

# Agenda



## Newport City Council

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Date: Thursday, 19 May 2016  
Time: 5.00 pm  
Venue: Council Chamber, Civic Centre, Newport  
To: **All Members of the City Council**

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### **WEBCASTING NOTICE**

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

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

Item	Wards Affected
1. <u>Agenda Welsh Version/ Cym</u> (Pages 3 - 4)	
2. <u>Preliminaries</u> To receive any apologies for absence  To receive any declarations of interest	
3. <u>Development Management: Planning Application Schedule</u> (Pages 5 - 40)	Tredegar Park

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Date of Issue: 12/05/16

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# Agenda



## Cyngor Dinas Casnewydd

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Dyddiad: 26/04/2016

Amser: 5.00 pm

Lleoliad: Siambrau'r Cyngor - Canolfan Ddinesig

At sylw: **Pob aelod o'r Cyngor Dinas**

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### **HYSBYSIAD GWE-DDARLLEDU**

Gall y cyfarfod hwn gael ei ffilmio ar gyfer darllediad byw neu ddarllediad wedi hynny trwy wefan y Cyngor.

Ar ddechrau'r cyfarfod, bydd y Maer, Cadeirydd neu'r Person sy'n Llywyddu yn cadarnhau os yw cyfan neu ran o'r cyfarfod yn cael ei ffilmio. Efallai y bydd y delweddau a recordiad sain yn cael eu defnyddio hefyd at ddibenion hyfforddiant o fewn y Cyngor.

Yn gyffredinol, nid yw'r ardaloedd eistedd cyhoeddus yn cael eu ffilmio. Fodd bynnag, wrth fynd i mewn i'r ystafell gyfarfod a defnyddio'r ardal seddau cyhoeddus, rydych yn rhoi caniatâd i chi gael eich ffilmio a defnydd posibl o rhai delweddau a recordiadau sain ar gyfer gwe-ddarlledu a/neu ddibenion hyfforddiant.

Os oes gennych unrhyw ymholiadau ynghylch hyn, cysylltwch â Phrif Swyddog Gwasanaethau Democraidd.

**DS: Cliciwch ar y ddolen isod i weld y Cod Ymarfer Cynllunio:-**

<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>

**Bydd copiâu o'r Cod Ymarfer Cynllunio ar gael yn y cyfarfod.**

**1. Agenda Cym**

**2. Rhagarweiniadau**

- i. Derbyn unrhyw ymddiheuriadau am absenoldeb.
- ii. Derbyn unrhyw ddatganiadau diddordeb

**3. Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio**



# Report

## Newport City Council

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### Part 1

Date: 19<sup>th</sup> May 2016

Item No: 03

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

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

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

**Ward** As indicated on the schedule

**Summary** Full Council are acting as Planning Committee to make a decision in relation to a planning application. The report contained in this schedule assesses the proposed development against relevant planning policy and other material planning considerations, and takes into consideration all consultation responses received. The report concludes with an Officer recommendation to Full Council 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 report and associated Officer presentation to Council is to allow Full Council to make a decision on the application in the attached schedule having weighed up the various material planning considerations.

The decision made is expected to benefit the City and its communities by allowing good quality development in the right location and resisting inappropriate or poor quality development in the wrong location.

**Proposal** **1. To resolve a decision 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 Application Schedule attached**

**Action by** Full Council

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

The report contained in this schedule assesses the proposed development against relevant planning policy and other material planning considerations, and takes into consideration all consultation responses received. The report concludes with an Officer recommendation to Full Council 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 report and associated Officer presentation to Council is to allow Full Council to make a decision on the application in the attached schedule having weighed up the various material planning considerations.

The decision made is expected to benefit the City and its communities by allowing good quality development in the right location and resisting inappropriate or poor quality development in the wrong location.

An application 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.

An application 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.

As the Council are the applicant there is no right of appeal against the decision made. Neither is there a third party right of appeal against the decision. However all decisions are subject to challenge via Judicial Review by an interested party.

Work is carried out by existing staff but it is necessary to employ a Barrister to act on the Council's behalf in defending decisions. This cost is met by existing budgets. Where Full Council refuses an application against Officer advice, Members may be required to assist in defending their decision.

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 challenge is met by existing budgets and partially offset by statutory planning application fees. Costs can be awarded against the Council if the Council has acted unreasonably and/or cannot defend its decisions.

## Risks

The main risk identified in relating to the determination of planning applications by Full Council is judicial review.

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.	n/a	n/a	Ensure reasons for refusal can be defended at appeal.	Full Council
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Full Council
			Provide guidance to Full Council 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-determination, with costs awarded against the Council	n/a	n/a	Avoid delaying the determination of applications unreasonably.	Full Council Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Full Council 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 reasons for refusal if appropriate);
- 2) To grant planning permission against Officer recommendation (in which case Full Council's reasons for its decision must be clearly minuted);
- 3) To decide to carry out a site visit, either by a Site Inspection Sub-Committee or by Full Council (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 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, however in this case, as the applicant is the Council, there is no right of appeal.

Members of Full Council be mindful that the costs of defending challenges and any award of costs against the Council following a successful challenge 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**

Full Council 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 the planning application 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 and the Equalities Act 2010**

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.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

Objective 9 (Health and Well Being) of the adopted Newport Local Development Plan (2011-2026) links to this duty with its requirement to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

### Planning (Wales) Act 2015 (Welsh Language)

Section 11 of the Act makes it mandatory for all Local Planning Authorities to consider the effect of their Local Development Plans on the Welsh language, by undertaking an appropriate assessment as part of the Sustainability Appraisal of the plan. It also requires Local Planning Authorities to keep evidence relating to the use of the Welsh language in the area up-to-date.

Section 31 clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. The provision does not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the decision maker.

### 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. Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

## **Consultation**

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

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 8 (January 2016)

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.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are relevant to the recommendations made.

Where necessary, other documents and plans relevant to the planning application are detailed at the end of the application report in the attached schedule

## APPLICATION DETAILS

**No:** 16/0222      **Ward:** TREDEGAR PARK

**Type:** FULL (MAJOR)

**Expiry Date:** 03-MAY-2016

**Applicant:** 21<sup>ST</sup> CENTURY SCHOOLS CLIENT OFFICER, EDUCATION SERVICES, NEWPORT CITY COUNCIL

**Site:** DUFFRYN HIGH SCHOOL, LIGHTHOUSE ROAD, NEWPORT, NP10 8YD

**Proposal:** CONSTRUCTION OF 2NO. 3 STOREY NEW TEACHING BLOCKS ON THE CURRENT DUFFRYN HIGH SCHOOL SITE. SUBDIVISION OF THE SITE TO FACILITATE THE PROVISION OF A WELSH MEDIUM SCHOOL IN BLOCKS 1 AND 5 AND ENGLISH MEDIUM SCHOOL IN BLOCK 2, 3 AND 4. NEW INTERNAL SECURITY FENCING AND GATES AND SOME REPLACEMENT EXTERNAL SECURITY FENCING, NEW SPORTS PITCHES, MUGA'S AND PLAYING FIELD ON THE EXISTING SITE. FLOODLIGHTING OF 3G ALL WEATHER PITCH. NEW VEHICLE AND PEDESTRIAN CROSSING ON DUFFRYN WAY AND CONTROLLED PEDESTRIAN CROSSING ON LIGHTHOUSE ROAD. MINOR INTERNAL ALTERATIONS AND NEW ENTRANCE WITH CANOPY AND GLAZED SCREEN AND ACCESS RAMP TO BLOCK 2. (RESUBMISSION FOLLOWING REFUSAL OF PLANNING APPLICATION 15/1103)

## RECOMMENDATION: REFUSED

### 1. INTRODUCTION

This application seeks full planning permission for the subdivision of the existing Duffryn High School site to facilitate the provision of a Welsh Medium Secondary School. The proposal also includes the construction of two three-storey accommodation blocks and the creation of a new vehicular and pedestrian access point off Duffryn Way, the creation of new sports pitches with floodlighting and minor alterations to an existing building.

- 1.2 A previous application 15/1103 for the same scheme was refused by Planning Committee on 3 February 2016 for the reason: *'The proposal represents the intensification of a highly vulnerable development at a site within the flood plain, and runs contrary to the precautionary principle of national planning policy. The scheme fails a number of the tests set out in Technical Advice Note 15: Development and Flood Risk (2004) principally the flood defences are not structurally adequate during the lifetime of development; effective flood warnings cannot be guaranteed in all scenarios; escape/evacuation routes are not operational under all conditions; increase in flooding elsewhere; the development is not flood free for the lifetime of the development and in an extreme event the development does not satisfy the tolerable conditions in relation to depths, rate of rise, speed of inundation and velocity. The application has failed to demonstrate that the risks and consequences of flooding can be acceptably managed in regard to the relevant tests in TAN 15. The proposal is contrary to policy SP3 of the Newport Local Development Plan 2011-2026 (adopted January 2015), Technical Advice Note 15 and Planning Policy Wales Edition 8 (January 2016).'* The application is a resubmission of the same proposal.
- 1.3 The existing site comprises an area of 10.8 hectares and it is proposed to subdivide the site with the Welsh Medium Secondary School having a site area of 3.2 hectares and Duffryn High School 7.6 hectares. The Welsh Medium Secondary School would occupy the northern section

of the site fronting Duffryn Way, and would utilise an existing accommodation block (Building 1). A new three-storey accommodation block (Building 5) is proposed 5.0m to the west of Building 1. Access to the Welsh Medium Secondary School would be off Duffryn Way. A 2m high security fence would extend along the southern boundary of the site.

- 1.4 In relation to Duffryn High School it is proposed to construct a new three-storey accommodation block (Building 4), which would be sited between two existing buildings (Buildings 2 and 3) that would be retained for use by Duffryn High School. The existing access off Lighthouse Road serving Duffryn High School would be retained and used solely by Duffryn High School.
- 1.5 Within Newport there is currently no Welsh Medium Secondary School. Pupils who wish to continue their education beyond primary age through the medium of Welsh have to attend Ysgol Gyfun Gwynllyw (YGG), which is a jointly funded Welsh Medium Secondary School in Pontypool, Torfaen. By 2016 it is forecast that YCG would be oversubscribed and as a result there would be no additional provision for students from Newport and Monmouthshire.
- 1.6 Given the above situation, Newport City Council is seeking to provide a new regional Welsh Medium Secondary School within the City. In March to July 2013 a site/location analysis was commissioned through the regional groups of Officers, which found at that time the only potential viable sites were in Newport. Further commentary on this will be provided below. The proposal would be funded by £8m capital investment from Newport City Council, £500k from Monmouthshire County Council, and £8.5m of match funding from the Welsh Government.
- 1.7 The Welsh Medium Secondary School would initially function as a seedling school accommodating up to 210 pupils. At capacity in 2020 it would accommodate 900 pupils. It is intended for the Welsh Medium Secondary School to be fully operational by September 2017. The Council's Education Department has outlined the following benefits of the proposal:
  - There is no Welsh-medium secondary school in Newport, with approximately 390 pupils bussed to Torfaen at an annual cost of around £735 per pupil.
  - The pupil funding therefore also goes to Torfaen, although they are Newport children.
  - We have 3 primary schools with approximately 650 pupils on roll and this is forecast to increase. This solution provides a school in Newport for Newport children (and some from Monmouthshire).
  - The new school in Newport would provide excellent transition from Welsh-medium primary schools into secondary education.
  - Statutory (WG) requirement to provide Welsh-medium education.

## 2. RELEVANT PLANNING HISTORY

04/0342	Sports Hall	Granted with conditions
04/0943	Boundary Fence	Granted with conditions
06/1676	Erection of climbing wall and frame	Granted
15/1103	Subdivision of existing Duffryn high school site to facilitate the provision of a welsh medium secondary school. Construction of 1no. 3 storey teaching block to serve Duffryn high school and 1no. 3 storey teaching block to serve welsh medium school.	Refused

	Creation of new vehicular and pedestrian access points, amended parking/drop off areas, new sports pitches, playing fields and floodlighting of 3g pitches. minor alterations and new access ramp to building 2	
15/1104	New sports hall, associated access and parking provision (outline)	Withdrawn

### 3. POLICY CONTEXT

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

Policy SP1 identifies that proposals are required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary.

Policy SP2 identifies that proposal should seek to maximise their contribution to health and well-being.

Policy SP3 refers to flood risk and that development would only be permitted in flood risk areas in accordance with national guidance.

Policy SP12 identifies that development that affects existing community facilities should be designed to retain or enhance essential facilities.

Policy GP1 refers to general development principles designed to withstand climate change and reduce the risk to flooding.

Policy GP2 which aims to protect general amenity in terms of noise and disturbance, privacy, overbearing impact, light and visual amenities.

Policy GP3 development will be permitted where the necessary and appropriate service infrastructure exists and that there is sufficient capacity for the development within the public foul sewer and if not satisfactory improvements are provided by the developer.

Policy GP4 relates to highway and access and requires that development should provide access for pedestrians, cyclists, be accessible to main transport routes and provide cycle storage.

Policy GP5 in relation to the 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.

Policy GP6 relates to quality of design and 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.

Policy GP7 refers to Environmental Protection and Public Health development will not be permitted which will cause risk to the environment, local amenity, health or safety.

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.

Policy CE8 is relevant in relation to proposals affecting locally designated nature conservation sites.

Policy CF1 Protection of Playing Fields, Land and Buildings used for Leisure, Sport, Recreation and Play notes that such sites will be protected unless it can be demonstrated that they are surplus to requirements or adequate alternative provision will be provided.

Policy T4 states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards

#### 4. CONSULTATIONS

- 4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: Whilst the proposed development area contains no designated sites, it does border the Newport Archaeological Sensitive Area and the Gwent Levels Registered Historic Landscape (HLW (Gt) 2), specifically the Eastern St Brides Character Area (HLCA0015), as defined within the *Register of Landscapes of Outstanding Historic Interest in Wales*.
- 4.1.1 The Wentloog Level, which forms the western section of the Gwent Levels, is a former marshland that has been exploited by humans for at least 6000 years and is a landscape of extraordinarily diverse environmental and archaeological potential. Having been reclaimed from the sea at various times during the historic period, the present land surface is a supreme example of a 'hand-crafted' landscape, artificially created and entirely the work of man. Due to recurrent phases of inundation and alluviation there is also the potential for buried, waterlogged deposits belonging to earlier landscapes. Such deposits can provide excellent conditions for the preservation of organic materials such as wood and leather, which may be encountered during the course of the development.
- 4.1.2 However, previous archaeological investigations in the immediate vicinity of the proposed development have discovered only small amounts of archaeological material. Consequently, it is our opinion that there is unlikely to be an archaeological site of national significance in the application area.
- 4.1.3 Therefore our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members would still be applicable.
- 4.1.4 We envisage that this programme of work would take the form of a watching brief during the groundworks required for the development, with detailed contingency arrangements including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly excavated, recorded and removed; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations we recommend that the condition should be worded in a manner similar to the model given in Welsh Office Circular 60/96, Section 23:
- 4.1.5 *No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.*  
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 GWENT WILDLIFE TRUST: No response
- 4.3 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): The Gwent Police Designing Out Crime Unit have no objections to this application.



- 4.3.1 This is a development that could benefit from being designed and built to the standards found within Secured by Design and we would welcome the opportunity to assist with this aspect.
- 4.4 NEWPORT ACCESS GROUP: No response.
- 4.5 NEWPORT CIVIC SOCIETY: No response.
- 4.6 NATURAL RESOURCES WALES (NRW):
- 4.6.1 In response to the previous submission we provided you with advice on the applicant's assessment of flood risk. We objected to the proposal as the evidence provided did not demonstrate that the risks and consequences of flooding could be managed in line with National Planning Guidance for new development. The new application does not contain any further information to alter our position and as such we object to the proposal.
- 4.6.2 The application site is entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under TAN 15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Ebbw and within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) tidal flood outlines.
- 4.6.3 The proposed development should be considered as highly vulnerable development. Section 6 of National Planning Policy Technical Advice Note 15 (TAN15) requires your Authority to determine whether the development at this location is justified. This is entirely a matter for your Authority and the tests should be undertaken sequentially. We can advise you on the submitted Flood Consequence Assessment (FCA), necessary to demonstrate test iv in Section 6.
- 4.6.4 The applicant's FCA, "2nd Issue, October 2015" and the FCA "Mitigation Addendum Final Report (November 2015)" prepared by CES Ltd have been informed by hydraulic modelling of several flood scenarios. We can confirm that the modelling undertaken is complex and although we do have a number of technical queries in relation to it, we do not consider these significant issues that would materially alter the conclusions of the FCA.
- 4.6.5 **Mechanisms of flooding**  
The applicant has identified the primary risk to the site is from a fluvial event on the River Ebbw and/or a tidal event on the Severn Estuary and River Ebbw. The applicant's assessment identifies the main mechanism of flooding to the site to be out of bank flows from the River Ebbw upstream of the M4 at Tredegar Park. The flood water then follows overland flow routes and the reën (drainage) network through Duffryn to reach the site. In more extreme events, the FCA predicts the site could see additional increases of flooding due to overtopping of local flood defences.
- 4.6.6 **The risks and consequences to the site**  
The FCA has stated that the site is predicted to flood during fluvial events on the Ebbw in excess of a 1 in 20 year event (5% annual probability event). TAN15 advises that new development should be flood free in the 1 in 100 year plus climate change event (1% annual probability event). Therefore the predicted frequency of the site flooding is considerably higher than the guidance in TAN15 (A1.14).
- 4.6.7 The developer has proposed to raise the two school buildings to 8.6 metres AOD so they are designed to be flood free during the maximum predicted flood event including additional freeboard. This mitigation does not extend to other parts of the application boundary including car parking and other external areas.

- 4.6.8 Flood waters are predicted by the applicant to surround the two school buildings in events during and above the 1 in 20 year event (5% annual probability event). During the 1 in 100 year plus climate change event (1% annual probability event) the site could experience flood depths of 1 metre and velocities of 0.4 metres per second.
- 4.6.9 With reference to the Hazard to People Classification Supplementary Note, May 2008 (attached), we can give flood hazard 'ratings' to these figures to provide an indication on the risks to people.
- 4.6.10 Flood hazard ratings during the higher frequency events such as the 1 in 20 year within the site and along the access routes to the school is classified as 'Danger for some' (includes children, the elderly and the infirm) and could peak at 'Danger for most' (includes the general public).
- 4.6.11 In the 1 in 100 year plus climate change event, the hazard rating increases and is classified as 'Danger for all' (including emergency services).  
When specifically assessing flooding to the access/egress of the school, the depths and velocities of flooding greatly exceeds the indicative guidance in TAN15 (A1.15) which provide tolerable conditions of flooding during the extreme 1 in 1000 year event. The figures in A1.15 reflect conditions in which emergency services can carry out their activities in the event of a flood. These roads have a hazard rating classification as 'Danger to all' (including emergency services).
- 4.6.12 In addition to these risks to the site, the applicant's FCA has established that there will be increased risk off site as a result of the raised school buildings. It has shown that there will be increases in flood depths, up to approximately 2cm, to existing flood risk areas within the vicinity, including residential properties. You should note that these areas are shown to flood in the current situation to depths of over a metre. The FCA Mitigation Addendum Final Report (November 2015) identifies measures to reduce this increase. Taking into account the proposed mitigation (voids) beneath the school buildings as detailed in Section 5 of the Addendum, the predicted increase is reduced to 1.5cm.
- 4.6.13 TAN15 states that there should be no increase in flooding elsewhere. Your Authority will need to assure itself that third parties interests have been properly considered in your determination.
- 4.6.14 In summary, the applicant's FCA has confirmed the development could see significant depths and velocities of flooding surrounding the school buildings which would be dangerous to children, people and emergency services. Access roads to the site are shown to be affected by flooding for up to 10 hours, thereby potentially cutting off the site for long periods of time. The flood waters on the access roads are shown to be unsafe for the emergency services and there are slight increases to flooding elsewhere. Taking the above into consideration, the proposal is not in line with criteria in A1.12, A1.14 and A1.15 of TAN15.
- 4.6.15 **Managing the flooding consequences**  
The flood risks and consequences associated with the proposal are shown to be of serious concern and we believe that the most appropriate action would be to not bring new pupils into such an environment.
- 4.6.16 A document titled 'Flood Emergency Management Arrangements' dated 14 January 2016 (Revised Final Submission) has been submitted in support of this current planning application which considers evacuation and safe refuge arrangements. This document indicates that the evacuation plan is reliant on NRW flood warnings to trigger an appropriate action.
- 4.6.17 Whether relying solely on these measures is an appropriate and sustainable mechanism for managing the predicted risk is ultimately a matter for your Authority; we are not the appropriate body to comment on the operational effectiveness of emergency plans or procedures. Our

involvement during a flood event would be limited to delivering flood warnings. Whilst we seek to provide timely and robust flood warnings we cannot guarantee their provision and this needs to be considered fully in your deliberations.

- 4.6.18 A key consideration will be the time available after a warning is received to when flood waters reach the site. The FCA assesses the time taken to reach the site during each flood scenario as approximately 9 hours for an event on the Ebbw. This was calculated by starting the clock at the start of the model run. Although TAN15 provides guidelines for the maximum speed of inundation, it does not specify how this should be calculated. We recommend that a more appropriate calculation of available time should be from the onset of flooding, i.e. at the start of flood waters breaking out of bank to when the flood water reaches the site. This would then give the minimum response time for any evacuation plan as our flood warnings should have normally been issued prior to the onset of out of bank flooding. Taking this approach a flood event from the overtopping of the Ebbw, according to the FCA, takes approximately 4 hours until it reaches the site after breaking out of bank. During the extreme tidal events, this time is reduced to around 3 hours. There will also remain a possible risk of a breach (failure) of the Sea Wall Reen defence immediately northeast of the site; this would inundate the site very rapidly.
- 4.6.19 The 'Flood Emergency Management Arrangements' document has considered the above information.
- 4.7 REGIONAL AMBULANCE OFFICER: no comments received.
- 4.8 SOUTH WALES FIRE AND RESCUE: no comments received.
- 4.9 SPORT COUCIL FOR WALES & FIELDS IN TRUST: Presuming the Lighthouse Road Playing Fields will remain available to the public it would appear there are sufficient playing pitches in the area so we are happy with regard to satisfying Planning Policy Wales.
- 4.9.1 In terms of the schools' needs we note that both schools fall slightly below the minimum playing field areas of the Schools Premises Regulations (the John Frost School falling short from 2019 onwards if predicted demographic trends are correct) but these are small which Sport Wales is happy to let pass particularly as the new facilities will include a floodlit 3G pitch allowing intensive use.
- 4.9.2 Sport Wales therefore has no objection to the application.
- 4.10 WALES AND WEST UTILITIES: Apparatus within the area.
- 4.11 DWR CYMRU WELSH WATER: We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.
- 4.11.1 We would request that if you are minded to grant Planning Consent for the above development that the conditions and advisory notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.
- 4.11.2 SEWERAGE Conditions - No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

4.11.3 The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 8 metres either side of the centreline of the public sewer. Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

4.12 WESTERN POWER DISTRIBUTION: Advised apparatus in the area

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): no comments received.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object to this application providing the following conditions are attached to any permission you are minded to grant:

5.2.1 I would recommend:

- A native wildflower mix be sown around the site and native hedging be planting to enhance the existing hedgerow. This can be agreed in the landscaping plan;
- Appropriate conditions regarding the Pontygrcw reen e.g. drainage/buffer zones
- The recommendations of the bat survey should be conditioned including creation of new bat roosting opportunities in the new buildings;
- A lighting plan will need to be submitted and agreed to ensure that dark corridors are maintained around the site;
- A reptile mitigation strategy outlining the methods that will be used to prevent injury to any reptiles that may be using the site;
- A plan to manage (with the aim to eradicate) Himalayan balsam on the site. This will be required prior to commencement of any works;

5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): no comments received.

5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): no comments received.

5.5 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): no comments received.

5.6 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection.

5.7 HEAD OF STREETSCENE AND CITY SERVICES (CIVIL CONTINGENCIES): in his role as Civil Contingencies Manager, he has provided support to the applicant in the preparation of their submission to the planning authority. Following consultation with his Head of Service, he has declined the opportunity to offer any comments to avoid any potential conflict of interest.

5.8 HEAD OF LEGAL AND REGULATION (PUBLIC PROTECTION): no objections subject to conditions relating to plant noise, fume extraction, floodlighting, a Construction Management Plan and sports fencing details.

5.9 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY): The construction of a new school on previously developed land, inside the settlement boundary, is acceptable in principle.

### 5.9.1 *Principal material considerations*

#### Flooding

The school would constitute highly vulnerable development in a C1 flood zone.

A Flood Consequence Assessment (FCA) was submitted with the previous application. It appears that the same FCA has been resubmitted with this application. The proposed site faces two main sources of flood risk. Concerns have previously been raised with regard to a number of major issues and their failure to meet the TAN 15 tests. These are:

- Existing flood defences are not structurally adequate
- Flood warnings would not be satisfactory
- Escape routes would not be operational under all conditions
- Satisfactory emergency procedures are not necessarily in place
- Proposed development would increase flood risk elsewhere
- Site is not flood free for the lifetime of development
- Water depth and velocity in extreme flooding events

It appears that the resubmitted application contains no new information or proposals in relation to how these issues will be resolved. Natural Resources Wales (NRW) previously objected to the application due to flood risk. Considering these issues have not been addressed in this new application, the proposal fails to satisfy LDP Policy SP3 (Flood Risk).

#### Loss of playing fields

- In the Design and Access Statement, the applicant has referred to Building Bulletin (BB) 98 in an attempt to justify the loss of playing fields. It appears that John Frost School would exceed all of the recommended levels, and the Welsh-medium school would comply with the criteria on relevant types of provision with the exception of a slight shortfall of games courts (2,400 sqm required, 2,351 sqm proposed, shortfall 495 sqm) and sports pitches (41,500 sqm, actual 40,737, shortfall 763 sqm).
- Judging purely from the information provided by the applicant, it seems that the proposal would not deprive existing and future students of adequate recreation space. Nonetheless, it is recommended that advice be sought from the Sport Wales and Fields in Trust.

5.9.2 The proposal cannot be supported as it fails to satisfy LDP Policy SP3 (Flood Risk).

## **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50m with a common boundary with the application site were consulted, a site notice has been displayed, and a press notice published in South Wales Argus. No representations have been received.

## **7. ASSESSMENT**

### **7.1 Site Description**

The existing school was developed in a phased manner that started in 1952 and was completed in the late 1950's. The existing school buildings have a gross internal floor area of 12,500 square metres on a site measuring 10.8 hectares. The site is fairly level, bound on two sides by a reën and a band of mature trees that form the boundary with Duffryn Way and Lighthouse Road. The school was developed as such so that the three main buildings are located within the eastern most part of the site with the associated playing fields sited to the west. An internal access road leads off Lighthouse Road and runs through the heart of the site around the perimeter of a central area of green open space.

7.1.1 The site is bounded to two sides by residential properties. To the west are the rear gardens of properties along Brigantine Close and Brigantine Way. Properties served by Schooner Circle, Schooner Avenue and Schooner Close extend along the entire southern boundary. To the north and on the opposite side of Duffryn Way are further residential properties served off Cormorant Way and Heron Way. The Gwent Levels – St Brides Site of Special Scientific Interest (SSSI) is located to the east. The River Ebbw lies approximately 350m to the east.

## 7.2 Proposals

As described in the introduction there are a number of elements to the scheme.

**7.2.1 Subdivision of existing school site** – The site has an overall area of 10.8 hectares and it is proposed to split the site horizontally with the Welsh Medium Secondary School occupying some 3.2 hectares of the northern part which includes the existing accommodation block (Building 1) currently utilised by Duffryn High School. Four hard surfaced games courts are proposed to the north of Building 1 within an area that is currently used for parking. A 3m high weld mesh fence would run around the perimeter of the courts.

**7.2.2 Creation of new accommodation block for Welsh Medium School** – A three-storey block is proposed 6.0m to the west of Building 1 and has been designed with a central atrium with a wing projecting off both ends. The northern wing and central atrium would be two-storey in height. This new building would have a finished floor level of 8.6m AOD, which is some 1.95m above existing ground level and from existing ground level would have a maximum height of 13.0m.

**7.2.3 Creation of new access serving the Welsh Medium School** – A new access is proposed to the north western corner of the site off Duffryn Way, which would lead to a parking area to the west of the new accommodation block referenced above. A total of 100 car parking spaces, 10 pull in bays and 10 coach/bus bays are proposed. Cycle stands are proposed to the northern edge of the parking area.

**7.2.4 Creation of new accommodation block for Duffryn High School** – A new three-storey 'L' shaped accommodation block is proposed between Buildings 2 and 3. This building would be set a minimum of 41m off the southern boundary. This building would have a finished floor level of 8.6m AOD, some 1.95m above existing ground level. The building would have a flat roof and a maximum height from existing ground level of 13.0m. A grass bank is proposed around the edge of the building broken at intervals to allow for the insertion of grilles. The exterior would be finished in a vertical cladding system.

**7.2.5 External alteration to Building 2** – Alterations are proposed to the façade of building 2 with the insertion of new entrance screen and door in the ground floor southern elevation, along with a ramp.

7.2.6 Within the area to the north of building 2 a new parking area and coach/bus drop off area is proposed. A total of 143 car parking spaces, 10 coach/bus bays and 7 car drop off bay are proposed.

**7.2.7 Creation of 3G pitch and Sports Courts Duffryn High School** – The final element of the proposal is the creation of 5 sports courts to the west of Building 3 and a 3G pitch within the central green space area. Floodlighting is proposed around the 3G pitch with 6 x 10m high columns. 3m high weld mesh fences would extend around the perimeter of these areas.

7.2.8 The proposed Welsh Medium School would result in an additional 900 pupils and approximately 106 members of staff at the site. The existing Duffryn High School has 1150 pupils and this is forecast to increase to 1,200 pupils.

7.3 The key issues relevant to the determination of this application are:

- Principle of development;
- Benefits of the scheme and future wellbeing of the Welsh language;
- The visual impact of the proposal;
- Flood risk;
- The effect of the proposal on the highway network;
- Impact on UK protected species and Site of Special Scientific Interest;
- The loss of playing fields;
- Impact on trees.

#### **7.4 Principle of Development**

7.4.1 As identified in the introduction, it is forecast that the existing Welsh Medium Secondary School at Ysgol Gyfun Gwynllyw (YGG) would be oversubscribed by 2016. Consequently there would be no additional provision for students from Newport and Monmouthshire who wish to study through the medium of Welsh.

7.4.2 The site is not allocated within the Local Development Plan for the provision of an additional school. However, Duffryn High School falls within the existing urban boundary as defined in the LDP, and policy SP12 (ii) of the LDP supports the provision of new community facilities that includes educational facilities within sustainable locations. As the site accommodates an existing school and falls within the defined urban boundary, it is considered that the site for the new Welsh Medium Secondary School satisfies policy SP12 of the LDP. The subdivision of the site and the creation of a Welsh Medium Secondary School is therefore considered to be acceptable in principle, subject to other material considerations that would be discussed below.

#### **7.5 Benefits of the Scheme and Future Wellbeing of Welsh Language**

7.5.1 The proposal would deliver a significant number of benefits. There is currently no Welsh Medium Secondary School in Newport, and 390 pupils living in Newport have to travel to Torfaen costing £735 per pupil (£286,650). Additionally, the pupil funding also goes to Torfaen County Borough Council. Ysgol Gyfun Gwynllyw will be oversubscribed by 2016 so this proposed school would help satisfy the demand. It is also a statutory Welsh Government requirement to provide Welsh medium education.

7.5.2 There are currently 3 Welsh Primary Schools in Newport with 650 pupils on the roll and this is forecast to increase. The new Welsh Medium Secondary School would therefore allow for a seamless transition from primary to secondary education.

7.5.3. Substantial funding for the Welsh Medium Secondary School has been secured. The proposed school would be funded with an £8 million capital investment from Newport City Council, £500k from Monmouthshire County Council and match funded by £8.5 million from the Welsh Government. Officers consider that the 21<sup>st</sup> Century Schools and Education Programme is a regeneration initiative as it aims to create school environments that meets the needs of the community and provide the best learning provision for the area. An additional £4m has been secured for the Duffryn High School refurbishment.

7.5.4 The proposal would also deliver benefits for the existing school through the creation of a new building, creation of a 3G floodlit pitch that would significantly improve the educational and recreational facilities. Alterations to the parking areas and the provision of a dedicated bus drop off area would improve highway safety within the site.

7.5.5 Technical Advice Note 20: Planning and the Welsh Language identifies that in some areas of Wales the number of Welsh speakers is increasing, but declining in other areas. The future of the

language across Wales is dependent on a wide range of factors that includes education. The planning system is recognised as having an important role to play in contributing to the future wellbeing of the Welsh language by establishing the conditions to allow sustainable communities to thrive.

- 7.5.6 In the determination of this application, the need and interests of the Welsh Language is therefore a relevant material consideration. The proposal would result in Newport's first Welsh Medium Secondary School, which offers significant benefits to existing pupils who are learning through the medium of Welsh to study in the area where they are resident. Furthermore pupils who are deterred from studying through the medium of Welsh because of the absence of a Welsh Medium Secondary School will now have the opportunity to access seamless primary and secondary education through the medium of Welsh in Newport.
- 7.5.7 The provision of Newport's first Welsh Medium Secondary School at Duffryn would contribute positively to the future wellbeing of the Welsh language, and the proposal therefore complies with TAN 20. However, these benefits have to be balanced against other material considerations that will be discussed below.

## **7.6 Visual Impact**

- 7.6.1 The existing school buildings on the site are primarily two/three storey flat roof buildings and are of a simple design, and are typical of school buildings constructed within Newport in the late 1950's and early 1960's. The new accommodation block serving the Welsh Medium Secondary School would front Duffryn Way, and has been designed so that the northern wing and central atrium would be two-storey and due to the intervening vegetation these elements would not be readily visible when viewing the site from Duffryn Way. Due to the careful design of this building, contrasting heights and the simple palette of materials it is considered that this part of the proposal is of an appropriate design and scale, and ultimately an acceptable form of development within the northern periphery of the site.
- 7.6.2 The car park serving the proposed school would be sited to the west of the new building and would be screened by the mature vegetation along the northern boundary. The creation of the access would expose the wider school site and the residential development to the south, but it is proposed to plant a hedgerow and trees to the north of a 2m high security fence, which overtime would soften this impact.
- 7.6.3 Turning to the new build accommodation block (building 5) that would serve Duffryn High School, it is of a simple form being three-storey in height and although not a pastiche of the buildings it would be sited between, the design and scale is considered to be appropriate and responds positively to the adjacent buildings. Further to this the use of a lightweight coloured façade system would allow an appropriate contrast with the existing buildings.
- 7.6.4 Alterations are proposed to the outside space including the parking area, fenced hard court areas and 3G pitch with floodlighting. The school is set within an extensive area and given the topography of the site and the presence of mature trees it is not easily visible from Duffryn Way and Lighthouse Road. There are views into the site from the residential development to the south, but the new development would be viewed in the context of the existing complex of school buildings and would not have a detrimental impact on the character of the area.
- 7.6.5 Overall, the existing school grounds around the periphery are extensively landscaped, which screen the site from vantage points to the north and east. The new accommodation blocks would be of a high quality design and along with the sensitive use of external materials allow for an appropriate contrast to the existing built form within the school site. It is considered that the proposal respects the scale of adjacent buildings and would not be harmful to the visual amenity of the surrounding area.



## **7.7 Flood Risk**

7.7.1 The 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 (TAN 15) (July 2014). NRW's flood map information, which is updated on a quarterly basis confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Ebbw and within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) tidal flood outlines.

### **7.7.2 Overview of Technical Advice Note 15: Development and Flood Risk**

TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas. Members should be aware of the following key points:

- The Council is expected to consult Natural Resources Wales (NRW) when considering development in Zone C1. Where a planning authority is minded to go against the advice of NRW it should inform NRW prior to granting consent allowing sufficient time for representations to be made;
- A school is defined as 'highly vulnerable development' (same as residential) which is 'development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited'.
- The TAN states 'it would certainly not be sensible for people to live in areas subject to flooding where timely flood warnings cannot be provided and where safe access/egress cannot be achieved'.
- There should be minimal risk to life, disruption and damage to property.

### **7.7.3 Summary of NRW consultation response dated 20 November 2015**

A Flood Consequences Assessment (FCA) prepared by Civil Engineering Solutions Ltd (October 2015) and a FCA Mitigation Addendum Report that has been informed by hydraulic modelling of a number of flood scenarios has been submitted in support of the application.

7.7.4 The FCA has been reviewed by NRW who object on the basis that the application does not demonstrate that the risks and consequences of flooding can be managed. Within the main body of their response they state that "the flood risks and consequences associated with the proposal are shown to be of a serious concern and we believe that the most appropriate action would be to not bring new pupils into such an environment."

7.7.5 The primary risk to the site is from a fluvial event on the River Ebbw and/or a tidal event on the Severn Estuary and River Ebbw.

7.7.6 In order to comply with national planning policy, TAN 15 advises that development should be designed to be flood free within the 1% (i.e. risk of a fluvial flood with a 100 to 1 chance of occurring in any one year) and 0.1% (i.e. risk of a fluvial flood with a 1000 to 1 chance of occurring in any one year) annual probability fluvial flood outlines for the River Ebbw and within the 0.5% (risk of a fluvial flood with a 200 to 1 chance of occurring in any one year) and 0.1% (risk of a fluvial flood with a 1000 to 1 chance of occurring in any one year) tidal flood outlines.

7.7.7 NRW has confirmed that the site does fall within these annual probability flood outlines for both fluvial and tidal flood events. In relation to the fluvial flood event, the main mechanism of flooding would be from the River Ebbw and the site is predicted to flood in excess of 5% (i.e. there is a risk of a fluvial flood with a 20 to 1 chance of occurring in any one year). The predicted frequency of the site flooding is considerably higher than the guidance set out by national policy.

7.7.8 During the 1 in 100 year event, depths of 1 metre and velocities of 0.4 metres per second could be experienced on the site.

7.7.9 NRW also refer to a supplementary note on hazard rating that has been produced to as TAN 15 require that people should be appropriately safe around new development and cross referenced this table for the following events:

- 1 in 20 year event within the site and along access routes to the school is danger for some (includes children, elderly and infirm). This is described as 'Danger: Flood zone with deep or fast flowing water' and could peak at danger for most' (general public) which is described as 'Danger: Flood zone with deep fast flowing water'.
- 1 in 100 year plus climate change event danger for all' (includes emergency services) which is described as 'Extreme danger: flood zone with deep fast flowing water'.

7.7.10 In relation to access/egress of the school, the depths and velocities exceed guidance so classified as 'danger to all' (includes emergency services). Extreme danger: flood zone with deep fast flowing water' No routes would be flood free in events above 1 in 20 year event.

7.7.11 NRW note that a flood evacuation plan has been submitted which relies on flood warnings. However they go on to say that cannot guarantee the provision of timely and robust flood warnings. NRW has subsequently confirmed that they aim to provide two hours, but this cannot be guaranteed for a variety of reasons including the variability of forecast rainfall and tidal predictions. The applicant has prepared a detailed Flood Emergency Management Arrangements Document and further commentary on this is provided below.

7.7.12 In a flood event, NRW stipulate that a key consideration will be the time available after a warning is received to when flood waters reach the site. NRW confirm that the calculation of the available time should be from the onset of flooding (start of flood water breaking out of bank) not from the start of the model run. They advise that in a flood event overtopping the River Ebbw, the flood waters would take 4 hours to reach the site, and during an extreme tidal event this would be 3 hours. In the case of a breach (failure) of the sea wall reën defence this would inundate the site very rapidly. NRW has subsequently confirmed that in a breach event ,the floodwater would overtop Lighthouse Road 18 minutes after the breach and reach the school 10 minutes later.

7.7.13 Finally, there is also an increased risk to third parties including residential properties by approximately 1.5 - 2cm.

#### **7.7.14 TAN 15 Tests**

7.7.15 Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within zone C1 if determined by the planning authority to be justified in that location and demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
  - ii) It location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region;
- and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
  - iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

For the purposes of this report, criterion (i) to (iii) are referred to as Test 1 as this relates to the site justification and criterion (iv) which has a number of tests is referred to as Tests 2 to 12.

### **Test 1 – Justification**

#### **Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement**

7.7.16 Officers consider that the proposal comprises a regeneration initiative as it forms part of the 21<sup>st</sup> Century Schools and Education Programme, which is a collaboration between the Welsh Government and local authorities. It is a major, long term and strategic capital investment programme with the aim of creating a generation of 21<sup>st</sup> Century Schools in Wales. The creation of a Welsh Medium Secondary School at Duffryn has also been subject to consultation that was undertaken between 1<sup>st</sup> March and 14<sup>th</sup> April 2015. The proposed school would be funded with an £8 million capital investment from Newport City Council, £500k from Monmouthshire County Council and match funded by £8.5 million from the Welsh Government. Officers consider that the 21<sup>st</sup> Century Schools and Education Programme is a regeneration initiative as it aims to create school environments that meet the needs of the community and provide the best learning provision for the area.

7.7.17 Although it is considered that the proposal forms part of a regeneration initiative a critical issue relates to whether the Duffryn High School site is the only available site. TAN 15 is explicit in confirming that new development should be directed away from flood zone C and towards suitable land in zone A, otherwise to zone B. NRW also raise this issue in their consultation response and state “if, as the planning authority, you are satisfied that the proposed location is the only possible location in planning terms, only then should you consider whether the above risks and consequences can be managed through measures such as emergency planning and evacuation.”

7.7.18 When considering the proposal against the above criteria it is considered that the first criterion is relevant. A Justification Statement has been submitted in support of the planning application to justify the location of the development and why alternative sites have been discounted. This statement draws together three strands of professionally commissioned work that includes the following:

- Original Site Option Review by Property Services, August to October 2013
- Detailed feasibility study comparison of Duffryn High School with Lliswerry High School, October 2013
- Updated City asset/estate management review – refreshed and updated, December 2015.

#### **7.7.19 Summary of Original Site Option Review by Property Services, August to October 2013**

The applicant has clarified that in March to July 2013, a site option appraisal was commissioned through the regional working group of officers from Caerphilly, Torfaen, Blaenau-Gwent, Monmouthshire and Newport local authorities. This found the only sites to be available at that time were in Newport.

7.7.20 The whole Council estate was assessed first and no sites were identified as suitable. The only potential estate deemed suitable or viable were education settings. Llanwern High School was judged not to have the capacity. Lliswerry High School was discounted on the basis that it would require movement of pupils which would be disruptive. Caerleon Comprehensive School was discounted as it could only provide partial provision. Duffryn High School was the largest site with the potential to provide the necessary capacity and facilities, and was considered to be the preferred option.

### **7.7.21 Summary of Detailed feasibility study comparison of Duffryn High School with Lliswerry High School, October 2013**

Following a review of city side asset management/estate review the two education settings that were considered to be viable were sites at Lliswerry High School and Duffryn High School. This document provides an analysis of the existing facilities. In respect of Lliswerry High School it was recognised that there were no surplus buildings that could be released for the new Welsh Medium School, and that a new build (5,100 sqm) would be required. In addition, due to expanding pupil numbers any Welsh medium provision could only be on site for 2 to 4 years. Turning to Duffryn High School it was identified that the lower school building could accommodate the seedling school and the site was of a sufficient size to accommodate both schools.

### **7.7.22 Summary of Updated City asset/estate management review – refreshed and updated, December 2015.**

This document was produced to test if there has been any change since the original asset/estate review to justify Duffryn High School as the preferred site.

7.7.23 The review has focussed on alternative sites that are within Newport City Council's ownership, within established residential areas and that are most likely to achieve planning consent. The following is a précis of the 10 sites that have been assessed and why they have been discounted:

- Lliswerry High School – Only capable of accommodating a seedling school and would be disruptive to pupils moving to a permanent location after 2 years.
- St Joseph's RC High School - Insufficient capacity.
- Bassaleg School – Discounted on basis of traffic implications and school likely to be at capacity within 2 years.
- Caerleon Comprehensive School – Insufficient capacity.
- St Julian's School – Confined site.
- Newport High School – Insufficient capacity.
- Llanwern High School – Insufficient capacity
- Llanwern("Jigsaw" site and surplus land adjoining Llanwern High School) – Discounted on time, cost and feasibility.
- Whiteheads site – Insufficient size.
- 25 acres from a third party – No such sites on market by any developer.

### **It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1)**

7.7.24 In relation to this test the new school would occupy an existing school building and a new building would be created on part of an existing playing field. A further building would be sited on part of a footprint of a previously demolished building. Apart from flood and climate change considerations, it is considered that the proposal is consistent with Planning Policy Wales and constitutes previously developed land. The proposal therefore satisfies this test.

7.7.25 On the basis of the justification statement provided it is evident that there are no other sites as being feasible options at this current time. The sites identified above have been considered but have been discounted for a number of reasons including insufficient capacity, traffic constraints, site constraints, time, cost and feasibility. The proposal therefore satisfies this test.

### **Tests 2 to 12 – Consequences of Flooding**

7.7.26 Moreover, criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable. These are referred to as tests 2 to 12 below.

**Test 2 - Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a 1 in 1000 chance of occurring in any year).**

- 7.7.27 Advice has been sought from NRW on this matter who confirm that the defences were adequate in providing the original design standard of protection, which at that time was a 1 in 200 year tidal event. The defences were constructed before TAN 15 and NRW clarify that it is highly unlikely that an extreme event would have been covered. They advise that in a 1 in 1000 year extreme tidal event the flood water would overtop the Sea Wall/Coastal defences in the 75 year lifetime of development with a predicted level of 9.4m AOD. This would partially overtop the defences at the Sea Wall Reen adjacent to the railway, which have a maximum height of 8.5m AOD and at discrete locations along the coast where the defence has a minimum level of 9.3m AOD.
- 7.7.28 The agent requested that the Local Planning Authority seek further detail from NRW relating to condition surveys of the sea wall, along with the programme for future surveys, as well as programmed improvements. NRW has confirmed that the sea defences across the Caldicot and Wentlooge Levels, including those at Duffryn are inspected on a 6 to 12 monthly cycle by trained NRW Asset Inspectors. The purpose is to ensure that they are fit for purpose. The inspection results are fed into NRW's maintenance programmes. Additionally following any major tidal event in the Severn Estuary NRW also walk the length of the sea defences to establish whether there has been any damage.
- 7.7.29 NRW confirm that they completed improvements to the sea defences at Portland Grounds (Caldicot Levels) and in the process of improving the sea defences at Tabbs Gout (Wentlooge Levels). There are no plans to improve the defences in the short term. NRW's longer term plans, post 2030 are set out in the Severn Estuary Flood Risk Management Strategy. The strategy identifies that between 2060 and 2100 it is proposed to strengthen the defences by increasing the height of the embankments to keep pace with climate change.
- 7.7.30 NRW have not raised any structural problems with the flood defences. However, in the absence of specific planned improvements to the height of the defences and the shortfall in the height of the existing defences taking into account the 75 year lifetime of development of the school, as outlined in the Flood Consequences Assessment this test has not been satisfied.

**Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales.**

- 7.7.31 The FCA Mitigation (November 2015) identifies that to reduce third party detriment, a number of raked grills would be provided to the proposed two buildings to allow water to pass under the buildings. The maintenance of these grills would be undertaken by the Council, thus satisfying this test.

**Test 4 - The developer must ensure that future occupiers of the development are aware of the flooding risks and consequences.**

- 7.7.32 A Flood Management Arrangements Document has been produced, and it notes that the school governing bodies and head teachers have determined that flood emergency management arrangements are required to ensure the safety of both pupils and staff. Subject to this draft document evolving to a working document, which is within the control of the school and the Council it is considered that this test could be satisfied.

**Test 5 - Effective flood warnings are provided at the site**

- 7.7.33 NRW identify that whilst they seek to provide timely and robust warnings they cannot guarantee their provision and this needs to be considered fully in the Local Planning Authority's deliberations. Further clarification was sought from NRW on the minimum period of time that can

be expected for a flood warning to be received from them. They confirm that they aim to provide two hours notice ahead of any flooding from rivers or tidal flooding, however, this lead time cannot be guaranteed for a variety of reasons including the variability of forecast rainfall and tidal predictions.

7.7.34 NRW confirm that although the school site is located within a tidal flood warning area it is not within a fluvial warning area. The nearest fluvial warning area for the River Ebbw is at Bassaleg, which the school can sign up to. A fluvial flood warning could be put in place for this part of the Ebbw, but it is a complex and involved process. Additionally, in the unlikely event of a breach or failure of the existing flood defences it is doubtful that any prior warning could be given.

7.7.35 While a tidal flood warning is in place, there is no fluvial flood warning in place for this part of the River Ebbw. Furthermore in the case of a breach or failure of the defences it is unlikely any warning will be provided. NRW advise that in considering this proposal the Local Planning Authority should weigh up the consequences of the failure of any warning system. The worst case scenario that has been modelled is the breach of the sea wall re-en defence where the flood water would overtop Lighthouse Road after 18 minutes and reach the school site 10 minutes later. NRW advise that it is doubtful that any prior warning could be given for this event. The absence of a fluvial flood warning for this part of River Ebbw, the likelihood of a flood warning not being issued for a breach event and NRW's advice that they cannot guarantee the provision of timely and robust flood warnings place doubt regarding the effectiveness of the flood warnings. The proposal therefore fails to satisfy this test.

**Test 6 - Escape/evacuation routes are shown by the developer to be operational under all conditions**

7.7.36 The letter from the Welsh Government to Chief Planning Officers identifies that in providing their expert technical advice, NRW will comment on the acceptability of flooding consequences in terms of the risk to people and property within the development. However they will not comment on whether access and egress can be achieved to and from the site as this is a matter for the emergency services to determine on a site by site basis depending upon operational capabilities and equipment. It is advised that the Local Resilience Forum for the area may be able to provide further advice in liaison with Local Authority Emergency Planners.

7.7.37 The Flood Emergency Management Arrangements document identifies that the escape/evacuation routes from the Welsh Medium Secondary School is via Duffryn Way, although pedestrian access can be achieved onto Lighthouse Road and Morgan Way. In respect of Duffryn High School, vehicular access is onto Lighthouse Road and pedestrian access is onto Duffryn Way and Morgan Way.

7.7.38 NRW advise that no access/egress routes have been shown to be flood free in events above the 1 in 20 year. The flood hazard ratings referenced by NRW indicate that during the higher frequency events such as the 1 in 20 year within the site and along the access routes to the school is classified as 'danger for some' (includes children, the elderly and infirm) and could peak at 'danger for most' (includes the general public). In the 1 in 100 year plus climate change event, the hazard rating increases and is classified as 'danger for all' (including emergency services).

7.7.39 Paragraph A1.15 of TAN 15 provides guidance on what is considered to be tolerable conditions for both property and access under extreme flood conditions (1 in 1000 year event). The following is a summary of the table:

Type of development	Maximum depth of flooding (mm)	Maximum rate of rise of floodwaters (metres/hr)	Maximum speed of inundation of flood risk area (hrs)	Maximum velocity of floodwaters (metres/sec)
	Property			Property

	Access			Access
Residential (habitable rooms)	600	0.1	4	0.15
	600			0.3
General Infrastructure	600	0.3	2	0.3
	600			0.3

7.7.40 The worst case scenario provided in the Flood Consequences Assessment is the breach of the sea wall re-en defence and a 1 in 200 year tidal event paired with a 1 in 2 year fluvial event on the River Ebbw. Additional data has been provided on this event along with 8 other scenarios to understand the time taken to flood the access roads, depth of flooding, rate of rise and velocities involved. The following table illustrates the data provided for the worst case scenario and the 1 in 100 year fluvial event with climate change for comparison.

	Sea Wall Reen Breach and 1 in 200 year tidal event with climate change		1 in 100 year fluvial event with climate change		
		<i>Earliest</i>	<i>Latest</i>	<i>Earliest</i>	<i>Latest</i>
The time it takes for overtopping of the access road (TAN15: For infrastructure rate of inundation should exceed 2 hours and for residential this should exceed 4 hours)	Lighthouse Road	2.7 hours	N/A	8.25 hours	10.2 hours
	Duffryn Way	2.7 hours	3.75	9.1 hours	10.1 hours
	Morgan Way	3.3 hours	15.7	9.7 hours	12.25 hours
	A48	N/A	N/A	7.8 hours	7.8 hours
The maximum rise in floodwater metres/hr (TAN 15 : 0.1metres/hr)	Lighthouse Road	2.38 m/hr		3.27 m/hr	
	Duffryn Way	5.46 m/hr		4.14 m/hr	
	Morgan Way	3.14 m/hr		1.84 m/hr	
	A48	0.00 m/hr		1.85 m/hr	
The maximum velocity of floodwaters in m/sec (TAN 15: 0.3metres /sec)	Lighthouse Road	1.31 m/sec		1.48 m/sec	
	Duffryn Way	2.20 m/sec		1.59 m/sec	
	Morgan Way	1.20 m/sec		0.51 m/sec	
	A48	0.00 m/sec		0.24 m/sec	
The maximum depth on the access roads and time take to achieve this (TAN 15: Max depth 600mm or 0.6m)		Depth	Time	Depth	Time
	Lighthouse Road	1.09m	16.1 hours	0.8m	13.5 hours
	Duffryn Way	1.65m	16.25 hours	1.34m	14.1 hours
	Morgan Way	1.24m	16.25 hours	0.96m	14.1 hours
	A48	0.00m	N/A	0.96m	13.25 hours

7.7.41 NRW advises that when specifically assessing the flooding to the access/egress of the school the depths and velocities of flooding greatly exceeds the guidance and the figures reflect the conditions in which emergency services can carry out their activities in the event of a flood. The roads have a hazard rating classification as 'danger to all' (including emergency services).

7.7.42 NRW in their response highlight that the FCA assesses the time taken to the site during each flood scenario as approximately 9 hours for an event on the Ebbw. The above table identifies that for the 1 in 100 fluvial event it takes 9.1 hours for Duffryn Way to overtop and in the 1:200 tidal event it takes 2.7 hours. NRW state that these figures are calculated at the start of the model

run, and a more appropriate calculation of time would be from the onset of flooding. Using this methodology in the 1 in 100 fluvial event the flood water would reach Duffryn Way after approximately 4 hours. For the 1:200 tidal event the floodwater would overtop Lighthouse Road after approximately 18 minutes and the site 10 minutes later. TAN 15 advises that the inundation of general infrastructure should exceed 2 hours.

- 7.7.43 It is evident from the table above that the access/egress routes surrounding the site are not compliant with the tolerable conditions set out in TAN 15. In the 1 in 200 sea wall reën breach event, the maximum rise in flood waters at Duffryn Way is 5.46 metres/hours and the corresponding figure for the 1 in 100 year fluvial event is 4.14 metres/hour. This significantly exceeds the guidance of 0.1 metres/hour.
- 7.7.44 In relation to the maximum velocity of floodwaters at Duffryn Way is 2.2 metres/second ( Sea Wall reën breach and 1 in 200 event) and 1.59 metres/second (1 in fluvial event), which exceeds the guidance of 0.3 metres/second.
- 7.7.45 The maximum depths at Duffryn Way are 1.65m for sea wall reën breach and 1 in 200 year tidal event and 1.34m in the 1 in 100 year fluvial event. These depths exceed the guidance of 600mm or 0.6m.
- 7.7.46 The corresponding figures for the surrounding access roads including Lighthouse Road and Morgan Way also illustrate that they exceed the tolerable conditions. NRW confirm that access roads to the site are shown to be affected by flooding by up to 10 hours, potentially cutting off the site for long periods of time.
- 7.7.47 The Gwent Local Resilience Form and the three emergency services were not willing to comment on the previous application and so were not consulted on this current application. Officers consider that it has not been demonstrated that all escape/evacuation routes are operational under all conditions and there are no comments from the emergency services to provide any comfort in relation to emergency services implications. This test has therefore not been satisfied.

#### **Test 7 - Flood emergency plans and procedures produced by the developer must be in place**

- 7.7.48 NRW advise that if, as the planning authority, you are satisfied that the proposed location is the only possible location in planning terms, only then should you consider whether the above risks and consequences can be managed through measures such as emergency planning and evacuation.
- 7.7.49 A Flood Emergency Management Arrangement document prepared by the Civil Contingencies Manager of Newport City Council has been provided in support of the application to cover both schools.
- 7.7.50 The supporting explanatory note stipulates that the document establishes a clear flood risk assessment process, with specific triggers and actions for the proposed responses.
- 7.7.51 The note also explains that it establishes a clear flood risk assessment process, with specific triggers and actions for the proposed responses. It also ensures that any flood risk assessments undertaken by the schools are undertaken jointly with Newport City Council, who together with partner responding agencies, such as Natural Resources Wales, the Met Office and the emergency services have significant experience in managing the response to flood risks.
- 7.7.52 The document is in draft and is an evolving document that will sit within a wider set of emergency plans for each school, which will incorporate NCC policies and guidance.
- 7.7.53 Planning Officers do not have the in-house expertise to judge the effectiveness of the emergency plan.



7.7.54 Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements document is acceptable and effective. These procedures would be the responsibility of the developer (Council/School).

***Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters.***

7.7.55 The two new buildings have been designed to be flood free, which allows for goods/possessions within these buildings to be stored safely away from floodwaters. This mitigation only extends to the raising of buildings and not the car parking areas where cars could be parked. However, on balance it is considered that this test is satisfied.

***Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.***

7.7.56 The proposed buildings have been designed to be flood free so they can be easily returned to its prime use following a flood. This test is therefore satisfied.

***Test 10 - No flooding elsewhere.***

7.7.57 The FCA identifies that there would be an increased risk of flooding elsewhere due to the raising of the buildings above predicted flood levels, which will cause displacement of flood waters. Mitigation has been proposed in the form of grills to allow flood water to flow under the building to reduce the effect of such displacement. However, the proposal would still result in an increase of flood depths to residential properties by up to approximately 2cm. This would result according to the FCA model in two additional dwellings within the Duffryn area being flooded as a result of the scheme over and above the existing situation. As there would therefore be an increase of flooding elsewhere the proposal does not satisfy this test.

***Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.5) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.***

7.7.58 The lifetime of development for schools is 75 years. The FCA states that the site is predicted to flood during fluvial events on the River Ebbw in excess of a 1 in 20 chance of flooding in any given year. NRW advise that the predicted frequency of the site flooding is considerably higher than the guidance of being flood free in the 1 in 100 year plus climate change event.

7.7.59 Despite the new buildings being designed to have a finished floor level of 8.6m AOD, NRW confirm that the mitigation has not extended to the parking areas and external areas. These areas are therefore not flood free and flood waters would extend to these areas during and above a 1 in 20 year event. The school could therefore flood 3 to 4 times over its lifetime. The proposal does not comply with this test and paragraph A1.14 of TAN 15.

***Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 600mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour (refer to table at paragraph 7.7.41).***

7.7.60 The two new buildings have been designed to be flood free with finished floor levels of 8.6m AOD so they would be flood free during the extreme (1 in 1000) event. However, as the site is not being raised the external areas would not be flood free, and NRW advise that during the 1 in 100

year plus climate change event the site could experience flood depths of 1 metre and velocities of 0.4 metres/second. As such the proposal does not fully satisfy this test.

7.7.61 In summary, the site is within a flood plain and the provision of a new school constitutes a 'highly vulnerable development' and paragraph 2.1 of TAN 15 identifies that flooding can place lives at risk. It is considered that the location of the new school is justified. However, when assessing whether the risks and consequences of flooding can be satisfactorily managed, the proposal does not satisfy all the tests in TAN 15. The development would not be flood free during a 1 in 100 year fluvial event on the River Ebbw, and the site would experience significant depths and velocities of flooding. NRW object on the basis that the application does not demonstrate that the risks and consequences of flooding can be managed. The scheme would result in an additional 900 pupils and 106 staff, as well as members of the emergency services being put at risk over and above those that attend and work at the Duffryn High school site, as advised by NRW. TAN 15 advocates a precautionary approach and the proposal is therefore contrary to policy SP3 of the LDP and TAN 15.

## **7.8 Highway Matters**

A Transport Statement (TS) prepared by NPS Group (September 2015) has been submitted in support of the application. The TS identifies that the existing school currently manages 7 buses which come on and off the site at the end of the day and this is used by 500 (45%) of the current 1,129 students on site. It is acknowledged that the current arrangements are not ideal with buses blocking the school driveway, and the provision of dedicated coach drop off/pick up area would be enhanced increasing capacity and improving safety. For students and staff living closer to the site it is highlighted that there is a good network of footways and cycleways.

7.8.1 In relation to student trips it is identified that the creation of the Welsh Medium Secondary School would result in a reduction of the average distance travelled by students in Newport by over 8 miles. Given the nature and catchment of the school it is anticipated that around 75% of students would arrive by bus/coach and the provision of 10 dedicated coach drop off and pick up bays would aid the safe arrival and departures for students. Ten dedicated parking bays would be provided in the site for parents dropping off students by car and it is forecast that around 20% (150) of students would be dropped off by car by 2021, and this equates to 100 car trips before and after school. The TS confirms that as the trips during the morning are staggered the provision of 10 bays is considered to be sufficient.

7.8.2 The TS notes that there would be a phased increase in the intake of students initially starting with 210 pupils in 2017, building up approximately 150 per year to around 750 by 2020. It is considered that this gradual increase would enable the careful monitoring of travel patterns and impacts and enable additional measures to be put in place.

7.8.3 With regards staff trips, Duffryn High School employs 143 full time and part time staff, and 143 spaces would be provided within the site. Once fully occupied the new Welsh Medium School would require 106 members of staff. The maximum level of car parking required in accordance with the Council's Parking Standards would be 78 spaces. The submitted plans illustrate 66 car parking spaces for staff, and this would represent a shortfall. However, it is anticipated that this shortfall could be accommodated on the sports hall site on Lighthouse Road.

7.8.4 The Head of Streetscene and City Services (Highways) has not commented on this application but raised no objection to the previous application. It is considered that the staff and student trips to and from the new school could be safely accommodated, and there would be no detrimental impact on the surrounding highway network. Additionally, the provision of dedicated drop off bays within Duffryn High School would improve safety. The proposal is therefore considered to be acceptable on highway grounds.

## **7.9 Neighbour Amenity**

The nearest residential properties to the site are those along Cormorant Way to the north, Brigantine Close/Way to the west and Schooner Avenue/Circle/Close to the south. The new

building serving the Welsh Medium School would be sited to the north of the site and the closest properties would be those on Cormorant Way. However, these properties are considered to be a sufficient distance from the site so that there would be no unacceptable impact on residential amenity through any overbearing impact or loss of privacy.

- 7.9.1 Turning to the new build accommodation block that would serve Duffryn High School, it would have a maximum height of 13.0m and windows are proposed in all elevations, including those facing the southern boundary with Schooner Avenue/Circle/Close to the south. The building at its nearest point would be some 40m off the boundary with these properties, which is considered to represent a sufficient distance to ensure that would be no unacceptable overbearing impact or loss of privacy.
- 7.9.2 Concerns have also been raised by local residents regarding an increase in noise and the impact of floodlighting. The scheme has been amended whereby two of the hard courts areas have been relocated from the south of the site to the west of building 3, which would reduce the impact of any noise from students playing or kicking balls against the fence. It is accepted that a new school would increase the number of students on site, but it is considered that given the extensive nature of the site there would not be any significant increase in noise over and above existing levels. The only floodlighting proposed relates to that around the perimeter of the 3G pitch towards the central section of the site and due to the distances involved and the presence of existing buildings this would minimise any light spill to adjacent residential properties.

## **7.10 Playing Fields**

The proposal would involve the loss of an existing playing field to the north which would accommodate the parking area and new building for the Welsh Medium Secondary School.

- 7.10.1 Policy CF1 of the LDP and paragraph 11.1.12 of Planning Policy Wales identifies that all playing fields should be protected from development except where facilities can be best retained and enhanced through the redevelopment of a small part of the site or that the land is surplus to requirements.
- 7.10.2 The Council's Planning Policy Section has advised that within the Tredegar Park ward there is a surplus of 7.48 hectares of playing pitches. Sport Wales are satisfied that there are sufficient playing pitches within the area, but raise concerns about the level of provision for the Welsh Medium Secondary School. These concerns were raised with the agent who has confirmed that this shortfall could be offset by providing an all weather pitch which double counts. With this commitment from the Council it is considered that there will be sufficient provision for pupils attending the Welsh Medium Secondary School.
- 7.10.3 Overall, it is considered that there is a surplus of playing pitches in the Tredegar Park ward and that the proposal is consistent with policy CF1 of the LDP and paragraph 11.1.2 of PPW.

## **7.11 Protected Species and SSSI**

A Phase 1 Habitat Survey has been undertaken by Green Services Ecology. The survey makes a number of recommendations including the provision of a reptile mitigation strategy, native wildflower planting and eradication of Himalayan Balsam. The Survey also makes specific recommendations to safeguard the integrity of the adjacent Gwent Levels SSSI including a condition requiring a construction environmental management plan and a buffer zone of 12.5m from the reed during construction.

- 7.11.1 A bat survey report has also been submitted, which identifies that no bats were observed using any of the buildings or roosting in any of the trees on the site. The report recommends that the bat roosting opportunities should be created within the new buildings on site.
- 7.11.2 The Council's Ecologist has reviewed both surveys and has no objection to the proposal subject to conditions. Overall it is considered that with appropriate conditions the proposal would not have any detrimental impact on protected species or the integrity of the SSSI.

## 7.12 Trees

A Tree Survey has been submitted in support of the planning application, which identifies a number of management recommendations that includes the felling of 29No. trees due to their poor condition. A number of trees have been removed to facilitate the access off Duffryn Way. The Council's Tree Officer has no objection to the proposal.

## 7.13 Other Issues

7.13.1 In relation to surface water and foul water a Drainage Strategy has been submitted, which identifies that all existing surface water from existing buildings and hardstanding drain through a series of private sewer into the dry reën to the north east of the site. Foul water is currently drained through private sewers to a wet well at the north east of the site. The proposed strategy is for all surface water from the new hardstanding to drain into the dry reën at a rate equivalent to the greenfield run off rate. Welsh Water has no objection to the proposal subject to conditions.

7.13.2 With regards Archaeology, GGAT has recommended a condition requiring a written scheme of investigation.

## 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. In the event of a flood evacuation, the Flood Management and Emergency Plan identifies that the school buildings and site would be secured where possible following evacuation. 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)*

The above duty has been given due consideration in the determination of this application. It is considered that by creating Newport's first Welsh Medium Secondary School the proposal would have significant benefits in promoting the use of the Welsh language within the City.

### 8.6 *Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this

application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9.0 CONCLUSION**

The development of Newport's first Welsh Medium Secondary School and the improvement of facilities at Duffryn High School would have a number of significant benefits including the promotion of the Welsh language in the City. Substantial match funding from the Welsh Government is in place to deliver this. However, these benefits are outweighed by the fact that the development of a new school places an additional 900 pupils and 106 staff and other persons including the emergency services at increased risk that would arise from the risk of flooding. TAN 15 advocates a precautionary approach and to direct highly vulnerable development away from flood zone C. Natural Resources Wales has objected as it considers that it has not been demonstrated that the risks and consequences of flooding can be acceptably managed. Furthermore, safe access and egress cannot be guaranteed in all scenarios. The application is considered to be contrary to policy SP3 of the LDP and the tests identified in TAN 15.

## **RECOMMENDATION**

### **REFUSED**

01 The proposal represents the intensification of a highly vulnerable development at a site within the flood plain, and runs contrary to the precautionary principle of national planning policy. The scheme fails a number of the tests set out in Technical Advice Note 15: Development and Flood Risk (2004) principally the flood defences are not structurally adequate during the lifetime of development; effective flood warnings cannot be guaranteed in all scenarios; escape/evacuation routes are not operational under all conditions; increase in flooding elsewhere; the development is not flood free for the lifetime of the development and in an extreme event the development does not satisfy the tolerable conditions in relation to depths, rate of rise, speed of inundation and velocity. The application has failed to demonstrate that the risks and consequences of flooding can be acceptably managed in regard to the relevant tests in TAN 15. The proposal is contrary to policy SP3 of the Newport Local Development Plan 2011-2026 (adopted January 2015), Technical Advice Note 15 and Planning Policy Wales Edition 8 (January 2016).

### **NOTES**

01 This decision relates to the following plans and documents: Site location plan, Proposed site layout plan – West site, External Works – Fence Type Plan, Trees for Removal –West site, Proposed ground floor plan building 2, Proposed elevations building 2, Proposed ground floor plan BU4, Proposed first floor plan BU4, Proposed second floor plan BU4, Proposed roof plan BU4, Proposed Sections BU4, Proposed elevations, BU4 sheet 1 of 2, proposed elevations BU4 sheet 2 of 2, Proposed ground floor plan BU5, Proposed first floor plan BU5, Proposed second floor plan BU5, Proposed roof plan BU5, Proposed elevation BU5 sheet 1, Proposed elevations BU5 sheet 2, Proposed sections BU5, Cycle Storage, Separation Fence, Weldmesh fence – Gate, Pallisade fence – Gate, Abacus Sports Column, Lighting Plan, Duffryn School Flood Consequence Assessment 2<sup>nd</sup> Issue October 2015, Duffryn School FCA Mitigation Addendum, Final Report November 2015, Flood Emergency Management Arrangements V7 14 January 2016, Flood Evacuation Plan updated December 2015, Transport Statement: September 2015, Framework Travel Plan Revision A September 2015, Drainage Strategy Part 1, Drainage Strategy Part 2, Duffryn High School, Newport BS5837 2012 Tree Information, Structural Assessment of Existing Buildings 1<sup>st</sup> July 2015, Phase 1 Habitat Survey July 2015, Bat Report August 2015, Design and Access Statement, Appendices C, D, E1, E2, E3, E4, E5, E6, E7, E8, E9, F1, F2, H1 and H2, Predicted Flood Depth and Velocity information.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP3, SP12, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE6, CE8, CF1 and T4 were relevant to the determination of this 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.

04 Planning Policy Wales 8<sup>th</sup> Edition (January 2016), Technical Advice Note 15: Development and Flood Risk, Technical Advice Note 16: Sport, Recreation and Open Space (2009) and Technical Advice Note 20: Planning and the Welsh Language (2013) were relevant in the determination of this application.

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## **APPLICATION DETAILS**

No: 16/0222 Ward: **TREDEGAR PARK**

Type: Full (Major)

Expiry Date: 03-MAY-2016

Applicant: **21ST CENTURY SCHOOLS CLIENT OFFICER, EDUCATION SERVICES NEWPORT CITY COUNCIL, CIVIC CENTRE, CIVIC CENTRE, GODFREY ROAD, NEWPORT, SOUTH WALES, NP20 4UR**

Site: **Duffryn High School, Lighthouse Road, Newport, NP10 8YD**

Proposal: **CONSTRUCTION OF 2NO. 3 STOREY NEW TEACHING BLOCKS ON THE CURRENT DUFFRYN HIGH SCHOOL SITE. SUBDIVISION OF THE SITE TO FACILITATE THE PROVISION OF A WELSH MEDIUM SCHOOL IN BLOCKS 1 AND 5 AND ENGLISH MEDIUM SCHOOL IN BLOCK 2, 3 AND 4. NEW INTERNAL SECURITY FENCING AND GATES AND SOME REPLACEMENT EXTERNAL SECURITY FENCING, NEW SPORTS PTICHES, MUGA'S AND PLAYING FIELD ON THE EXISTING SITE. FLOODLIGHTING OF 3G ALL WEATHER PITCH. NEW VEHICLE AND PEDESTRIAN CROSSING ON DUFFRYN WAY AND CONTROLLED PEDESTRIAN CROSSING ON LIGHTHOUSE ROAD. MINOR INTERNAL ALTERATIONS AND NEW ENTRANCE WITH CANOPY AND GLAZED SCREEN AND ACCESS RAMP TO BLOCK 2. (RESUBMISSION FOLLOWING REFUSAL OF PLANNING APPLICATION 15/1103)**

### **1. LATE REPRESENTATIONS**

- 1.1 An anonymous email (allegedly from a group of parents of year 6 children) has been received requesting that the Council refuse the application for the Duffryn School Site proposal. They request that the Council uphold the original decision. Their main concerns are as follows.
- 1.2 The emergency services state that the site would not be accessible within ten minutes of a flood.
- 1.3 Natural Resources Wales (NRW) have re-iterated their objection and uphold their original findings.
- 1.4 They refer to a report by Prof Mark Macklin, the head of the River Dynamics and Hydrology Research Group at the University of Aberystwyth which warns that existing flood defences may not be adequate because Natural Resources Wales are failing to use all available data to predict the risks. In a *Week In Week Out* programme aired on Monday 29<sup>th</sup> Feb on the issue, NRW confirmed in a statement Prof Mark Macklin's findings. So they assert that the threat is actually worse.
- 1.5 Comments have been made regarding the temporary governing body (these comments are not relevant material planning considerations).

1.6 They would like the Council to be given time to find a suitable site with the possibility for expansion. They request that Councillors deny the re submitted application.

**2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

2.1 The communication is anonymous, so the identity and number of residents expressing concern is unclear and unsubstantiated.

2.2 The concerns expressed regarding flooding are a material consideration, which has been discussed in detail in the officer report. The comment that the site would be inaccessible within ten minutes of a flood is not correct. The officer report confirms that in the worst case scenario, flood waters could reach the site within 28 minutes. The recommendation is based on the advice of Natural Resources Wales. The officer is unable to comment upon the report by Professor Macklin.

2.3 The comments expressed regarding the governing body are not material planning considerations, and so should not be taken into account in the determination of the application.

**3. OFFICER RECOMMENDATION**

3.1 Taking into account these late representations, the officer recommendation remains that the application should be refused on flood risk grounds.

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BEVERLY OWEN  
HEAD OF REGENERATION, INVESTMENT AND HOUSING

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