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Section 73 Application

Variation of Condition (a) of Planning Permission 19/0420

7 Stow Park Circle, Newport

1. Introduction

This supporting cover letter has been prepared in support of an application under section 73 of the Town and Country Planning Act 1990 seeking planning permission for development without compliance with condition (a) of planning permission 19/0420, relating to the erection of flats at 7 Stow Park Circle, Newport. The 2021 permission was granted for the “Variation of standard full condition of planning permission 12/0212 for the erection of flats” and is therefore itself a renewal-type consent for the approved residential scheme.

The purpose of the present application is narrow and specific. It seeks only to vary the commencement condition so that the approved development may be lawfully implemented within a further two-year period. No change is proposed to the description of development, the approved layout, scale, form, or residential nature of the scheme. The application therefore does not reopen the principle of the approved development in any substantive way, but instead asks the Local Planning

Authority to grant a further limited period for implementation of an already approved scheme.

This approach is consistent with the statutory function of section 73, which allows applications to develop land without complying with conditions previously imposed on a planning permission, and with Welsh Government guidance confirming that section 73 may be used in Wales to renew planning permissions before the relevant implementation period expires.

2. The Site and Relevant Planning History

The site is 7 Stow Park Circle, Newport. Planning permission was originally granted under application 12/0212 for a new residential flats development. A subsequent permission was then granted under application 19/0420 on the basis of a renewal/variation of conditions application. The 2021 permission imposed a standard condition requiring development to begin not later than the expiration of five years from the date of that permission.

The 2021 permission also re-imposed and updated a substantial suite of pre-commencement, pre-occupation and general conditions. Those include, among other things, requirements for a Construction Environmental Management Plan, a biodiversity CEMP, details and samples of materials, tree protection measures, ecological enhancement providing biodiversity net benefit, slab levels, arboricultural supervision, landscaping, access details, drainage, parking, cycle parking, bin storage, and boundary treatments. The breadth of those conditions is directly relevant to the present application because the volume and technical nature of pre-commencement requirements has materially influenced the programme for lawful implementation.

3. The Application Sought

This application seeks to vary condition (a) of permission 19/0420 so that the approved development must begin within two years from the date of the new section 73 permission.

For avoidance of doubt, the application does not seek to alter:

1. the approved description of development;
2. the approved number of units;
3. the approved design concept and layout; or

4. the underlying principle of residential redevelopment already established by the extant permission.

The proposed replacement wording is:

“The development hereby permitted shall be begun not later than the expiration of TWO YEARS from the date of this permission.”

That wording is clear, precise and enforceable, and reflects the limited nature of the amendment sought.

4. Legislative and Policy Basis for the Application

Section 73 of the 1990 Act enables an application to be made for planning permission without complying with conditions previously imposed on a planning permission. If granted, that results in a new planning permission sitting alongside the earlier one. Welsh Government guidance explains that section 73 will not apply where the previous commencement period has already expired without development having begun but also states expressly that planning permission can be renewed before expiry under section 73.

The same Welsh Government guidance is particularly relevant here for two reasons. First, it states that local planning authorities may apply longer or shorter time periods than the statutory default where they consider it appropriate, and specifically identifies circumstances where uncertain economic conditions may affect the ability of developers to bring development forward. Second, it states that renewal-type section 73 applications should generally only be refused where there has been a material change in planning circumstances, implementation delay would create unacceptable uncertainty, or the application is premature.

The 2021 decision notice identifies the development plan policies relevant to the permission as Newport LDP policies SP1, SP2, SP9, SP12, SP13, SP18, GP2, GP3, GP4, GP5, GP6, GP7, CE7, H2, H4, T4 and W3. The present application does not seek a materially different form of development, and there is no substantive proposal before the Council that would undermine the previous findings of acceptability under those policies.

5. Why the Variation is Justified

5.1 Principle of the Development Remains Accepted

The most important consideration is that the principle of the development has already been accepted by the Local Planning Authority, most recently through permission 19/0420. The site-specific assessment has therefore already been undertaken and resolved in favour of the scheme. The present application does not seek to secure permission for a different development, but only a further modest period within which to implement the approved scheme.

That existing planning history carries substantial weight. A renewed time period does not introduce a new land use, intensification, or materially different built form. It simply preserves the ability to deliver a development that the Council has already found to be acceptable in planning terms. In those circumstances, the burden on an applicant to justify a further implementation period is materially lower than it would be for a wholly fresh and untested scheme.

5.2 No Material Change in Planning Circumstances

Welsh Government guidance indicates that renewal-type section 73 applications should generally only be refused where there has been some material change in planning circumstances since the original permission was granted. There is no such material change here that would undermine the acceptability of the proposal in principle.

The site remains within Newport's urban area, and the approved residential use remains consistent with the broad objectives of sustainable development, effective use of urban land, and housing delivery. The application does not seek to depart from the approved development envelope, nor does it seek to alter the established relationship of the scheme to the surrounding area or the conservation setting. The technical matters that were previously controlled by condition remain capable of being addressed through the existing condition framework.

5.3 Complexity and Volume of Pre-Commencement Requirements

A principal reason why further time is justified is the extensive range of pre-commencement requirements imposed by the 2021 permission. These are not minor or administrative conditions. They include, inter alia, requirements relating to:

- Construction Environmental Management Plans (including biodiversity)

- Ecological enhancement and biodiversity net benefit
- Arboricultural protection and supervision
- Materials and external finishes
- Finished slab levels and site sections
- Landscaping and tree planting
- Access and highway works
- Drainage strategy and infrastructure

Several of these matters require multi-disciplinary technical input, iterative design development, and sequencing between specialist consultants prior to lawful commencement.

Active Discharge of Condition Submissions

The applicant has proactively engaged with the Local Planning Authority and has submitted a number of formal discharge of condition applications, including:

- **Application Ref: 26/0002**
 - Description: Partial discharge of **Condition 2 (CEMP)** and **Condition 3 (CEMP: Biodiversity)**
 - Received: **02 January 2026**
 - Validated: **13 January 2026**
 - Status: **Awaiting Decision**
 - Determination Date: 10 March 2026
- **Application Ref: 26/0003**
 - Description: Partial discharge of **Condition 4 (Materials)** and **Condition 7 (Slab Levels)**
 - Received: **02 January 2026**
 - Validated: **02 January 2026**
 - Status: **Awaiting Decision**

- Determination Date: 27 February 2026
- **Application Ref: 26/0084**
 - Description: Partial discharge of **Condition 10 (Landscaping and Tree Planting)**
 - Received: **03 February 2026**
 - Validated: **03 February 2026**
 - Status: **Awaiting Decision**
 - Determination Date: 31 March 2026

These submissions clearly demonstrate that the applicant has been actively progressing the implementation of the permission and is committed to delivering the approved development.

It is notable that multiple discharge of condition applications have exceeded their statutory 8-week determination period, including application references 26/0003 (due 27 February 2026) and 26/0002 (due 10 March 2026), both of which remain undetermined. This evidence shows that delays in progressing the development are not attributable to the applicant, but arise from the extended determination period and constrained decision-making process.

Delays in Determination and Information Exchange

Despite the above, progress toward implementation has been materially affected by:

- Extended determination periods for discharge of condition applications;
- Ongoing requests for additional information and clarification from consultees and the Local Planning Authority;
- Limited and protracted exchange of technical information between the applicant team and the Authority; and
- The need to coordinate multiple condition submissions simultaneously, where outputs from one discipline inform another (e.g. ecology, landscaping and arboriculture).

This has resulted in a situation where the applicant is effectively constrained from commencing development, not due to lack of intent, but due to the practical and procedural realities of discharging a complex suite of pre-commencement conditions. This is a highly material planning consideration.

The applicant is not seeking an extension due to inactivity, delay tactics, or land banking. Instead, material consideration must be given to the fact that the development is subject to a substantial and onerous condition regime and the applicant has actively engaged in the discharge process. Furthermore, progress has been slowed by procedural and technical constraints, including the time required for LPA review and feedback cycles.

In this context, the inability to commence development within the original timeframe is directly linked to the structure and complexity of the permission itself, rather than any failure on the part of the applicant

5.4 Economic Conditions and Abnormal Cost Pressure

Welsh Government guidance specifically recognises that time periods may appropriately be varied where **uncertain economic conditions** affect the ability of developers to bring development forward. That is directly applicable in the present case.

The construction sector has experienced prolonged volatility in labour availability, procurement lead-in periods, financing conditions and materials pricing. Those pressures have had a particular effect on smaller and medium-sized residential developments where viability margins are more sensitive to inflationary pressure and delayed implementation. In this case, the position is reinforced by the fact that the 2021 permission itself references a viability assessment among the plans and documents approved as part of the application. That is a strong indicator that deliverability and cost sensitivity were already material considerations in the planning history of the site.

The request for a further two years is therefore not speculative. It is a measured and proportionate response to real-world constraints affecting delivery, including the time and cost implications of technical condition discharge and wider economic headwinds in the construction market. A short additional period would improve deliverability without altering the accepted planning merits of the scheme.

5.5 A Limited Additional Period is Proportionate

The application seeks only a two-year extension. That is modest and proportionate. It does not amount to an open-ended delay, nor would it result in unacceptable uncertainty regarding the pattern of development in the area. Welsh Government guidance identifies unacceptable uncertainty as one of the main reasons why a renewal-type application may be refused; that concern does not arise here because the additional period sought is short, specific and directly linked to implementation of an already approved proposal.

A two-year period would provide a realistic window within which the remaining technical approvals can be progressed, procurement can be aligned with viable delivery, and the approved development can be lawfully commenced.

5.6 Public Benefits of Retaining the Permission

The approved development would provide additional residential accommodation in a sustainable urban location. Retaining the ability to implement that scheme supports efficient use of previously developed or urban land, assists housing delivery, and avoids the inefficiency of forcing a wholly fresh planning application for a development whose principle has already been accepted. The continuation of the permission would therefore serve both private and public interests.

There is also a practical efficiency point for the Local Planning Authority. Granting the section 73 variation would preserve the existing approved framework, including the substantial condition regime already imposed to secure acceptable implementation. Refusing the application would more likely result in a fresh full planning application for essentially the same development, with duplicated officer time and no corresponding planning benefit.

It may be suggested that the age of the planning history weighs against a further extension. That point should not be overstated. The key issue is not the age of the original permission in isolation, but whether there has been a material policy or site circumstance change that now renders the approved scheme unacceptable. No such change has been identified. The Council itself renewed the scheme in 2021, and the current application seeks only a short further period.

It may also be suggested that a fresh full application would be preferable. However, Welsh Government guidance expressly contemplates the use of section 73 in Wales to renew planning permissions before expiry. Where, as here, the proposal remains

unchanged in substance and planning circumstances have not materially shifted, section 73 is an appropriate and proportionate mechanism.

Finally, it may be argued that implementation has simply been delayed for too long. That would not reflect the actual position. The approved scheme is subject to a significant package of technical pre-commencement obligations, and the application is supported by evidence of economic and deliverability pressures rather than mere inactivity. The request is therefore justified on planning grounds and grounded in the specific constraints of this permission.

6. Proposed Condition

The applicant requests that condition (a) of planning permission 19/0420 be replaced with the following:

(a) The development hereby permitted shall be begun not later than the expiration of TWO YEARS from the date of this permission.

Reason: To provide a reasonable and proportionate further period for implementation, having regard to the extant approval, the absence of material changes in planning circumstances, the complexity of pre-commencement requirements, and prevailing economic conditions affecting delivery.

8. Conclusion

This section 73 application seeks a limited and justified amendment to the commencement condition attached to permission 19/0420. The application does not alter the nature, form or planning effects of the approved residential development. Rather, it seeks only a modest further implementation period for a scheme whose principle has already been accepted by the Local Planning Authority.

The application is supported by the statutory section 73 framework and by Welsh Government guidance confirming that, in Wales, planning permission can be renewed before expiry under section 73 and that longer or shorter implementation periods may be appropriate where circumstances justify it, including where uncertain economic conditions affect delivery.

There has been no identified material change in planning circumstances that would undermine the acceptability of the approved scheme. By contrast, there are positive reasons to grant the application: the complexity of the condition package, the practical realities of technical discharge, viability and cost pressures in the

construction market, and the public interest in enabling delivery of an already approved housing scheme.

For those reasons, the Local Planning Authority is respectfully requested to grant planning permission under section 73, varying condition (a) to allow a further two-year period for commencement.

Your faithfully,

Sean Taylor MSc MRTPI