

Delegated Decision Report

Application No:	25/0472	Statutory Period Expires:	11th September 2025
Site:	133 Stow Hill Newport NP20 4FZ		
Proposal:	CHANGE OF USE OF FIRST AND SECOND FLOORS OF BUILDING FROM SINGLE MAISONETTE TO 2 NO. FLATS		
Applicant:	Bowes		
Type:	Full	Ward:	Stow Hill
Decision:	REFUSED		

1. BACKGROUND

- 1.1 A previous application, 24/0498 was refused and appeal dismissed for the change of use of upper floors to provide a 5no. bedroom House of Multiple Occupancy. As the proposal now seeks to form 2no. private flats the Inspectors decision is given limited weight as the current scheme is a fundamentally different proposal.
- 1.2 Assessment of the Council Tax records shows that the upper floors of the unit have been paying a residential rate council tax bill since at least the 1st April 1997. The property is recorded as being empty for a number of years, however it is considered that the use has not been abandoned.
- 1.3 The current application (25/0472) was resolved to be Granted subject to the signing of a Section 106 agreement on the 16th October 2025. Despite numerous attempts from the Local Planning Authority contacting the applicants' representatives to progress the signing of the Section 106 agreement, most recently on the 7th July 2026. No response has been received and an additional grace period until the present date was given. The Council is considered to have acted in a reasonable manner to provide the applicant with every opportunity to address the outstanding issues. In light of this, the application is hereby refused due to the failure to sign the S106 agreement within agreed timescales, failing to contribute toward affordable housing contrary to Policies SP13 and H4 of the Newport Local Development Plan 2011 – 26 (Adopted January 2015).
- 1.4 The Courts have held that the community's need for a mix of housing types – including affordable housing – is capable of being a material planning consideration. Conditions should not be used to control matters such as tenure, price or ownership and therefore planning obligations are the normal means of achieving affordable housing.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is located within the urban boundary, is archaeologically sensitive and a Network Rail tunnel is located underneath the site. The area is mainly residential; however St Woolos Hospital is located east of the site. The Grade II listed Stow Hill Railway Tunnel lies underneath the site.
- 2.2 The site itself is a two storey end of terrace property with period features notably to the principal elevation. The adjacent highway is an arterial route through Newport with double yellow lines along its length precluding any on street parking.
- 2.3 To the rear of the site features a small courtyard area, however this is not included in the proposed site layout as being available to any future occupant. Beyond the rear elevation of the dwelling lies a separate residential dwellings.
- 2.4 Spring Lane provides single width vehicle access to the rear of the site. There is no parking area associated with the site.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 Change of use of first and second floors to provide 1no. two bedroom and 1no. one bedroom apartment.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
24/0948	CHANGE OF USE OF UPPER FLOORS TO A 5 BED HMO WITH ACCESS FROM THE GROUND FLOOR	Refused	05.02.2025
		Appeal Dismissed	11.09.2025

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 The Historic Environment (Wales) Act 2023

5.3 PLANNING POLICY WALES (EDITION 12) 2024

5.4 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

- SP1 – Sustainability
- SP9 – Conservation of the Natural, Historic and Built Environment
- SP13 – Planning Obligations
- SP18 – Urban Regeneration
- GP2 – General Amenity
- GP4 – Highways Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- CE6 – Archaeology
- CE7 – Conservation Areas
- H2 – Housing Standards
- H3 – Housing Mix and Density
- H4 - Affordable Housing
- H8 – Self Contained Accommodation and Houses in Multiple Occupation
- T4 – Parking
- W3 – Provision for Waste Management Facilities in Development

5.4 SUPPLEMENTARY PLANNING GUIDANCE

- Sustainable Travel
- Planning Obligations
- Affordable Housing
- Archaeology and Archaeologically Sensitive Areas
- Wildlife and Development
- Flat Conversions
- Waste Storage and Collection
- Parking Standards

6. CONSULTATION RESPONSES

6.1 Principal Heritage Officer: 133 Stow Hill is an unlisted building located to the eastern fringes of Stow Park Conservation Area. The application states that no external alterations are proposed, and therefore the character and appearance of Stow Park Conservation Area will be preserved.

- 6.2 Drainage Manager: No response.
- 6.3 Planning Contributions Manager: Contribution toward affordable housing required.
- 6.4 Environmental Health Officer: No response.
- 6.5 Senior Scientific Officer: No response.
- 6.6 SAB: No response.
- 6.7 Waste Manager: For the flats: We would anticipate for each one of the units to receive a single 120L bin for kerbside collection with recycling bags, boxes for kerbside collection also with each flat paying a single council tax. From April 1st 2020, developers or owners of all new residential units will be required to purchase bin provision for each unit serviced to meet the Council's specification. 120L, 180L, 240L and 360L wheeled bins must be purchased/obtained from Newport City Council. 660L and 1100L bins can be purchased elsewhere but it is strongly recommended to speak to NCC Waste Management Refuse Management beforehand to ensure the bins fit the Refuse Department collection vehicles safely. Failure to purchase correct bin(s) will result in collections being suspended with the Council reserving the right to refuse collection until suitable bin specifications are met.

6.8 Highways Officer:

Highway recommendation:

No objection subject to conditions.

Highway Comments:

The submission identifies areas for bin and bike stores, but no detail is provided. The space is appropriate with good access, but as there is more than one household the scheme must provide additional security. This can be addressed via condition.

The existing garage entrance is to be retained for bin/bike access but is not suitable for car movements and the footway crossing is therefore redundant. As it is prejudicial to some pedestrian groups, we would request a condition to make good/level the footway.

In terms of parking the requirements do not change as the retail unit remains unaltered and both existing and proposed residential developments have three beds in total.

In summary there are no objections, subject to the following conditions.

Suggested Conditions:

Prior to first occupation of the development hereby approved the applicant shall at no expense to the council remove the footway crossing at 133 Stow Hill and reinstate a level footway.

Reason: To ensure that the sufficient measures are taken such that the highway network can accommodate the development and not exacerbate unsatisfactory highway or transportation conditions for pedestrians.

The parking spaces indicated on the approved plans shall be provided for the use of residents, occupiers and visitors of this development only and shall be retained in perpetuity. Reason: To ensure that appropriate provision for parking vehicles is made and maintained, thereby avoiding hazards caused by indiscriminate parking.

Except for site clearance and remediation No development shall take place until a scheme for the provision of cycle parking in accordance with the Council's current standards has been submitted to and approved in writing by the Council as Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no building works, which reduce this provision, shall take place except following the express grant of planning permission by the Council.

Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.

Informative Notes: It is an offence to carry out any works within the public highway without permission of the Highway Authority. This consent requires the construction, improvement or alteration of an access to the public highway. Under Section 184 of the Highways Act 1980 the Highway Authority must specify the works to be carried out and only the Highway Authority or contractor approved by the Highway Authority can carry out the works. Therefore prior to commencing any works that affect the access you must contact the Council's Highway Maintenance Team for further details

6.9 CADW Historic Buildings and Landscapes: No response.

6.10 Heneb: No objection.

6.11 Dwr Cymru/Welsh Water:
SEWERAGE

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We recommend that the existing private drainage on site should be utilised to avoid any new direct connection to the 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.

7. PUBLIC REPRESENTATIONS

Neighbour notification letters were sent on the 5th September 2025.

7.1 NEIGHBOURS: 1no. objection and 1no. representation received (summarised):

- No parking associated with the site.
- Two self contained flats is, in my view, far more appropriate for the size of the building and its amenity. I would ask that noise levels are considered and soundproofing appropriately constructed as some of the rooms now indicated for sleeping are directly above the commercial premises. If the applicant amends or notes the errors in the initial application regarding parking spaces then I would be in support of this application.
- it is assumed the electrical vehicle point in the car port area refers to bicycles as there is no vehicular access
- The ownership of the parking bays is disputed and in any event access is via a lane called Spring Lane which leads to Stow Hill. Spring Lane is part private but constitutes a general access for all purposes by foot or vehicle, the other private lane by my home (133D Stow Hill) and that of our neighbour (133E Stow Hill) is privately owned with no right of way
- we endorse the need for adequate insulation to control potential noise nuisance from the flats, this needs to be adequate to avoid disruption in a conservation area.
- The statement contained in the planning application that there will be no external development needs to be carefully monitored in a conservation area.

8. ASSESSMENT

8.1 Principle of Development

- 8.1.1 The application site is located within a settlement boundary, therefore the site is sustainably located and accords with Policy SP1.

8.2 Impact on The Conservation Area and Grade II Listed Stow Hill Railway Tunnel

- 8.2.1 The proposed development does not include any development to affect the Grade II Listed Stow Hill Railway Tunnel. Therefore, the proposal is considered to preserve the historic asset in accordance with Section 96 of the Historic Environment (Wales) Act 2023.
- 8.2.2 The site is located within the Stow Hill Conservation Area; no alterations are proposed to the external elevations. The Principal Heritage Officer confirms that the character and appearance of the Stow Hill Conservation Area shall be preserved; therefore the proposal accords with the duty under Section 159 of the Historic Environment (Wales) Act 2023.
- 8.2.3 In light of the above, the proposal is also considered to accord with the aims of Policy SP9 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

8.3 Urban Regeneration

- 8.3.1 The site is a highly visible location along a main arterial route through the city, therefore, the reuse of this building would positively contribute toward the regeneration of the city and overall appearance of the area in accordance with Policy SP18.

8.4 Impact on Amenity

- 8.4.1 The upper floors are considered to have an existing lawful residential use, however the subdivision to form 2no. units shall be considered against the Flat Conversions SPG.
- 8.4.2 To the ground floor lies an existing retail unit which is to be retained. Although there is currently a lawful residential use above, due to the proposal intensifying the amount of separate residential units, it is considered appropriate and necessary to ensure that suitable sound insulation is present between floors and ceilings to ensure transference of sound is minimised and acceptable in terms of occupants' amenity.
- 8.4.3 The submitted floor plan shows that each unit is served by either single, dual or multiple aspect to allow for daylight and sunlight to enter the units.
- 8.4.4 The first floor two bedroom flat has an internal floorspace of 56.34sqm and the second floor one bedroom flat has an internal floorspace of 42.41sqm. The desired gross internal floorspace as set out in the Flat Conversions SPG are 45sqm and 58sqm for a one and two bedroom flat conversion scheme respectively.
- 8.4.5 The proposed layout falls short of those desired standards, however when taking into account the existing use as residential and the marginal shortfall when compared to desired standards and that the proposed floorplans include separate bedrooms, living spaces, kitchens and bathrooms, it is considered that residential amenity would not be affected to a degree to warrant refusal of the scheme.
- 8.4.6 The existing residential unit is not served by any useable outdoor private amenity space; the proposal does not alter this arrangement. As there is no opportunity to provide outdoor amenity space, this could not form a reason for refusal as per section 5.5.1 of the Flat Conversions SPG.
- 8.4.7 The proposed layout includes an courtyard area which would be suitable for the storage of waste and recycling for the residential and commercial units.
- 8.4.8 The residential units would have a separate dedicated access from Stow Hill, and the commercial unit would retain its own separate access also.
- 8.4.9 The proposal is considered to not represent as an overdevelopment of the site given the space and amenities afforded to any future occupant.

8.5 Impact on Highways and Parking

- 8.5.1 The proposal would not alter the existing vehicle access routes leading to the rear of the site, of affect the unclassified road of Stow Hill.
- 8.5.2 The physical constraints of the site result in the site not being served by any areas to facilitate off street parking.
- 8.5.3 The submitted planning statement refers to the provision of 2no. parking spaces associated with the site. However, the submitted red edge plan does not extend to the available parking area at the rear or provides an indication where these spaces are located. Given the absence of any evidence to demonstrate the off street parking provision, the application shall be considered to have nil off street parking available to the future occupants.
- 8.5.4 The existing floor layout includes the ground floor commercial unit, and a 3no. bedroom residential unit to the upper floors. The proposed flat conversion scheme would not provide any additional bedrooms over the existing amount. Therefore, it is considered that the proposal would not increase parking pressures on or around the site.
- 8.5.5 No secure cycle storage has been included on the proposed layout drawings; it is considered this could be secured by way of condition to be located within the residents courtyard area.
- 8.6 **Impact on Biodiversity**
- 8.6.1 The submitted planning statement comments that a Green Infrastructure Statement was included within the supporting documents, however none has actually been submitted.
- 8.6.2 Notwithstanding this, a desktop assessment shows that the site has a low ecological value as it is located within an urban area with little surrounding green infrastructure. While Planning Policy Wales (Ed.12) sets out that significant weight will be given to the absence of a Green Infrastructure Statement, in this case its absence shall not form a reason for refusal. A proportionate measure to achieve a biodiversity net gain shall be secured by way of condition in order to achieve the overarching biodiversity aims of Planning Policy Wales (Ed.12). The proposal accords with Policy GP5.
- 8.7 **Impact on Archaeology**
- 8.7.1 The proposal does not include any below ground level excavations and the scheme has received no objection from Heneb. As such, the proposal is considered to not harm any unrecorded below ground deposits in accordance with Policy CE6.
- 8.8 **Waste and Recycling**
- 8.8.1 Details of waste and recycling storage have not been provided, however these details can be secured by way of condition. Therefore, subject to condition the proposal accords with Policy W3.
- 8.9 **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 requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
<i>Regeneration, Investment and Housing</i>	<i>To provide a contribution toward off site affordable housing.</i>	<i>A commuted sum of £858 toward off site affordable housing.</i>	<i>Agreed.</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 net development of 1 x 1 bed ‘market’ flat, 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

The Council charges an Administration Fee of £200 for progressing and subsequent monitoring of the S106 planning agreement

Legal Fee

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 Despite the planning merits of the scheme being acceptable, the outstanding issue of the unsigned S106 agreement results in an *in principle* issue in the acceptability of the scheme. As such, the failure to secure a contribution toward affordable housing forms the basis of the reason for refusal.

11. **DECISION
REFUSED**

01 The proposal represents an unsustainable form of development as it fails to contribute towards the provision of affordable housing. This is contrary to Policies SP13 and H4 of the Local Development Plan 2011-2026 (adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos:

- Site Location Plan (Received: 10.09.2025)
- Proposed Floor Plans (Revision B, received 10.09.2025)
- Proposed Elevations (Revision B)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, CE6, CE7, H2, H3, H4, H8, T4 and W3 were relevant to the determination of this application.

02 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.