance with the following plans and documents:

- Proposed site layout (Drawing ref: 03 Rev A)
- Site Location Plan (Drawing ref: 01)
- Proposed Site Layout – Tree Constraints Plan (Drawing ref: 04)
- Existing Site Layout (Drawing ref: 02)
- Design and Access Statement prepared by Asbri Planning
- Tree Survey, Categorisation & Constraints Report prepared by Mr S J Ambler
- Tree Survey, Categorisation and Constraints Plan drawing number SAAC.13.046
- Technical Note – Steve Ambler & Sons Arboricultural Consultancy & Tree Specialists
- Cefn Tanks Land Disposal – Bat Survey prepared by Richard W Poole (13 July -18 August 2011)
- Cefn Tanks, Rogerstone; Reptile and Amphibian Survey

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

Pre- commencement conditions

02 Approval of the details of the layout, scale, appearance of the building(s), access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.

Reason: To safeguard the rights of control of the Local Planning Authority in respect of the reserved matters and to comply with the provisions of Article 3(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

03 No work shall be commenced on the construction of the approved scheme until details or samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings. Policy GP6 of the Newport Local Development Plan.

04 No development shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall contain full details of the following:-

- (a) Trees and hedges to be retained/felled (including any within falling distance of the site) clearly identified and marked on a plan;

- (b) Trees and hedges requiring surgery;
- (c) The root protection areas to be identified on plan for retained trees (to include any within falling distance of the site);
- (d) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
- (e) The precise location of the barrier fencing, to be shown on plan.

The development shall be carried out in accordance with the approved Tree Protection Plan.

Reason: To protect important landscape features within the site. Policy GP5 of Newport Local Development Plan

05 No development shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for -

- (a) Supervision and monitoring of the approved Tree Protection Plan;
- (b) Supervision and monitoring of the approved tree felling and pruning works;
- (c) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (d) Oversee working within any Root Protection Area;
- (e) Reporting to the Local Planning Authority;
- (f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site Policy GP5 of Newport Local Development Plan

06 Prior to the commencement of development a Construction Environmental Management Plan (CEMP), that shall cover the demolition phase also, shall be submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following:

- The position of compounds containing site offices, workers welfare facilities or compounds containing plant or for the storage of equipment and materials;
- wheelwashing facilities;
- dust suppression measures;
- noise mitigation measures;
- details of temporary lighting during construction works;
- details of enclosure of working areas;
- the drainage strategy to operate during construction setting out controls of contamination during construction, including controls to surface water run-off, water pumping, storage of fuels and hazardous materials, spill response plans and other pollution control measures.
- Other pollution prevention and contingency measures that are to be implemented.

All works shall be undertaken in accordance with the approved CEMP.

Reason: To protect the amenities of nearby residents and for ecology interests Policy GP2 of Newport Local Development Plan

07 No development shall commence until:

- a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.
- b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2001), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- c) A Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

- d) Following remediation a Completion/Validation Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.
- e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning

Authority and the revised strategy shall be fully implemented prior to further works continuing.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed. Policy GP7 of Newport Local Development Plan.

Partially discharged with the exception of part 'e' by Newport City Council on 10/01/2025 under application 24/0938.

08 Prior to the commencement of development details of any external lighting, to include location and orientation of lighting, shall be submitted to and approved in writing by the Local Planning Authority and then implemented as per the approved details.

Reason: To ensure light spill is limited to the trees around the site that have potential for bat activity. Policy GP5 of Newport Local Development Plan.

09 No development shall commence until full details of the foul and surface drainage systems has been submitted to and approved in writing by the Local Planning Authority.

The details shall be implemented fully in accordance with the approved scheme prior to the occupation of any dwelling.

Reason: To ensure adequate drainage is provided. Policy GP3 of Newport Local Development Plan.

25/0074 non-material amendment approved by Newport City Council 3 April 2025.

10 No development shall commence until full details of either bat bricks' soffit roost boxes or built in wall boxes as recommended in the Bat Survey prepared by Richard W Poole 2011, have been submitted to and approved in writing by the Local Planning Authority. The mitigation shall be implemented in full and retained in perpetuity. Any subsequent amendments provided to the Local Planning Authority for record and enforcement purposes.

Reason: To safeguard species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) - Policy GP5 of the Newport Local Development Plan

General Conditions

11 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan approved as part of condition 6. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. The fencing shall be retained for the full duration of the development.

Reason: To protect important landscape features within the site. Policy GP5 of Newport Local Development Plan

12 Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. An appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

13 No residential unit shall be occupied until the access and parking spaces shall have been completed in permanent materials in accordance with the plans hereby approved. The parking spaces shall be retained for such purposes in perpetuity.

Reason: In the interests of highway safety and residential amenity - Policy GP4 of the Newport Local Development Plan.

14 No residential unit shall be occupied until Boundary treatments have been implemented in accordance with full details which shall have first been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of visual and residential amenities - Policy GP6 of the Newport Local Development Plan.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP13, SP18, GP2, GP3, GP4, GP5, GP6, GP7, H2, H4, H6, T4 and CE3 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.

03 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice, contact Dwr Cymru Welsh Water on 01443 331155.

04 Foul water, land drainage run off and surface water must be discharged separately from the site. No surface water or land drainage run off shall be allowed to connect to the public sewerage system

05 Should any protected species be discovered following commencement of works, all works must stop and Natural Resources Wales and the Council Ecology Officer must be contacted for advice.