

# Agenda



## Planning Committee

---

Date: Wednesday, 4 November 2015

Time: 10.00 am

Venue: Council Chambers, Civic Centre, Newport

To: Councillors P Huntley (Chair), C Jenkins, M Al-Nuami, V Delahaye, D Fouweather, M Linton, J Mudd, R White, O Ali and K Critchley

### **WEBCASTING NOTICE**

*This meeting may be filmed for live or subsequent broadcast via the Council's internet site.*

*At the start of the meeting the Mayor or Person Presiding will confirm if all or part of the meeting is being filmed. The images and sound recording may be also used for training purposes within the Council.*

*Generally the public seating areas are not filmed. However by entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.*

*If you have any queries regarding this, please contact the Chief Democratic Services Officer.*

**NB: Please click on the link below to view the Planning Code of Practice:-**

<http://livepreview.newport.gov.uk/documents/Council-and-Democracy/About-the-council/Planning-Code-of-Conduct/Planning-Code-of-Practice-Final-version-27-May-2015.pdf>

**Copies of the Planning Code of Practice will be available at the meeting.**

### **Part 1**

<b>Item</b>	<b>Wards Affected</b>
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meetings held on 7, 14 and 22 October 2015</u> (Pages 3 - 12)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 13 - 104)	All Wards
5. <u>Appeal Decisions</u> (Pages 105 - 114)	All Wards
6. <u>S106 Planning Obligations and City Centre Residential Development</u> (Pages 115 - 120)	All Wards

Contact: Miriam Durkin

Tel: 01633 656656

E-mail: [miriam.durkin@newport.gov.uk](mailto:miriam.durkin@newport.gov.uk)

Date of Issue: Wednesday, 28 October 2015

This page is intentionally left blank



# Minutes

## Planning Committee

---

Date: 7 October 2015

Time: 10.00 a.m.

Present: Councillors Huntley (in the Chair), Ali, Al-Nuaimi, Critchley, Mudd and White

B Owen (Head of Regeneration, Investment & Housing), S Williams (West Area Applications Manager), J Davidson (East Area Applications Manager), L Jones (Principal Planning Officer), C Jones (Principal Engineer), S Davies (Strategy & Development Manager), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors Delahaye, Fouweather, Linton and Trigg

---

### 1 Minutes

The Minutes of the meeting held on 2 September, 2015 were submitted.

#### Resolved

That the Minutes of the meeting held on 2 September, 2015 be taken as read and confirmed.

### 2 Development Management: Planning Application Schedule

#### Resolved

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix.

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached.

### 3 Appeal Decisions

#### Planning Application Appeal – Dismissed

Application 14/0443 – The Fields, Milton Hill, Llanwern – Proposed two storey dwelling and vehicular access

#### Resolved

That the appeal decision be accepted as a basis for informing future decisions of the Planning Committee.

### 4 Planning Site Sub Committee

#### Resolved

1. That Councillor Critchley be appointed to the vacancy on the Planning Site Sub Committee.
2. That a meeting of the Planning Site Sub Committee visit be held on 15 October, 2015 to inspect the site of Application 15/0819 – Land north of and adjacent to 58 Clevedon Road – Development of 17 No apartments and 1 No. bungalow and associated works.

## **5 Additional Planning Committee**

The Chair reminded Members that there was an additional meeting of Planning Committee on 14 October, 2015 to consider Application 14/0337 – Land north of and adjacent to M4, Began Road – Installation of a ground mounted photovoltaic (solar electricity) Plant etc

## Appendix

### PLANNING COMMITTEE – 7 OCTOBER, 2015

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
15/0725	<p>Castle Farm, Bishton Road, Bishton</p> <p>Erection of 0.9MW wind turbine of 66 metres in height (to blade tip) and ancillary equipment and associated infrastructure (affecting public right of way 388/20 Bishton and 388/18 Bishton)(Resubmission of Application 14/0713)</p>	Llanwern		Deferred for Officer consideration of the technical information now submitted
15/0393	<p>Land to west of Cefn Llogell Farm, Cardiff Road</p> <p>Construction of a ground-mounted solar PV Generation Project (3.8MW)and associated works (affecting public right of way 390/5 and 390/8)</p>	Marshfield	<p>Late representations had been previously circulated.</p> <p>Mr J Williams spoke objecting to the application.</p> <p>Mr R Bowen, the Agent on behalf of the Applicant spoke in support of the application.</p> <p>Councillor White, Marshfield Ward Member spoke objecting to the application.</p> <p>Officers were recommending approval of the application with conditions.</p>	<p>Refused</p> <p><u>Reasons</u></p> <p>The application was considered to be in contradiction of Welsh Government policy for the preservation of best and most versatile agricultural land as set out in Policy 4.10.1 of Planning Policy Wales and LDP Policy GP5. Also, the visual effect of the proposal as viewed from the public right of way 390/8.</p>

15/0636	86 Capel Cresecent  Proposed change of use from disused place of worship to food preparation centre with products being used for illustrative purposes – events, magazines, photographs etc. Also installation of external refrigeration unit to side	Pillgwenlly	Councillor Ali, Pillgwenlly Ward Member spoke objecting to the proposal.  (HRIH agreed to look at points raised relating to the local consultation process on planning applications)	Granted with conditions
15/1027	Rogerstone Primary School, Ebenezer Drive	Rogerstone		Granted with conditions

# Minutes



## Planning Committee

---

Date: 14 October 2015

Time: 10.00 a.m.

Present: Councillors Huntley (in the Chair), Ali, Critchley and White

S Williams (West Area Applications Manager), J King (Senior Planning Officer), L Christian (Senior Planning Officer Policy), S Herbert (Senior Traffic Transport & Development Officer), S Davies (Assistant Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors Al-Nuaimi, Delahaye, Fouweather, Linton and Mudd

---

### 1 Development Management: Planning Application Schedule

#### Resolved

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix.

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached.

### 2 Application 15/0393 – Land to the west of Cefn Llogell Farm, Cardiff Road

The Chair asked Planning Committee whether it wished to re-consider Application 15/0393 – Land to the west of Cefn Llogell Farm, Cardiff Road – Construction of a ground mounted solar PV Generation Project (3.8MW) which Planning Committee had resolved to refuse on 7 October 2015 in the light of the appeal decision on 9 October 2015 relating to Court Farm, Magor Road for a proposed development of solar photovoltaic panels (14/1275), which is considered to constitute a material consideration to the determination of application 15/0393.

#### Resolved

That Application 15/0393 be included on the agenda for the next diaried meeting on 4 November, 2015 for re-consideration.





## Appendix

### PLANNING COMMITTEE – 14 OCTOBER, 2015

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
14/0337	<p>Land north of and adjacent to M4, Began Road</p> <p>Installation of a ground mounted photovoltaic (solar electricity) plant (4.85MW), including the erection of transformers and other ancillary equipment, tracks, drainage, fencing, CCTV, landscaping and all associated building and engineering operations, for use for a period of up to 25 years affecting public rights of way 400/61, 400/62 and 400/63. Amendment to original proposal, comprising a reduction in site area and amendment to proposed access point</p>	Marshfield	<p>HRIH reported, as background to the presentation on this Application, that the appeal relating to the proposed development of solar photovoltaic panels at Court Farm, Magor Road (14/1275) had been allowed and planning permission granted.</p> <p>HRIH referred to late representations previously circulated.</p> <p>Community Councillor G Davies, Michaelstone-y-Fedw Community Council spoke objecting to the application.</p> <p>Mr P Vining, the Agent on behalf of the applicant spoke in support of the application.</p> <p>Councillors White and Tom Suller, Marshfield Ward Members spoke objecting to the application and requesting that a Site Inspection be undertaken.</p>	<p><u>Committee Site Inspection</u></p> <p><u>Reasons</u></p> <p>There were Committee Members who had not attended the previous site inspection who could attend this inspection, to assess the access to the site, benefits of renewables versus environmental issues and impact upon residents and flooding issues</p>

This page is intentionally left blank

# Minutes



## Planning Committee

---

Date: 22 October 2015

Time: 10.00 a.m.

Present: Councillors Huntley (in the Chair), Ali, Al-Nuaimi and White

T Brooks (East Area Development Manager), G Roberts (Principal Planning Officer), L Jones (Principal Planning Officer), C Jones (Principal Engineer), S Davies (Assistant Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors Critchley, Delahaye, Fouweather and Mudd

---

### 1 Development Management: Planning Application Schedule

#### Resolved

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix.

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached.

## Appendix

### PLANNING COMMITTEE – 22 OCTOBER, 2015

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
14/0337	<p>Land north of and adjacent to M4, Began Road</p> <p>Installation of a ground mounted photovoltaic (solar electricity) plant (4.85MW), including the erection of transformers and other ancillary equipment, tracks, drainage, fencing, CCTV, landscaping and all associated building and engineering operations, for use for a period of up to 25 years affecting public rights of way 400/61, 400/62 and 400/63. Amendment to original proposal, comprising a reduction in site area and amendment to proposed access point</p>	Marshfield	<p>The Committee having visited the site and assessed the access to the site, benefits of renewables versus environmental issues and impact upon residents and flooding issues, gave further consideration to this application.</p> <p>Community Councillor G Davies, Michaelstone-y-Fedw Community Council spoke objecting to the application.</p> <p>Mr P Waldren, the Agent on behalf of the applicant spoke in support of the application.</p> <p>Councillors White and Tom Suller, Marshfield Ward Members spoke objecting to the application.</p> <p>The Officers were recommending approval of the application with conditions.</p>	Granted with conditions (including a condition relating to the visibility splay for the proposed site access)

# Report

## Planning Committee

---

### Part 1

Date: 4 November 2015

Item No: 4

**Subject** **Planning Application Schedule**

**Purpose** To take decisions on items presented on the attached schedule

**Author** Head of Regeneration, Investment and Housing

**Ward** As indicated on the schedule

**Summary** The Planning Committee has delegated powers to take decisions in relation to planning applications. The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

**Proposal**

1. To resolve decisions as shown on the attached schedule.
2. To authorise the Head of Regeneration, Investment and Housing to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

The Officer recommendations detailed in this report are made following consultation as set out in the Council's approved policy on planning consultation and in accordance with legal requirements.

## **Background**

The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases, or against the imposition of planning conditions. There is no third party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

## **Financial Summary**

The cost of determining planning applications and defending decisions at any subsequent appeal is met by existing budgets and partially offset by statutory planning application fees. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

## **Risks**

Three main risks are identified in relating to the determination of planning applications by Planning Committee: decisions being overturned at appeal; appeals being lodged for failing to determine applications within the statutory time period; and judicial review.

An appeal can be lodged by the applicant if permission is refused or if conditions are imposed. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

A decision can be challenged in the Courts via a judicial review where an interested party is dissatisfied with the way the planning system has worked or how a Council has made a planning decision. A judicial review can be lodged if a decision has been made without taking into account a relevant planning consideration, if a decision is made taking into account an irrelevant consideration, or if the decision is irrational or perverse. If the Council loses the judicial review, it is at risk of having to pay the claimant's full costs in bringing the challenge, in addition to the Council's own costs in defending its decision. In the event of a successful challenge, the planning permission would normally be quashed and remitted back to the Council for reconsideration. If the Council wins, its costs would normally be met by the claimant who brought the unsuccessful challenge. Defending judicial reviews involves considerable officer time, legal advice, and instructing a barrister, and is a very expensive process. In addition to the financial implications, the Council's reputation may be harmed.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry and judicial review can be high.

<b>Risk</b>	<b>Impact of risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b>	<b>Who is responsible for dealing with the risk?</b>
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development Services Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Development Services Manager
Appeal lodged against non-	M	L	Avoid delaying the determination of applications	Planning Committee

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
determination, with costs awarded against the Council			unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee  Development Services Manager

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

The Council's Corporate Plan 2012-2017 identifies five corporate aims: being a Caring City; a Fairer City; A Learning and Working City; A Greener and Healthier City; and a Safer City. Key priority outcomes include ensuring people live in sustainable communities; enabling people to lead independent lives; ensuring decisions are fair; improving the life-chances of children and young people; creating a strong and confident local economy; improving the attractiveness of the City; promoting environmental sustainability; ensuring people live in safe and inclusive communities; and making Newport a vibrant and welcoming place to visit and enjoy.

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

The Corporate Plan links to other strategies and plans, the main ones being:

- Single Integrated Plan;
- Local Development Plan 2011-2026 (Adopted January 2015);

The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City. Its vision is: "*Working together to create a proud and prosperous City with opportunities for all*"

The Single Integrated Plan has six priority themes, which are:

- Skills and Work
- Economic Opportunity
- Health and Wellbeing
- Safe and Cohesive Communities
- City Centre
- Alcohol and Substance Misuse

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Local Development Plan (Adopted January 2015) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.



## **Options Available**

- 1) To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To grant or refuse planning permission against Officer recommendation (in which case the Planning Committee's reasons for its decision must be clearly minuted);
- 3) To decide to carry out a site visit, either by the Site Inspection Sub-Committee or by full Planning Committee (in which case the reason for the site visit must be minuted).

## **Preferred Option and Why**

To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate).

## **Comments of Chief Financial Officer**

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

## **Comments of Monitoring Officer**

Planning Committee are required to have regard to the Officer advice and recommendations set out in the Application Schedule, the relevant planning policy context and all other material planning considerations. If Members are minded not to accept the Officer recommendation, then they must have sustainable planning reasons for their decisions.

## **Staffing Implications: Comments of Head of People and Business Change**

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

## **Local issues**

Ward Members were notified of planning applications in accordance with the Council's adopted policy on planning consultation. Any comments made regarding a specific planning application are recorded in the report in the attached schedule

## **Equalities Impact Assessment**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act 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. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share

a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that 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.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

## **Children and Families (Wales) Measure**

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

## **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 7 (July 2014)

Minerals Planning Policy Wales (December 2000)

### *PPW Technical Advice Notes (TAN):*

- TAN 1: Joint Housing Land Availability Studies (2006)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Town Centres (1996)
- TAN 5: Nature Conservation and Planning (2009)
- TAN 6: Planning for Sustainable Rural Communities (2010)
- TAN 7: Outdoor Advertisement Control (1996)
- TAN 8: Renewable Energy (2005)
- TAN 9: Enforcement of Planning Control (1997)
- TAN 10: Tree Preservation Orders (1997)
- TAN 11: Noise (1997)
- TAN 12: Design (2014)
- TAN 13: Tourism (1997)
- TAN 14: Coastal Planning (1998)
- TAN 15: Development and Flood Risk (2004)
- TAN 16: Sport, Recreation and Open Space (2009)
- TAN 18: Transport (2007)
- TAN 19: Telecommunications (2002)
- TAN 20: The Welsh Language: Unitary Development Plans and Planning Control (2013)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

## **LOCAL POLICY**

Newport Local Development Plan (LDP) 2011-2026 (Adopted January 2015)

Supplementary Planning Guidance (SPG):

- Affordable Housing (adopted August 2015)
- Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
- Flat Conversions (adopted August 2015)
- House Extensions and Domestic Outbuildings (adopted August 2015)
- Houses in Multiple Occupation (HMOs) (adopted August 2015)
- New dwellings (adopted August 2015)
- Parking Standards (adopted August 2015)
- Planning Obligations (adopted August 2015)
- Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)
- Wildlife and Development (adopted August 2015)

## **OTHER**

The Colliers International Retail Study (July 2010) is not adopted policy but is a material consideration in making planning decisions.

The Economic Development Strategy is a material planning consideration.

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.

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (Wales) Regulations 2008 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

Dated: 4 November 2015

**APPLICATION DETAILS**

**No:** 14/1283      **Ward:** LLISWERRY  
**Type:** FULL (MAJOR)  
**Expiry Date:** 14-MAY-2015  
**Applicant:** TAYLOR WIMPEY  
**Site:** LYSAGHT DEVELOPMENT SITE, LYSAGHT WAY, NEWPORT  
**Proposal:** CONSTRUCTION OF BUILDING CONTAINING 16NO. APARTMENTS AND ASSOCIATED WORKS

**Recommendation: GRANTED WITH CONDITIONS**

**1. INTRODUCTION**

- 1.1 This application seeks consent for the construction of 16 apartments and associated works at the Lysaght development site in the Lliswerry ward. The site is situated within the south-western corner of the wider Lysaght site with the Orb Electrical Steel Industrial Site to the south and the riverbank to the north-west. To the north, east and south-east the Lysaght site has already been developed and the application site is surrounded by residential development which has been occupied for some time.
- 1.2 The site occupies a prominent riverside location and the application must give appropriate consideration to this location. It should be noted that during the course of the application amended plans have been received and the number of parking spaces proposed has been increased from 16 to 36.
- 1.3 The site is located within the settlement boundaries and is allocated as a housing site within the Local Development Plan.

**2. RELEVANT SITE HISTORY**

05/1554	REDEVELOPMENT OF LAND FOR RESIDENTIAL DEVELOPMENT INCLUDING OPEN SPACE, LANDSCAPING AND ROADS AND PATHS (OUTLINE)	Granted with Conditions
08/0565	RESIDENTIAL DEVELOPMENT COMPRISING 563 DWELLING UNITS - RESERVED MATTERS APPLICATION RELATING TO OUTLINE PERMISSION 05/1554 FOR REDEVELOPMENT OF LAND FOR RESIDENTIAL DEVELOPMENT INCLUDING OPEN SPACE, LANDSCAPING, ROADS AND PATHS	Granted with Conditions

**3. POLICY CONTEXT**

**3.1 Newport Local Development Plan –**

SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles.  
SP3 Flood Risk: There is a need to locate development outside of flood risk. Where a proposed site such as this is located partly in flood risk the consequence of flooding must be investigated and justified.  
SP13 Planning Obligations: Proposals of this scale will be required to provide or make contributions to infrastructure.  
GP1 General Development Principles – Climate Change: This policy seeks to ensure that the development is to withstand climate change over the lifetime of the development.

GP2 General Development Principles – General Amenity: There is to be no significant adverse effect on the amenity of the existing or new community.

GP3 General Development Principles – Services Infrastructure: This policy requires justification as to the suitability of the service infrastructure required by the proposal e.g. sewerage.

GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.

GP5 General Development Principles – Natural Environment.

GP6 General Development Principles – Quality of Design: All new development must ensure that they are to achieve good quality design. This is ensuring that the proposal creates a safe, accessible and attractive environment taking into account the context, scale and materials of the design.

GP7 General Development Principles – Environmental Protection and Public Health: This policy seeks to ensure that there is no unacceptable harm to health from a development.

H1 Housing Sites: The proposed development has been allocated within the LDP as a housing site. The site will therefore be supported as to its ability to fulfil part of the housing supply for the plan period.

H2 Housing Standards: Housing developments will be required to be built to high standards of environmental and sustainable design.

H3 Housing Mix and Density.

H4 Affordable Housing: This policy requires sites of 10 or more units to provide on-site affordable housing provision.

T4 Parking: This policy requires adequate level of parking to ensure there is no detrimental impact on the new site or existing community.

#### **4. CONSULTATIONS**

4.1 DWR CYMRU – WELSH WATER: No response.

4.2 NEWPORT ACCESS GROUP: No response.

4.3 WALES AND WEST UTILITIES: Provide details of their apparatus in the area and offer no objection.

4.4 NATURAL RESOURCES WALES: The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river. The planning application proposes housing (highly vulnerable development) on previously developed land within a flood risk area. Section 6 of TAN15 requires the Authority to determine whether the development at this location is justified. NRW have reviewed the FCA produced by Opus, submitted in support of the application and note that the FCA recommends that proposed ground floor levels will be raised to 10.0m AOD. Based on a proposed ground floor level of 10.0m AOD the development is shown to be flood free during a 1 in 200 year flood event including a 100 year lifetime of development in accordance with TAN15. The development is also designed to be flood free during the current day 1 in 1000 year extreme flood event. It should be noted that the FCA has not assessed the risks and consequences of flooding during a 1 in 1000 year flood event including an allowance for climate change.

NRW agree with the recommendation of the FCA that occupiers should sign up to a flood warning system. Having reviewed the information NRW offer no objection to the development. It has been established that the proposed floor levels of the ground floor will comply with the requirements of TAN 15.

NRW wish to be assured that conditions attached to the original planning permission (08/0565) for the residential development of 563 dwellings which were included to maintain the ecological interests of the River Usk SAC and River Usk SSSI are included in any new planning permission.

- 4.5 ARCHITECTURAL LIAISON OFFICER: Offers no objections to the application.
- 4.6 WESTERN POWER DISTRIBUTION: Provide details of apparatus in the area. Safe working procedures should be practiced.
- 4.7 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: Offer no objection to the proposals.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The proposal consists of 16no. 2 bed apartments which in accordance with the Newport City Council Parking Standards 2012 generate a parking demand of 32 resident parking spaces plus 3 visitor spaces. It was evident from a recent site visit that there is a demand for parking on street. It is not clear exactly what factors are leading to this demand. However, I would suggest that it is a combination of insufficient levels and use of the off street parking availability. On street parking is clearly an issue in the vicinity of the site and therefore must be taken as a material consideration as part of this current application. The applicant has been unable to produce a sustainability assessment to justify a reduction in parking provision. As such the applicant has submitted a layout with 36 spaces. The layout includes tandem parking which is acceptable subject to the 2 spaces being allocated to an individual unit. On the basis of the revised parking layout no objection is offered.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY OFFICER): Does not object to the application. Recommends that the relevant conditions with regards to the River Usk SAC and SSSI be attached to any planning permission. These are to include no night time working and no lighting to be shone onto the river bank.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): Confirms the proposals are considered to be acceptable and no objection is offered.
- 5.4 PUBLIC PROTECTION MANAGER (NOISE AND POLLUTION): No objections are offered to the amended plans. However, suitable conditions should be attached to any permission granted to require that windows serving north western/south western facades nearest Orb are sealed shut i.e. the side elevation with windows serving living rooms and the rear elevation with windows serving bedrooms of the 4 apartments nearest the industrial site. In addition, a condition should be attached requiring submission of details of glazing and ventilation measures for the above apartments and for the remaining 12 apartments, prior to commencement of development. Additionally, a Construction and Environmental Management plan should be submitted for approval prior to commencement of development. The CEMP should detail means of noise and dust mitigation during construction.  
Requests a condition relating to contaminated land.
- 5.5 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING CONTRIBUTIONS MANAGER): The development does not represent a net increase to the overall housing numbers approved by the original outline planning approval. As such no further planning obligations are requested.
- 6. REPRESENTATIONS**
- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (370no dwellings in total), and a site notice was displayed. 20no responses were received in response to the first round of consultations raising the following objections:
- Parking in the area is already over-subscribed and the proposals would make this even worse;
  - The increased traffic and indiscriminate parking would make it dangerous for children who play in the area;
  - The proposals would decrease privacy for existing residents and increase noise and disturbance;
  - The proposals would be detrimental to the 'charm' of the area;

- There is a lack of green space within the Lysaght site and this site should be a play area for children;
- The proposals represent over-development and are likely to increase tension between neighbours and lead to a poor social environment;
- Residents were not informed by Taylor Wimpey that they were considering building 16 two bedroom apartments on the site;
- It is unclear whether the apartments will be private or social housing;
- The access to the entire site is an issue, with roads being narrowed by cars double parking all through the site, narrow bends with cars parking on the bends, large pot holes – excavation equipment and vehicles accessing the site all day;
- Should this application be given the go ahead it is unclear how Taylor Wimpey are planning on accessing the site to commence the construction. It must not be through the access point that the homeowners currently use, that residents are liable for the maintenance of;
- Question whether the new owners of the apartments will be made liable for the increase in wear and tear of the paved access, curbs, drainage etc. – as per the current owner's deeds;
- The plan shows parking spaces for 16 cars based on 16 apartments. This is on the assumption that there is one vehicle per apartment. However in today's modern life and the market for this kind of accommodation, the reality could be an increase of 32 cars in addition to the 32 plus vehicles currently in the courtyard. Question where the additional cars are going to be parked,
- There is no provision for disabled parking;
- Bin stores are a fire hazard as can be seen previously when they have been set alight at Lysaght Village. The rules and requirements set out by Taylor Wimpey regarding the use of bin stores are never adhered to;
- The building would impact on natural light and would result in loss of view over the river;
- The proposed development is out of keeping with surrounding development and the character of the courtyard;
- Apartments (as opposed to housing) at this site will reduce neighbouring property value;
- It will be problematic for Council waste collections which in turn will mean rubbish piling up and encourage vermin;
- The proposals would result in overlooking;
- The proposals would result in increased noise pollution;
- The proposals would result in loss of light and view;
- Emergency vehicles may not be able to access the courtyard due to indiscriminate parking;
- The developers should provide a management plan for the apartments to cover refuse collection including the monitoring of the use of the bin stores, car parking issues, drying of clothes, general cleaning of external areas and maintenance of garden areas;
- Any external lighting should not create a nuisance to adjacent properties;
- Question whether there will be any additional safety provisions introduced along the riverbank to protect any children playing in the area;
- Question whether the conditions of the original Legal Agreement have been amended and the developers contributions to education and leisure provisions been increased to cover the additional demands on the Council services. Schools in the locality are oversubscribed prior to the erection of the additional units;
- Question whether the primary-care units in the locality able to register additional patients;
- The developer must consider site security, vehicle and delivery traffic controls, noise, dust and general littering of the construction site, cleanliness of the roads and footpaths, parking of contractor's vehicles and protection of resident's property and vehicles during construction;
- Access to the site during construction would be a health and safety hazard;
- The siting of the bin store next to the boundary of a neighbouring property will result in smells and hygiene issues;
- The bin store will attract fly-tipping;

7no responses received following a second round of consultations due to an amended parking layout. Much of the content of the responses reiterated previous concerns and confirmed that objections were still held. In addition to this neighbours have raised the following concerns:

- The developers have shown details of refuse lorry movements but this may not be possible due to indiscriminate parking in the area;
- Question whether the developer has provided a management plan to cover the apartments and refuse collection, car parking issues, drying of cloths, general cleaning and maintenance;
- Any external lighting, if provided, within the curtilage of the apartments should not create a nuisance to adjacent properties;
- There is inadequate play provision for children in the area;
- The revised parking layout does not address the volume of traffic which uses the access point;
- Question whether the developer will sell-off the visitor parking spaces;
- Concerns are raised about the accessibility of some of the proposed parking spaces;
- There are no disabled parking spaces and no lift within the apartment block;
- Highways comments are contradictory as it was initially stated that the access is too small and a footpath is required;
- Mixing people with moving vehicles is an accident waiting to happen and there have already been close calls;
- The amount of people will double but the access size will remain the same;
- Vehicles currently have to reverse along the access and this situation will be exacerbated;
- Double parking has been reported to Taylor Wimpey and the Police but they can only offer advice as it is privately owned;
- As there are no double yellow lines people are able to park both sides of the access without breaking the law;
- The pavement is not raised and is only marked by a different coloured block, therefore people do not adhere to it being a 'pavement' and it does not prevent people from parking there.

6.2 COUNCILLORS CRITCHLEY, JEAUVONS AND MORRIS: Have shown an interest in the application and have expressed concerns. Councillor Jeavons wishes Committee to consider the very limited access/egress to the proposed site and insufficient parking facilities for the new build associated with the 16no apartment's along side Kingfisher Walk.

## **7. ASSESSMENT**

7.1 As stated above the wider Lysaghts site is largely developed or is currently being developed and the application site is neighboured by residential development to the north-east and south-east. A four storey apartment block is proposed with a parking court providing 36no parking spaces to the rear. The apartment building would face the waterfront, its front elevation being set back approximately 8m from the riverbank with the riverside walkway situated between the building and the river. The main entrance lobby to the building would be to the rear elevation. A cycle and bin store is also proposed to the rear of the apartment building situated adjacent to the rear gardens of neighbouring properties.

7.2 The building would measure 10m in height to the eaves and 14.5m to the ridge. The building would have a mixed render and red brick finish with dark roof tiles. The front and rear elevations of the building would incorporate gable features. The front elevation facing the river would have balconies to the first, second and third floors. No windows are proposed in the side elevation facing the Orb Works site. The internal layouts of all of the



flats would be similar with entrance halls, two bedrooms, a bathroom and a combined kitchen/dining and living room area. The bin/cycle store would measure 8.5m in length, 4.5m in depth and 4.5m in height and would be constructed with brick walls and concrete roof tiles. It would be located adjacent to the rear boundaries of two neighbouring properties separated from the apartment building by parking and associated hard-standing. To the front of the building adjacent to the riverfront 1m high black powder coated railings are proposed in keeping with existing neighbouring development.

7.3 Located in the eastern corner of the the Lysaght site behind previously developed parts of the site, vehicle access is gained from one of the main estate distributor roads between plots 158 to 161. Much concern has arisen from neighbours about the suitability of the access and its ability to cope safely with increased traffic.

7.4 A vacant strip of land exists between the Lysaght site and the Orb site to the south with the purpose of maintaining an adequate separation distance between the industrial use and residential development. In order to provide a greater number of parking spaces, this scheme includes the use of some of this strip of land for parking provision. Planning permission exists for the erection of an acoustic fence between the two sites but is yet to be implemented.

### 7.5 ***Planning History***

The site does not benefit from an extant planning permission. Contrary to the understanding of some of the neighbouring residents, the only permission that this part of the Lysaght site has previously benefitted from was for the erection of an apartment building, albeit with a different layout to the building now proposed although it was of a similar scale. The site has never had permission for houses. The apartment building was consented under application no. 08/0565 which was relinquished on this part of the site via a Section 106 Legal Agreement attached to an application for the replan proposal in 2011. However, the fact that the Council has previously consented an apartment building at the site is a material consideration that must be given due weight. The Council would not permit housing within this part of the site. This stance is due to the site's proximity to the Orb works and the noise generated by the neighbouring works that would not be compatible with outdoor amenity space (which houses would be served by unlike apartments). The Council has previously refused planning permission for houses at another part of the site within the same proximity to the Orb works. This decision was upheld at appeal.

7.6 Several revisions have been received during the course of the application relating to the design of the façade of the apartment building, at the request of officers in order to ensure that a suitable quality of design is achieved to reflect the prominent location.

### 7.7 ***Highways***

The Council's Parking Standards are relevant to the proposals. Based on the standards the development generates a parking demand of 35 resident parking spaces (one space per bedroom) plus 3 visitor spaces. The initial layout only proposed 16no parking spaces. The revised layout provides 36no parking spaces.

7.8 Much of the concerns raised by neighbouring residents in response to the application have centred around a lack of parking provision in the vicinity and indeed the wider estate. It was evident during officer site visits that there is a high demand for parking on-street in the vicinity with factors such as indiscriminate parking and insufficient levels of existing parking contributing to this. In view of this and the inability of the applicant to justify a reduction in parking provision by way of a Sustainability Assessment, officers advised that maximum parking provision must be provided.

7.9 Consequently a revised parking layout has been provided showing 36no parking spaces. The parking layout shows spaces provided to the side and rear of the apartment building, tandem parking along the south eastern boundary of the site and two spaces to the north

side elevation of the building. The applicant has also submitted track test details demonstrating the accessibility of the site by refuse vehicles. The Head of Streetscene and City Services (Highways) confirms the spaces are fully accessible and no objection is offered to the proposals on this basis.

7.10 Neighbouring residents have described how vehicles are often parked inconsiderately so that they partly obstruct access to this part of the estate making what should be a two way access only passable by one vehicle at a time. Concerns have been raised that in such circumstances emergency vehicles or refuse vehicles may not be able to access the site. However, this is an existing situation which, as witnessed by several Council officers on different occasions, in part occurs as a result the inefficient use of off-road spaces.

7.11 In response to these points Highways Officers have commented as follows:

-A carriageway width of 4.6m is considered sufficient to accommodate two way traffic flows. Whilst the development will increase traffic movements along its length, under normal circumstances vehicles should not have to carry out reversing manoeuvres within the highway. The narrowness of the carriageway should also encourage lower vehicle speeds along the shared access. Whilst the access does not benefit from standard raised footways resulting in a more shared surface scenario. By design this will again encourage lower vehicle speeds as drivers should be more aware of the potential for pedestrian to be sharing the highway;

-The shared access is surfaced with block paviors and will also eventually benefit from a rumble strip which will highlight to drivers the change in situation from the existing spinal road;

-If vehicles are parking along the access road and obstructing the highway then the police should be contacted;

- Refuse vehicles already have to access this area to serve the existing properties. If parked vehicles are preventing this then this is something that the Council can address to Taylor Wimpey to look at as part the adoption agreement for the development. A swept path analysis has been previously submitted which demonstrates that a refuse vehicle can access this part of the site and also turn to allow access and egress of the spinal road in a forward gear;

-Visibility at the access is considered to be sufficient;

-In terms of disabled parking, there are no specific requirements for residential properties in accordance with current standards.

#### 7.12 ***Neighbouring Privacy/Amenity***

The apartment building would have a satisfactory relationship with neighbouring properties with a distance of 18m between the side elevation of the building and the front elevations of the neighbouring three storey town houses and 17m between the rear elevation of the building and the rear boundary of the nearest property to the south-east (over 25m window to window). Windows are proposed in the side elevation of the apartment building facing the neighbouring town houses and as this distance would be less than 21m which is widely accepted in planning terms as a suitable window-to-window separation distance, it is considered necessary to impose a condition requiring these windows to be obscure glazed and fixed shut in the interests of neighbouring amenity. These windows are all secondary windows, with the rooms being served by other larger windows.

7.13 The internal layouts of the flats are considered to be spacious and would offer a good standard of amenity to future occupiers.

7.14 Objections have been received from neighbouring residents in relation to the proposed bin and cycle store. The concerns relate to the storage of waste and the store being a potential fire hazard. Refuse collection for the site would be in keeping with that across the City with waste collected fortnightly and recycling once a week. Between these times waste would be securely stored in bins as is usual practice for residential living and this arrangement is considered to be acceptable. Environmental Health Officers have been consulted and offer no objections in response to the proposed refuse arrangements. In terms of fire hazard,

being in a populated residential area with natural surveillance from several properties including the apartments themselves, the likelihood of the bin store being set alight is considered to be reduced. Whilst there is potential for the bin store to be set alight, this is a criminal offence and a matter for the police. The Police Architectural Liaison Officer has raised no objections to the proposals. In terms of the visual impact of the store, the roof of the store has been designed so that it would hip away from neighbouring properties and with an overall height of 4.5m it is not considered that the store would have an overbearing impact to neighbouring occupants.

7.15 Neighbours have referred to the lack of safe play areas for children within the estate. As part of the original outline planning permission for the wider Lysaght site the area of land to the north-east known as Monkey Island was sold to the Council for a nominal sum for the purpose of public open space. This area has also been subject to ecological enhancement. This island is not yet open to public access as such access is restricted by a Unilateral Undertaking attached to the original Outline planning permission for the site.

#### 7.16 **Flooding**

The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river. The planning application proposes housing (highly vulnerable development) on previously developed land within a flood risk area. Section 6 of TAN15 requires the Authority to determine whether the development at this location is justified.

7.17 As part of this justification the applicant has submitted a flood consequence assessment (FCA). NRW have reviewed the FCA and note that it recommends that proposed ground floor levels will be raised to 10.0m AOD. Based on a proposed ground floor level of 10.0m AOD the development is shown to be flood free during a 1 in 200 year flood event including a 100 year lifetime of development in accordance with TAN15. The development is also designed to be flood free during the current day 1 in 1000 year extreme flood event.

7.18 NRW agree with the recommendation of the FCA that occupiers should sign up to a flood warning system. Having reviewed the information NRW offer no objection to the development. It has been established that the proposed floor levels of the ground floor will comply with the requirements of TAN 15.

7.19 The applicant has submitted details of existing and proposed site levels. In order to ensure that the ground floor levels are raised to 10.0m AOD the apartment building would be raised in comparison to the surrounding development. The existing level of the site is around 9m AOD. Surrounding land levels vary to an extent with the adjacent town houses being 9.250m AOD and the rear of the site being 8.950m AOD. It is considered that there are sufficient distances between the proposed apartment building and the existing neighbouring buildings to ensure that despite the raising up of the apartment building, there would not be a detrimental impact to neighbouring amenity, or the visual amenity of the area.

7.20 In view of the fact that development in this location is considered to be justified in accordance with the aims and objectives of the Newport Local Development Plan and as NRW have confirmed that the development would be flood free for its lifetime and offer no objection to the proposals, the application is considered to be acceptable in terms of flooding.

#### 7.21 **Noise**

With regards to noise and vibration from the Orb site, an assessment has been provided with the application. The Public Protection Manager confirms that no objections are

offered to the proposals, provided a suitable condition is attached to any permission granted, requiring the mitigation measures identified within the noise assessment submitted with this application to be installed prior to occupation of the apartments. In addition to the measures identified within the assessment, the rear habitable room windows serving the four flats to the south-western end of the apartment block (nearest the Orb site) must be sealed units i.e. non openable. This equates to four bedroom windows and is required in order to ensure that the amenity of the future occupiers of these apartments is protected. These rooms will be required to have an alternative method of ventilation.

#### 7.22 **Ecology**

An Appropriate Assessment was undertaken as part of the outline application for the development of the wider site. Whilst the site is located adjacent to the River Usk SAC and SSSI, the considerations have not altered since the Appropriate Assessment was undertaken and it is not considered necessary carry out another one.

7.23 The Council's Ecology Officer confirms no objections are offered to the proposals but due to the sites proximity to the River Usk SAC and SSSI, suitable conditions should be attached to any planning permission to include no night time working and no lighting in the direction of the river.

7.24 NRW has stated that they wish to be assured that conditions attached to the original planning permission (08/0565) for the residential development of 563 dwellings which were included to maintain the ecological interests of the River Usk SAC and River Usk SSSI are included in any new planning permission granted. Conditions requiring a Construction Environmental Management Plan (CEMP) and further landscaping details are recommended to be imposed should planning permission be forthcoming.

#### 7.25 **Financial Contributions**

The development does not represent a net increase to the overall housing numbers approved by the original outline planning approval that covered the site. As such, no further planning obligations are requested.

#### 7.26 **Other matters**

With regard to objections on the basis of loss of view and impact on property value, it should be noted that neither of these are material planning considerations. Some neighbours have raised concerns about the impact of the proposals in terms of wear and tear on the access which they claim is in their ownership. Land/property ownership and any damage to private property is a Civil matter and has no weight on planning decisions.

### 8. **OTHER CONSIDERATIONS**

#### 8.1 **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.

#### 8.2 **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.

- 8.3 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.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

## 9. CONCLUSION

9.1 The proposed development is considered to be acceptable in terms of scale and design, impact on neighbours and in highway safety terms.

9.2 It is in accordance with the aims of the LDP, therefore it is recommended that planning permission is granted subject to the following conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 0290-2303 Revision I, 0290-104-15 Revision E, 0290-2300-15 Revision F, 0290-200-15 Revision E, 0290-201-15 Revision D, 0290-202-15 Revision C, 0290-203-15 Revision D, 0290-204-15 Revision C, 0290-205-15 Revision C, 0290-206-15 Revision C. Reason: To ensure the development complies with the submitted plans and documents on which this decision was based.

### ***Pre- commencement conditions***

02 Prior to the commencement of development, full details of glazing and ventilation measures for the units hereby approved shall be submitted to the Local Planning Authority and written approval received. The development shall be carried out in accordance with the approved details.

Reason: In the interest of the amenity of the future occupants of those apartments and to ensure they are adequately ventilated.

02 No work shall be commenced on the construction of the building hereby approved until details/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 then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

03 Notwithstanding the details previously submitted, no development, shall commence until a scheme of landscaping and tree planting for the site (indicating the number, species, heights on planting and positions of all trees and shrubs) has been submitted to the Local Planning Authority and written approval received. The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

04 No development, shall commence until details and plans showing the finished slab level of the building(s) hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of visual amenities.

05 Prior to the commencement of development, full details of the means of surface water drainage disposal to serve the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and the surface water drainage shall be retained permanently in this state thereafter.

Reason: In order to ensure that the site can be adequately drained and to prevent overloading of the public sewerage system.

06 Notwithstanding the details submitted, prior to the commencement of development hereby approved full details of the proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. The boundary treatments shall be constructed in accordance with the approved details prior to the first occupation of the associated apartments and retained in that state thereafter.

Reason: To ensure the development is completed in a satisfactory manner.

07 No development, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- dust suppression measures, having regard to BRE guide 'Control of Dust from construction and Demolition Activities;
- noise mitigation measures;
- details of temporary lighting;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including controls to surface water run-off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures;
- pollution prevention and contingency measures.

Development works shall be implemented in accordance with the approved CEMP.

Reason: To protect the amenities of nearby residents and in the interests of ecology including European protected species and in the interest of safeguarding the features of the Severn Estuary European sites and SSSI and the River Usk SAC.

08 Prior to the commencement of development an appropriate intrusive Site Investigation report to (BS10175/2011), shall be submitted and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, a remediation strategy, including a 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:

- a) Following remediation 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.
- b) Any additional 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.

***Pre –occupation conditions***

09 Prior to first occupation of any of the apartments hereby approved, full details of any external lighting shall be submitted to the Local Planning Authority and written approval

received. The development shall be carried out fully in accordance with the approved details.

Reason: In the interest of safeguarding the special features of the Severn Estuary European sites and SSSI and the River Usk SAC.

10 The finished floor levels of the building hereby approved shall be set no lower than 10.0 metres above Ordnance Datum (AOD) (Newlyn).

Reason: To reduce the risk of flooding to the proposed development and future occupants.

11 Prior to first occupation of any of the apartments hereby approved the parking provision shall be provided strictly in accordance with the details shown on the approved plans and shall be fully demarcated, kept free of obstruction(s) and then maintained in such a state thereafter.

Reason: In the interests of highway safety and residential amenity.

12 Prior to first occupation of any of the apartments hereby approved the mitigation measures identified within the noise assessment submitted with the application NM/100789/R1 March 2015 shall be installed and shall remain in perpetuity.

Reason: In the interests of the amenity of the future occupiers.

13 Prior to first occupation of any of the apartments hereby approved the windows to the rear and south side elevations serving the four flats to the southern end of the apartment block must be sealed shut and non openable and shall remain thus in perpetuity.

Reason: In the interests of the amenity of the future occupiers.

### ***General conditions***

14 All windows in the north-side elevation of the apartment building hereby permitted shall be obscure glazed and fixed shut at the time of installation and shall be maintained in that state in perpetuity. No windows other than those shown in the approved plans shall be installed in this elevation.

Reason: In the interests of neighbouring privacy and amenity.

14 Foul water and surface water discharges shall be drained separately from the site, no surface water or land drainage run-off shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the integrity and to prevent hydraulic overloading of the public sewerage system and to protect the health and safety of existing residents and ensure no detriment to the environment.

15 No external works relating to the development hereby approved development shall take place outside of daylight hours.

Reasons: In the interests of safeguarding the special features of the River Usk SAC.

16 No external lighting shall be shone directly onto the riverbank.

Reason: In the interests of safeguarding the special features of the River Usk SAC.

### ***NOTE TO APPLICANT***

01 The following plans and documents were relevant to the determination of the application: 0290-105-15 Revision D, 0290-108-15- Revision E, 0290-108 Revision Y, Noise Assessment NM/100789/R1 March 2015, Flood Consequence Assessment.

02 The development plan covering Newport is the Newport Local Development Plan 2011-2026 (Adopted January 2015). Policies SP1, SP3, SP13, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H1, H2, H3, H4 and T4 were relevant to the determination of the application.'

03 The developer is advised that if a connection is required to the public sewerage system, they must contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

04 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

05 Prior to the commencement of the development hereby approved, the developer should contact the Council's Spatial Data Unit on 01633 233263 regarding street naming and numbering.

06 To protect the amenities of existing residents, attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities -

(i) no construction work involving piling shall be carried out on the site other than between the hours of 08.00 and 17.00 Mondays to Fridays and no construction work involving piling shall be carried out on Saturdays, Sundays or Bank Holidays, where it would create noise audible at the boundary of any residential property.

(ii) Any construction work which does not involve piling shall not be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays, where it would create noise audible at the boundary of any residential property.

07 On behalf of Natural Resources Wales the developer is advised that occupiers should sign up to a flood warning system. For further information please contact NRW on 03000 653074.

---



## **APPLICATION DETAILS**

**No:** 15/0393      **Ward:** **MARSHFIELD**

**Type:** FULL

**Expiry Date:** 13-JUL-2015

**Applicant:** **SARAH-JANE FEDARB**

**Site:** **LAND TO WEST OF CEFN LLOGELL FARM, CARDIFF ROAD, NEWPORT**

**Proposal:** **CONSTRUCTION OF A GROUND-MOUNTED SOLAR PV GENERATION PROJECT (3.8MW) AND ASSOCIATED WORKS (AFFECTING PUBLIC RIGHT OF WAY 390/5 AND 390/8)**

**Recommendation:** **Granted with conditions**

### **1. INTRODUCTION**

This application was presented to Planning Committee on 7<sup>th</sup> November 2015 when it was resolved that the planning application be refused. Following this resolution to refuse planning permission, the Council received on 9<sup>th</sup> November 2015 the appeal decision for the solar farm at Court Farm, Magor Road, Newport, which was allowed. As the decision had not been issued, legal advice was sought on whether the planning application should be reported back to Planning Committee for Members to reconsider in light of the Court Farm appeal decision. The legal advice received is that Officers have a duty to refer an application back to Committee if there is a new material consideration in the intervening period between the resolution and the issue of a decision notice. Paragraphs 7.10 to 7.10.13 of this report refers specifically to the appeal decision.

- 1.1 Full planning permission is sought for the construction of a ground mounted solar photovoltaic (pv) generation project (3.8MW) and associated work on agricultural land to the west of Cefn Llogell Farm, Cardiff Road, Newport.
- 1.2 The application site includes three parcels of agricultural land that are sited 70m to the west of the existing complex of farm buildings. Including the access off the highway network the application site comprises an area of 8.7 hectares. The three agricultural fields that will accommodate the pv arrays equates to 7.4 hectares. The fields are separated by existing hedgerows and face in a southerly direction. An existing hedgerow runs along the northern boundary of the application site that separates the site from the agricultural land to the north. An existing public right of way (390/8) that follows a made up access track runs along the northern boundary and connects to a public right of way (390/5) that runs along the eastern boundary of the application site. A further track that has been used as gallops forms the southern boundary of the site.
- 1.3 Access to the site is via the A48 and Blacksmiths Way that is located approximately 850m to the south east. The access leads under the M4 which is sited at its nearest point some 370m to the south of the agricultural fields.
- 1.4 The proposal details the erection of solar photovoltaic panels (pv) to provide a total output of up to 3.8 MW. The panels will be arranged in a series of rows facing due south. They will be orientated at an angle of approximately 25 degrees and set on an aluminium/galvanised steel support frame that will be pile driven into the ground. The maximum height of the panels from ground level will be 2.5m. A gap of approximately 5.0m will be maintained between each row of panels. The panels will also be sited a minimum of 5.0m off existing hedgerows and boundary fences.

- 1.5 A total of 5 inverters (6.1m by 2.5m and a height of 2.9m), a power transformer cabin and a sub-station structure in order to convert the generated electricity from DC to AC and allow connection to the electricity distribution network are proposed. Details of the substation that will be sited within the application site area have not been provided and they will need to be agreed with the network operator if planning permission is secured. The Planning Statement also describes that connection to the National Grid will be taken from the perimeter of the site boundary and undertaken by statutory undertakers.
- 1.6 The submitted plans and accompanying documentation identifies that the existing hedgerow will be retained and maintained at a height of 3.5m. A 2m high deer mesh fencing is proposed around the perimeter of the site and 15.No CCTV cameras having a maximum height of 3m are proposed around the perimeter of the site. Along part of the southern boundary of the site it is proposed to strengthen the landscaping and a new hedgerow is proposed along the boundary with the public right of way.
- 1.7 The proposal would have an operational lifespan of 25 years. Following this period of time the development will be decommissioned. A supporting statement specifically relating to the decommissioning and reversibility of the scheme has been provided and further commentary on this will be provided in the assessment of this proposal below.

## 2. RELEVANT SITE HISTORY

14/0773	Screening opinion request in relation to the erection of a wind turbine	ES Not required (EIA screening)
---------	---	---------------------------------

## 3. POLICY CONTEXT

### 3.1 *Planning Policy Wales (7<sup>th</sup> Edition) 2014*

- 3.1.1 Paragraph 4.10.1 - In the case of agricultural land, land of grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile, and should be conserved as a finite resource for the future. In development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.
- 3.1.2 Paragraph 12.8.1 - The UK is subject to the requirements of the EU Renewable Energy Directive. These include a UK target of 15% of energy from renewables by 2020. The UK Renewable Energy Roadmap sets the path for the delivery of these targets, promoting renewable energy to reduce global warming and to secure future energy supplies. The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change whilst enhancing the economic, social and environmental wellbeing of the people and communities of Wales in order to achieve a better quality of life for our own and future generations. This is outlined in the Welsh Government's Energy Policy Statement *Energy Wales: A Low Carbon Transition* (2012).
- 3.1.3 Paragraph 12.8.6 - The Welsh Government's aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.

- 3.1.4 Paragraph 12.8.8 - The Welsh Government is committed to using the planning system to:
- optimise renewable energy generation;
  - optimise low carbon energy generation;
  - facilitate combined heat and power systems (and combined cooling, heat and power) where feasible; and
  - recognise that the benefits of renewable energy are part of the overall commitment to tackle climate change by reducing greenhouse gas emissions as well as increasing energy security.
- 3.1.5 Paragraph 12.8.9 - Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. Specifically, they should make positive provision by:
- considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;
  - ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations.
- 3.1.6 Paragraph 12.8.10 - At the same time, local planning authorities should:
- ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed;
  - ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.
- 3.1.7 Paragraph 12.10.1 - In determining applications for renewable and low carbon energy development and associated infrastructure local planning authorities should take into account:
- the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;
  - the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;
  - the impact on the natural heritage, the Coast and the Historic Environment;
  - the need to minimise impacts on local communities to safeguard quality of life for existing and future generations;
  - ways to avoid, mitigate or compensate identified adverse impacts;
  - the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so consider whether measures to adapt to climate change impacts give rise to additional impacts;
  - grid connection issues where renewable (electricity) energy developments are proposed; and
  - the capacity of and effects on the transportation network relating to the construction and operation of the proposal.
- 3.1.8 Paragraph 12.10.3 - Developers for renewable and low carbon energy developments should seek to avoid or where possible minimise adverse impacts through careful consideration of location, scale, design and other measures.

## **3.2 *Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010)***

- 3.2.1 Paragraph 6.2.1 - When preparing development plans and considering planning applications, planning authorities should consider the quality of agricultural land and other agricultural factors and seek to minimise any adverse effects on the environment.
- 3.2.2 Paragraph 6.2.2 - Planning authorities should bear in mind that, once land is built on, the restoration of semi-natural and natural habitats and landscape features is rarely possible and usually expensive, and archaeological and historic features cannot be replaced. Also,

once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as best and most versatile agricultural land is seldom practicable.

- 3.2.3 Paragraph 6.2.3 - Agricultural land is classified by grades according to the extent to which its physical or chemical characteristics impose long term limitations on agricultural use for food production. There are 5 grades of land numbered 1 to 5, with grade 3 divided into two sub-grades. The best and most versatile land falls into grades 1, 2 and sub-grade 3a and is the most flexible, productive and efficient in response to inputs.
- 3.2.4 Paragraph 6.2.4 - The Agricultural Land Classification (ALC) map for Wales is published at a scale of 1:250,000. This map is produced for use in strategic planning and provides only a generalised indication of the distribution of land quality. The map is not suitable for use in evaluating individual sites. In such cases a resurvey at a larger scale is necessary to obtain a definitive grade.
- 3.2.5 Paragraph 6.2.5 - The nature of other development and its proximity to farms can influence the type of farming and the extent to which inherent land quality can be exploited. Certain locations may have agricultural advantages such as accessibility to markets, processing plant and certain industries associated with agriculture. Farms with development close to them tend to suffer from trespass and other forms of disturbance which may affect the efficiency and upkeep of holdings. It may be possible to reduce any detrimental effects of development by locating compatible uses adjacent to farm land, by landscaping or by detailed provision of amenity space and green corridors in the layout of residential development.
- 3.2.6 Paragraph 6.2.6 - Farms vary considerably in size, type of farm business and layout. The loss of part of a holding can have important implications for the remainder. The effect of severance and fragmentation upon the farm and its structure may be relevant.

### **3.3 *Technical Advice Note 8 – Planning for Renewable Energy (July 2005)***

- 3.3.1 Paragraph 2.16 - Experience has shown that there are opportunities to achieve community benefits through major wind farm development. Some benefits can be justified as mitigation of development impacts through the planning process. In addition, developers may offer benefits not directly related to the planning process. Annex B provides further information and examples about the types of community benefit which have been provided. Local planning authorities, where reasonably practical, should facilitate and encourage such proposals. The Welsh Development Agency, and others can support and advise on community involvement in developing renewable energy and benefiting from it. Local planning authorities should make clear in their development plans the scope of possible "planning contributions". However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.
- 3.3.2 Paragraph 3.15 - Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported.
- 3.3.3 Annex B of TAN 8  
Paragraph 2.1 - It is perfectly acceptable for a business to enter into a legally binding agreement with third parties to deliver particular and agreed benefits to the community. Many local planning authorities would be more comfortable with this approach as it separates, more clearly, community benefits from the planning decision. It is important that the developer is able to identify suitable local representative people or organisations with whom it can negotiate. If there are funds to be administered then an appropriately constituted and regulated body must be identified or created.

### **3.4 *Practice Guidance – Planning Implications of Renewable Energy and Low Carbon Energy (February 2011)***

- 3.4.1 Paragraph 8.4.16 - In view of the national policy support for farm diversification and the

relatively large area of land required for solar PV arrays it is likely that a significant proportion of proposals for solar PV arrays will be on agricultural land. Both the use of natural resources (such as high quality agricultural land) and the reversibility of a development are factors in determining if EIA is required.

- 3.4.2 Paragraph 8.4.17 - In addition to avoiding the best and most versatile agricultural land, other possible mitigation includes taking steps to enhance the reversibility of the development (e.g. by use of removable mats rather than permanent access tracks and use of ground screws rather than buried concrete foundations to anchor solar arrays) and avoiding soil compaction or contamination during construction and maintenance.

### **3.5 *Newport Local Development Plan 2011-2026 (Adopted January 2015)***

- 3.5.1 Policy SP1 Sustainability favours proposals which make a positive contribution to sustainable development.
- 3.5.2 Policy SP5 Countryside limits development outside of the settlement boundary.
- 3.5.3 Policy GP1 General Development Principles – Climate Change states that development should be designed to withstand predicted climate change and reduce the risks and consequences of flooding, minimise energy requirements, reuse/recycle construction material.
- 3.5.4 Policy GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.5.5 Policy GP3 General Development Principles – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.
- 3.5.6 Policy GP4 General Development Principles – Highways and Accessibility states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
- 3.5.7 Policy GP5 General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.
- 3.5.8 Policy GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
- 3.5.9 Policy GP7 General Development Principles – Environmental Protection and Public Health states that development will not be permitted which would cause or result in unacceptable harm to health.

- 3.5.10 Policy CE6 Archaeology states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.
- 3.5.11 Policy CE10 Renewable Energy favours renewable energy schemes subject to there being no over-riding environmental and amenity considerations. Small scale schemes are encouraged in the settlement boundary but larger scale proposals might be acceptable outside of the settlement boundary if no appropriate brownfield sites exist.
- 3.5.12 Policy T2 Heavy Commercial Vehicle Movements states that developments which generate heavy commercial vehicle movements will be favoured in locations which have access to a railway line, wharf or dock. Where this is not appropriate, locations accessible to strategic and principal routes will be favoured. Elsewhere, such development will be resisted.
- 3.5.13 Policy T7 Public Rights of Way and New Development states that any public footpath, bridleway or cycleway affected by new development will require retention or provision of a suitable alternative. Provision of additional routes and linkages with the existing network will be sought.

#### **4. CONSULTATION**

- 4.1 CAMPAIGN FOR PROTECTION OF RURAL WALES: No response
- 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The archaeological Desk Based Assessment (Archaeology Wales, report 1381, dated August 2015) has reviewed information from a range of sources and finds that there are no designated historic landscapes areas, listed buildings or Scheduled Ancient Monuments within the proposed development area. A single Portable Antiquity Scheme record is located within the development area. Within the study area of 2km radius from the site, there were 52 non designated archaeological sites of all periods, all of which were located outside the development area. The majority of these are within 1km of the site. Map regression shows that the land use of the proposed development remains little changed since the late 16th century, and it remains in agricultural use. The report is acceptable and meets current professional standards.
  - 4.2.1 It remains a possibility that previously undiscovered buried remains may be present, and if this is found to be the case it is likely that these will be in a reasonable state of preservation. The development occupies a landscape that has been consistently occupied from prehistoric times, and therefore in order to mitigate against the possibility of discovering well preserved buried archaeological resource, we recommend that a condition is attached to any consent given by your members for an archaeologist to conduct a watching brief during all ground disturbing works. This recommendation is made following the advice given in Welsh Office Circular 60/96, section 22.
  - 4.2.2 We suggest that the condition should be worded:
 

*The developer shall ensure that a suitably qualified archaeologist is present during the undertaking of any ground disturbing works in the development area, so that an archaeological watching brief can be conducted. The archaeological watching brief shall be undertaken to the standards of the Institute of Field Archaeologists. The Local Planning Authority shall be informed, in writing, at least two weeks prior to the commencement of the development of the name of the said archaeologist and no work shall begin until the Local Planning Authority has confirmed, in writing, that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the Local Planning Authority within two months of the fieldwork being completed by the archaeologist.*

Reason: *To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.*
  - 4.2.3 The archaeological work must be undertaken to meet the Standard and Guidance of the Chartered Institute for Archaeologists and it is our policy to recommend that either a Registered Organisation with ClfA or a MCIfA level member is employed

([www.archaeologists.net/ro](http://www.archaeologists.net/ro)). Further guidance on how to meet the condition is available from our web site [www.ggat.org.uk/archplan/arch\\_planning.html](http://www.ggat.org.uk/archplan/arch_planning.html)

4.3 GWENT WILDLIFE TRUST: Gwent Wildlife Trust has no objection to the above development but would like to make the following comments:

- We welcome the amended design of development to take account of the nearby badger sett. Overall, the development has potential to make a positive contribution to local biodiversity if the suggested measures are implemented.
- Recommendations contained within the Preliminary Ecological Report should be fully implemented and secured by conditions. These include toolbox talks, various measures to protect species during construction, badger gates and landscaping to enhance biodiversity.
- We share the concerns of the Council Ecologist regarding hedgerow buffers. Currently the site layout indicates that an access track will pass between the hedges and the security fence. We are concerned that use of this track, particularly during construction, will cause disturbance to any species within the hedgerow, and more significantly, ground compaction which will affect the hedge roots. A 'no-go' buffer zone and root protection zone must be agreed with the Council Ecologist and Tree Officer.
- We support the production of an Ecological Management Plan, secured by conditions. This should include details of all measures to protect wildlife during construction, a planting schedule and plan for hedges and grassland, and a management plan for existing and new features for a duration of at least 5 years following construction, but ideally for the life of the facility. We recommend adapting RSPB guidelines for underplanting solar panels:  
<http://www.rspb.org.uk/forprofessionals/farming/advice/details.aspx?id=367959>

4.3.1 We recommend that you discuss this case with your in house ecologist and Natural Resources Wales (in relation to European Protected Species). Thank you for consulting Gwent Wildlife Trust. If you have any queries or require further information, please let us know.

4.4 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No response

4.5 NATURAL RESOURCES WALES: We welcome the provision of the ecology survey report entitled 'Preliminary Ecological Appraisal: Land at Cefn Llogell Farm, Coedkernew, Newport' by Wydean Ecology dated 16 February 2015. We note the content of the report.

4.5.1 We have no objection to the application as submitted in respect of European Protected Species (bats, dormice and great crested newts). We advise that the mitigation recommendations in sections 6 and 7 of the report are implemented as part of the development.

4.6 NEWPORT ACCESS GROUP: No response.

4.7 REGIONAL AMBULANCE OFFICER: No response.

4.8 SOUTH WALES FIRE AND RESCUE: No response.

4.9 WALES AND WEST UTILITIES: No objection

4.10 WELSH GOVERNMENT (LAND USE):

*Comments on Agricultural Land Classification:*

4.10.2 In accordance with Annex B6 of TAN6, this response is confined to matters of technical detail and does not relate to the merits or otherwise of the application.

- 4.10.3 The Welsh Government does not hold any detailed survey work for the site and I have assessed the report in accordance with *Revised Guidelines & Criteria for Grading the Quality of Agricultural Land, MAFF 1988*.
- 4.10.4 The Agricultural Land Classification (ALC) Survey (*Cefn Llogell Farm, Coedkernew, Kernon Countryside Consultants June 2015*) has been completed in accordance with the *Revised Guidelines (MAFF 1988)*; the Welsh Government believes it to reliably reflect the agricultural land quality across the site.
- 4.10.5 Government policy towards conserving the best and most versatile (BMV) agricultural land (ALC grades 1, 2 & 3a) is set out in Planning Policy Wales 4.10.1. TAN 6 Chapter 6 also provides more information on this area.

*Comments on Construction and Decommissioning Method Statement:*

- 4.10.6 Further to my last email on September 10, I have reviewed the attached document – *Construction and Decommissioning Method Statement, September 2015*.
- 4.10.7 The Method Statement provides clear intent and approach to the stripping, storage and handling of soils. The approach is consistent with best practice, and as such addresses the points raised to date.
- 4.10.8 My response is in accordance with the consultation remit as given at TAN6, ANNEX B6; it is confined to matters of technical detail and does not relate to the merits or otherwise of the proposal.
- 4.10.9 I have only reviewed technical information for this proposal relating to construction and decommissioning. I have not taken account of reference to the decision at Llanvapley, which is beyond my remit.
- 4.11 WELSH GOVERNMENT (TRANSPORT DIVISION): The Welsh Government does not object to the solar farm proposal which would not materially impact upon the M4. The applicant should however be aware that the concrete underpass through which access is proposed has a height restriction of 14 foot/4.26 metres. This dimension should not therefore be exceeded by any vehicles associated with the proposal.
- 4.12 WELSH WATER: No response
- 4.13 WESTERN POWER DISTRIBUTION: Advise of apparatus in area.

**5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): No response.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object in principle. The area is intensively managed and habitats on the site are limited. I concur with the findings of the Wyedean Ecology limited preliminary assessment.
- 5.2.1 However I do need clarification on two points:

1-A 5m buffer to the hedges is referred to in section 6.1. However from past experience with applications such as these there is normally an access track of some sort that goes around the site. Would this be within the buffer zone? Also, what is distance from the hedge/field boundary that the security fencing will be installed? I would recommend that a minimum of 7m is maintained as a buffer zone from the base of the hedge. (This may need to be increased in parts as to not to conflict with root protection zones). This buffer zone must be clearly demarked prior to commencement of works. Confirmation of this will be required. No anthropogenic activities (aside from agreed maintenance/ management) should take place in the buffer zone;

2-Details of proposed lighting will need to be submitted. This lighting should be species such as bats;



- 5.2.2 If you are minded to grant planning permission then the following conditions (as outlined in the Wyedean Ecology limited preliminary assessment) would need to be attached to any consent given:
- 1-A suitably qualified and licenced ecologist will need to be appointed to supervise works on site;
  - 2-The appointed ecologist will need to supervise the installation of the badger 'gaps' in the security fencing and confirm with the NCC ecologist when this has been completed;
  - 3-An Ecological Management Plan (EMP) will need to be submitted and agreed with the NCC ecologist prior to commencement of works. This will need to contain details of seed mixes to be used on the site and the grassland management of the site as well as a monitoring plan for a minimum of 5 years;
  - 4-The existing hedge to be planted up with native species which will need to be listed in the EMP. The amount and type of hedge plants will need to be detailed as well as the management of the hedge to ensure its success;
  - 5-Working hours to minimise disturbance to protected such as bats will need to be detailed in the EMP;
  - 6-Construction should take place outside bird nesting season (between Oct-March inclusive) as to not disturb potentially nesting birds in the hedges surrounding the site.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The information demonstrates that passing points are available and therefore I'm now satisfied with the information submitted and would offer no objection to the application subject to the previously requested conditions regarding advanced warning signage and a construction/decommissioning management plan.
- 5.3.1 *Original comments:*
- I accept that in terms of traffic generation the operational requirements will be low and that the main consideration is the potential impact of construction traffic.
- 5.3.2 The applicant has submitted an Access Appraisal document which outlines the issues associated with construction traffic and also mitigating measures and based upon in this document I make the following comments.
- 5.3.3 The applicant has stated that advanced warning and construction signage will be put in place in accordance with Chapter 8. This must include Blacksmiths Way and should be secured as a condition requiring the applicant to submit a plan/layout for approval.
- 5.3.4 I note the delivery times proposed are 7.30 – 18.00 and 7.30 and 13.00. This must be clarified with Environmental Health given that Blacksmiths Way is a residential street.
- 5.3.5 Details of the holding area must be submitted for approval. Please note that any loading or unloading on the highway and off site will not be acceptable.
- 5.3.6 I note that the applicant is proposing a traffic management plan. It's not clear what information the applicant is proposing to include within the plan however I can confirm that I'm satisfied that the local highway network can accommodate the construction vehicles up to Blacksmiths Way. My concern is the effect on Blacksmiths Way and the lane leading to the site in terms of ensuring the free flow of traffic and the effect on amenity of local residents and also highway safety.
- 5.3.7 I'm concerned at the lack of passing points along the lane which runs from Blacksmiths Way to the application site. Reversing manoeuvres along the lane and especially onto Blacksmiths Way are considered to be detrimental to highway safety and therefore not acceptable. Also no vehicles should be parked along Blacksmiths Way. How does the applicant propose to address these concerns.
- 5.3.8 I note that it's proposed to use a Banksman to centrally control delivery times however I would question how this would work. If a vehicle turns up to site when they aren't supposed to, where will they wait?

- 5.3.9 A construction management plan must be submitted for approval however this could be secured via condition. The plan must include and show the following information:
- Contractor parking
  - Turning facilities for all vehicles so that they can access and egress the site in a forward gear.
  - Loading and unloading area
  - Location and details of wheel wash facilities
  - Details of dust suppression.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): Based on the information supplied, I have no objection to this particular proposal.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (PUBLIC RIGHTS OF WAY): Public Rights of Way (PROW) about the Northern and Eastern boundaries of the site highlighted in red on Site Location Plan 01. The reference numbers of these PROW's are 390/8 (Northern boundary) and 390/5 (Eastern boundary).
- 5.5.1 The following points should be noted:
1. The line of each PROW (as shown on the Definitive Map) has to remain completely unobstructed and must be clear and available for public use at all times (including during construction and decommissioning works – unless a temporary closure/diversion order is applied for and granted beforehand);
  2. The users of the PROW must not be endangered or disadvantaged in any way by the proposals (including during construction/decommissioning);
  3. The surface material of the PROW must not be adversely affected in any way.
  4. PROW users must be protected from any vehicles/plant associated with the construction/maintenance/decommissioning of the proposed solar farm. The potential conflict should be risk assessed and managed appropriately.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No response.
- 5.7 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL PROTECTION): I confirm I have no objection to the proposals, however the following condition should be attached to any permission granted:
- 5.7.1 The rating level of the noise emitted from fixed plant and equipment located at the site shall not give rise to an adverse impact at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2014.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.
- 5.7.2 Additionally, the following condition should be attached as an advisory note;  
Construction Hours – Non-Piling  
EH20  
( ) No development, (including land raising and demolition if required) shall be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays, unless otherwise first agreed in writing by the Local Planning Authority.  
Reason: In the interests of residential amenity
- 5.8 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY):
- Policy comments provided in relation to sequential analysis on available lower grade agricultural land:*

5.8.1 I am content that the applicant has conducted an appropriate sequential site analysis and demonstrated that there are no viable alternatives on lower agricultural land quality.

*Policy comments in relation to initial application:*

5.8.2 There is an explicit in principle support for renewable energy development within Planning Policy. The Renewable energy policy framework in Wales is not set in isolation and as such the proposal must comply with any other relevant policies. There are uncertainties and a lack of detail to form a definitive view on the application and therefore the Planning Policy Team would provide an objection to an application. In order to remove the objection, we would need to be satisfied that:

- There are no alternative locations which would either be brownfield in nature or impact on lower valued agricultural land;
- There will be a reduction/redesign of the CCTV installations;
- The ecological, highways and landscape impact are considered appropriate.

5.8.3 The above issues will all need to be investigated and robust justification supplied to evidence the suitability of the approach proposed.

## **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 100m of the application site were consulted (20 properties), a site notice displayed in 3 locations and a press notice published in South Wales Argus. Two responses have been provided by Keep us Rural and are summarised as follows:

- Panels should be fitted in areas of the world where they can generate maximum amount of electricity.
- In Wales we have an opportunity to generate massive amount of electric through tidal energy.
- Plenty of grade 4 and 5 land in Wales that should be utilised
- Overriding need not demonstrated, Cefn Llogell is an enterprise with a low energy demand. Figures from the Renewable Planning Database show renewable energy is on target and what is in the planning system will lead to a 50% overshoot.
- The Llavapley decision is flawed. The Welsh Government Land Use Planning Unit were not consulted as required and believe they would have objected.
- 25 years is not temporary in the sense of the term used in current planning practice.
- The proposal will lead to an increase in floodrisk, run off and soil erosion.
- Claim made by developers in recent applications is that alternative grid connections are unavailable. A review of recent application illustrate no shortage of grid connections across the Newport area.
- Failed to conduct the sequential test adequately. With regard to cost argument this should be dismissed as irrelevant.
- The best and most versatile land is unsuitable for solar development. A similar application has been turned down for the same reason (14/1275 – Court Farm).
- Ten sites have been considered and found to be not suitable for an equivalent solar development.
- A fundamental methodological error as the land classification map is not refined enough to distinguish between land of grade 3 and 3b classification.
- No community consultation and no community benefit.
- Sequential test missed its objective. Endless opportunities for panels to be mounted on elevated roof structures.

- The Landscape Visual Impact Assessment (LVIA) omits pertinent information and understates the effects.
- Solar farm occupies a prominent location on a ridge top/upper hillside which acts as a back cloth to the levels.
- Proposed mitigation will take a significant length of time to become established.
- Development has significant landscape effects.
- The arrays will significantly adversely affect the public footpath for at least 700m.
- The agricultural land classification report submitted with the application shows that 86.3% of this land is grade 3a which is “Best And Most Versatile Land” and therefore should be protected from development.
- The brownfield sequential test that has been undertaken is inadequate.
- Object to the loss of BMV land contrary to GP5 of the LDP and because the need to use open countryside instead of brownfield sites have not been adequately proven as required by section CE10 of our LDP.

6.2 COEDKERNEW COMMUNITY COUNCIL: No response

## 7.0 ASSESSMENT

7.1 The principal issues in the determination of this application are considered to be:

- The quality of agricultural land.
- The reversibility of the scheme.
- The landscape and visual impact of the proposal.
- The impact on the highway network.
- The effect on the adjacent public rights of way.
- The impact on any ecological interests at the site.
- The impact on any archaeology interests at the site.

## 7.2 Quality of Agricultural Land

7.2.1 The agricultural fields where the pv panels will be sited are defined as countryside by virtue of policy SP5 of the adopted Newport Local Development Plan (2011-2026). Policy SP5 identifies that proposals will only be permitted in the countryside where they respect the landscape character and biodiversity of the immediate area and surrounding area and is appropriate in scale and design. Policy CE10 of the LDP refers specifically to renewable energy schemes and identifies that large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist. Further to this policy GP5 (v) identifies that proposals should not result in the loss or reduction in quality of high quality agricultural land (grades 1, 2 and 3a).

7.2.2 National planning policy at paragraph 4.10.1 provides further guidance on conserving the best and most versatile agricultural land (grades 1, 2 and 3a) and that it should be conserved as a finite resource for the future. The policy goes on to say that in development management decisions considerable weight should be given to protecting such land from development because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has environmental value recognised by a landscape, wildlife, historic or archaeological designation outweighs the agricultural considerations.

7.2.3 In order to ascertain the quality of the agricultural land, a detailed Agricultural Land Classification Survey (ALC) undertaken by Kernon Countryside Consultants Limited (Updated June 2015) identifies that the soils across the application site are Subgrade 3a, which is defined as the best and most versatile agricultural land. The Welsh Government Land Use Department has validated this report. Consequently, in accordance with both national and local planning policy it needs to be demonstrated that there is an overriding need for the development and that previously developed land or land in lower grade agricultural land is unavailable.

7.2.4 A sequential analysis of whether previously developed land across the administrative boundary of Newport is available has been prepared by Asbri Planning (July 2015). This document explains that there is no methodology at a local or national level for undertaking such an assessment. The agent intended to consider sites in the west of Newport, but was subsequently advised that the analysis should cover the entire administrative boundary of Newport. Officers considered that given the size of the application site (8.7 hectares) and that the proposal would generate up to 3.8 MW that this search area represented a proportionate and reasonable approach. The search for sites was based on those of a similar size and scale with 15% reduction in scale of the overall operation, so the search was conducted on sites comprising 7.4 hectares and above. In relation to prospective sites it was identified that they must satisfy the following criteria:

- Be available for the proposed development both in the short term, and for the life of the project.
- Be located within 2km of a grid connection.
- For said grid connection to benefit from available capacity for the power generated.
- To be relatively flat, south facing land.
- To be outside of an area which comprises a sensitive landscape or visual area to which the proposal may be to the detriment.
- To be outside of a sensitive area as defined by EIA Regulations.
- To comprise a suitable shape and orientation to accommodate the proposed development.
- Be accessible in respect of highways during the construction phase of the project.
- To be of an agricultural classification no better than 3A.
- A land value which ensures the viability of the proposed development is not comprised.
- Located outside of areas identified as liable to flooding.
- To be suitable for a solar PV project in respect of national and local planning policy constraints/allocation.

7.2.5 A total of 7 sites including Duffryn Employment site, Maes Glas Industrial Estate, Docks Way Landfill, Llanwern Steel Works, Lafarge Tarmac, Glan Llyn, and Whiteheads were analysed for their potential against the above criteria. The following is a summary of the 7 brownfield sites that were selected and why they were not suitable:

- Duffryn Employment Site – Potential flooding and ecological issues. A strategic site allocated for B1, B2, and B8. Site was discarded on the grounds of suitability and viability.
- Maes Glas Industrial Estate – Built form unsuitable for accommodated solar panels on roofs, and only 50% of floor space is south facing. Siting of pv within parking area would be detrimental to businesses operating from site.
- Docks Way Landfill site – Site is not available for the development
- Llanwern Steel Works – Site owners have no interest in the lease or sale of the site for solar.
- Lafarge Tarmac (west of Queensway) – The site is not available and likely to require significant remediation and the anticipated costs would make pv unviable.
- Glan Lyn – Given the nature of the development approved, land values are considered to have risen beyond those which would be reasonable for large scale solar pv project to be considered as an alternative to the extant planning permission. Structures required to accommodate pv are unlikely to be available within a reasonable timeframe.
- Whiteheads – The site represents a strategic development and given the current planning application for the development of the site the site is considered to be unavailable. In relation to viability a mixed use, residential led development is preferable in economic terms than a large scale project.

7.2.6 The sequential analysis concludes that there are no existing, available, suitable or viable brownfield opportunities which meet the criteria. This analysis has also been reviewed by

the Council's Planning Policy Section who is satisfied that in this case it has been demonstrated that there are no sequentially preferable brownfield sites available.

- 7.2.7 Turning to the second strand of the test relating to whether lower grade agricultural land is available to accommodate the proposal, a sequential analysis of the availability of lower grade agricultural land has been undertaken by Asbri Planning (September 2015). Again there is no methodology in local or national planning policy on how this should be undertaken. The agent sought to agree the scope of the search area and it was considered that this should include a search of lower grade agricultural land across the administrative boundary of Newport City Council. The search only related to grade 4 and 5 agricultural land, as the Agricultural Land Classification maps do not distinguish between subgrade 3a and 3b. In order to assess grade 3b which is not defined as being the best and most versatile agricultural land it would have required a survey of every area of grade 3. In this particular case it is considered that the methodology used is acceptable on the basis that it is proportionate to the nature and size of the proposed scheme. It was also established that the prospective sites must meet the same criteria as identified in paragraph 7.2.4 above.
- 7.2.8 The submitted analysis highlights that within the boundary of Newport City Council there are areas of Grade 4 agricultural land, but no Grade 5 land. The analysis investigated a total of 10 sites that comprised lower grade agricultural land. Four sites in the Gwent Levels, land to the east of Rogerstone, land to the east of the A4042, land to the south of Caerleon, land to the north east of Newport, land to the north of Llanwern, and land to the south of Llanwern. This analysis concluded that there are no sequentially preferable sites of lower grade agricultural land available. The findings of the analysis have been reviewed by the Council's Planning Policy Section who confirms that the applicant has conducted an appropriate sequential site analysis and demonstrated that there are no viable alternatives on lower grade agricultural land.
- 7.2.9 In relation to the overriding need for the development on higher grade agricultural land, as required by national planning policy the agent highlights that the Climate Change Act 2008 sets the Welsh Government's long term goal for Wales of 60% reduction in carbon dioxide emission by 2050. Reference is also made within the agent's supporting Planning Statement to the Practice Guidance: Planning Implications of Renewable and Low Carbon Energy and in particular at paragraph 8.4.16 which states that "a significant proportion of proposals for solar pv panels will be on agricultural land and that the use of high quality agricultural land and the reversibility of proposals will be considered."
- 7.2.10 The reversibility of the development was an important factor in an appeal decision at Manor Farm, Llanvapley, Monmouthshire (E6840/A/14/2212987) that was determined in October 2014. That site consisted of Land in Grade 2 (87%) and Grade 3b (13%). As such the proposal would have involved the loss of higher grade agricultural land. The Inspector confirmed at paragraph 33 of this decision that the development would temporarily change the use of the land rather than its quality and would not affect its long term potential for resumed agricultural use. In addition it was found that the development itself would be substantially reversible as the framework for the solar panels would be driven into the ground and would not involve any permanent foundations. This mirrors the case at Cefn Llogell whereby they will be piled into the ground.
- 7.2.11 The Inspector in his deliberation of the overriding need part of the national planning policy test concluded that given the temporary nature of the development and the reversibility of the scheme, the overriding need must be set much lower than for other more permanent development that would be harmful to the land. In effect the Inspector considered that such developments are not required to demonstrate overriding need so long as reversibility could be demonstrated so that any loss would not be permanent, and the long term retention of the site for agricultural use could be assured. The Inspector stipulated at paragraph 47 of this decision:

*"that the scheme would involve the use of high quality agricultural land, but that it would only be for a limited period of time and without long-term detriment to the land, such that*

*any conflict with national policy would be of little weight; and that the scheme would bring considerable benefit by the generation of renewable energy in support of national policy and some local benefits.”*

7.2.12 In this case, as identified above it is considered that it has been demonstrated that there are no brownfield sites or lower grade agricultural land available to accommodate the development. In light of the above the appeal decision, a key factor in the determination of this application is whether it has been demonstrated that the proposal is temporary and reversible. The supporting documentation provided with the application states that the development will be operational for 25 years, which is considered to constitute a temporary period in the context of solar farms and the appeal decision at Llanvapley. Critically, as the application site constitutes the best and most versatile agricultural land careful consideration needs to be given to the reversibility of the scheme, and that the land at the end of the 25 year period can be reinstated to its previous quality. This will be assessed in paragraph 7.3 below.

7.2.13 In summary, the agricultural fields that form part of this application site constitute higher grade agricultural land (grade 3a). In accordance with paragraph 4.10.1 of Planning Policy Wales and policy CE10 of the LDP it has been demonstrated that there is no brownfield site or lower grade agricultural land suitable or available that could accommodate the development. Turning to the overriding need the Inspector in the Llanvapley appeal decision found that if the development was reversible there was no requirement to show overriding need. However, it should be noted that this also needs to be balanced against other material considerations that will be discussed below.

### **7.3 Reversibility of the scheme**

7.3.1 The Design and Access Statement at paragraph 7.25 identifies that there will be very little depletion in the agricultural use of the site during the life of the development and crucially the development is reversible such that once its operational phase has ceased, the land will return to its current form with no impact on the soil or quality of the land. Further detail was provided confirming that it is the intention to use the land for the purposes of sheep grazing once the proposed solar farm is operational during selected periods of the year.

7.3.2 The Welsh Government's Land Use Planning Unit reviewed the supporting information provided in relation to the reversibility of the scheme and recommended the provision of further detail to demonstrate that the restoration can be achieved to a satisfactory standard. A Construction and Decommissioning Method Statement (September 2015) was provided that outlines the following activities will be undertaken during construction:

- Site preparation will involve mowing the site if required and marking out the site;
- Erecting the security fence, creating temporary construction compound;
- Piling the frames into the ground and installing mounting frames;
- Affixing the panels to the mounting frames;
- Trenching for the cable runs to a depth of approximately 1m, and laying cables;
- Pouring the concrete base for the electrical housing / cabinets (Switchgear, Transformer, Inverters etc);
- Installation of the housing / cabinets;
- Erecting pole mounted CCTV cameras;
- Connecting all the cables up and backfilling the cable trenches.

7.3.3 The only earthworks required will be to provide a level platform for the cabinets and trenches for the cables, with the cable runs having a depth of 1m and the pads for the invertors have a depth of 500mm. The statement acknowledges that the timing of earthworks is critical and stripping will not commence unless the weather forecast is expected to be dry for at least a full day. Only limited plant and machinery will be used in the form of a Case CX210 Excavator or similar.

7.3.4 In relation to the removal of soil the topsoil will be removed from the relevant areas and set

aside separately from any subsoil. When backfilling cable trenches the subsoil will be replaced first followed by the topsoil. With regards the pads for the invertors the same approach will be taken, but the excavated soils will be stored in bunds adjacent to the invertors. It is anticipated that these bunds will be no more than 750mm in height by 1000mm in width. Upon completion of the bunds they will be immediately seeded and planted to prevent and degradation of soils.

7.3.5 Equally as important is the decommissioning phase, and the statement describes the decommissioning works will be undertaken in the following sequence.

- Disconnect PV facility from the utility power grid;
- Disconnect all over-ground wirings, cables and electrical interconnections and recycle off-site by an approved recycling facility;
- Disconnect all electrical equipment;
- Remove inverters, transformers, meters, fans, lighting fixtures and any other electrical components and recycle off-site by an approved recycler;
- Removal of concrete foundations. Electrical cabins and their foundations will be removed and recycled off-site by a concrete recycler;
- Remove PV modules and steel structures and transfer to recycling facilities for recycling and material re-use;
- Remove all waste;
- Remove the perimeter fence and recycle offsite by an approved metal recycler.

7.3.6 The Statement describes in extensive detail how the equipment and above ground structures will be removed, and how the area will be restored to its original condition. Critical elements include the careful stripping and storage of soil and the timing of the works.

7.3.7 The Welsh Government's Land Use Planning Unit has reviewed the Construction and Decommissioning Statement and states that it "provides clear intent and approach to the stripping, storage and handling of soils. The approach is consistent with best practice, and as such addresses the points raised to date."

7.3.8 Overall, it is considered that it has been robustly demonstrated and provides a significant degree of confidence that site can be restored to its previous condition, thus conserving this finite land quality resource for the future and satisfying the overarching aim of paragraph 4.10.1 of Planning Policy Wales and policy GP5 (iv) of the LDP.

## **7.4 Landscape and Visual Impact**

7.4.1 The application has been supported by a Landscape and Visual Impact Assessment (LVIA)(March 2015). The study area for the LVIA identified an indicative zone of visual influence (ZVI) of approximate areas of land from which there would be potential views of the development. In this case the ZVI has been considered with a radius of up to 3km, which was considered to be the maximum distance within which anticipated visual effects would arise from the development.

7.4.2 THE LVIA reviewed the landscape character of the site and its landscape context using the most recent published LANDMAP Visual and Sensory Aspect data. The LANDMAP places the site with the Visual and Sensory Aspect Area Michaelstone-y-Fed NWPRTVSO02. This aspect area is classified at Level 3 as being Lowland/Rolling Lowland/Open Rolling Lowland. The following summary description of the land within this character type is:

*"Lowland rolling farmland rising up to 120m AOD from the levels with an open character allowing long views to the Severn estuary to the south and the coal field plateau to the north. Land use is a mix of arable and pastoral land enclosed by close trimmed hedges. The field pattern is medium scale and sinuous generally with larger, more open rectangular fields around Penylan. Small blocks of deciduous woodland and copse are evident particularly towards the east. Boundary trees such as oak are present in places. Tree cover*



*forms important skylines in places. Settlement consist of scattered farmhouses and dwellings some suburban in character linked by narrow lanes. Urban fringe influences are present such as south of Bassaleg and just north of the M4 approaching Cardiff. Cypress trees are used for enclosure of some properties. "Horsiculture" is also in evidence. Detractors include pylons, masts and unmaintained farm buildings such as north east of Tredegar House. While the area is generally tranquil on its north and west facing slopes the noise for the busy M4 and M48 reduce this on the south and east facing slopes."*

7.4.3 The LANDMAP classifies this aspect area as being of moderate value, and the justification of overall evaluation states:

*"The area is generally in good condition unspoilt by major intrusive development although it is affected by some urban fringe uses and views to the M4 and Newport. There is some variation in field pattern with some areas slightly degraded. The area has a moderate sense of place bounded by areas that have a more distinct character. Representative lowland farmland without significant rarity. Pleasant rural farmland into a good condition slightly affected by urban fringe uses and the adjacent M4."*

7.4.4 There are a further four aspects within the LANDMAP data that include the following:

- Cultural Landscape Aspect Area Newport Hinterland NWPRTCL02 classified at Level 4 as Influences/Material expressions/Rural/Other Rural. Justification of overall evaluation states that it is high.
- Historic Landscape Aspect Area Michaelstone-y-Fedw Rolling Hills NWPRTL001 classified at level 3 as being Rural environment/Agricultural/Irregular fieldscapes. LANDMAP classifies this as being of high value.
- Geological Landscape Aspect Area Michaelstone-y-Few NWPRTGL040. Classified at level 3 as Lowland hills and valleys/lowland glacial and fluvio-glacial depositional terrain/other. LANDMAP classifies this as being of high value.
- Landscape Habitats Aspect, NWPRT040. This Aspect Area is classified at level 3 as Dry(relatively) Terrestrial/Mosaic. LANDMAP classifies this as being of moderate value.

7.4.5 The LVIA identifies a number of visual receptors including houses, potential views from the M4, minor land running to the west of the telecoms mast, minor road to the north west of the site connecting Castleton and Pentrepoeth, and from local public footpath networks.

7.4.6 The LVIA has assessed a number of different elements that have the potential to cause landscape and or visual effects and this includes:

- Erection of site compounds, temporary storage area and security fencing;
- Potential effects to the present landscape character of the site and surrounding area; and
- Potential effects to the public visual receptors in the landscape and private views from properties.

7.4.7 During construction the LVIA highlights that there will be effects on the landscape fabric, however, this will be for a short period of time. In relation to the effects on landscape character and provides an assessment against each of the five aspect areas identified by LANDMAP. In relation to the visual and sensory aspect area it is found that due to the siting, existing boundary treatment and additional planting with native species that will reinforce the local landscape character. It is confirmed that the solar arrays will change the landscape character within the site, but they will be generally well enclosed when viewed from the surrounding areas. The overall balance of landscape effects on this aspect area is considered to be minor adverse.

7.4.8 The LVIA assesses the effect on the remaining four aspect areas and finds that the land will still be grassed and the retention of hedgerow respects the existing field pattern. As a result it will have a negligible adverse effect on the Cultural and Historic Landscape Areas.

It is also considered that there will be no effect on the Geological Aspect area and a negligible beneficial effect on the Landscape Habitat Aspect area.

- 7.4.9 The final element that the LVIA assesses is the visual effects of the proposed development and 10 viewpoints and an assessment of the visual effects has been undertaken. It is identified that from the public rights of way to the north and during construction are considered to be major adverse during and immediately after construction reducing to an overall evaluation of moderate adverse when the new hedge is planted adjacent to the path has become established. From the public right of way that follows the eastern boundary, again the visual effect is considered to be major adverse during construction, but when the mitigation planting becomes established the visual effect is considered to be minor adverse.
- 7.4.10 The LVIA is considered to accurately assess the landscape and visual effect of the proposal. In terms of views of the site from the surrounding area, St Brides Wentlooge is located approximately 3.5km to the south east. From this view the panels will be visible in the distance, but they will be viewed in the context of the pylons, overhead transmission lines and a telecommunications mast and would not adversely impact on the visual amenity of the area.
- 7.4.11 From Lighthouse Road approximately 3.7km to the south east, the three fields are visible below the skyline, but views from this point have been compromised by the massing of the buildings on Imperial Park and the existing pylons. The pv arrays will be visible but given the existing visual detractors in the landscape it is considered that this view of the site would not have any detrimental visual effect from this point.
- 7.4.12 The application site will be partially visible from Hawse Lane approximately 2.75km to the south, but again due to the presence of existing power lines, pylons, wind turbines and telecommunications masts within the existing landscape the pv arrays will not appear as prominent features within the landscape and will not have any unacceptable impact on the visual amenities of observers viewing the site from this direction.
- 7.4.13 From Ty Mawr Lane approximately 2km to the south the pv arrays will not be readily visible and once the mitigation planting has become established it will not have any detrimental impact on the visual amenities of any observers viewing the site from this direction.
- 7.4.14 From Marshfield to the south west there are not any clear uninterrupted views of the site, and the site itself is screened by the presence of existing vegetation and will not have any unacceptable impact on the visual amenity of those living in Marshfield. From the A48 to the south east, there are glimpses of the eastern part of the site and part of the pv arrays will be visible. However, the view is compromised by the presence of the A48 itself, existing built form on Celtic Springs and pylons. As a result the impact on the visual amenity of observers viewing the site from this point will be minor.
- 7.4.15 Finally, in relation to the impact on users of the adjacent public right of way that runs along the northern boundary of the site it is proposed to plant a native species hedgerow to mitigate the visual impact. Notwithstanding this walkers currently enjoy uninterrupted views across the existing fields and the proposal will have a detrimental impact on views that users currently enjoy. However, these views are not unspoilt as there are two existing telecommunications masts and the blades of a turbine that are readily visible when approaching from the east and views of the urban area when approaching from the west. Any detrimental visual effect will be partially mitigated by the provision of a new native species hedgerow.
- 7.4.16 In summary, it is considered that the LVIA is considered to accurately address the landscape and visual effect of the proposal. It should be noted that the Council's Principal Landscape Architect offers no objection to the proposal. In order to mitigate the impact of the proposal it is proposed to plant additional hedgerows as well as retain existing hedgerows. Overall, it is considered that when viewing the site from surrounding vantage

points the proposed development will not have an unacceptable adverse effect of the character or this rural landscape or the visual amenity of the area.

## **7.5 Impact on the Highway Network**

7.5.1 Access to the site is via the A48 and Blacksmiths Way and no alterations are proposed to the existing access arrangements. The Head of Streetscene and City Services (Highways) raised initial concerns in relation to the lack of passing points and would lead to delivery vehicles being made to wait on Blacksmiths Way. The agent has confirmed that a site delivery system will be in operation and vehicles will be run in convoy (4/5 vehicles) from a holding area at an Industrial Estate in Rumney. At scheduled delivery times banksmen will also be employed at the access to the on site compound and at the junction with Blacksmiths Way. Additionally, the agent has also illustrated that a number of passing points do exist along the access track serving Cefn Llogell.

7.5.2 The Head of Streetscene and City Services (Highways) is satisfied that sufficient points are available and has no objection subject to conditions regarding advanced warning signage and a construction management plan, which will be conditioned accordingly. The Welsh Government Transport Department considers that there will be no impact on the M4. The proposal is considered to comply with policy GP4 of the LDP.

## **7.6 Effect on the adjacent Public Rights of Way**

7.6.1 As identified above public right of way (390/8) lies to the northern boundary of the site and public right of way 390/5) to the east. The Council's Public Rights of Way Officer has not offered any objection to the proposal. In order to mitigate the visual effect of the proposal from the public right of way to the north a native species hedgerow is proposed. Overall the impact on the users of the adjacent public rights of way is considered to be acceptable.

## **7.7 Biodiversity**

7.7.1 A preliminary Ecological Survey undertaken by Wydean Ecology (February 2015) identifies that the site is typical of many intensively managed agricultural sites and that there are no statutory designations. Additionally it is found that there is no suitable roosting habitat for bats, although the hedges have some value to commuting bats, and are likely to be used by breeding birds. The survey identifies that there are no indications that badgers use the site but there is a sett nearby. A static body of water is located within 500m of the site, but it is highly unlikely that great crested newts are present.

7.7.2 The Head of Streetscene and City Services (Ecology) raised an issue regarding the provision of an access track, however, it should be noted that this is an existing feature and a distance of between 5m to 7m will be maintained between the existing hedgerow and the 2m high deer mesh security fencing, which Officers consider to be a sufficient distance. NRW offer no objection to the proposal subject to a condition securing an ecological management plan. Overall, it is considered that the proposal is not going to have any significant adverse effect on protected species or any ecological interest at the site and a condition requiring the provision of an ecological management plan should be added to any planning permission.

## **7.8 Archaeology**

7.8.1 Glamorgan Gwent Archaeological Trust (GGAT) advised that an Archaeological Desk Based Assessment was required. The Assessment has been provided and reviewed by GGAT who confirm that it is acceptable and meets current professional standards and recommend that a condition be attached to any planning permission requiring an archaeologist to conduct a watching brief during all ground disturbing works.

## **7.9 Other Issues**

- 7.9.1 The nearest property is Gwaunshonbrown Farm sited 300m to the south west of the nearest point of the development. Further residential properties are located on Penylan Road with the nearest dwelling being some 315m from the northern boundary of the site. To the south the nearest properties are those on Blacksmiths Way, which are some 550m to the south of the nearest part of the development. Given the distances involved it is considered that the proposal will not have an unacceptable impact on the amenity enjoyed through any increase in noise and disturbance when the development is operational. Additionally, due to the strengthening of the landscaping along the northern boundary and the existing hedgerow it is considered that there will be no issues regarding any glint and glare from the panels. During construction there will be an increase in vehicles delivery components to the site that will pass through Blacksmiths Way, but this is considered to be acceptable as this will be for a relatively short period of time. Similarly there may be further disturbance during decommissioning, but again given the likely duration this is considered to be acceptable.
- 7.9.2 A group of trees covered by a Tree Preservation Order (GWT/104) lie adjacent to the existing access track that serves Cefn Llogell. No alterations are proposed to the existing access arrangements and the pv arrays are sited some 200m to the north west of the band of the trees. The proposal will not have any adverse impact on protected trees.
- 7.9.3 The comments from Keep us Rural are noted and the appraisal section of the report has addressed many of the issues raised relating to the use of high quality agricultural need, the overriding need, the methodology used for the sequential test, the 25 year period constituting a temporary period, and the landscape impact.
- 7.9.4 With regards the comments relating to the Llanvapley decision being flawed it is noted that this has not been tested legally, but this decision is considered to be a material consideration in the determination of the application. In terms of the weight that can be attached to this decision this is a matter for the decision maker. Officer's consider that the findings of this appeal decision and the interpretation of national planning policy has significant weight.
- 7.9.5 In relation to the comments regarding community consultation there is currently no statutory requirement for this to be undertaken at pre-application stage, but the planning application has been advertised in the press, site notices displayed and neighbour letters sent to those within 100m of the development. No community benefit has been offered as part of this proposal and it is considered that such a benefit is not required to make the development acceptable in planning terms.
- 7.9.6 Finally In relation to flooding, drainage and soil erosion the Construction and Decommissioning Method Statement identifies that it is not proposed to alter the current drainage regime on the application site, and the pv modules are designed with rain gaps to ensure all water disperse more evenly across the site and into the boundary drain. Natural Resources Wales have been consulted and they have not raised any concerns on these issue and due to the design of the panels and the scale of the development it is considered that proposal will result in any significant erosion of the soils.

## **7.10 COURT FARM APPEAL DECISION**

- 7.10.1 As Members will be aware the Court Farm appeal decision was received on 9 October 2015 following the resolution of Planning Committee to refuse the planning application at Cefn Llogell. The appeal decision is an important material consideration in this case as it refers to a solar farm development within the administrative boundary of Newport and deals specifically the impact on the supply of the best and most versatile agricultural land and reinforces the appeal decision at Llanvapley, Monmouthshire. In Officer's opinion the appeal decision can bear significant weight in the determination of this application.**

- 7.10.2** Confirmation that the Inspector's decision is a material planning consideration is contained at Paragraph 11 of Annex 1 of Welsh Office Circular 23/93 [Award of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings] states that 'similarly, a planning authority may be held to have acted unreasonably if they fail to take into account reported judicial authority, or well-publicised appeal decisions relevant to their reasons for refusal, or relevant policy statements in Government White Papers, DOE and WO Circulars or Planning Policy Guidance Notes (PPW). As such appeal decisions are material to planning decisions and should be given appropriate weight.
- 7.10.3** At Court Farm, the appeal site covered an area of 14.3 hectares and around 70% of the site is classified as Grade 2 and 3a agricultural land with the remainder at 3b. At Cefn Llogell, the entire application site is classified as grade 3a.
- 7.10.4** The Inspector identifies at paragraph 6 of his decision states that "*...the proposed development would preclude the land from being used to its full agricultural potential for twenty five years. Nevertheless, I am satisfied that the impact of the proposed development is reversible and that consequently, there would not be a permanent loss of best and most versatile agricultural land and that it would be conserved as a finite resource for the future. With regard to the question of overriding need, I agree the weight to be given to this test in this case is limited by the fact that the proposed development would not lead to a permanent loss of best and most versatile agricultural land.*"
- 7.10.5** Given the above only limited weight should be given to the overriding need if the impact of the development is reversible and that there would be no permanent loss of best and most versatile agricultural land. At Court Farm the applicant provided an end of life restoration programmed within the 'Agricultural Land Classification: Impact and Mitigation Assessment'. At Cefn Llogell a Construction and Decommissioning Statement has been provided, which describes how the site will be restored to its previous condition. It should be noted that Welsh Government Land Use Planning Unit has reviewed the statement and is satisfied with the proposed approach described. Consequently, it is considered that it has been demonstrated that the development is reversible and would not lead to the permanent loss of best and most versatile agricultural land.
- 7.10.6** In relation to the availability of sites on brownfield land or lower grade agricultural land the Inspector noted at paragraph 7 of his decision that it is not possible to site a solar farm anywhere and a number of factors need to be considered including levels of irradiance, viable grid connection, access, landscape and other environmental impacts. At paragraphs 8, 9 and 10 the Inspector describes the sequential test that was undertaken, which was based on three steps. Step 1 included assessing suitable grid connection locations and grid capacity over the whole of Wales and potential development areas in Wrexham, Flintshire, Deeside and an area to the east of Newport.
- 7.10.7** Step 2 included a strategic analysis which discounted areas of significant landscape or ecological value or where flooding was a constraint which left two viable areas to the east of Newport and an area to the North East of Wales. The latter option was discounted on the basis of lower levels of irradiance and an area round the substation at Magor was identified as being able to accommodate the development.
- 7.10.8** Step 3 focussed on sites within the vicinity of the Magor sub station and the following factors were considered including:
- Levels of irradiance (south facing sites)
  - Viable grid connection
  - A site of sufficient size and contiguity (30 acres)
  - Road access

- Site available for the required period (25 years)
- Flood risk
- Other development management considerations:
  - Landscape
  - Visual amenity
  - ALC
  - Development Plan allocation

**7.10.9** Two sites in the Gwent Levels, a site in Chepstow, Llanmartin and land to the south of Underwood were discounted in favour of the site at Court Farm. This assessment found that there was little land of lower ALC within the area of search that was not constrained by environmental, historical, ecological, or other land designation constraint.

**7.10.10** The Inspector found that in relation to the sequential test it was not necessary when looking at other potential sites to provide a detailed analysis on each one. For example, a site was discarded because it fell within a SSSI, which in the Council's Statement was criticised as not being sufficiently robust. On this point, the Inspector states at paragraph 10 that *"I have seen nothing in PPW to suggest that consideration of the availability of lower grade agricultural land requires a detailed analytical assessment of ecological or landscape impacts on every alternative site or solid proof that a solar farm would be reasonable. I am satisfied that the sequential test is robust and based on reasonable assumptions and I see no reason to dispute its findings."*

**7.10.11** In summary, Members should note that a different approach has been taken in terms of the sequential analysis of the availability of brownfield and lower grade agricultural land at Cefn Llogell to that at Court Farm. In the case of Cefn Llogell, the area of search for brownfield sites and lower grade agricultural land has been confined to the administrative boundary of Newport City Council, and this was the extent of the search area agreed with Officers, which is considered to be proportionate to the nature and the size of the scheme. However, at Court Farm the methodology as identified above in the first instance focused on an area that covered the whole of Wales and then focused on areas where there was grid connection and capacity, which ultimately resulted in a search of sites around Magor substation. Members will note that there are material differences between the approaches undertaken between Court Farm and Cefn Llogell, but Officers consider that the approach taken at Cefn Llogell in relation to the sequential assessments undertaken are robust and demonstrate that there are no sequentially preferable sites.

**7.10.12** Finally, the appeal decision is also relevant in relation to the visual impact of the proposal from an adjacent public right of way, and paragraph 15 states *"Walkers using the two footpaths which would skirt the solar farm would see the arrays at close quarters. However, for most of its length the green lane is a sunken lane and its base sits below the land on either side and it is also enclosed by mature hedging which limits views of the site. Walkers using the footpaths which runs just inside the northern boundary currently enjoy long distance views towards the Severn Estuary and these views would be significantly curtailed if not lost altogether as a result of the proposed development. I accept that the proposed development would have a significant impact on the enjoyment of this part of the footpath. However, it would be limited to only a short section of any walk and I do not consider that this harm justifies withholding planning permission for the proposed development."*

**7.10.13** This is a similar situation to that at Cefn Llogell where a public right of way extends along the northern boundary of the site, which will restrict views of the Severn Estuary to the south. Officers consider that due to a relatively small section

(approximately 650m) being effected together with mitigation planting the harm to visual amenity of the users of the public right of way is not to an extent that would warrant the refusal of the application for this reason.

## 7.11 ADDITIONAL ISSUES

The Council has received a response from the agent which they consider would be beneficial for several issues discussed at Committee on 7<sup>th</sup> October 2015 to be addressed and the following is a summary of these issues:

- **Reference to 3.3MW/3.8MW scheme** – The scheme size relates to a 3.3MW scheme size, but in optimal conditions the output of the scheme could reach 3.8MW.
- **Loss of best and most versatile land** – There is no grade 1 or grade 2 land at Cefn Llogell. The site comprises 86% grade 3a land with the remainder comprising grade 3b. It is considered that the Appeal decision at Court Farm represents a material consideration in this respect. The appeal decision reinforces the temporary nature of solar farms and the reversibility of such schemes.

To this end, the Appeal Decision states, *“the proposed solar farm would have a life span of 25 years and the methods of construction and decommissioning can be controlled to ensure that there would be no loss of agricultural land quality once the development has been removed. The land would not be lost to agriculture, the fields would be used for silage production and, according to the appellant’s ‘Agricultural Land Classification: Impact and Mitigation Assessment’, sheep could be grazed between and beneath the rows of solar panels.”* It is reaffirmed that it is the intention of the applicant at Cefn Llogell to graze sheep between and beneath the solar panels, therefore the land would become utilised for agriculture. The income from the solar project will be utilised to finance fencing for sheep to graze - where currently the land is unfenced and unused for agriculture.

- **Views from Public Right of Way** – The application was supported by a full LVIA prepared by Antony Jellard Associates. No objections were received from neighbours or the local community council. The Council’s Landscape Officer considered that the proposal would not result in an unacceptable level of harm and that consent should be granted. It is therefore considered that the application is fully compliant with national and local planning policy.
- **Existing use of the land** – It was incorrectly stated at Committee that the land was in use for agricultural purposes and that has been the case for a significant period of time. Clarification has been sought from the landowner who has reconfirmed that over the last circa 30 years the fields have been left as grass for horse grazing. It was attempted to grow maize once circa 2.5 years previous on the fields where the solar project is proposed, however, this was not deemed as a success due to the poor quality of crop and the subsequent loss made on the venture. The fields are not serving any positive purpose, and have not for a considerable period. Based on this experience, the landowner will not use the fields to grow crops in the future. It is therefore considered that their use of the land for the purposes of a solar pv project will enable positive benefits of both clean, renewable solar energy and grazing of sheep both under and between the panels to be achieved with no detrimental impact on the quality of the land.
- **Decommissioning phase/compaction of soil** – A Construction and Decommissioning Statement was submitted in support of the application. The document was rigorously assessed by Officers within Welsh Government and Newport City Council.

The document clearly addresses the decommissioning phase including the removal of all materials from the ground. In the case of steel, it is considered clear that

beyond the applicant's obligation through the planning process to fully restore the land, it would be in their financial interest to remove the metal as opposed to it being left behind given its increasing value.

Further to the above, the Statement details the techniques to be used in respect of maintaining the quality of the soil during the construction and decommissioning phase. The landowner is committed to ensuring the quality of the land is in no way damaged as a result of the solar farm. To this end, a decanting point within the landowners ownership in Rumney will be utilised as a holding area for the panels so that they can be delivered on lighter vehicles which will further limit impact on the compaction of soil.

- **Flooding on the A48** - The site is located outside of the identified flood zones and no history of flooding.

#### **7.11.1 OFFICER RESPONSE**

The report has extensively addressed issues relating to the loss of best and most versatile land, views from the public right of way, decommissioning, and flooding.

**7.11.2** In terms of the outstanding issues Members should note that the scheme has been assessed on the basis of the maximum output of 3.8MW.

**7.11.3** In relation to the existing use of the land, the supporting documentation namely the Planning Statement describe that land is used solely for agricultural purposes. The Design and Access Statement also confirmed that the field parcels are currently used for arable purposes. However, the statement provided has confirmed that the fields have been left as grass for grazing horses for the last 30 years. Notwithstanding this as stated in paragraph 6.11.1 of Technical Advice Note 6: Planning for Sustainable Rural Communities states that "the definition of agriculture includes the "breeding and keeping of livestock" and the use of land as grazing. It goes on to say that land can be said to be used for "grazing" if horses are turned on to it with a view to feeding them from it, but not if they are kept on it for some other purpose (such as exercise or recreation), when grazing is seen as completely incidental and inevitable. It is therefore considered that the land is in use for agricultural purposes, and although the applicant does not intend to use the fields to grow crops in the future, all the land that forms part of this application is classed as Grade 3a, which is the best and most versatile, irrespective of the intention not to grow crops.

**7.11.4** The agent has confirmed that the site comprises 86% grade 3a land with the remainder comprising grade 3b. However, it should be noted that the grade 3b is located to the north east of the application site and in the interest of clarity the application site comprises 100% grade 3a.

#### **7.12 LATE REPRESENTATIONS**

**7.12.1** Two responses have been received from Keep us Rural. The first response related to the decommissioning statement and is summarised as follows:

- Decommissioning statement only partially and superficially deals with the important task of restoring the land to its original condition.
- Statement is fairly specific about the procedures and sequence of operations employed during decommissioning. However, detail is largely redundant, as methods of disassembling fixtures will not have changed in 25 years.
- More serious issues relating to corrosion of piles within the soil and what happens to piles weakened by corrosion which break during removal?
- Document does not document the present state of the land and who will be in a position to direct operations within out the necessary date for restoration?



- Total lack of data documenting the original condition of the site makes the statement useless. In our view the decommissioning statement fails the requirement to be deemed temporary and reversible.

**7.12.2** The second response was made in relation to committee report and raises the following issues:

- The application is almost identical to application number 14/1275 at Court Farm, Magor, which was refused by planning committee, and now subject of an appeal to the Planning Inspectorate.
- We have included large extracts of the Council's case as the points that are put forward in defence of the appeal are highly relevant to the Cefn Llogell application.
- Would be grateful if you could explain at Planning Committee why the report differs so greatly to the Councils case as submitted to the Planning Inspectorate.

### **7.12.3 OFFICER RESPONSE TO LATE REPRESENTATIONS**

**7.12.4** In relation to the decommissioning of the site it should be noted the Welsh Government Land Use Unit has reviewed the decommissioning statement and considers that the approach taken is consistent with best practice. The statement illustrates the sequence of events to be carried out during decommissioning and Officers consider that the site can be restored to its previous condition as the best and most versatile agricultural land.

**7.12.5** The metal piles will either be aluminium or galvanised steel and it is considered that this is suitably robust material, but in the event of a pile breaking this could be sufficiently addressed within the condition requiring the submission of the decommissioning and site restoration scheme.

**7.12.6** In respect of the Construction and Decommissioning Method Statement (September 2015) section 3 stipulates that "the site at Cefn Llogell to which this Statements relates is classified as largely grade 3A land with elements of grade 3B."

**7.12.7** With regards the appeal of the Court Farm decision that was refused by Planning Committee, contrary to officer recommendation is currently a 'live' appeal with a decision expected shortly. Officers would not want to prejudice the outcome of this appeal, but it should be noted the Council has sought to provide a robust defence of this decision.

**7.12.8** In the case of the application at Cefn Llogell Officers have determined the application on the merits of the case and consider that the Llanvapley appeal decision is a material planning consideration, which significant weight has been attached. There is no indication that the Inspector's interpretation and application of national planning was incorrect. Additionally, it should be noted that the Costs Circular identifies that it would be unreasonable not to take into account relevant appeal decisions. The appeal decision at Llanvapley relates to an adjoining Authority and deals specifically with a solar farm development affecting the Best and Most Versatile land. Officers consider that it has been demonstrated that there is no suitable or available brownfield site or lower grade agricultural land that could accommodate the development.

**7.12.9** In relation to the overriding need there is no definition within national and local planning policy describing what this is and that the provision of renewable energy is an overriding need that outweighs other material considerations. However in the Inspector's deliberation in the Llanvapley decision found that because the development is temporary and reversible there is no requirement to demonstrate overriding need. Officers consider that in the case at Cefn Llogell there are benefits

in respect of the generation of renewable energy and that it has been demonstrated that the development is temporary and reversible and as a result would conserve this high quality grade agricultural land for the future.

#### 7.12.10 OFFICER RECOMMENDATION

7.12.11 It is not considered that any of the points raised in the late representations would justify a change in the officer recommendation, which remains:

#### GRANTED WITH CONDITIONS

### 8. OTHER CONSIDERATIONS

#### 8.1 *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.

#### 8.2 *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.

8.3 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.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

#### 8.6 *Planning (Wales) Act 2015 (Welsh language)*

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

### 9. CONCLUSION

9.1 The proposed development will be sited on higher grade agricultural land (grade 3a) that national planning policy identifies should be conserved as a finite resource for the future. It recognises that such land should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grade is unavailable. It has been demonstrated that there are no brownfield sites or lower grade agricultural land that is available to accommodate the development. Additionally, it has been demonstrated that the proposal will be operational for 25 years and a Construction and Decommissioning Statement that provides a commitment to reinstating the land to its current quality. As a result, it has been robustly justified that the development is reversible. Moreover, it is accepted that the scheme would generate renewable energy that enjoys policy support at a local and national level. It is also considered that the proposal would not have any unacceptable adverse effect on landscape character, visual amenity, protected species, neighbour amenity, highway safety or on users of the public right of way.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 This proposal shall be carried out in accordance with the following plans and documents:

Site location plan 01, Proposed site layout plan -1202[BD]001B, Inverter House Reference14.270/IH, CCTV camera installation – 1202[BD] 004, Boundary fence detail-1202[BD]002, PV layout – ground installation mounting details – 1202[BD]003, Design and Access Statement, Planning Statement, Landscape and Visual Impact Assessment and Appendices prepared by Anthony Jellard Associates (March 2005), Agricultural Land Classification (Updated June 2015) prepared by Kernon Countryside Consultants Ltd, Sequential Site Analysis (ALC)(September 2015) prepared by Asbri Planning, Sequential Site Analysis (July 2015) prepared by Asbri Planning, Construction and Decommissioning Method Statement (September 2015) prepared by Asbri Planning, Preliminary Ecological Appraisal (issue 2.) prepared by Wyedean Ecology Ltd, Pre Development Tree Survey & Assessment prepared by TDA, Tree Constraints Plan, Archaeology Wales Desk Based Assessment.

Reason: to comply with Paragraph 4.16 of Welsh Government Circular 016/2014 (Conditions).

#### **Pre-commencement conditions**

02 Prior to the commencement of development, details of the proposed landscaping planting as illustrated on drawing number 1202[BD]001B and the new hedgerow planting along the northern boundary with the public right of way (390/8) as identified in the Design and Access Statement and Landscape Visual Impact Assessment indicating the number, species, heights on planting and positions shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the hedgerows shall be maintained for the lifetime of the scheme from the date of planting in accordance with an agreed management schedule. Any species which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To mitigate the visual effect of the development from the adjacent public right of way.

03 Development shall not be begun until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The construction method statement shall include details of, and measures to secure:

- (a) the phasing of construction works;
- (b) the formation and position of the temporary construction compound;
- (c) dust management and suppression;
- (d) cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- (e) pollution control, including the protection of water courses and ground water; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and disposal; and emergency procedures and pollution response plans;
- (f) temporary site illumination during the construction period;
- (g) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- (h) storage of materials and disposal of surplus materials;

The works shall proceed in full accordance with the agreed construction method statement.

Reason: to protect the interests of the rural character of the area, the integrity and safety of the highway network and to protect the amenity of residents.

04 No development shall commence until an Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Ecological Management Plan shall include details of, and measures to secure:

- a) The seed mixes to be used on site and grassland management;
- b) Monitoring plan;
- c) Planting up of existing hedgerows including types and number of species;
- d) Working hours to minimise impact on protected species;

The works shall proceed in full accordance with the agreed ecological management plan.  
Reason: To protect and enhance the ecological value of the site.

05 No development shall commence until a licenced Ecologist has been appointed, as first agreed in writing by the Local Planning Authority to supervise works on site and the installation of the badger gaps in the security fencing.  
Reason: To maintain and enhance the biodiversity value of the site.

06 No development, shall commence until full details of any surface water 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.  
Reason: To ensure adequate drainage is provided.

### **Other conditions requiring the submission of information**

07 The developer shall ensure that a suitably qualified archaeologist is present during the undertaking of any ground disturbing works in the development area, so that an archaeological watching brief can be conducted. The archaeological watching brief shall be undertaken to the standards of the Institute of Field Archaeologists. The Local Planning Authority shall be informed, in writing, at least two weeks prior to the commencement of the development of the name of the said archaeologist and no work shall begin until the Local Planning Authority has confirmed, in writing, that the proposed archaeologist is suitable. Two copies of the watching brief shall be submitted to the Local Planning Authority within two months of the fieldwork being completed.  
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource

08 No Heavy Goods Vehicles shall access the site until a traffic management plan (TMP) has been submitted to and approved in writing by the Local Planning Authority. The TMP shall include details of:

- Signage;
- Details of temporary traffic management measures, such as traffic lights;
- All other measures to be taken to ensure the site can be accessed safely and with minimum disruption to the public highway.

Reason: To protect the integrity and safety of the highway network.

09 Full details of the substation including its siting shall be provided to the Local Planning Authority in writing prior to its installation. Following the Local Planning Authority's written agreement the substation shall be installed as agreed and retained as such.  
Reason: In the interests of visual amenity.

10 Full details of external illumination shall be submitted to the Local Planning Authority prior to the erection or installation of any external lighting on site, and the external lighting shall then be installed and retained in accordance with the approved details.  
Reason: To avoid any unacceptable impact on protected species.

11 Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme incorporating the principles detailed in the Construction and Decommissioning Method Statement (September 2015) shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal

of the photovoltaic panels and all other associated equipment and paraphernalia and the subsequent restoration of the site. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife, habitats and tree features on the site;
- identification of access routes;
- location of material laydown areas;
- full details of the removal of the solar arrays, associated buildings and plant, any trackways and sub-surface cabling and all associated works of ground restoration including trench backfilling;
- full details of all works to restore the land to allow for agricultural production following the removal of structures from the site;
- a programme of implementation.

The approved scheme shall be implemented within 12 months of the expiry of this permission and then proceed fully in accordance with the agreed details in accordance with the decommissioning programme.

Reason: to ensure the site is fully restored to allow agricultural use and to maintain the rural appearance of the area.

12 If the development hereby permitted fails to produce electricity for supply to the grid for a continuous period of 6 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the solar farm. Where repairs or replacements are required the scheme shall include a proposed programme of remedial works. Where removal of the solar farm is required the scheme shall include the same details required under condition 11 of this permission. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: To ensure the solar farm beneficially generates electricity or is otherwise removed to the benefit of the character and appearance and the agricultural potential of the area.

13 The permission hereby granted shall expire 25 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: The proposed scheme has a 25 year lifespan.

### **Directive conditions**

14 The soil stripping, handling, storage, replacement operations and timing of works shall be undertaken in accordance with the specification and methodology provided in the Construction and Decommission Method Statement (September 2015).

Reason: To safeguard the integrity of the grade 3a agricultural land.

### *NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE6, CE10, T2 and T7 were relevant to the determination of this application.

02 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.

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

04 The development shall be aware that the concrete underpass through which access is proposed has a height restriction of 14 foot/4.26 metres. This dimension should not therefore be exceeded by any vehicles associated with this proposal.

---

## **APPLICATION DETAILS**

**No:** 15/0393                      **Ward:** *MARSHFIELD*  
**Type:** Full  
**Expiry Date:** 13-JUL-2015  
**Applicant:** *SARAH-JANE FEDARB CEFN LLOGELL FARM, CARDIFF ROAD, NEWPORT, NP10 8UD*  
**Site:** *LAND TO THE WEST OF CEFN LLOGELL FARM, CARDIFF ROAD, NEWPORT*  
**Proposal:** *CONSTRUCTION OF A GROUND-MOUNTED SOLAR PV GENERATION PROJECT (3.8MW) AND ASSOCIATED WORKS (AFFECTING PUBLIC RIGHT OF WAY 390/5 AND 390/8)*

### **1. LATE REPRESENTATIONS**

- 1.1 A letter of support from a resident in the Ringland ward has been sent to the Leader of the Authority and raised the following points:
- Request support of Leader and fellow Councillors for solar and renewable energy projects in Newport.
  - The scheme was refused planning permission at a Meeting held on 7<sup>th</sup> October. However, since this meeting of other solar projects have been approved in Newport, all larger in size and on better quality land.
  - The proposed site at Cefn Llogell has been used for grazing horses for 30 years.
  - Newport has the opportunity to lead the way in clean energy and grow the number of green jobs in the region.
  - Concerns relating to UK relying on nuclear power.
  - Future generations need a clean environmentally safe energy source.
  - Jobs have been lost at Redcar Steel and Tata Steel locally due to high energy costs.
  - There is a Green dividend which as a community we should promote and benefit from in the pursuit of low cost green energy.
  - A renewable business on the border with Cardiff has closed resulting in the loss of 9 full time jobs due to cuts to the green subsidies.

### **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

- 2.1 The Leader has explained that he cannot lobby any of the Labour Councillors on the Planning Committee as it would be improper and unlawful.
- 2.2 The report has provided detail of the Court Farm appeal decision, which has been addressed in the main body of the report. In relation to the case at Fairwater Farm that was recently approved, but it should be noted that this did not include land that was defined as the best and most versatile.
- 2.3 In relation to the loss of jobs at Redcar, Tata Steel and a business on the border with Newport is not considered to directly relevant to the consideration of this application. However, the benefits of the scheme in providing renewable energy are set out in the report.

### **3. ADDITIONAL OFFICER RESPONSE**

- 3.1 There is a typographical error in paragraph 7.10.1 of the report in relation to the date of the receipt of the Court Farm Appeal decision and that this should be 9<sup>th</sup> October 2015 and not 9<sup>th</sup> November 2015.
- 3.2 Members should also note that the submitted Landscape Visual Impact Assessment has addressed the cumulative impact. In terms of cumulative impact there are two wind turbines within the area, one at Penylan Farm (900m to the south west) one at Clearwell Farm (870m to the west), and a solar farm at Clearwell Farm (1.43km to the north west). In

addition, a solar farm at Fairwater Farm (3km to the south west) has recently been approved. In this case given the distances involved and the topography of the area it is considered that these developments will not be read together and that there will be no unacceptable cumulative impact.

#### **4. OFFICER RECOMMENDATION**

- 4.1 It is not considered that any of the points raised in the late representations would justify a change in the officer recommendation, which remains:

GRANTED WITH CONDITIONS

## APPLICATION DETAILS

**No:** 15/0819      **Ward:** BEECHWOOD

**Type:** FULL (MAJOR)

**Expiry Date:** 30-AUG-2015

**Applicant:** DERWEN CYMRU LTD.

**Site:** LAND NORTH OF AND ADJACENT TO 58, CLEVEDON ROAD, NEWPORT

**Proposal:** DEVELOPMENT OF 17NO. APARTMENTS AND 1NO. BUNGALOW AND ASSOCIATED WORKS

**Recommendation:** GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT

### 1. INTRODUCTION

- 1.1 This application seeks full planning permission for the development of land adjacent to 58 Clevedon Road for 17no apartments and 1no bungalow.
- 1.2 The development would comprise 18no units with 2no two storey apartment buildings fronting Clevedon Road, a two and three storey apartment complex towards the rear of the site and a 2 bedroom bungalow to the west of the site. The development is intended for occupation by people aged over 55's with the applicant being a Social Landlord.
- 1.3 Being within the urban boundary and previously developed land, the development of the site for residential use is acceptable in principle.

### 2. RELEVANT SITE HISTORY

93/0208	DEMOLITION OF EXISTING ARCON PREFAB AND REPLACEMENT WITH NEW PREFABRICATED BUNGALOW	Demmed to be Granted
05/0548	DEMOLITION OF EXISTING BUNGALOWS AND ERECTION OF NEW BUNGALOWS (OUTLINE)	Granted with Conditions
07/0686	ERECTION OF A DETACHED DWELLING (OUTLINE)	Granted with Conditions
09/0881	ERECTION OF DETACHED DWELLING (RESERVED MATTERS RELATING TO OUTLINE 07/0686)	Granted with Conditions

### 3. POLICY CONTEXT

#### 3.1 **Newport Local Development Plan:**

SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles.

Policy SP10 Housing Building Requirements states that provision is made for 11,623 units within the plan period in order to deliver a requirement of 10,350 units. The plan seeks to deliver 2,061 affordable units.

SP13 Planning Obligations: Proposals of this scale will be required to provide or make contributions to infrastructure.

GP1 General Development Principles – Climate Change: This policy seeks to ensure that the development is to withstand climate change over the lifetime of the development.



GP2 General Development Principles – General Amenity: There is to be no significant adverse effect on the amenity of the existing or new community.

GP3 General Development Principles – Services Infrastructure: This policy requires justification as to the suitability of the service infrastructure required by the proposal e.g. sewerage.

GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.

Policy GP5 General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.

GP6 General Development Principles – Quality of Design: All new development must ensure that they are to achieve good quality design. This is ensuring that the proposal creates a safe, accessible and attractive environment taking into account the context, scale and materials of the design.

GP7 General Development Principles – Environmental Protection and Public Health: This policy seeks to ensure that there is no unacceptable harm to health from a development.

H2 Housing Standards: Housing developments will be required to be built to high standards of environmental and sustainable design.

H3 Housing Mix and Density seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.

H4 Affordable Housing: This policy requires sites of 10 or more units to provide on-site affordable housing provision.

Policy H6 Sub-division of Curtilages, Infill and Backland Development permits such development only where it does not represent an over development of the land.

T4 Parking: This policy requires adequate level of parking to ensure there is no detrimental impact on the new site or existing community.

### 3.2 **Supplementary Planning Guidance**

Planning Obligations adopted August 2015

Affordable Housing adopted August 2015

Wildlife and Development adopted August 2015

New Dwellings adopted August 2015

Parking Standards adopted August 2015

## 4. **CONSULTATIONS**

4.1 DWR CYMRU – WELSH WATER: Provide details of equipment in the area and request conditions relating to drainage.

4.2 WALES AND WEST UTILITIES: Provide details of apparatus in the area.

4.3 NEWPORT ACCESS GROUP: No response.

4.4 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): Offer no objections to the proposals.

4.5 GWENT WILDLIFE TRUST: Offer no objection to the development but make the following comments:

-Further advice should be sought from the Council's Ecology Officer if additional trees are to be felled;

-Landscaping should retain and enhance the corridors along the northern boundary of the site which should not be lit;

-Installation of bat boxes in trees and on buildings as appropriate;

-The comments of the Council's Ecologist with regards to slow worm protection are supported;

-To protect breeding birds, clearance of trees and scrub should take place outside of the breeding season or under the supervision of an appropriately qualified ecologist;

-The majority of the site was surveyed outside of the appropriate season, therefore there is a possibility that rare plants and invertebrates have been missed, or that the site has a greater biodiversity than the results indicate. This is of serious concern, and could be used as justification to ask for further survey work or even refuse permission. The surveys carried out indicate that there is some botanical interest, although not enough to qualify as a SINC. The site is also quite isolated and fragmented by the concrete slabs. Requesting an additional survey to be carried out during the appropriate season would delay the progress of this application by six months, so in this case, it is best to assume that the site has some value, which would require on-site compensation through the landscaping scheme. We therefore expect a condition for a detailed landscaping scheme to include the following features - at least 50% native species, pollinator-friendly plants (open flowers) and plants that produce fruit and berries, a dense wildlife corridor along the northern boundary, featuring native trees and shrubs, flowering lawn mix and wildflower mixes within grassed areas, to be managed appropriately, bird and bat boxes.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Does not object to the proposals subject to conditions to protect the ecological interests of the site.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (TREES): No objections.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objections.
- 5.4 CHIEF EDUCATION OFFICER: No response.
- 5.5 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): Fully supports the proposed development. The proposed plans have been drawn up to address the significant prevailing housing need for over 55's in the Beechwood and adjacent St Julian's ward. The properties will be neutral tenure and allocated through the Common Housing Register which is administered by the City Council. The properties will provide good quality accommodation, which can accommodate any existing or future requirements of the occupants with a mobility difficulty.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): Offer no objection to the proposals subject to the provision of off-site leisure services within the locality.
- 5.7 PLANNING CONTRIBUTIONS MANAGER: Current local and national planning policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations.
- 5.8 HEAD OF LAW AND REGULATION (POLLUTION): No objection subject to conditions relating to potential contamination and the submission of a Construction Management Plan.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (53no properties), a site notice was displayed, and a press notice published in South Wales Argus. 18no objections received from 11 residents on the following grounds:
- The increased traffic would have an adverse affect on an already busy road;
  - There is a shortfall in parking spaces which will lead to indiscriminate parking to the detriment of neighbouring residents;
  - The site entrance/exit is close to the brow of a hill and is adjacent to a bus stop which raises safety concerns;
  - Three storey buildings and balconies would result in overlooking of neighbouring gardens and properties and is not acceptable;
  - The development is out of keeping with existing houses in the area in terms of design and density;

- 13 of 18 of the units would be situated on an area previously occupied by only 3 two bedroomed prefabs. This density is over double the minimum requirement set out in the Council's Guidance and constitutes cramming of the site;
- The layout of the scheme has not been well thought-out;
- If the development is allowed, construction hours should be controlled;
- The site should be developed with bungalows as per the original use of the site;
- The proposals would be visible across Newport and would be a blot on the landscape;
- The plans are deliberately misrepresentative with some neighbouring windows not shown and some information submitted with the application inaccurate;
- The proposals would result in a loss of light;
- Concerns are raised about the instability of the ground and question whether an independent geological investigation has been carried out as neighbouring Edwardian properties are known to have shallow foundations;
- Outdoor roof areas could be a safety hazard in high winds;
- Question which trees are to be retained;
- The proposals would lead to a depreciation of surrounding property value and if the application is granted neighbours may seek compensation;
- Question the age of the intended occupiers and how this would be controlled;
- Question whether the ecological interests of the site have been considered;
- The existing drainage infrastructure was not built to accommodate the number of units proposed;
- The proposals would result in a loss of view;
- Whilst there is no blanket objection to the development of the site, the development as proposed is unacceptable;
- The proposed design is akin to student accommodation in the city centre and is not appropriate in this suburban location;
- Over 55 is not elderly. People aged 55 are still approximately 10 years from retirement and are statistically more likely to have more than one car per household;
- The sustainability assessment is not logical – if the occupants are 'elderly' then, is it not naive to include walking distances to schools as a benefit;
- The accuracy of some of the distances within the sustainability assessment are questioned and the assessment is factually incorrect and unsuitable;
- The level of the site should be reduced to be in keeping with 58 Clevedon Road as this was a condition of the planning permission for this property;
- The difference in levels between the site and neighbouring properties would result in drainage problems;
- The large scale development of the site will reduce the level of rainwater absorption and subsequent drainage problems;
- Concerns are raised about the impact of the development on neighbouring retaining walls which have already been toppled by heavy plant being driven near to them;
- The development has a severe lack of amenity space, contrary to the Council's Guidance;
- The proximity of the development to no 58 Clevedon Road would result in overshadowing, which would be worsened by level differences;
- The proposed first floor communal balcony is less than 8m from the boundary of no. 58 Clevedon Road and 14m from the first floor bedroom window and lounge patio windows. The elevated position of this balcony is also raised by the difference in land levels and results in a serious loss of privacy;
- The proposals will result in a loss of light to neighbouring occupants;
- There would be a loss of perceived space and visual amenity;
- The development would have the same impact as a hotel due to its scale and design;
- There would be direct views to no. 56 Clevedon Road;
- It is requested that any stones from the remains of an original dry stone wall at the base of the neighbouring hedge (between the site and no. 56 Clevedon Road) remain in place and that the bank is not removed/disturbed in any proposed garden areas along the length of the Eastern boundary or that future occupants be reminded not to disturb the soil on the banks as this could also cause serious stability problems;

If the application is approved, residents would feel as though this is 'fait accompli' and not a decision made with residents in mind.

6.2 COUNCILLOR DEBORAH DAVIES AND MARK SPENCER: Have shown an interest in the application and reiterate the concerns of a neighbour who has contacted them.

## 7. ASSESSMENT

7.1 The application site is irregularly shaped comprising a large triangular portion linked to a smaller piece of land to the south west. A large portion of the site fronts Clevedon Road to the south and backs onto Forrest Glade to the north. The site was previously occupied by 8no pre-fabricated bungalows. The site is bounded by existing residential development which largely comprises traditional two storey detached and semi-detached bay fronted properties. To the front of the site adjacent to Clevedon Road a two storey detached self-build dwelling has recently been constructed (58 Clevedon Road). This parcel of land is in separate ownership. The site is currently vacant. The site measures approximately 0.4 hectares. The site topography slopes gently downhill from the northern boundary to the south west.

7.2 All of the proposed apartments would have two bedrooms. The apartments vary in terms of scale, with the smallest being 60m<sup>2</sup>, and the largest being 72m<sup>2</sup> but are considered to provide a spacious level of accommodation. Several of the plots would be served by their own balconies. There would also be an area of landscaped gardens to the north of the site. The development would also include a lobby and communal seating area and motorised buggy storage area.

### 7.3 *Layout and Design*

The proposed layout would comprise a central access into the site from Clevedon Road leading to a parking court. The two and three storey apartment complex would be situated to the rear (northern) part of the site. At its nearest point the apartment complex would be approximately 7m away from the rear elevation of no. 58 Clevedon Road at an oblique angle and a side/rear relationship. This part of the apartment complex would be two storey in height with a hipped roof pitched away from no. 58 to limit the impact. Further back into the development site the complex would increase in height to three storeys. The complex would have the appearance of several connected buildings rather than a traditional block, with the main elements having traditional pitched roofs, and other elements having flat roofs.

7.4 Several of the upper floor apartments would be served by balconies and the complex would also accommodate an outdoor seating area at ground floor, an indoor lounge and an outdoor terrace at first floor level. The apartment buildings to the front of the site adjacent to Clevedon Road would each provide 2no 2bed apartments. These units would be two storeys in height and would have hipped roofs in keeping with the traditional properties opposite and along Clevedon Road. They would have timber clad bay features to their front elevations. Parking provision for two of the walk-up units would be located directly adjacent to the stand alone unit while the others would be located in the main part of the site. These apartments would be served by their own amenity areas. The proposed bungalow at plot 18 would be sandwiched between an existing bungalow adjacent to Clevedon Road and the rear boundary of the site. The scale of this dwelling would be in keeping with the scale of neighbouring bungalows at no. 62 and no. 64 Clevedon Road and it is considered that the amenity of these occupiers would be protected. The proposed bungalow would also be served by its own residential amenity space.

7.5 A bin store would be located adjacent to the main parking forecourt.

7.6 The scheme proposes 18no. units on 0.4 hectares area of land which provides a density of 45 dwellings per hectare.

7.7 The development would be modern in its appearance but it has regard to the character of surrounding properties by use of traditional hipped and gable roof forms, render and brick finishes and bay windows, albeit with a modern timber-clad finish. The existing housing stock in the surrounding area varies considerably in terms of design and whilst the design

of the proposed units has not sought to replicate any particular style in an identical form, it is considered that sufficient regard has been had to the neighbouring properties and the development would be detrimental to the character or appearance of the area. Furthermore, due to the depth of the site and the variation within the street scene in terms of heights of properties; namely the proximity of the site to the elevated villas on Clevedon Road, it is considered that there is scope to accommodate a mixture of two and three storey apartment blocks and bungalows without being incongruous to the visual amenity of the area.

7.8 Neighbouring comments stating the site should be developed with bungalows as per the original use of the land are considered unrealistic and are not considered to represent the most efficient use of the site. In any case, the Council does not have the ability to restrict development on this basis, but must assess development proposals on their merits and should only refuse planning permission where there would be a substantial and harmful impact.

#### 7.9 **Highways**

Vehicular access to the site is from Clevedon Road. Much of the development would be centred around a central parking court providing 17no parking spaces, as well as two off-road parking spaces for no. 62 Clevedon Road. Four further parking spaces would be located to the east of the site adjacent to plots 1 and 2, directly accessed from Clevedon Road.

7.10 The Newport Parking Standards sets out parking demand for residential uses as one space per bedroom. The parking provision for the development falls short of this. However, the Parking Standards allows for a reduction in parking provision subject to a suitable sustainability appraisal being undertaken. A sustainability appraisal awards points that in turn can qualify for a reduction in parking provision based on the proximity of the site to local shops and services. The applicant has provided a sustainability assessment which identifies the site as being within 400m, within 800m of services such as a Doctors Surgery and Maindee District Centre and within 300m of a bus stop. The site scores sufficient points to allow a reduction in parking provision to one space per dwelling. The applicant has used the entrance to the site as the starting point for distances within the sustainability assessment. This approach is considered to be acceptable as the size of the site is not so large that distances would vary significantly from various parts of the site. The shops and services that the sustainability appraisal takes account of are universal and do not vary depending on the intended occupiers. It should be noted that no reduction in parking provision has been applied to the scheme on the basis of the age of the intended residents.

7.11 The Head of Streetscene (Highways) initially requested further confirmation that visibility splays of 2.4 x 43m are achievable from the site access and that refuse vehicles are able to manoeuvre within the site. This information has been provided, together with the sustainability assessment. The Head of Streetscene (Highways) subsequently confirms that no objections are offered.

#### 7.12 **Neighbouring Privacy/Amenity**

The site is surrounded by existing residential dwellings and the acceptability of the proposals in terms of the impact on the occupants of these properties is fundamentally important. Of particular importance, due to the proximity between them and the proposed buildings is the relationship with no's 56, 58, 62, 64 Clevedon Road and no's 18 to 24 Fforest Glade. At its nearest point the the development would be approximately 7m away from the rear elevation of no. 58 Clevedon Road. However, whilst this part of the development is two storeys in height, it would be sited at an oblique angle from no. 58 with a partial side/rear relationship. It would have a hipped roof pitched away from no. 58 to limit the impact. There are no first floor windows proposed in the side elevation of the apartment building nearest no. 58. A ground floor window is proposed. Due to the difference in levels and the development site being slightly elevated in comparison with no.58, there is potential for overlooking from this ground floor window. As such it is recommended that a

condition be imposed requiring the window to be obscure glazed and fixed shut, should planning permission be granted. The window is a secondary window serving an open plan kitchen/living area which has a larger window in another elevation and so a good level of amenity would be afforded to the occupants of this apartment. Whilst the Council's Guidance specifies a distance of 14m between a blank two storey elevation and protected windows, as noted above, the complex would be sited at an oblique angle from no. 58. This is a mitigating factor which must be given due consideration and as a result of this, the relationship between the two buildings is considered to be acceptable.

- 7.13 A 'walk-up' unit housing units 1 and 2 would be situated to the side of no. 58 with a distance of over 15m between them. No first floor windows are proposed in the side elevation of this unit. The relationship between the development and this property is considered to be acceptable.
- 7.14 The potential loss of natural light to the occupiers of no. 58 Clevedon Road, as a result of the development to the rear, is a material consideration. There is one window and two sets of glazed doors at ground floor in the rear elevation of no. 58 and four windows at first floor. Due to the oblique angle of the apartment building adjacent to the boundary of no. 58, only one of the ground floor windows and two of the first floor windows would potentially be impacted on in a way that warrants further assessment. At ground floor this window serves a kitchen/dining room which is also served by glazed doors that would not be affected. At first floor one window serves an en-suite bathroom and so is not protected whilst the other first floor window serves a dressing room which is also not afforded any protection as a non-habitable room. Nonetheless, an assessment of the impact of the proposals on these windows in terms of the 25 degree amenity test set out in the Council's Guidance has shown that the ground floor kitchen window would be impeded by the development. However, the kitchen has an open plan layout with the dining room which, as previously noted, is served by glazed doors and so this room would still benefit from a good degree of natural light. Furthermore, the windows are to the south of the development and so loss of sunlight would be limited.
- 7.15 Concerns have been raised about the difference in levels between the site and the level of no. 58 Clevedon Road. These concerns relate to both the visual implications and drainage issues. The occupier of no. 58 states that it was a condition of the planning permission for no. 58 that the level of the site was dropped down and that consequently there have been drainage issues with surface water run-off from the development site into the garden of no. 58. Whilst it was not specifically conditioned that the level of the site was reduced, initial applications for the dwelling known as no. 58 were refused due to its unacceptable scale and subsequently the scale of the property was reduced. If planning permission is granted for the development, a condition relating to slab levels would ensure that the two units fronting Clevedon Road are of a similar height to no. 58 Clevedon Road. It is not considered that the difference in height between the rest of the site to the rear of no. 58 would result in a detrimental impact to the visual amenity of the area. With regard to drainage, it is recommended that a condition requiring full surface water drainage is imposed to address such matters. Surface water drainage would also be addressed in detail by Building Control.
- 7.16 A first floor communal terrace would be sited within 9m of the rear boundary of no. 58 and within 17m on the rear elevation of this property. Due to the potential for overlooking from the raised terrace and subsequent impact on neighbouring amenity, it is recommended that a condition requiring a privacy screen along the southern boundary of the terrace (which measures 2m in length) should be imposed, if planning permission is granted.
- 7.17 No's 62 and 64 Clevedon Road are bungalows located to the south-west of the site. No. 64 would have a side-by-side relationship with plot 18 which is also a bungalow and plot 16 which is a two storey apartment building would be approximately 11m away to the east or front of no. 64. Plot 16 would be sited approximately 7m away from no. 62 Clevedon Road with a side/rear relationship. Whilst first floor windows are proposed in the rear elevation of

plot 16, as they are orientated towards the side elevation of no. 62 which has no habitable room windows, this relationship is considered to be acceptable.

- 7.18 Turning to the relationship with the properties to the north-west in Fforest Glade, these properties have good sized rear gardens and the nearest part of the development to any property in Fforest Glade would be approximately 13m, although this is the nearest corner of the apartment building and distances are generally greater than this. Plots 11 and 15 would have upper floor windows (total of two windows) in their side elevation within 7m of the rear boundary of no. 20 Fforest Glade which is 3m short of the 10 metres referred to by the Council's Supplementary Planning Guidance for New Dwellings. However, the distance between these windows and the rear elevation of no. 20 would be over 22m and on balance, taking into account the depth of no. 23's rear garden, this relationship is considered to be acceptable. Plots 10, 11, 14 and 15 would be served by rear balconies. The rear elevations of the balconies would be located a good distance off the rear boundaries. However, as there is potential for adverse impact in terms of overlooking from the side elevations of the balconies, it is proposed to erect privacy screens along the sides of the balconies. This can be secured by condition if planning permission is forthcoming.
- 7.19 With regard to any impact on no. 56 Clevedon Road, this property is bordered by the development site to the side and also partially to the front. Distances between no. 56 and the proposed buildings are good: 17m between the side elevation of the three storey building and side elevation of no. 56. The complex is sited nearer to the side boundary of no. 56 towards the front of the site with the nearest window approximately 5m away from the shared boundary and 12m to the corner of no.56. However, no. 56 is significantly elevated in comparison to the site and elevation drawings submitted with the application show second floor windows would be lower than the ground level at no. 56. Whilst third floor windows would be higher, these windows would be orientated at an oblique angle and line of sight would not be orientated towards windows in the side or front elevation of no. 56, but instead towards the front garden of no. 56 which is generally afforded less protection in terms of overlooking.
- 7.20 Due to the irregular shape of the development site and the difference in levels between the site and the neighbouring development, the development does not always fit neatly with the standards of the Council's SPG. However, every application for development requires the council to assess whether any residents would experience a material (that is, substantial and harmful) loss of privacy, natural light or perceived space. No two application sites have identical physical characteristics, however, and very few sites conform to the "textbook" scenarios illustrated in the guidance. The council must, therefore, consider how factors such as orientation, topography and spatial relationships between buildings might accentuate or diminish the impact of a proposal. On balance, in this instance, taking all of this into consideration, the overall effect of the proposals on the privacy and amenity of the neighbouring occupants would not be substantive.
- 7.21 Several objectors consider that the development represents an overdevelopment of the site and refer to the Policy H3 of the Local Development Plan which seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more. However, this policy does not set out a maximum number of dwellings per hectare and there is no objection in principle to the density proposed. Objections have also referred to an inadequate level of amenity space for the future occupiers of the apartments, contrary to the Council's Guidance. The proposed bungalow (plot 18) would have its own private amenity space. Plots 1, 2, 16 and 17 would be served by a good level of enclosed amenity space. Therefore, only plots 3 to 15 (13no apartments) would be served by communal space. The Council's Guidance states there is a requirement for 15 square metres of amenity space per occupant for blocks serving between 1-20 occupants. On the basis of 13no. 2bed apartments, the 13no apartments would require 390 square metres (13 apartments x 2 occupants x 15m<sup>2</sup> =390m<sup>2</sup>). The area of useable outdoor amenity space that the development would be served by (that is relatively flat and accessible), including areas to the north, centre of the site and small parcels to the west, would exceed the amount specified by the Council's Guidance, with the combined areas of the triangular shaped parcel of land to the north of

the site and the central area alone having an area of approximately 350 square metres. In addition to this, four of the apartments would also be served by balconies. It is therefore considered that the scheme would provide a very good level of amenity for future occupiers.

- 7.22 With regard to neighbouring concerns about the affects of the development and possible ground instability, there is no evidence to suggest that the site is not suitable for the type of development proposed. In any case, if neighbouring buildings were to be damaged during the construction process then this would be a civil matter between the owners and the developers and the Local Planning Authority has no powers to remedy this.
- 7.23 As is standard practice, if planning permission were to be granted, it would be on the recommendation that a condition requiring a Construction Management Plan (CMP) should be submitted by the applicant for approval prior to the start of construction work. The CMP would detail such matters as dust suppression and contractor parking. A degree of noise and disruption to residents during the construction phase is inevitable but is rarely considered justified to warrant the refusal of an application. The Head of Law and Regulation (Environmental Health) has specific powers to control construction hours and it is not considered necessary to duplicate this in terms of imposing a condition should planning permission be forthcoming.
- 7.24 Some of the neighbouring objections have focussed on loss of view and impact on property value. It should be noted that neither of these matters are material planning considerations.
- 7.25 Whilst the apartments are intended for occupation by persons aged 55 and over in order to address a shortfall in housing accommodation for such people, the age of the occupants is not something that would be controlled by the Local Planning Authority and nor does it have any bearing on the acceptability of the proposals.
- 7.26 No objections have been received from Dwr Cymru – Welsh Water concerning the ability of the drainage infrastructure to accommodate the development and there is no justification to doubt that it is not suitable.

7.27 **Ecology**

The Council's Ecology Officer has been consulted and offers no objections to the proposals subject to conditions relating to translocation of slow worms and reptiles, off-site compensatory habitat funding (£5,000) and monitoring of slow worms (£2,129) (to be secured by Section 106 Agreement) and prohibiting external lighting in certain parts of the site.

- 7.28 A suitable landscape condition that retains corridors along the northern boundary of the site and prevents the installation of external lighting in accordance with the comments of Gwent Wildlife Trust, could be secured by condition, as could bat boxes.
- 7.29 The applicant has agreed to these requirements and subject to the above, it is considered that the proposals are acceptable in ecological terms.

7.30 **Trees**

A Tree Report accompanies the application as there are trees within the site and at the boundary. None of the trees are protected by preservation orders. The Tree Survey categorises trees or groups of trees by their condition. The trees within the site were all found to be within one of two categories – this was either category C defined as low quality with an estimated remaining life expectancy of at least 10 years or young trees with a stem diameter below 150mm, or category U defined as those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years. A revised Tree Survey has been undertaken as a an Oak Tree and Holly Tree on the eastern boundary of the site were overlooked in the original survey as they were thought to be outside of the development site. This was picked up by the



neighbouring resident who was concerned about the loss of these trees and also the potential for tree roots to be providing support for adjacent boundary structures. The Tree Survey confirms there is no evidence that the trees are providing any support for adjacent structures. It also confirmed that there are no trees within the site that are worthy of protection or that would legitimately prevent the development of the site, including the Oak and Holly Tree. The Council's Tree Officer has been consulted and confirms no objections are offered to the proposals.

### 7.31 **Financial Contributions**

Current local and national planning policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. However, should planning permission be forthcoming it would be necessary to build-in safeguards to ensure that any social housing units sold on the open market, will be subject to leisure planning obligation contributions. This is done in the form of a Section 106 Agreement. Therefore, prior to commencement of the development, the owner and/or developer would need to notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings.

## 8. **OTHER CONSIDERATIONS**

### 8.1 **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.

### 8.2 **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.

### 8.3 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.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development has a positive impact on, persons who share a protected characteristic, over and above any other person, namely by reason of age.

### 8.5 **Planning (Wales) Act 2015 (Welsh language)**

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

## 9. **CONCLUSION**

9.1 The scheme has significant merits including the provision of accommodation for over 55's for which there is currently a shortfall in the area, together with the redevelopment of an unsightly vacant parcel of land within the urban area.

- 9.2 Dwellings in the vicinity vary widely in terms of scale and design and as such there is scope to accommodate the apartment complex and bungalows without resulting in a detrimental impact to the visual amenity of the area or neighbouring privacy and amenity.
- 9.3 In accordance with Council Guidance, justification for a reduction in parking provision has been provided and in view of the sustainable location of the site it is not considered that there would be a detrimental highways impact as a result of the development.
- 9.4 It is therefore recommended that the application is granted subject to the following conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT

01 The development shall be implemented in accordance with the following plans and documents: C811.260, C811.200 Revision R, C811.201 Revision S, C811.202 Revision N, C811.203 Revision M, C811.210 Revision G, C811.211 Revision F, C811.211 Revision F, C811.213 Revision E, C811.214 Revision H, C811.217 Revision B, C811.218, C811.230 Revision F, C811.231 Revision D, C811.232, C811.234 Revision B, C811.214 Revision H, C811.242 Revision G, C811.243 Revision H, C811.244 Revision G, C811.250 Revision C, Reason: To ensure the development complies with the submitted plans and documents on which this decision was based.

#### ***Pre- commencement conditions***

02 No work shall be commenced on the construction of the buildings hereby approved until details/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 then be carried out using the approved materials.  
Reason: To ensure that the development is completed in a manner compatible with its surroundings.

03 Full details of the proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. The boundary treatments shall be constructed in accordance with the approved details prior to the first occupation of the associated dwelling and retained in that state thereafter.  
Reason: To ensure the development is completed in a satisfactory manner.

04 No development, shall commence until details and plans showing the finished slab level of the building(s) hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.  
Reason: In the interests of visual amenities.

05 Prior to the commencement of development, full details of the means of surface water drainage disposal to serve the site shall be submitted to and approved in writing by the Local Planning Authority. The system shall be implemented in accordance with the details approved and retained in this state thereafter.  
Reason: In order to ensure that the site can be adequately drained and to prevent overloading of the public sewerage system.

06 Prior to the commencement of development full details of the layout, width, gradient and means of construction of the carriageways and footpaths, details of means of access from existing roads and details of all foul and surface water sewers shall be submitted to and approved in writing by the Local Planning Authority. With the exception of the final wearing course, the development shall be completed in accordance with the details as approved prior to the first occupation of any building. The final wearing course shall be completed prior to the first occupation of the last building.

Reason: To ensure that the roads shall be constructed and sited to the satisfaction of the Council so far as to provide a proper means of access for traffic and to ensure that the land can be adequately drained.

07 No development, to include demolition, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- noise mitigation measures;
- details of temporary lighting;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including controls to surface water run off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures;
- pollution prevention and contingency measures.

Development works shall be implemented in accordance with the approved CEMP.

Reason: To protect the amenities of nearby residents and in the interests of ecology including.

08 Prior to the commencement of development full details of external illumination and floodlighting shall be submitted to the Local Planning Authority prior to the erection or installation of any external lighting on site. The lighting shall then be installed fully in accordance with the details as approved. No other external lighting shall be installed without the prior consent in writing of the Local Planning Authority.

Reason: In the interests of ecology.

09 Prior to the commencement of development a detailed landscaping scheme, showing both hard and soft landscaping proposals, shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include the retention of wildlife corridors along the northern boundary, bird and bat boxes, a planting schedule including at least 50% native species and pollinator-friendly plants, numbers, densities and locations. The scheme shall be carried out in accordance with the approved drawings not later than the expiry of the next planting season following commencement of the development, or within such other time as may be approved with the Local Planning Authority. The landscaped areas shall be subsequently maintained to ensure establishment of the approved scheme, including watering, weeding and the replacement of any plants, or areas of seeding or turfing comprised in the approved landscaping plans, which fail within a period up to 5 years from the completion of the development.

Reason: To ensure the site is satisfactorily landscaped in the interests of the visual amenity of the area and in the ecological interest of the site.

10 Prior to the commencement of development full details of the bin store shall be provided to the Local Planning Authority and written approval received. The bin store shall be carried out in accordance with the approved plans.

Reason: In the interests of visual amenity.

11 Prior to the commencement of development full details of the privacy screens to be erected to the side elevations of the balconies serving plots 10, 11, 14 and 15 shall be submitted to the Local Planning Authority and written approval received. The privacy screens shall be erected in accordance with the approved details prior to the first occupation of these plots and retained in perpetuity.

Reason: In the interests of neighbouring privacy.

12 Prior to the commencement of development full details of a privacy screen to be erected to the south side elevation of first floor communal terrace shall be submitted to the Local Planning Authority and written approval received. The privacy screen shall be erected in accordance with the approved details prior to the first beneficial use of the terrace and retained in perpetuity.

Reason: In the interests of neighbouring privacy.

13 Prior to the commencement of development a programme of works detailing how a footpath link will be retained from the dwelling known as no. 62 Clevedon Road to the footpath along Clevedon Road during the construction phase, shall be submitted to the Local Planning Authority and written approval received. The development shall be carried out in accordance with the approved details.

Reason: To ensure that a footpath link from no. 62 Clevedon Road to the footpath along Clevedon Road in the interests of the amenity of the occupants of no. 62 Clevedon Road.

14 No development, shall commence until full details and plans of retaining walls together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of visual amenities.

#### ***Pre – construction conditions***

15 Any unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as is practicable and 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/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.

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.

#### ***Pre –occupation conditions***

16 The access, parking provision and general arrangement shall be carried out strictly in accordance with the details shown on the approved plans before the dwellings hereby permitted are first occupied and then maintained in such a state thereafter.

Reason: In the interests of highway safety.

#### ***General conditions***

17 No first floor windows other than those shown in the approved plans shall be installed in the apartments hereby approved.

Reason: In order to preserve the privacy and amenity of neighbouring occupants.

18 The ground floor window in the south side elevation of plot 3 shall be obscure glazed and fixed shut at the time of installation and shall remain in perpetuity.

Reason: In the interests of neighbouring amenity due to the difference in levels between the site and no. 58 Clevedon Road.

19 The first and second floor windows in the east side elevations of plots 10 and 14 and the north side elevation of plots 9 and 13 (serving bathrooms) and the first and second floor windows serving communal hallways between these plots (orientated north-east) shall be obscure glazed at the time of installation and shall remain in perpetuity.

Reason: In order to preserve the privacy and amenity of the occupants of no. 56 Clevedon Road.

#### ***NOTE TO APPLICANT***

01 In addition to the plans pertinent to condition 01 above, the following plans and documents were relevant to the application: Tree Survey dated 8<sup>th</sup> October 2015, Ecological Assessment dated November 2014, Revised Sustainability Assessment, Drainage Layout, 502 Revision C, C811.235, C811.236, C811.

02 The development plan covering Newport is the Newport Local Development Plan 2011-2026 (Adopted January 2015). Policies SP1, SP3, SP13, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H1, H2, H3, H4 and T4 were relevant to the determination of the application.'

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

---

## **APPLICATION DETAILS**

No: 15/0819 Ward: **BEECHWOOD**

Type: Full (Major)

Expiry Date: 30-AUG-2015

Applicant: **DERWEN CYMRU LTD. C/O AGENT**

Site: **Land North Of And Adjacent To 58, Clevedon Road, Newport**

Proposal: **DEVELOPMENT OF 17NO. APARTMENTS AND 1NO. BUNGALOW AND ASSOCIATED WORKS**

### **1. LATE REPRESENTATIONS**

- 1.1 Further correspondence has been received from neighbours raising the following points/questions:
- It is a pleasure to see the houses on the Roman Tump from George Street Bridge. Why spoil this landmark;
  - The pre-fab bungalows should be replaced by bungalows as they have been at other sites. If this was Ridgeway this would not happen;
  - Question some of the distances referred to within the Officer Report;
  - The impact on no. 56 Clevedon Road has been severely underestimated;
  - It is very worrying that the drawings are being used to determine that the middle floor windows will be below the ground level of no. 56. Will the conditional submission of cross-sections throughout the site determine the truth?
  - The impact of the north elevation windows and balconies on no. 56, nor the angle of the bay window at no. 56 have been considered;
  - Occupants of no. 56 Clevedon Road would be looking straight into the kitchen/living area of plots 1 and 2.

### **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

- 2.1 It is not considered that the proposals would be detrimental to the visual amenity of the area.

It is noted within the Officer Report that distances between the development and no. 56 Clevedon Road are good with approximately 12m between the development and the side of no. 56 at the closest point and no. 56 is elevated in comparison to the site. Plots 1 and 2 are located at a lower level to no. 56 but the kitchen/living area of these plots is 21m from the nearest point of no. 56

Condition 11 requires full details of privacy screens to be erected to the side elevations of the balconies of plots 10, 11, 14 and 15 in order to prevent overlooking from northern balconies to no. 56.

There is no reason to doubt the level information submitted to date by the applicant which includes a full, as existing, site levels survey. Nevertheless, it is recommended that full cross-section details are conditioned, should planning permission be forthcoming.

The distance between the nearest window in no. 56 Clevedon Road and the rear windows in plot 2 would be in excess of 21m which is considered to be an adequate window to window relationship.

**3. OFFICER RECOMMENDATION**

- 3.1 GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THE DATE OF THE DECISION

**APPLICATION DETAILS**

**No:** 15/0515      **Ward:** STOW HILL

**Type:** FULL (MAJOR)

**Expiry Date:** 04-AUG-2015

**Applicant:** ALISTAIR WEST, ALLANDY INVESTMENTS LTD

**Site:** 4-5, MARKET STREET, NEWPORT, NP20 1FU

**Proposal:** CHANGE OF USE OF GROUND FLOOR FROM SUI GENERIS (NIGHTCLUB) USE TO A3 USE. CONVERSION OF FIRST, SECOND, THIRD AND FOURTH FLOOR FROM OFFICES TO 9NO. FLATS AND THE CONSTRUCTION OF AN ADDITIONAL FLOOR TO CREATE 2NO. FLATS (11NO. IN TOTAL)

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the change of use of the ground floor of 4-5 Market Street from a night club use (Sui Generis) to an A3 use; and the conversion of the upper floors (4 floors) from offices to 9 No. flats; including the construction of an additional floor to create a further 2 No. flats. The flats would comprise 1 x 1 bed, 9 x 2 bed and 1 x studio.
- 1.2 The building is currently vacant and whilst it is not a listed building it does have architectural merit and it contributes positively to the Town Centre Conservation Area, in which it is situated.

**2. RELEVANT SITE HISTORY**

02/0161	REFURBISHMENT AND USE OF SECOND, THIRD AND FOURTH FLOORS AS OFFICES	Granted
---------	---	---------

**3. POLICY CONTEXT**

- 3.1 **Newport Local Development Plan 2011-2026 (Adopted January 2015)**
- SP1 (Sustainability)** favours proposals which make a positive contribution to sustainable development.
- SP13 (Planning Obligations)** enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.
- SP18 (Urban Regeneration)** supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
- GP2 (General Development Principles – General Amenity)** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- GP4 (General Development Principles – Highways and Accessibility)** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
- GP6 (General Development Principles – Quality of Design)** states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is

developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

**GP7 (General Development Principles – Environmental Protection and Public Health)** states that development will not be permitted which would cause or result in unacceptable harm to health.

**CE7 (Conservation Areas)** sets out the criteria that development proposals within or adjacent to the conservation area must comply with in order to preserve or enhance the conservation area.

**H4 (Affordable Housing)** sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.

**H8 (Self Contained Accommodation and Houses in Multiple Occupation)** sets out the criteria for subdividing a property into self-contained flats. The scheme must be of appropriate scale and intensity not to unacceptably impact on the amenity of neighbouring occupiers and create parking problems; proposals must not create an over concentration in any one area of the city; and adequate noise insulation is provided and adequate amenity for future occupiers.

**EM3 (Alternative Uses of Employment Land)** protects existing employment sites against development unless it can be demonstrated that the site has been marketed unsuccessfully for 12 months; there remains a sufficient range and choice of employment land to meet LDP requirements and local demand; there is no adverse impact on existing or allocated employment sites; and the proposal has no adverse impact on amenity or the environment.

**T4 (Parking)** states that development will be expected to provide appropriate levels of parking.

- 3.2 **Supplementary Planning Guidance – Flat Conversions (Adopted January 2015).** This SPG has three main functions:
- i) To ensure that occupants of converted flats (excluding houses in multiple occupation, which are licensed by the Public Protection Service) have reasonable living conditions;
  - ii) To ensure that converted flats do not deprive persons in existing dwellings of reasonable living conditions; and
  - iii) To protect the character and appearance of the built environment.

#### 4. CONSULTATIONS

- 4.1 DWR CYMRU – WELSH WATER: No objection subject to a condition requiring no net increase of surface water to be allowed to connect to the public sewerage system. No problems are envisaged with the waste water treatment works for the treatment of domestic discharges from the site and no problems are envisaged with the provision of water supply for the proposed development.
- 4.2 HEDDLU – GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No objection.
- 4.3 WILLIAM GRAHAM AM: No response.
- 4.4 WORK BASED LEARNING ACADEMY: No response.
- 4.5 WALES AND WEST UTILITIES: No response.
- 4.6 SENIOR PREVENTION OFFICER: No response.
- 4.7 REGIONAL AMBULANCE OFFICER: No response.
- 4.8 NEWPORT ACCESS GROUP: No response.
- 4.9 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area.
- 4.10 STOW HILL COMMUNITIES FIRST



## 5. INTERNAL COUNCIL ADVICE

5.1 HOUSING AND COMMUNITY REGENERATION MANAGER: No response.

5.2 HEAD OF LAW AND REGULATION: No objection following the submission of a noise assessment dated 18/9/15 by the Acoustics and Noise Partnership. The report concludes that secondary glazing will be required in order that future residents are not disturbed by noise from external sources i.e. noise from the day and night time economy including loud music and patrons as well as traffic noise. Potential solutions are outlined in Appendix 5 of the report and calculations indicate that for the front elevation, the glazing should comprise 4mm glass in existing frames (assumed a requirement for conservation), 300mm air gap and a 4/20/6 double glazing unit. For the rear and side elevations, the glazing will need to comprise standard thermal 4/20/4 glazing units, 150mm air gap and 6mm glass. If the air gaps stated need to be reduced beyond that recommended then the glazing will need to be upgraded in either thickness or lamination.

5.2.1 It is important to note that in order to prevent noise ingress, the windows must be sealed shut, therefore a system of mechanical ventilation will be required.

5.2.2 Recommend conditions are attached to any permission granted requiring:

- full details of glazing and ventilation solutions to be submitted for approval, prior to commencement of development;
- A scheme of sound insulation works to the floor/ceiling structure and party wall structure between the commercial and residential units;
- No amplified music in the commercial premise until rooms are insulated for sound in accordance with details which are first agreed;
- Restriction of opening hours of the commercial premise to 07:00 to 23:00 Monday to Saturday and 08:00 to 22:30 on Sunday;
- Details of fume extraction to be submitted if the commercial premise is used for the preparation and cooking of hot food.

5.3 PLANNING CONTRIBUTIONS MANAGER: The following S106 planning obligations are based upon a development of 11 apartments, comprising 9 x 2 bed apartments and 2 x 1 bed apartments.

Please Note:

- S106 planning obligations are normally requested to mitigate the direct impact of development and, thereby, provide sustainable development;
- Notwithstanding the above statement, the current economic downturn has resulted in residential schemes in the town centre being 'mothballed'. As such, the scope and scale of S106 planning obligations, requested below, reflect the current economic circumstances in the town centre;
- The economic viability of a development is a material consideration when considering planning obligation contributions.

### 5.3.1 Affordable Housing

Three Affordable Housing Units (i.e. 30% of the development) would normally be required (at 50% of ACG).

### 5.3.2 Education

**Primary:** The development falls within the catchment of St Woolos Primary School (deficit of 10 pupil places, as at January 2015). Taking into account the scale and type of development (generating on epupil), as well as the current school deficit capacity, a contribution of £16,115 is required.

**Secondary:** The development falls within the catchment area of Duffryn High School (deficit of 26 pupil places, as at January 2015). Taking into account the scale and type of development, no contribution is required (given that the development generates less than one pupil)

### 5.3.3 Leisure

Owing to the surplus of 'Informal' play provision within the Stow Hill Ward, no contributions are requested for Informal Play. Owing to a deficit of 'Equipped' and 'Formal' play provision within the Stow Hill Ward, a commuted sum of £28,534 would normally be required to upgrade and maintain off-site play provision at Baneswell playground

### 5.3.4 Conclusion

In general, residential development in the city centre has limited, and, in some cases, negative financial viability; this has been independently verified recently by consultants assessing the Community Infrastructure Levy Charging Schedule (2015). Following provision of 'in-confidence' commercial information, the development has been assessed by the Three Dragons Toolkit and is shown to have limited financial viability.

Additionally, it is recognised that residential property investment can help improve the level of economic activity, diversify city centre offer and bring vibrancy to previously empty properties. As such, reducing S106 planning obligation contributions can aid the city centre regeneration, as well as enhance the financial viability of the project.

Given the above, it is concluded that the leisure and education sums and affordable housing provision are financially onerous and would stifle the project. As such, it is proposed that no planning obligations are requested.

5.4 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): No response.

5.5 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): Confirm that there is housing need in the area and within the policy of the LDP there is a requirement for a commuted sum for the delivery of affordable housing. The mechanism for calculating this contribution is to be advised by Planning Policy colleagues.

5.5.1 The proposed development at 4-5 Market Street appears to provide very well proportioned accommodation through the sympathetic use of an existing building. Most of the proposed apartments are of a good size, the only potential issue is the studio of 30 sqm. A mixture of one and two bed room units in this location is an ideal mix and will cater for the prevailing need within the local lettings market.

5.5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The property is located within zone 1 (City Core) and is therefore in close proximity to a number of services, facilities, public car parks and good public transport links. Off road parking is therefore not required and there is no objection to the application.

5.5.3 HISTORIC BUILDINGS AND CONSERVATION OFFICER: This application, which relates to a grand, early 20<sup>th</sup> century neo-classical building located within the Town Centre Conservation Area. It lies adjacent to the grade II listed Market Arcade and opposite the grade II listed indoor market and I understand that it was originally constructed as the printing works for the South Wales Argus whose offices on High Street backed onto this site. In my view it makes a strong positive contribution to the character of the conservation area. It has however been vacant for some years.

5.5.4 Residential uses to the upper floors of properties should help to increase the vitality of the city centre which is likely to result in an enhancement to the character of the conservation area. I would therefore be happy to support the proposals in principle.

5.5.5 It appears from the drawings that the intention is to keep the original appearance of the principal elevation almost unaltered. However, it is not clear whether the original steel windows will be retained; the application form suggests that new windows will be aluminium but there are no annotations on the drawings to confirm whether original windows and doors are to be retained or replaced. These are an important part of the character of the

building and should therefore be retained; secondary glazing could be used to achieve performance improvements as appropriate.

- 5.5.6 There is a proposal to introduce a new shopfront to the ground floor. The existing appearance of this central ground floor entrance is poor and appears to be the result of a string of unauthorised works. I therefore have no objection in principle but, notwithstanding a lack of information regarding proposed materials and detailing, the designs seem to present a rather squat shopfront and fascia which doesn't seem to relate well to the vertical emphasis of the building. Designs for this area could undoubtedly be improved and a taller, simpler design might better respect the probable original use of this entrance as a vehicle loading bay.
- 5.5.7 Given their limited visibility, I do not consider that the proposals for the rear or the contemporary rooftop extension will have an adverse impact on the historic character of the conservation area or the setting of nearby listed buildings, but do note that the side elevation adjoining Market Arcade is not shown in full detail. As such, it's not clear whether alterations will need to be made to the chimney which forms part of the listed building. This should be clarified.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (249 properties), a site notice was displayed and a press notice published in South Wales Argus. No response received.

## **7. ASSESSMENT**

### **7.1 The proposals**

- 7.1.1 The proposals would involve the creation of new window openings in the eastern elevation (facing the Market Arcade) at 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors. An existing fire escape which is enclosed by opaque corrugated plastic would be demolished and replaced with balconies to serve flats in the rear portion of the building on floors 2, 3 and 4. Further windows and doors would be created in the rear elevation to provide access onto the balconies and to serve the flats. On the fourth floor the flats would also have access to balconies on the eastern side of the building. This is an existing flat roof area where access to the main roof is currently provided. The balcony area would be secured by a glazed balustrade.
- 7.1.2 On the existing roof an extension is proposed to provide 2 additional flats. This comprises a single storey extension which follows the footprint of the roof, albeit stepped in from the front elevation to provide a small balcony area. The extension would have a flat roof and would be finished with grey powder coated cladding, timber cladding, grey powder coated aluminium windows and the balcony would be secured with a glazed balustrade.
- 7.1.3 Access to the flats would be provided by utilising the existing access and stair core to the upper floors, this access is off Market Street. A further existing access on the opposite side of the building would be utilised to provide access to a bin store and cycle store to the rear of the ground floor.
- 7.1.4 It is also proposed to change the use of the ground floor and part of a mezzanine floor from a nightclub use to an A3 use. Alterations to the existing central entrance are proposed to accompany the change of use.

### **7.2 Policy Context**

- 7.2.1 Policies SP1 (Sustainability), SP13 (Planning Obligations), SP18 (Urban Regeneration), GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), CE7 (Conservation Areas), H4 (Affordable Housing), H8 (Self Contained Accommodation and Houses in Multiple Occupation), EM3 (Alternative Uses of Employment Land) and T4 (Parking) of the Newport Local Development Plan 2011-2026 are relevant to the determination of this application.
- 7.2.2 The Flat Conversions SPG is also relevant to the determination of this application.

### 7.3 **Sustainability/Urban Regeneration**

7.3.1 Policy SP1 states that proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. In particular it encourages the reuse of previously developed land and empty properties in preference to greenfield sites. Policy SP18 states that proposals will be favoured where they contribute to the vitality, viability and quality of the environment of the city centre, the provision of residential opportunities within the urban area and the reuse of vacant, underused or derelict land.

7.3.2 There is policy support for the principle of flat conversions of vacant buildings in sustainable locations. The City centre is a sustainable location with excellent public transport links and its range of facilities. The residential occupation of buildings within the city also contributes to the vitality and viability of the centre.

### 7.4 **Employment Land**

7.4.1 Policy EM3 states that development proposals promoting alternative uses on existing employment sites will be resisted unless:

- i) the site has been marketed unsuccessfully for employment purposes for a minimum of 12 months;
- ii) there remains a sufficient range and choice of employment land and premises to meet LDP requirements and local demand;
- iii) the development has no adverse impact on existing or allocated employment sites;
- iv) the development has no adverse impact on amenity or the environment.

7.4.2 The proposal would result in the loss of office space. In accordance with the requirements of Policy EM3 the applicant has provided details of marketing which has been undertaken for the last 2 years with two agents (Hutchings and Thomas; and Linnells). The estate agent has confirmed that there has been little sustained interest in the building for the past two years. It is considered that even with the loss of this office space there would be a sufficient range and choice within the city centre. The Employment Land Review which was undertaken to inform the preparation of the Local Development Plan, states that there is between 7.5 and 9 years worth of supply of available office accommodation within Newport. There is currently an over-supply of second hand accommodation relative to demand, with a significant proportion located within the city centre. It is also considered that there would be no adverse impact on existing or allocated employment sites. Impacts relating to amenity are discussed in paragraphs 7.6

### 7.5 **Design/Conservation Area**

7.5.1 Policy GP6 requires good quality design in all forms of development, the aim is to create a safe, accessible, attractive and convenient environment. Policy CE7 requires development within or adjacent to conservation areas to be designed to preserve or enhance the character or appearance of the conservation area.

7.5.2 The existing building although not listed is an attractive neo classical building of the early 20<sup>th</sup> century. It lies adjacent to the grade II listed Market Arcade and opposite the grade II listed indoor market. It is understood that the building was originally constructed as the printing works for the South Wales Argus whose offices on High Street backed onto this building. It contributes positively to the conservation area and its façade is relatively unaltered except for the entrance to the commercial unit on the ground floor. It is not proposed to make any external alterations to the front elevation other than to provide a new shop front to the ground floor commercial unit.

7.5.3 The Historic Buildings and Conservation Officer supports the principle of converting the upper floors to residential use as they should help to increase the vitality of the city centre which is likely to result in an enhancement of the character of the conservation area.

7.5.4 The existing ground floor entrance is unattractive and includes some inappropriate signage and likely some unauthorised works. The existing entrance does not relate well to the rest of the building and it detracts from the character of the building. It is proposed to install a

new shop front which would consist of centrally positioned double doors with windows and a stallriser either side. Above this would be a fascia and above this three windows of a design similar to the existing windows. The Historic Buildings and Conservation Officer is supportive of a new shop front in principle but has concerns that the design submitted shows a squat shop front and fascia which do not relate well to the vertical emphasis of the building. The applicants have noted these concerns however they comment that they are limited on making the entrance much taller as the proposals involve converting an existing mezzanine level into a flat. A tall shopfront would encompass some of the first floor flat windows. The applicant is willing to simplify the design of the shopfront, the finer details of which can be secured by an appropriate condition.

7.5.5 In terms of the roof top extension it has been designed to be set back from the front façade so as not to dominate or detract from its character and appearance. The proposed materials are considered to be subtle and whilst modern do not detract from the character of the building. The Historic Buildings and Conservation Officer does not consider the proposed extension to have an adverse impact on the historic character of the conservation area or the setting of nearby listed buildings.

## 7.6 Residential Amenity

7.6.1 Policy GP2 states that development will be permitted where:

- i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- iii) the proposal seeks to design out the opportunity for crime and anti-social behaviour;
- iv) the proposal promotes inclusive design both for the built development and access within and around the development;
- v) adequate amenity for future occupiers.

7.6.2 Policy H8 also requires the scale of the building and the intensity of the use to not harm the character of the building and not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on street parking problems; it should also provide adequate noise insulation and adequate amenity for future occupiers.

7.6.3 The Flat Conversions SPG states that the following matters will be considered when assessing applications for flat conversions:

- the availability of on-street and off-street parking;
- neighbours' living standards (with particular regard to noise and privacy);
- future occupants' living standards (with particular regard to internal floor space, outdoor amenity space, parking, bin storage, bicycle storage and noise);
- impact on the character and appearance of the building and the streetscape.

7.6.4 The neighbouring building to the east is the Market Arcade, there are a number of retail uses on the ground floor and the corner building (No 16) has a tattoo studio on the ground floor with what appears to be residential unit(s) above. To the east and north there are a number of buildings which back onto the application building. No 20/21 High Street & 1/2 Market Street has an A2 use over all floors, No 19 High Street is a cocktail bar on the ground and first floor (the second floor appears vacant), No 17/18 High Street has an office use, No 16 High Street has an A3 use on the ground floor (the upper floors appear vacant and there is no relevant planning history); and No 14/15 High Street has an A3 use on the ground floor and planning permission has recently been granted for 10 No. flats on the upper floors. In the wider streetscene there are a number of pubs and nightclubs, along with offices, retail units and some residential uses on upper floors.

7.6.5 It is not considered that the neighbouring office uses would lead to any unacceptable impacts on the amenity of future occupiers in terms of noise and disturbance. However, one of the neighbouring office uses (17/18 High Street) which backs onto the western side of the application building does have a number of windows in the rear elevation. These windows would be close to the balcony areas of the proposed development and there is potential for overlooking of the private areas and into habitable rooms from these windows

(although it is not known what area of the building they serve). To reduce the impact of overlooking privacy screens to the western side of the balconies are secured through a condition; the details of which would need to be submitted and agreed prior to occupation. A condition requiring details of the materials to be used for the balcony balustrades is also imposed; with a view that an opaque material is used in order to improve privacy. The balustrades are proposed to be 1.5m high; it is considered that this height provides the right balance of providing a degree of privacy and natural light into the proposed flats. It is considered that the combination of the opaque balustrade material and privacy screens would provide suitable protection of the privacy of future occupiers.

7.6.6 The building which backs directly onto the rear of the application building is 14/15 High Street. The upper floors are currently vacant but planning permission (15/0376) was granted in August 2015 for 10 No. flats on the upper floors. As a result of this development there would be a number of windows in the rear elevation; some of which would serve habitable rooms. The windows range from 14m to 19m away from the rear elevation of the application building. It is noted that all of the windows would fall short of the 21m separation distance which the Flat Conversions SPG recommends, however, due to the orientation of the two buildings the windows would not directly face one another. Oblique angles to the windows may be afforded but the degree of overlooking is not considered to be so severe as if they were directly facing each other. As such it is considered acceptable to relax the separation distance and the impact on privacy is not considered to be so harmful as to warrant refusal of the application.

7.6.7 Issues associated with the surrounding A3 uses are discussed in paragraphs 7.7

7.6.8 The Flat Conversions SPG also makes recommendations regarding internal layout and living conditions. The guidance sets out minimum internal space standards to ensure reasonable living conditions are provided. The majority of the proposed flats meet or exceed these standards, with the exceptions being flat 5 (studio) and flat 10 (2 bed). Flat 10 is 9 sqm short of the recommended standard however the flat does have a long balcony which is considered to make up the shortfall in internal space. Flat 5 is a small studio flat which is 5 sqm short of the recommended space standard. It is recognised that the space standards are guidance only and given the city centre location of the application site it is considered that a small unit such as this would likely suit a person who has access to the range of facilities that the city centre offers. In this instance it is considered acceptable to relax the space standard.

7.6.9 It is considered that future occupants would have acceptable living conditions in terms of access to bin and cycle storage on the ground floor. 6 of the 11 flats would also have access to outdoor living space in the form of balconies.

## 7.7 **Noise**

The application building is located in close proximity to a number of licenced premises, some of which have licences into the early hours for live and recorded music. The applicant has submitted a noise assessment which concludes that secondary glazing will be required in order that future residents are not disturbed by noise from external sources i.e. noise from the day and night time economy including loud music and patrons as well as traffic noise. Potential solutions are outlined in the report and calculations indicate that thermal glazing would be required for all windows in the rear and side elevations. In the front elevation it is predicted that the existing glazing is limited to 4mm glass and as such secondary glazing would be required. The report also concludes that to prevent noise ingress the windows must be sealed shut and a system of mechanical ventilation would be required.

7.7.1 The Head of Law and Regulation (Environmental Health) is satisfied with the conclusions off the report and has no objection to the proposed development subject to the imposition of conditions requiring the following:

- Details of glazing and ventilation;
- A scheme of sound insulation works to the floor/ceiling structure and party wall structure between the commercial and residential units;

- No amplified music in the commercial premise until rooms are insulated for sound in accordance with details which are first agreed;
- Restriction of opening hours of the commercial premise to 07:00 to 23:00 Monday to Saturday and 08:00 to 22:30 on Sunday;
- Details of fume extraction to be submitted if the commercial premise is used for the preparation and cooking of hot food.

7.7.2 It is also considered necessary to impose a condition which requires the implementation of the A3 use on the ground floor prior to the occupation of any of the residential units. This is because it is possible for planning permission to be partially implemented so that a nightclub use could resume with flats above. This would not be an acceptable relationship as there is no control over hours of operation or sound insulation for the existing nightclub use.

## 7.8 Highways

The property is located within zone 1 (City Core) and is therefore in close proximity to a number of services, facilities, public car parks and good public transport links. Off road parking is therefore not required and the Head of Streetscene and City Services (Highways) has no objection on this basis.

## 7.9 Affordable Housing and Contributions

In line with Policies SP13 (Planning Contributions) and H4 (Affordable Housing) contributions towards education and leisure are normally requested to mitigate the direct impact of development and, thereby, provide sustainable development. In this part of the city 30% of the development should also be affordable housing.

7.9.1 The details of the contributions sought are set out in paragraph 5.3. It is recognised that residential development in the city centre has limited, and, in some cases, negative financial viability. The applicant has provided 'in-confidence' commercial information which has been assessed by the Three Dragons Toolkit and is shown to have limited financial viability.

7.9.2 In addition to this it is recognised that residential property investment can help improve the level of economic activity, diversify city centre offer and bring vibrancy to previously empty properties. As such, reducing S106 planning obligation contributions can aid the city centre regeneration, as well as enhance the financial viability of the project.

7.9.3 Given the above, it is concluded that the leisure and education sums and affordable housing provision are financially onerous and would stifle the project. As such, it is considered acceptable that no planning obligations are provided.

## 8. OTHER CONSIDERATIONS

### 8.1 *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.

### 8.2 *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.

8.3 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.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

8.6 ***Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

**9. CONCLUSION**

9.1 The proposed development is considered to be acceptable and in accordance with policies SP1, SP14, SP18, GP2, GP4, GP6, GP7, CE7, H4, H8, EM3 and T4 of the Newport Local Development Plan 2011-2026; and the Flat Conversions Supplementary Planning Guidance (August 2015). It is recommended that planning permission is granted with conditions.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: jw695-100, 101 rev C, 103 rev A, 105 rev A and noise impact assessment (Acoustic and Noise Limited, September 2015).

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 No work shall be commenced on the construction of the approved scheme until details/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 then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

03 Notwithstanding the approved plans, prior to the construction of the shop front details of its final design and materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans.

Reason: In the interests of visual amenity and to protect the character and appearance of the conservation area.

04 Prior to installation of the mechanical extraction units to the front elevation, full details of these units shall have been submitted to and agreed in writing with the Local Planning Authority. The extract units shall be installed in accordance with these approved details.

Reason: To protect the appearance and character of the conservation area.

***Pre –occupation conditions***

05 The balconies of flats 3, 6 and 9 shall have a privacy screen erected on the western elevation which shall be constructed prior to the occupation of those flats in accordance with details which shall first be submitted to and approved in writing. The privacy screens shall be retained as such thereafter.

Reason: In the interests of residential amenity.



06 Prior to the occupation of flats 3, 6 and 9 the details of the materials to be used for balcony balustrade shall be submitted to and approved in writing by the Local Planning Authority. The balustrade shall be finished with an opaque material. The balustrade shall be constructed in accordance with the approved details.

Reason: In the interests of residential amenity.

07 Prior to first occupation, a scheme of sound insulation works to the floor/ceiling structure and party wall structure between the commercial and residential units shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

08 Prior to amplified music being played in any room of the A3 use hereby permitted, the room shall be insulated for sound in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The approved means of insulation shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

09 The A3 use on the ground floor shall be implemented prior to the occupation of the flats.

Reason: To ensure that the amenities of future residential occupiers are protected.

10 Prior to the first occupation of the flats hereby approved, the cycle parking facility shall be provided in accordance with the plans hereby approved. The cycle parking facility shall thereafter be retained for use of the occupants of the flats.

Reason: To encourage means of sustainable transport.

11 Prior to the first occupation of the flats hereby approved, the bin storage facility shall be provided in accordance with the plans hereby approved. The bin storage facility shall thereafter be retained for use of the occupants of the flats.

Reason: To ensure adequate amenity for future occupiers.

### ***General conditions***

12 The hours of operation of the A3 use shall be restricted to 07:00 to 23:00 Monday to Saturday, and 08:00 - 22:30 on Sundays. Outside of these hours the premises shall be vacated and closed to the public.

Reason: In the interests of the amenities of occupiers of adjoining properties.

13 If at any time the use of the A3 premises is to involve the preparation and cooking of hot food the extraction of all fumes from the food preparation areas shall be mechanically extracted to a point to be agreed in writing by the Local Planning Authority, and the extraction system shall be provided with de-greasing and de-odorising filters. Details of the above equipment (including scaled schematics, location plans, odour attenuation measures and future maintenance) shall be submitted to and approved in writing by the Local Planning Authority prior to its installation and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the approved details.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities.

### ***NOTE TO APPLICANT***

01 This decision also relates to: Design and Access Statement (jdw architects, April 2015), email from jdww architects (22 October 2015) and sales particulars from Hutchings and Thomas.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, SP18, GP2, GP4, GP6, GP7, CE7, H4, H8, EM3 and T4 were relevant to the determination of this application.

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 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

---

## 5

### **APPLICATION DETAILS**

**No:** 15/0840      **Ward:** ST JULIANS

**Type:** OUTLINE

**Expiry Date:** 02-SEP-2015

**Applicant:** R WATKINS

**Site:** LAND EAST OF AND ADJACENT TO 14A GLEN COED BUNGALOW, BANK STREET, NEWPORT

**Proposal:** ERECTION OF TWO DWELLINGS

**Recommendation:** GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT

### **1. INTRODUCTION**

- 1.1 This application seeks Outline planning permission for the erection of two dwellings.
- 1.2 The site is surrounded to the north, east and west by existing residential development. The site fronts Bank Street to the south.
- 1.3 The site is vacant land having once served as garden for Glen Coed Bungalaw. It has, within the recent past been divided up with a 1.8m timber fence separating the site from the garden of the neighbouring bungalow.
- 1.4 The site is located within the urban envelope and is not allocated for any specific purpose in the Newport Local Development Plan.
- 1.5 The application is presented to Planning Committee as the applicant is related to a Council employee.

### **2. RELEVANT SITE HISTORY**

None.

### **3. POLICY CONTEXT**

#### **3.1 *Newport Local Development Plan:***

SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles.

SP13 Planning Obligations: Proposals of this scale will be required to provide or make contributions to infrastructure.

GP1 General Development Principles – Climate Change: This policy seeks to ensure that the development is to withstand climate change over the lifetime of the development.

GP2 General Development Principles – General Amenity: There is to be no significant adverse effect on the amenity of the existing or new community.

GP3 General Development Principles – Services Infrastructure: This policy requires justification as to the suitability of the service infrastructure required by the proposal e.g. sewerage.

GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.

GP5 General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. There should be no unacceptable impact on

landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.

GP6 General Development Principles – Quality of Design: All new development must ensure that they are to achieve good quality design. This is ensuring that the proposal creates a safe, accessible and attractive environment taking into account the context, scale and materials of the design.

GP7 General Development Principles – Environmental Protection and Public Health: This policy seeks to ensure that there is no unacceptable harm to health from a development.

H6 Sub-division of Curtilages, Infill and Backland Development permits such development only where it does not represent an over development of the land.

T4 Parking: This policy requires adequate level of parking to ensure there is no detrimental impact on the new site or existing community.

### 3.2 **Supplementary Planning Guidance**

Planning Obligations adopted August 2015

Affordable Housing adopted August 2015

New Dwellings adopted August 2015

Parking Standards adopted August 2015

## 4. **CONSULTATIONS**

4.1 WALES AND WEST UTILITIES: No response.

4.2 NEWPORT ACCESS GROUP: No response.

4.3 DWR CYMRU – WELSH WATER: Request conditions relating to drainage.

## 5. **INTERNAL COUNCIL ADVICE**

5.1 PLANNING CONTRIBUTIONS MANAGER: A commuted contribution of £17,980 would be requested for affordable housing provision.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The applicant has demonstrated that the required level of visibility is achievable. I also note that the properties have also been set back to ensure that adequate depth is available for parking spaces.

5.3 HEAD OF LAW AND REGULATION (POLLUTION): Request conditions relating to unforeseen contamination.

## 6. **REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary with the application site and opposite were consulted (8no properties). No response received.

## 7. **ASSESSMENT**

7.1 All matters have been reserved although an indicative layout plan has been submitted showing two detached properties having a footprint of 5.1m each in width, 9.6m in depth at ground floor (7m at first floor) and a maximum height of 8m. The site is broadly rectangular shaped. The minimum depth of the rear gardens would be 6.7m and to the front the properties would be set back from the road by 5m in order to provide two off street parking spaces. It is stated within the design and access statement that the properties would have integral garages although this may not be required depending on the number of bedrooms which would be considered at the subsequent reserved matters stage if this application were to be approved.

7.2 The site was formerly the garden of 14A Bank Street and the site is relatively flat.

### 7.3 **Amenity**

Whilst the layout of the properties would not be particularly spacious, they are in keeping with neighbouring properties and comply with the Council's Supplementary Planning Guidance for

New Dwellings (August 2015) in many respects and the dwellings would afford a good level of amenity for future occupiers.

- 7.4 However, the Guidance states a distance of 14m should be provided between a protected window and a blank two storey wall in the interests of neighbouring amenity. The distance between the side elevation of the nearest proposed dwelling and one window in the side elevation of the neighbouring bungalow would be significantly less than this at approximately 5m. This window serves a bedroom which is treated as a habitable room. However, the elevations do not face each other squarely but are at an oblique angle which would help mitigate the impact of the proposals on this window. Furthermore, there is an existing 1.8m high timber fence approximately 3m away from the window which already limits the outlook from the window. Whilst the proposal would not comply with the 14m specified by the guidance, as noted within the SPG, every application for development requires the council to assess whether any residents would experience a material (that is, substantial and harmful) loss of privacy, natural light or perceived space. No two application sites have identical physical characteristics, however, and very few sites conform to the “textbook” scenarios illustrated in this guidance. The council must, therefore, consider how factors such as orientation, topography and spatial relationships between buildings might accentuate or diminish the impact of a proposal. On balance, in this instance, whilst some loss of light will likely be experienced to this window, the overall effect of this on living conditions will not be severe.
- 7.5 Whilst there are several windows in this elevation of the bungalow, only one other window serves a habitable room. Due to the angle at which the bungalow is situated, the distance between the development and this window increases to 7.5m. As with the other bedroom window, the impact of the development is lessened as the elevations would not face each other squarely but are at an oblique angle and there would be an intervening 1.8m high timber fence between them. As such, whilst this distance falls short of the Council’s Guidance, there are mitigating factors and the relationship is considered to be acceptable.
- 7.6 First floor windows would be set at least 10m away from rear boundaries.

7.7 ***Visual Impact***

House types in the area are predominantly two storey terraced, although varying in terms of age. There are also two bungalows in the vicinity including Glen Coed immediately adjacent to the site. None of the housing in the area is considered to be of particular note. The application is submitted in Outline form and so the design details would be submitted as part of a Reserved Matters application if planning permission is forthcoming. However, the scale of the proposed dwellings is considered to be in keeping with the neighbouring terrace properties and would not be detrimental to the visual amenity of the area.

7.8 ***Highways***

Off road parking spaces would be provided to the front of the properties directly accessed from Bank Street. The Head of Streetscene and City Services (Highways) has been consulted and offers no objection to the proposals and confirms that the applicant has demonstrated that the required level of visibility is achievable. Any full application must demonstrate that parking can be provided in accordance with current parking standards.

- 7.9 The proposals are therefore considered to be acceptable in terms of parking and highway safety.

7.10 ***Planning Obligations***

It has been confirmed that the following planning obligations are required to mitigate the impact of the development and create a sustainable development:

- 7.11 **Affordable Housing**  
Commutated sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Newport East (based upon 20% provision). The methodology for calculating these payments is set out within the adopted Affordable Housing SPG (August 2015). Based upon 2 x 3 bed houses, and subject to economic viability, an 'indicative' commuted contribution of £17,980 would be requested for affordable housing provision.
- 7.12 A Monitoring Fee of £49 will be required to cover the Council's cost of negotiations and on-going monitoring of the planning obligations. Payment will be due upon signing of the legal agreement.
- 7.13 The applicant has agreed to the Heads of Terms.

## **8. OTHER CONSIDERATIONS**

### **8.1 *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.

### **8.2 *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.

### **8.3 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.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

### **8.6 *Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

## **9. CONCLUSION**

- 9.1 It is considered that any occupants of the proposed dwellings would have a good level of amenity. It is also considered that on balance, the impact of the proposals on the occupants of Glen Coed Bunlaow would not be so harmful as to warrant refusal of the application. The development is acceptable in highway safety and design terms.
- 9.2 The application is therefore granted subject to the following conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 LEGAL AGREEMENT

01 The development shall be implemented in accordance with the following plans and documents: Revised site plan dated 6<sup>th</sup> October 2015, site location plan.

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), 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 development, other than demolition, 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.

04 No development, to include demolition, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- wheel washing facilities;
- noise mitigation measures;
- details of any temporary lighting;
- details of enclosure of working areas;
- contractor parking areas;
- construction/demolition vehicular movements.

Development works shall be implemented in accordance with the approved CEMP.

Reason: To protect the amenities of nearby residents.

#### ***Pre – construction conditions***

05 Any unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as is practicable and 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/Validation Report, confirming the remediation has being 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.

#### ***Pre –occupation conditions***

06 Provision shall be made within the site for garaging/parking facilities for each unit in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The garaging/parking facilities as approved shall be provided prior to the first occupation of the associated units and shall be kept available for such use at all times thereafter.

Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety.

***General conditions***

07 A distance of 10m shall be maintained between first floor rear windows and the rear (north-eastern) boundaries of the site.

Reason: To ensure there is an adequate distance between first floor windows and the neighbouring gardens to the rear in the interests of neighbouring privacy and amenity.

08 No first floor windows shall be installed in the west side elevation of plot 1 facing Glen Coed Bungalow.

Reason: In the interests of neighbouring privacy and amenity.

09 The maximum ridge height of the dwellings shall not exceed 8m.

Reason: In the interests of neighbouring amenity and to ensure that the development is in keeping with the surrounding properties.

***NOTE TO APPLICANT***

01 The following documents were relevant to the determination of the application: Design and Access Statement, Visibility Splays.

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H6 and T4 were relevant to the determination of the application.

03 The Council's Supplementary Planning Guidance – New Dwellings (Adopted August 2015) was adopted following consultation and is relevant to the determination of this application.

04 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.

05 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

06 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

07 This consent is subject to a Section 106 Legal Agreement.



**APPLICATION DETAILS**

**No:** 15/1009      **Ward:** GRAIG

**Type:** FULL

**Expiry Date:** 22-OCT-2015

**Applicant:** G DRAPER

**Site:** BASSALEG SCHOOL, FORGE ROAD, BASSALEG, NEWPORT, NP10 8NF

**Proposal:** REPLACEMENT BOUNDARY FENCE AND GATES

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

1.1 This application seeks full planning permission for the replacement of boundary fencing and gates at Bassaleg School in the Graig Ward.

**2. RELEVANT SITE HISTORY**

10/0826	REPLACEMENT OF EXISTING 1.4M HIGH VERTICAL BAR FENCING WITH 2.4M HIGH VERTICAL BAR FENCING TO FRONT (CAERPHILLY ROAD) ELEVATION	Granted with Conditions
---------	---	-------------------------

**3. POLICY CONTEXT**

3.1 GP2 General Development Principles – General Amenity. States that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

3.2 GP6 General Development Principles – Quality of Design. States that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout, preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

**4. CONSULTATIONS**

4.1 NEWPORT ACCESS GROUP: No comments received.

**5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (PUBLIC RIGHTS OF WAY): Initially raised concerns that the existing fence line had previously obstructed the PROW adjacent to the site. However, on inspection, confirmed that the footpath is in use to the south of the boundary fence and is on Council owned land. Therefore no objection is made to the proposal.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Requested confirmation of the gate locations and that they would be inward opening.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties with a common boundary and opposite were consulted (fifty six addresses). No representations were received.
- 6.2 GRAIG COMMUNITY COUNCIL: No representations received.
- 6.3 SITE NOTICE (displayed 16 September 2015): No representations received.

## **7. ASSESSMENT**

- 7.1 This application seeks permission for the replacement of existing boundary fencing and gates at Bassaleg School.
- 7.2 The proposed replacement fence would result in the removal of existing chain-link and hollow bar fencing which in many places is in a poor state of repair. The replacement fence will be 2.4 metres in height and comprise either vertical bar fencing or vertical mesh fencing. The majority of the pedestrian and vehicular gates are also to be replaced, with all access positions retained.
- 7.3 The proposed fencing at the main entrance fronting Forge Road (points A-B on the submitted plan) is to be replaced with 2.4 metre vertical bar fencing to be coloured black to match the existing. The applicant has confirmed that the existing gates are to be retained. This is welcomed as these traditional gates contribute to the street scene positively.
- 7.4 The remainder of the existing hollow bar fencing bordering Forge road and Court Crescent (points B-C) would be replaced with 2.4 metre high vertical bar fencing. This section also includes the replacement of the existing vehicular and pedestrian access gates with new 2.4 metre high vertical bar gates in the same positions. The fencing and gates would be 'Moss Green' (RAL 6005).
- 7.5 The existing chain-link fencing along the southern boundary of the site (points C-D) is to be removed and replaced with 2.4 metre high vertical mesh fencing. The mesh fencing would also be 'Moss Green'.
- 7.6 The existing chain-link fencing along The Griffin (points D-E) is to be removed and replaced with 2.0 metre hollow bar fencing and gates. The access gates adjacent to no.29 The Griffin includes brick pillars with a maximum height of 1.76 metres. The height of these pillars would be increased to 2 metres. To the north of no.19 The Griffin, there are existing bow top gates. These are proposed to be replaced with 1.8 metre high gates to match the existing fencing in this location. All fencing and gates would be coloured 'Moss Green'.
- 7.7 No changes are proposed to the boundary fencing along the remainder of Caerphilly Road (points E-F), with the vertical railings removed to the south of Vicarage Gardens (points F-A) and replaced with 2.4 metre high vertical bar fencing. This fencing would also be coloured 'Moss Green'.
- 7.8 Head of Streetscene and City Services (Highways) requested confirmation of the gate locations and that they would be inward opening. The applicant has confirmed that the gate locations remain unchanged and are inward opening.
- 7.9 Head of Streetscene and City Services (Public Rights of Way) initially raised concerns that the existing fence line had previously obstructed the PROW adjacent to the site. However, on inspection, confirmed that the footpath is in use to the south of the boundary fence and is on Council owned land and is satisfied that the proposal would not adversely effect the Public Right of Way.
- 7.10 It is considered that the proposals would result in an improvement to the current boundary treatments at Bassaleg School and ultimately make a positive contribution to the character and

appearance of the area. As the positioning of access points are to be retained and all gates are to be inward opening, it is not considered that the proposals would have an adverse impact on highway safety. Finally, given the nature of the proposals, and the replacement fence and gates being of a similar height to the existing, there will not be any unacceptable impact on neighbour amenity.

## **8. OTHER CONSIDERATIONS**

### **8.1 *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.

### **8.2 *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.

### **8.3 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.

### **8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.**

### **8.6 *Planning (Wales) Act 2015 (Welsh language)***

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

## **9. CONCLUSION**

### **9.1 The proposals are considered to result in a positive contribution to the character and appearance of Bassaleg School and the wider area without resulting in an adverse impact on highway safety. The proposals therefore comply with the adopted policies of the Newport Local Development Plan 201-2026 (Adopted January 2015).**

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Block Plan, Specification for Proposed Boundary Fence and DS02 – Wall and Gate Alterations to Rear Entrance.

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

### **NOTE TO APPLICANT**

01 This decision relates to plan Nos: Site Layout Plan and Design and Access Statement

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 were relevant to the determination of this application.

03 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.

---

## 7

### APPLICATION DETAILS

**No:** 15/1141      **Ward:** RINGLAND

**Type:** FULL

**Expiry Date:** 19-NOV-2015

**Applicant:** J CONIBEER

**Site:** RINGLAND PRIMARY SCHOOL, DUNSTABLE ROAD, NEWPORT, NP19 9LU

**Proposal:** SITING OF STORAGE CONTAINER

**Recommendation:** GRANTED WITH CONDITIONS

#### 1. INTRODUCTION

- 1.1 This application seeks planning permission to locate a storage container and concrete base at Flying Start Little Hedgehogs, Ringland School. The container would be located on the grass verge between the car park and the nursery school within the eastern area of the application site. The application is brought to planning committee as the council are the owners of the land.

#### 2. RELEVANT SITE HISTORY

08/0152	Provision of external access ramp and extension to accommodate new lift	Granted with Conditions
09/1260	External canopy for outdoor play	Granted
11/1094	External canopy for outdoor play	Granted

#### 3. POLICY CONTEXT

- 3.1 The adopted Newport Local Development Plan (2011-2026).
- 3.2 GP2 General Development Principles – General Amenity. States that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.3 GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

#### 4. CONSULTATIONS

- 4.1 None.

#### 5. INTERNAL COUNCIL ADVICE

- 5.1 None.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties with a common boundary with the application site were consulted (27 properties). One objection was received raising the following points:

- Poor visual amenity
- Potential anti social disorder/vandalism of container

## **7. ASSESSMENT**

7.1 The proposed container would be 6.2 metres in length, 2.44 metres wide and 2.6 metres in height. It would contain a double door to the front elevation and it will be metal with a green painted finish. The container will be used for the storage of items used by the Flying Start nursery.

7.2 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the adopted Local Development Plan (2011-2016) are relevant to the determination of this application.

7.3 It is considered that the proposed storage container, by virtue of its size, design and external materials would relate sympathetically to its surroundings.

7.4 Due to the location of the container it would be obscured by the primary school and nursery school buildings to the south and east respectively and due to the topography it would not be visible from Dunstable Road. This location therefore also means that it would not be clearly visible from any neighbouring properties.

7.5 One neighbour has objected to the proposal, claiming that the container would have a detrimental impact on the visual amenity of their property and that the container would encourage vandalism.

7.6 Whilst these comments have been noted, it is considered that due to the significant distance between the property and the container there would be no negative impact on the amenity of the property in question. In respect of vandalism, this is a matter for the school to address as part of their site security.

## **8. OTHER CONSIDERATIONS**

### **8.1 *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.

### **8.2 *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.

8.3 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.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for,

or effect on, persons who share a protected characteristic, over and above any other person.

8.5 ***Planning (Wales) Act 2015 (Welsh language)***

8.6 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not materially affect the use of the Welsh language in Newport.

**9. CONCLUSION**

9.1 The proposed storage container is considered acceptable in terms of its size, design and impact on the amenity of the surrounding area.

9.2 The proposal therefore complies with Policies GP2 (General Amenity) and GP6 (Quality of Design) of the adopted Newport Local Development Plan 2011-2026. Overall the proposal is acceptable and planning permission should be granted.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; Drawing No 1008STN02A; Proposed Container Location; Ringland Primary School Site Location Plan.

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

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 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.

---

BEVERLY OWEN  
HEAD OF REGENERATION, INVESTMENT AND HOUSING

This page is intentionally left blank



# Report

## Planning Committee

---

### Part 1

Date: 4 November 2015

Item No: 5

**Subject** **Appeal Decisions**

**Purpose** To inform Members of the outcome of recent appeals

**Author** Head of Regeneration, Investment and Housing

**Ward** Langstone, Caerleon

**Summary** The following planning appeal decisions are reported to help inform future decisions of Planning Committee

**Proposal** **To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.**

**Action by** Planning Committee

**Timetable** Not applicable

This report was prepared without consultation because it is to inform Planning Committee of appeal decisions already taken.

## **Background**

The reports contained in this schedule provide information on recent appeal decisions.

The purpose of the attached reports is to inform future decision-making. This will help ensure that future decisions benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

The applicant has a statutory right of appeal against the refusal of permission in most cases. There is no Third Party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

## **Financial Summary**

The cost of defending decisions at appeal is met by existing budgets. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

## **Risks**

The key risk relating to appeal decisions relates to awards of costs against the Council.

An appeal can be lodged by the applicant if planning permission is refused, or if planning permission is granted but conditions are imposed, or against the Council's decision to take formal enforcement action. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs

associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	<p>Ensure reasons for refusal can be defended at appeal;</p> <p>Ensure planning conditions imposed meet the tests set out in Circular 11/95;</p> <p>Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p> <p>Ensure appeal timetables are adhered to.</p>	<p>Planning Committee</p> <p>Planning Committee</p> <p>Development Services Manager and Senior Legal Officer</p> <p>Planning Officers</p>
Appeal lodged against non-determination, with costs awarded against the Council	M	L	<p>Avoid delaying the determination of applications unreasonably.</p>	<p>Development Services Manager</p>

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### Options Available

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

### Preferred Option and Why

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

### **Comments of Chief Financial Officer**

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications or enforcement action.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

### **Comments of Monitoring Officer**

There are no legal implications other than those referred to in the report or detailed above.

### **Staffing Implications: Comments of Head of People and Business Change**

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

### **Local issues**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

### **Equalities Impact Assessment**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act 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. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that 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.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

**Children and Families (Wales) Measure**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

**Consultation**

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

**Background Papers**

Not applicable

Dated: 4<sup>th</sup> November 2015

**PLANNING APPLICATION APPEAL – ALLOWED**

APPEAL REF:	14/1275
APPEAL TYPE:	Written Representations
WARD:	Langstone
SITE:	Court Farm, Magor Road, Newport, NP18 2EB
SUBJECT:	Proposed development of solar photovoltaic panel (-10mwp) and associated works, access tracks, security fencing and cameras, affecting public right of way 394/59 and 394/60 Llanmartin (resubmission following refusal of 13/1203)
APPELLANT:	Robert Ayres
PLANNING INSPECTOR:	A Thickett
DATE OF COUNCIL'S DECISION:	1 <sup>st</sup> April 2015
OFFICER RECOMMENDATION:	Approve
COMMITTEE/DELEGATED:	Committee

**DECISION: ALLOWED**



## **SUMMARY**

Planning permission was sought for the development of solar photovoltaic panels (-10mwp) and associated works, access tracks, security fencing and cameras, affecting public right of way 394/59 and 394/60.

The appeal site covers 14.3 hectares (35.3 acres) of agricultural land to the north of the B4245 and to the east of Langstone. 70% of the site is classified as Grade 2 and 3a agricultural land, the remainder is classified at 3b. Grades 1, 2 and 3a are classed as the best and most versatile agricultural land.

In view of the above, the Inspector considered the main issue in the determination of this appeal was the impact of the proposed development on the supply of the best and most versatile agricultural land in the area. The proposed solar farm would have a life span of 25 years and the methods of construction and decommissioning can be controlled to ensure that there would be no loss of agricultural land quality once the development has been removed. Furthermore the land would not be lost to agriculture; the fields will be used for silage production and sheep will graze between the solar panels.

The Inspector noted that the proposal would prevent the land being used to its full agricultural potential for 25 years. The Inspector was however satisfied that the impact of the proposal is reversible and that there would not be a permanent loss of the best and most versatile agricultural land.

With regards to the availability of brownfield or lesser quality agricultural land, the appellants commissioned a sequential test which concluded, among other things, that no suitable brownfield land is available. This claim was not disputed by the Council. Turning to lesser quality agricultural land, the sequential test firstly assessed sub-station capacity levels, which led to the conclusion that applications to connect to the grid around Newport were most likely to be successful. However, only the substation at Magor was identified as being able to accommodate the proposed solar farm. The test then went on to assess sites in the vicinity of the Magor sub-station, which favoured the appeal site. The Inspector concluded that the sequential assessment was robust and based on reasonable assumptions and saw no reason to dispute the findings.

The Inspector noted that other matters relevant to this appeal were the visual impact, effects on residential amenities and ecological issues. In terms of the visual impact, the appeal site is mainly bounded by mature trees and hedges, the density and size of which, combined with the height of the arrays and the topography, would limit views from Langstone and Llanbedr. The Inspector therefore concluded that, given the above, combined with proposed hedging along the western and northern boundaries, the proposal would not have an unacceptable impact on the character and appearance of the area. The Inspector further noted, that given the features outlined above, the proposal would not have an unacceptable impact on local residents. In terms of ecological issues, the appellant commissioned an ecological report, which found no evidence of badger activity and no setts were found that could be affected by the proposed works.

In view of the above, the Inspector concluded that the proposal complies with Planning Policy Wales and the Newport Local Development Plan and the appeal should be allowed.

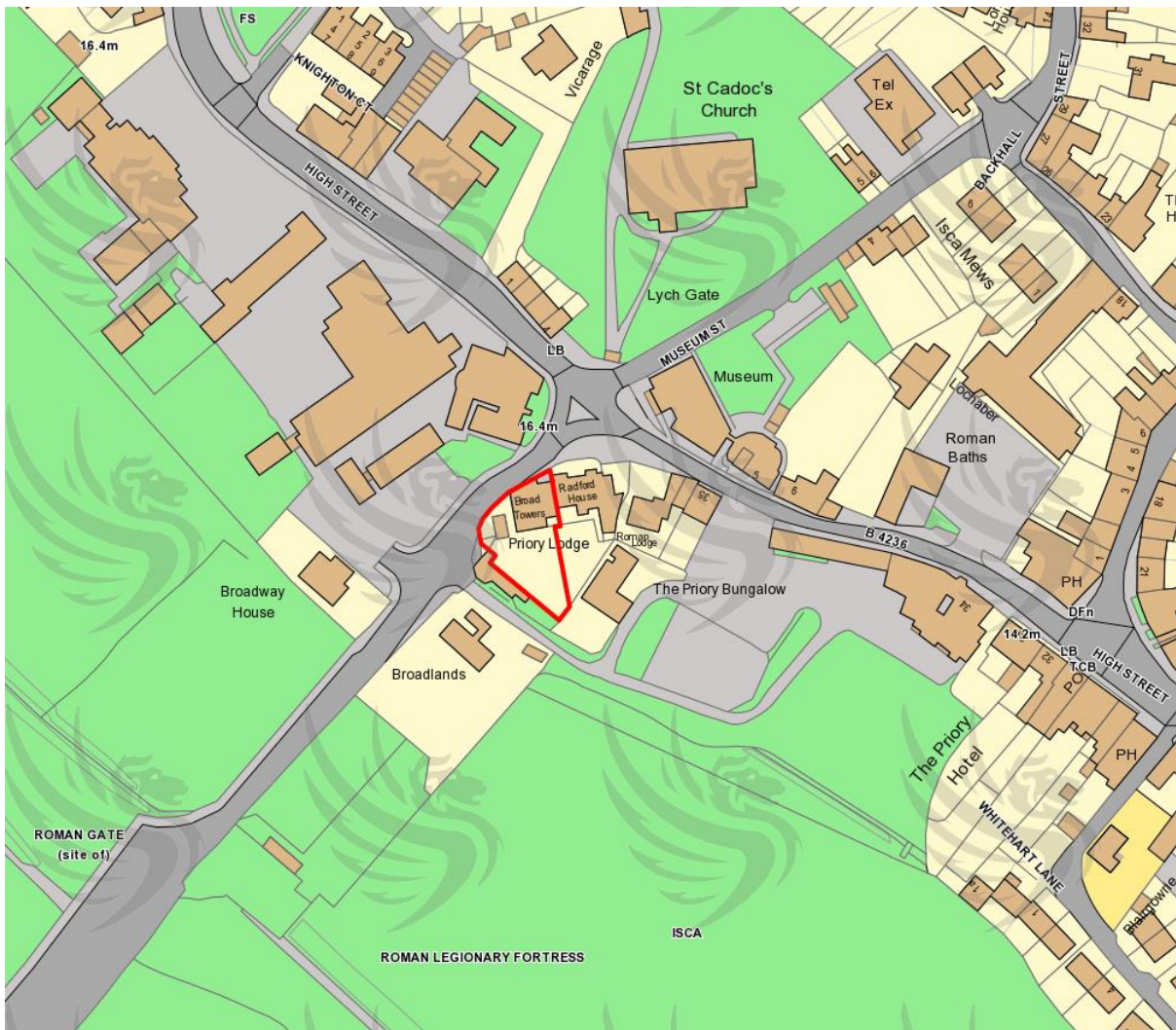
**APPEAL DISMISSED 9<sup>th</sup> OCTOBER 2015**



## PLANNING APPLICATION APPEAL

APPEAL REF: E13/0502  
APPEAL TYPE: Hearing  
WARD: Caerleon  
SITE: Broad Towers, Broadway, Caerleon, Newport, NP18 1AY  
SUBJECT: High Hedge  
APPELLANT A: Dr Mary Reynolds and Miss Anne Reynolds  
APPELLANT B: David Gilfillan  
PLANNING INSPECTOR: Iwan Lloyd  
DATE OF COUNCIL'S DECISION: 25<sup>th</sup> November 2014  
OFFICER RECOMMENDATION: Issue High Hedge Notice  
COMMITTEE/DELEGATED: Delegated

**DECISION (APPEAL A): ALLOW IN PART**  
**DECISION (APPEAL B): DISMISSED**



## SUMMARY

Appellants A, the owners of the hedge (Dr Mary Reynolds and Miss Anne Reynolds) and Appellant B, the complainant (David Gilfillan) appealed against the Remedial Notice (RM)



issued by the Council. The Inspector therefore dealt with both appeals simultaneously. The RM was issued by the Council because the hedge is adversely affecting the reasonable enjoyment of appellant B's property, Radford House. The high hedge is located to the south eastern boundary of Broad Towers, the occupants of which are the owners of the high hedge and subject to the RN.

The Inspector firstly dealt with the point Appellants A raised, which stipulated that the complainant's property did not fall within the definition of a domestic dwelling. Planning permission 01/0223 was granted in 2001 for the change of use of the complainant's property to a guest house; Condition 2 limited the use to no more than 3 guest bedrooms. During the site visit, the Inspector noted that the dwelling use had a separate entrance, staircase and that there was sufficient separation between the guest house use and the dwelling use to conclude that the complainant's property fell within the definition of a domestic property.

Appellants A secondly stated that the hedge in question did not constitute a high hedge. The Inspector noted that a high hedge is defined as 'so much of a barrier to light or access' and 'a line of evergreens is not to be regarded as forming a barrier to light or access if the existence of gaps significantly affects its overall effect as such a barrier at heights of more than two metres above ground level'. The Inspector noted that the line of trees had no significant gaps between them and formed a barrier to light above 2m in height. The Inspector therefore concluded that the hedge constituted a high hedge.

Appellants A, thirdly stated that the Council should not have proceeded with the complaint, as the complainant had not taken all reasonable steps to resolve the matters. During the Hearing, appellants A accepted that the high hedge required a reduction in height, which the hedge could tolerate without causing it to die or be destroyed. The Inspector noted that by accepting such an approach, appellant A acknowledges that the Council's action to issue a RN was correct; this issue was therefore not given any further consideration.

The Inspector then discussed the method of calculation for the Action Hedge Height (AHH). The Inspector noted that the Council's calculations were based on Building Research Establishment's Hedge Height and Light Loss. Appellants A indicated the Council's method of calculation was prone to error. The Council's assessment derived an AHH of 2.59m. The Council acknowledged the hedge would not survive a cut to the AHH; the RN therefore reflected this and required an initial action of 7.4 m and a preventative height of 8m.

In view of the above, the Inspector considered the one area of dispute to be whether the hedge could tolerate the reduction in height set out in the RN. The Inspector noted that the Council gave consideration to the health of the hedge, as the AHH was significantly below that set out in the RN. The Council stated that the high hedge could tolerate a cut down to 7.4m (initial action), appellant B indicated 6m and appellants A indicated 11.5m. After considering the health of the trees, the Inspector considered that the trees would not survive the cut specified in the RN. In view of this, the Inspector concluded that the trees could tolerate an initial cut not exceeding 10m, with an allowance of 1m growth margin; the hedge is therefore to be maintained at a height of 11m.

Having considered the above matters, the Inspector concluded that Appeal A should be allowed in part and that the remedial notice be varied in the corrected form attached and the Appeal B should be dismissed.

**APPEAL (A) ALLOWED IN PART 12<sup>th</sup> OCTOBER 2015**  
**APPEAL (B) DISMISSED 12<sup>th</sup> OCTOBER 2015**

This page is intentionally left blank

# Report

## Planning Committee

---

### Part 1

Date: 4 November 2015

Item No: 6

**Subject**                    **S106 Planning Obligations and City Centre Residential Development**

**Purpose**                    The purpose of this report is to inform Members of the progress of residential development within the city centre (with associated S106 planning obligation requirements).

**Author**                    Planning Contributions Manager

**Ward**                      All

**Summary**                At present, very few residential developments (with associated S106 planning obligations) have been implemented in the city centre. Section 106 planning obligation requests are contributing to making development unviable. This is verified by both the Three Dragons Viability Toolkit and the Community Infrastructure Levy Viability Appraisal (April 2015).

**Proposal**                To note the level of delivery of residential development in the city centre (with associated S106 planning obligation requirements).

**Action by**                Planning Committee

**Timetable**                Not applicable

This report was prepared after consultation with:

- Head of Law and Regulations – Monitoring Officer
- Head of Finance – Chief Finance Officer
- Head of People and Business Change

## 1. Background

- 1.1 The following report summarises the level of delivery of residential development within the city centre (with associated S106 obligations) and the reasons for any reduced S106 obligations
- 1.2 S106 legal agreements generally require developers to either carry out works or contribute financially towards measures that mitigate the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability is a key influence on the potential scope and scale of planning obligations. As such, viability becomes an important material consideration in S106 negotiations.
- 1.3 In recent years, it has not been possible for town centre residential developments to meet all the S106 planning obligation requirements and remain economically viable. Consequently, decisions on the level of S106 contributions have been based on reduced sums that can be demonstrated as reasonable.

## 2 Financial Summary:

- 2.1 'Value for money' is defined as the relative cost to the Council (from loss of S106 planning obligation contributions) against optimising the outcomes of town centre regeneration.
- 2.2 Historically, S106 planning obligation contributions for town centre developments have secured an average of £2,000 per dwelling (as opposed to a Newport-wide average of £5,000 per dwelling). It is considered that the 'added value' toward city centre regeneration would outweigh the benefits from these 'below average' commuted sums.

## 3. Risks:

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Loss of income from S106	L	H	<ul style="list-style-type: none"> <li>'Added value' toward city centre regeneration outweighs the benefits</li> </ul>	Planning Contributions Manager

\* Taking account of proposed mitigation measures

## 4. Links to Council Policies and Priorities

- 4.1 Planning obligations and city centre regeneration helps underpin the Council's Corporate Plan (2012-2017) and its five corporate aims:
- Being a Caring City;
  - A Fairer City;
  - A Learning and Working City;
  - A Greener and Healthier City;
  - A Safer City.
- 4.2 Planning obligation contributions and city centre regeneration must also be determined in accordance with the adopted Local Development Plan (2011-2026) and the adopted Planning Obligations SPG (2015).

- 4.3 Redevelopment of the city centre, diversification of both the day and night time economy and the increase in the footfall within the city centre are priorities for both the Single Integrated Plan and the Corporate Plan
- 4.4 Viability is a material planning consideration. It is recognised that the scale of S106 provision can be reduced in order to accommodate a development's limited economic viability. As such, any assessment of economic viability should consider the level of provision, the amount of available grant subsidy and the total amount of planning obligations requested

## **5. S106 Planning Obligations**

- 5.1 S106 planning obligations generally require developers to either carry out 'in kind' works or contribute financially towards measures that mitigate the impact of development i.e. to make an unacceptable proposal acceptable in land use planning terms.
- 5.2 Under current policy, planning permissions for the net creation of 5 or more residential units will potentially attract a request for leisure and education planning contributions. Additionally, on-site affordable housing provision is required on developments of 10 units and above, whilst affordable housing commuted sums are required on developments under 10 units.
- 5.3 The city centre falls within the Stow Hill ward where there is a surplus of informal play provision, but a deficit of formal and equipped play space. As such, leisure contributions are only sought towards formal and equipped play space, although one bed apartments are exempt from contributing towards equipped play. City centre apartments tend to generate few children and the demand for open space provision tends to be low
- 5.4 Education contributions depend upon school capacity within the catchment and would only apply to apartments and housing with two or more bedrooms. Development in the Stow Hill ward would feed into St Woolos Primary and Duffryn Comprehensive, both of which currently have deficit capacities. However, it is considered unlikely that city centre apartments will be a form of accommodation that is sought by a parent(s) with school age children. This becomes even more unlikely with regards to secondary school age children. Planning Officers, therefore, consider that the resulting demand for additional school places will be low.
- 5.5 Please note that the CIL regulations restrict the use of pooled contributions towards items that may be funded via the Community Infrastructure Levy. As such, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy. As a result, this will restrict the Councils ability to request future education and leisure planning obligations within the Stow Hill ward.
- 5.6 In recent years S106 planning obligations (along with other financial restrictions e.g. banking finance) have proved overly onerous for developers in the city centre, resulting in schemes 'stalling' or being 'mothballed'. As a consequence, only one (S106 associated) residential development within the city centre (without grant/loan funding) has been completed (please see Appendix 1). The limited viability of city centre development has been verified by the Council's Three Dragons Viability Toolkit, as well as being independently confirmed by the Community Infrastructure Levy Viability Appraisal (April 2015).
- 5.7 Whilst economic viability is an important material consideration in S106 negotiations, it is not a sufficient reason in itself for considering reduction in planning obligation contributions; there have to be other 'wider benefits' that 'outweigh' this loss e.g. city centre regeneration
- 5.8 The National Assembly's 'Regeneration Framework Report' (October 2012) states that "*vital, vibrant town centres are at the heart of our sustainable communities and they are core to a*

*healthy and prosperous Welsh economy*". However, unprecedented economic circumstances, budget constraints and the changing role of town centres present major challenges to city centre regeneration.

- 5.9 As highlighted by the Portas Report 2011 (An independent review into the future of our high streets), an integrated/holistic approach is required across Council functions, businesses and communities. Residential property investment (by the private sector), alongside Council initiatives, can help improve the level of economic activity, diversify town centre offer and bring vibrancy to previously empty properties.
- 5.10 The Council is actively seeking to improve the vitality and viability of the city centre, by encouraging its regeneration; both the 'Vibrant and Viable Places' and 'Houses into Homes' programmes provide significant steps towards achieving this desired outcome.
- 5.11 In order to encourage development in the city centre, the Council also drew-up a draft S106 Planning Obligation Moratorium SPG (2014). This encouraged development in the city centre by exempting development from S106 planning obligations, on the basis that development was implemented within a specified timeframe. The SPG was subsequently 'withdrawn' as it was felt that each development should be considered on its individual merits.
- 5.12 Current Council policy considers a number of factors when assessing reduced S106 planning obligations:
- Willingness of the applicant/developer to go 'open-book' with their figures;
  - The scheme is proven to be economically unviable through the Three Dragons Toolkit;
  - Regeneration benefits to the city centre outweigh the benefits of the planning obligation/s
- 5.13 It is considered that the loss S106 planning contributions, as set out above, would be off-set by the regeneration and economic benefits to the City. On this basis, it is considered to result in a net positive outcome.
- 5.14 Conclusion
- 5.15 When considering the requirement for S106 planning obligations, it is important to consider both the viability of the development and the wider benefits to the city centre and whether these issues outweigh the harm caused by the loss of S106 planning obligations

## **6. Options available**

- 6.1 Not applicable.

## **7. Comments of Chief Financial Officer**

- 7.1 As this document is for information only, there are no financial implications arising directly from this report.

## **8. Comments of Monitoring Officer**

- 8.1 There are no specific legal issues arising from the report to Planning Committee as this is for information purposes only. Any strategic planning decisions relating to s106 contributions or CIL are executive matters for the Cabinet Member to consider. The Report highlights the need to balance issues of commercial viability with the wider economic regeneration benefits of City Centre developments. S106 contributions can only be secured where they address material planning considerations related to the impact of particular developments. The report sets out the

difficulties already encountered with securing leisure and educational contributions from City Centre developments, given the non-family nature of some of the accommodation and the current capacity within catchment areas schools. There are also practical difficulties with CIL contributions, given the restrictions on pooled contributions. However, if s106 contributions are required, then viability is a material consideration in terms of the amount of any contribution and reductions can be justified where there are wider economic and social benefits arising from City Centre regeneration.

## **9. Comments of Head of People and Business Change**

- 9.1 There are no staffing implications as a result of this report. The report sets out the required considerations in regard to S106 planning obligations for city centre housing development and the balance to be struck between economic and regeneration benefits for the city centre and loss of S106 planning obligations.

## **10. Local issues**

- 10.1 This would affect the City Centre.

## **11. Consultation**

- 11.1 To date no consultation has been undertaken.

## **12. Background Papers**

- 12.1 Appendix 1 - City Centre Residential S106 Schemes

## City Centre Residential S106 Schemes

Site	Description	Funding	Date of S106 sign-off	Development Status	Notes
62-66 Cardiff Rd (14/0362)	Conversion of offices to 15 affordable apartments	Vibrant and Viable Places	08/01/15	Under Construction	
14 Cambrian Rd (14/0334)	Conversion of offices to 6 apartments	None	27/01/15	Not Started	Unimplemented historical permission since April 2014
Griffin Island (14/1285)	Conversion to 11 affordable apartments	Vibrant and Viable Places	02/04/15	Under Construction	Unimplemented historical permissions since 2004 (without funding)
Kings Hotel (14/0666)	30 apartments	Vibrant and Viable Places	10/11/14	Under Construction	Empty for the last 5 years
39 Commercial St (13/0451)	Conversion of upper floors to 5 apartments	None	17/04/14	Not Started	
93 Commercial St (12/1033)	Conversion of upper floors to 6 apartments	Houses Into Homes	06/09/13	Completed	Previous unimplemented permissions since 2007 (without funding)
Albany Chambers, Skinner St (07/0510)	Conversion of upper floors to 14 apartments	None	29/04/08	Not Started	Previous unimplemented permissions since 2008
28-30 Stow Hill (11/0269)	Conversion to 10 apartments	None	16/12/11	Complete	Applicant is contesting payment of the S106