

# Agenda

## Planning Committee

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Date: Wednesday, 5 April 2017

Time: 10.00 am

Venue: Council Chamber, Civic Centre, Newport

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

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

### **Part 1**

<b>Item</b>	<b>Wards Affected</b>
1. <u>Agenda Page - Welsh Cym</u> (Pages 3 - 4)	
2. <u>Apologies for Absence</u>	
3. <u>Declarations of Interest</u>	
4. <u>Minutes</u> (Pages 5 - 10)	All Wards
5. <u>Development Management: Planning Application Schedule</u> (Pages 11 - 86)	All Wards

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Date of Issue: Wednesday, 29 March 2017

6. Appeal Decisions (*Pages 87 - 100*)

Caerleon, Malpas, Victoria,  
Allt-yr-yn, Marshfield

NB: Would Members please ensure no printed copies of the agenda are left in the room at the conclusion of the meeting. Leaving paper copies of reports where they can be accessed by unauthorised persons could present a data breach



# Agenda

## Pwyllgor Cynllunio

Dyddiad: Dydd Mercher, 5 Ebrill, 2017

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cynghorwyr Huntley (Cadeirydd), Delahaye (Dirprwy Gadeirydd), Ali, Al-Nuaimi, Critchley, C Evans, Fouweather, Linton, Mudd and White

### **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 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 Democrataidd.*

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

<http://www.newport.gov.uk/documents/Council-and-Democracy/About-the-council/Planning-Code-of-Conduct/Planning-Code-of-Practice.pdf>

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

<b>Eitem</b>	<b>Wardiau dan Sylw</b>
1. <u>Agenda Cym</u>	
2. <u>Ymddiheuriadau dros Absenoldeb</u>	
3. <u>Datganiadau Diddordeb</u>	
4. <u>Cofnodion y cyfarfod (ydd) diwethaf</u>	Pob Ward
5. <u>Rheoli Datblygu: Rhaflen Ceisiadau Cynllunio</u>	Pob Ward

Cysylltwch â: Miriam Durkin  
 Rhif Ffôn: 01633 656656  
 E-bost: miriam.durkin@newport.gov.uk  
 Dyddiad Cyhoeddi: 29 Chwefror, 2017

6. Penderfyniadau Apeliadau

# Minutes



## Planning Committee

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Date: 1 March 2017

Time: 10.00 am

Present: Councillors M Al-Nuaimi (Chair), D Fouweather, M Linton, J Mudd, R White, K Critchley and C Evans

T Brooks (Development & Regeneration Manager), J Davidson (East Area Applications Manager), S Williams (West Area Applications Manager), G Roberts (Principal Planning Officer), A Lowe (Planning Contributions Manager), L Christian (Senior Planning Policy Officer), S Davies (Strategy & Development Manager), S Davies (Senior Transport & Development Manager), J Evans (Senior Solicitor) and M Durkin (Democratic Services Officer)

Apologies: Councillors P Huntley, V Delahaye and O Ali

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### 1. Appointment of Chair

#### Resolved

In the absence of the Chair and Deputy Chair, Councillor Al-Nuaimi was appointed to the Chair.

### 2. Minutes

The Minutes of the meeting held on 1 February, 2017 were submitted.

#### Resolved

That the Minutes of the meeting held on 1 February, 2017 be taken as read and confirmed.

### 3. Development Management: Planning Application Schedule

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

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

### 4. City Centre Conservation Area - Extent - Presentation

The Senior Planning Policy Officer made a presentation to Committee on the extent of the City Centre Conservation Area. The process to review and possible change the boundaries of the Conservation Area were outlined to Members. A presentation to all Members was suggested.

## **5. Section 106 Contributions on a Ward Basis - Presentation**

The Planning Contributions Manager made a presentation to Committee on the Section 106 Contributions made on a ward by ward basis.

## **6. Appeal Decisions**

Consideration was given to a report following recent appeals.

### **Planning Application Appeals – Allowed**

1. Application 15/1461 – Rose Farm, Penhow – single storey dwelling for rural business, the granting of full planning on expiry of temporary planning granted.

2. Application 16/0032 – The Old Clawdd Piggery, Bulmore Road – Change of use of land to mixed use of the stationing of the caravans for residential purposes for one gypsy pitch and the keeping of horses together with the formation of hard standing ancillary to that use and relocation of existing horse manege.

### **Planning Application Appeal – Dismissed**

1. Application 16/0666 – The Sycamores, Usk Road, Caerleon –variation of Condition 10 (Demolition of all existing buildings and structures prior to occupation of new dwelling) of planning permission 11/0939 for demolition of existing single storey prefab house and replacement with new build two storey family dwelling (amendments to 10/0474)

2. Application 16/0389 – Pant Farm, Tyla Lane, Old St Mellons – erection of porch

### **Planning Application Appeal – Part Dismissed/Part Allowed**

Application 16/0737 – Efes Grill, 24 Cambrian Road – retention of internally illuminated signage and non- illuminated window vinyls

### **Resolved**

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



## Appendix

### PLANNING COMMITTEE – 1 MARCH 2017

#### DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
16/1171	183 Upper Dock Street  Change of use from Hairdressing Salon to a walk in taxi booking office	Stow Hill	HRIH reported on the late representations previously circulated.  Mr A Zaman spoke objecting to the application.  Councillor Al-Nuaimi, Stow Hill Ward Member spoke on the application.	Refused
16/1316	23 Hove Avenue  First floor side extension above existing garage	Beechwood	Mrs J Smith spoke objecting to the application.  Mr C Thomas, the Agent on behalf of the applicant spoke in support of the application.  Councillor Davies, Beechwood Ward Member spoke in support of the application.	Refused



16/0772	<p>Land to rear of 16 Trinity View, Lodge Road</p> <p>Erection of detached dwelling (Reserved matters following approval of planning permission 11/1292)</p>	Caerleon	<p>HRIH reported upon a proposed further condition that there should be obscure glazing to the roof window in the rear facing roof slope and a condition restricting additional openings in this rear roof slope. Permitted development rights should also be removed by condition.</p>	<p>Granted with conditions including a proposed further condition that there should be obscure glazing to the roof window in the rear facing roof slope and a condition restricting additional openings in this rear roof slope. Permitted development rights should also be removed by condition.</p> <p>(Officers to check whether method statement for excavation works is regulated by other parties and if not to ensure this is required by planning condition).</p>
16/0864	<p>Llanwern Village, Cot Hill</p> <p>Variation of Conditions 02 (Reserved Matters), 03 (Masterplan) and 05 (Design Code) of planning permission 06/0845 for residential development (up to 1,100 dwellings) and provision of primary school, village centre, public open space, landscaping</p>	Llanwern Langstone Ringland	<p>Councillor Linton, Ringland Ward Member spoke on the application.</p>	<p>Granted with conditions with approval to revise to the terms of the original S106 Agreement, and delegated authority to complete negotiation of the revised S106 Legal Agreement in relation to the school specification and the location of the MUGA and to refuse permission if the deed of</p>

	and associated infrastructure works (affecting public rights of way 397/3, 397/7, 397/9 and 397/10 Llanwern)		<i>(Councillor Linton left the meeting following conclusion of this item)</i>	variation (S106 Agreement) is not signed within 3 months of the resolution to grant planning permission
16/0960	Vacant former showroom and workshops, Langland Way  Proposed change of use of existing building from SUI Generis Car Showroom to restricted Class A1 retailing (bulky goods) and Class B8 with ancillary trade counters together with associated elevational changes and car parking/servicing		Councillor Critchley, Lliswerry Ward Member spoke in support of the application.  <i>(Councillors Fouweather and C Evans left the meeting following conclusion of this item)</i>	Granted with conditions

# Report

## Planning Committee

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### Part 1

Date: 5 April 2017

Item No: 5

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

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

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

**Ward** As indicated on the schedule

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

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

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

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

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

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

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

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## **Risks**

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

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

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

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

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

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

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

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

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

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

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

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

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

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

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

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

## **Options Available**

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

## **Preferred Option and Why**

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

## **Comments of Chief Financial Officer**

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

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

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

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

## **Comments of Monitoring Officer**

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

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

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

## **Local issues**

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

## **Equalities Impact Assessment 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 each application report in the attached schedule.



Planning Policy Wales (PPW) Edition 9 (November 2016)  
Development Management Manual 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 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) (updated January 2017)  
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)  
Mineral Safeguarding (adopted January 2017)  
Outdoor Play Space (adopted January 2017)  
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)

## **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.

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

## APPLICATION DETAILS

**No:** 16/0585      **Ward:** LLISWERRY

**Type:** FULL (MAJOR)

**Expiry Date:** 9 August 2016

**Applicant:** JAMES BUSCHE, SIMEC USKMOUTH POWER LTD

**Site:** LIBERTY STEEL, CORPORATION ROAD, NEWPORT, NP19 4XE

**Proposal:** PROPOSED TANK FARM COMPRISING 9NO. TANKS EACH TWENTY METRES HIGH AND UP TO TWENTY FIVE METRES IN DIAMETER AND ASSOCIATED SITE BUILDING AND INFRASTRUCTURE

**Recommendation: GRANTED WITH CONDITIONS**

### 1. INTRODUCTION

1.1 The applicant is seeking permission for a tank farm, consisting of 9No. tanks varying between 19m and 25m in diameter and approximately 22m high. There will be a support building measuring 8.6m high, 17.0m long and 9m deep. 4No. fueling gantries will be built 6.0m high, 15.0m wide and 2.0m deep. Seven of the tanks will be located to the west of the existing Alpha Steel Building and two to the south of it. The tanks are proposed to hold various hydro-carbon based fuels which will be delivered by boat to the existing dock and then distributed via road tankers which will be fueled at the gantries. A hazardous substances consent is already in place for the storage of the hydro-carbons. The site is immediately adjacent to the River Usk Special Area of Conservation (SAC) and the Lower Usk Site of Special Scientific Interest (SSSI) which are statutorily protected for their bio-diversity interest.

### 2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
16/0410	EIA SCREENING OPINION FOR PROPOSED TANK FARM COMPRISING 9NO. TANKS EACH TWENTY METRES HIGH AND UP TO TWENTY FIVE METRES IN DIAMETER AND ASSOCIATED SITE BUILDING AND INFRASTRUCTURE	ES not required 12 May 2016
16/0609	HAZARDOUS SUBSTANCE CONSENT FOR THE STORAGE OF 25000 TONNES OF PETROCHEMICALS AT LIBERTY STEEL (FORMERLY ALPHA STEEL)	GC 17 November 2016

### 3. POLICY CONTEXT

3.1 Adopted Newport Local Development Plan 2011-2026 (NLDP)

Policy	Wording
SP3 – Flood Risk	Newport's coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.
SP8 – Special Landscape Areas	Special Landscape Areas are designated as follows within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features.

	iv) River Usk
GP1 – Climate Change	<p>Development proposals should:</p> <ul style="list-style-type: none"> <li>i) Be designed to withstand the predicted changes in the local climate and to reduce the risk of flooding on site and elsewhere by demonstrating where appropriate that the risks and consequences of flooding can be acceptably managed, including avoiding the use of non-permeable hard surfaces;</li> <li>ii) Be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on site energy provision where practicable;</li> <li>iii) Be designed to reuse or recycle existing construction materials present on the site;</li> <li>iv) Meet the relevant breem or code for sustainable homes level.</li> </ul>
GP2 – General Amenity	<p>Development will be permitted where, as applicable:</p> <ul style="list-style-type: none"> <li>i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;</li> <li>ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;</li> <li>iii) The proposal seeks to design out the opportunity for crime and anti-social behaviour;</li> <li>iv) The proposal promotes inclusive design both for the built development and access within and around the development;</li> <li>v) Adequate amenity for future occupiers.</li> </ul>
GP4 – Highways & Accessibility	<p>Development proposals should:</p> <ul style="list-style-type: none"> <li>i) Provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;</li> <li>ii) Be accessible by a choice of means of transport;</li> <li>iii) Be designed to avoid or reduce transport severance, noise and air pollution;</li> <li>iv) Make adequate provision for car parking and cycle storage;</li> <li>v) Provide suitable and safe access arrangements;</li> <li>vi) Design and build new roads within private development in accordance with the highway authority’s design guide and relevant national guidance;</li> <li>vii) Ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.</li> </ul>
GP5 – Natural Environment	<p>Development will be permitted where, as applicable:</p> <ul style="list-style-type: none"> <li>i) The proposals are designed and managed to protect and encourage biodiversity and ecological connectivity, including through the incorporation of new features on or off site to further the U.K., Welsh and/or Newport biodiversity action plans;</li> <li>ii) The proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national, Welsh section 4232 and local protected habitats and species, and protecting features of importance for ecology;</li> <li>iii) The proposal will not result in an unacceptable impact on water quality;</li> <li>iv) The proposal should not result in the loss or reduction in quality of high quality agricultural land (grades 1, 2 and 3a);</li> <li>v) There would be no unacceptable impact on landscape quality;</li> <li>vi) The proposal includes an appropriate landscape scheme, which enhances the site and the wider context including green infrastructure and biodiversity networks;</li> <li>vii) The proposal includes appropriate tree planting or retention where</li> </ul>

	appropriate and does not result in the unacceptable loss of or harm to trees, woodland or hedgerows that have wildlife or amenity value.
GP6 - Quality of Design	<p>Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed:</p> <p>i) Context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;</p> <p>ii) Access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;</p> <p>iii) Preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. the designer is encouraged to display creativity and innovation in design;</p> <p>iv) Scale and form of development: new development should appropriately reflect the scale of adjacent townscape. care should be taken to avoid over-scaled development;</p> <p>v) Materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. detailing should be incorporated as an integral part of the design at an early stage;</p> <p>vi) Sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.</p>
GP7 - Environmental Protection and Public Health	Development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.
CE2 – Waterfront Development	Development in a waterside location should integrate with the waterway and not turn its back on it, and should take account of the interests of regeneration, leisure, navigation, water quality and flow, and nature conservation.
CE9 – Coastal Zone	<p>Development will not be permitted in the coastal area or adjoining the tidal river unless:</p> <p>i) In the undeveloped coastal area such development is required to be on the coast to meet an exceptional need which cannot reasonably be accommodated elsewhere;</p> <p>ii) The area is not itself at risk nor will the proposed development exacerbate risks from erosion, flooding or land instability</p> <p>Development which requires a coastal location should be sited within the developed coastal zone.</p>
T2 – Heavy Commercial Vehicle Movements	Developments which generate heavy commercial vehicle movements will be favoured in those locations which allow access to a railway line, wharf or dock. Where it can be demonstrated that this is not appropriate, locations readily accessible to strategic and principal routes will be favoured. Elsewhere, such development will not be permitted.

#### 4. CONSULTATIONS

4.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCERS WALES: No objection subject to the application of the following conditions:  
*Bio-diversity Conditions*

- i. Submission of a lighting plan for LPA approval prior to any works commencing on site. The lighting plan shall cover both construction and operational phases, include a dark corridor for otters through suitable habitat along the banks of Julian's Pill/Reen and the River Usk (e.g. fringing woodland), and demonstrate how the docking area will be kept as dark as possible during nocturnal hours through the use of the recommended low level lighting. The lighting plan to be implemented as agreed.
- ii. Submission of a Habitat Management Plan (HMP) for LPA approval prior to any works commencing on site. The habitat management plan shall set out the nature and extent of habitat loss and retention, and proposals for its conservation and enhancement in the short, medium and long-term, having regard for the presence of otters in the vicinity. The HMP to be implemented as agreed.
- iii. Submission of an updated Construction Environment Management Plan (CEMP) for LPA approval prior to any works commencing on site. The CEMP shall include relevant protected species protection and mitigation measures, contact details for the ecologist, and procedures to follow in the event that protected species are encountered during the course of development works. The CEMP to be implemented as agreed.

#### *Ground Contamination Conditions*

- iv. Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

A preliminary risk assessment which has identified;

1. all previous uses;
2. potential contaminants associated with those uses;
3. a conceptual model of the site indicating sources, pathways and receptors;
4. potentially unacceptable risks arising from contamination at the site.

A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: We consider that the controlled waters at this site are of high environmental sensitivity and contamination is known/strongly suspected at the site from the previous use of the site.

- v. Prior to [commencement of development]/ [occupation of any part of the permitted development], a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

- vi. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

- vii. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

- viii. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Potential for soil and groundwater contamination from previous uses of the site and with the hydraulic connectivity between groundwater and the River Usk SAC there is a risk to controlled waters from piling operations at the site.

#### 4.2 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST:

4.2.1 Information in the Historic Environment Record indicates that the proposal is located to the north of Julian's Pill and although it is clear that the major medieval and Post-medieval port of Newport was situated around Town Pill, there is evidence that other pills along the River Usk were also utilised. The boat fragment from Alexandra Dock raises the possibility that other pills were used as havens from the prehistoric period onwards, with the discovery of the Newport Ship clearly demonstrating the medieval potential. Whilst it is less likely that formal quayside structures were constructed at the other pills, such as Julian's Pill, the possibility cannot be discounted. Furthermore, archaeological work at the Nash Waste Water Treatment Works to the southeast has noted several phases of Roman features. We also note that the application is located within the Archaeological Sensitive Area (ASA) of Newport.

4.2.2 The submitted Design and Access Statement states that the application area comprises elements of made ground that have been subject to significant modern disturbance. The Geo-environmental desk study report indicates that previous boreholes for the Alphasteel site (the current LSN facility) recorded made ground with a maximum depth of 1.3m below the current ground surface, which overlay alluvial deposits, including peats.

4.2.3 As noted above, there is the potential for archaeological remains to exist in the application site and the requisite construction works, including the new tanks, site building, underground interceptor, outfall chamber, access road, pipe corridor and split tanks, could adversely affect any potential remains. Whilst such information is not included with the application, these construction activities are likely to require excavations to sufficient depth to encounter any archaeological remains that may be present.

- 4.2.4 However, from the documentation submitted with this application the developers do not appear to have fully considered the impact of the development on the potential buried archaeological remains or the significant risk that the discovery of such remains could have on the viability of their proposed development. In such circumstance. Planning Policy Wales 2016 (Edition 8) Section 6.5.2 notes that “*If important remains are thought to exist at a development site, the planning authority should request the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken.*” More detail on this guidance can be found in Welsh Office Circular 60/96 sections 13 and 14.
- 4.2.5 It is therefore our opinion in our role as the professionally retained archaeological advisors to your Members that the applicant should be requested to commission the required archaeological work. **Consequently, as the impact of the development on the archaeological resource will be a material consideration in the determination of the current planning application this should be deferred until a report on the archaeological evaluation has been submitted to your Members.**
- 4.2.6 We recommend that this work be undertaken to a brief approved by yourselves and upon request, we can provide a suitable document for your approval.
- 4.3 GWASANAETH TÂN & ACHUB DE CYMRU / SOUTH WALES FIRE & RESCUE SERVICE: The proposed site plan in relation to the above has been examined and the Fire and Rescue Authority wish the following comments to be brought to the attention of the committee/applicant. It is important that these matters are dealt with in the early stages of any proposed development. The developer should consider the need for the provision of:-
- i. Adequate water supplies on the site for firefighting purposes; and
  - ii. Access for emergency firefighting appliances.
- Should the applicant require further information in relation to these matters they should contact the above named fire safety officer.
- 4.4 DWR CYMRU / WELSH WATER: No objection but recommend conditions to control foul and surface water drainage and advise of the presence of a sewer within the application site.
- 4.5 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS): The applicant must confirm whether the construction process will require the use of abnormal loads and should this be case then they must identify the delivery route and any potential issues.
- 5.2 PUBLIC PROTECTION MANAGER (SCIENTIFIC OFFICER): Comments as follows:
- Contaminated Land*
- 5.2.1 As described in the submitted contaminated land report there are potential pollutant pathways that have not been discounted for which a contaminated land site investigation should be undertaken. I agree with this approach and recommend the following is conditioned:
- No development, (other than demolition) shall commence until:
- a) The potential contaminant pathways identified in the submitted contaminated land desk top study shall be explored further and risk assessed via a Site Investigation to BS10175 standards, containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
  - b) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

#### *Contamination – Bunded Compound*

- 5.2.2 Any facilities for the storage of oils, fuels or chemicals shall comply with The Prevention of Pollution (Oil Storage) (Wales) Regulations 2016. Evidence of compliance with these regulations shall be submitted to the council for comment and approval.  
Reason: To prevent pollution of the water environment.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

A site notice was displayed on the site. No neighbours were within the relevant consultation zone.

## **7. ASSESSMENT**

### **7.1 The key issues relevant to this determination are:**

- Bio-diversity;
- Flooding;
- Archaeology;

### **7.2 Minor Issues are:**

- Highways
- Character & Appearance
- Ground contamination
- Habitat Regulations
- Other controls over Hydro-carbon storage

### **7.3 *Bio-diversity***

7.3.1 The tanks will be located adjacent to the River Usk which is both a SAC and SSSI and enjoys a high level of protection. The development is outside the SSSI but could potentially adversely affect the SSSI either during its construction or operation in the event that poor management or accident led to the release of hydro-carbons into the river.

7.3.2 In terms of construction the interests of the SSSI can be protected by the application of a Construction Environment Management Plan to control working methodologies and the timings of works in order to protect the sensitive river front. CNC/NRW supports the application for such a condition.

7.3.3 In terms of operations the storage of fuel the Environmental Health Section advise that is controlled by the Environmental Permit on the site so additional planning controls would not be appropriate. In any event an operational management plan could have been applied to require good management practices were achieved on the site in order to reduce the risk of the accidental release of pollutants should such a condition have been necessary.



- 7.3.4 The proposal will result in the loss of a small area of semi-natural broad leaved woodland and some scrub. This habitat is not within the SAC and nor is it in use by otters which are one of the designated features of the SAC. Nevertheless this is a loss of habitat but the applicant is in a position to mitigate / compensate for the loss by providing environmental enhancements or alternative compensatory habitat elsewhere on the site. As such the proposal is in compliance with Policy GP5ii of the adopted NLDP since negative impacts can be mitigated or compensated for and there will be no significant adverse impacts on areas of nature conservation.
- 7.3.5 The sensitive riverfront will need to be kept as dark as possible. As such control over lighting is necessary and can be secured by condition.
- 7.4 *Flooding*
- 7.4.1 The site lies predominantly within Zone C1 of the Welsh Government's Development Advice Maps (defended floodplain). National Policy directs development away from Zone C and any locations within Zone C should be justified against the tests at Paragraph 6.2 of Technical Advice Note 15. It should be demonstrated that the consequences of (an inevitable) flood event can be managed to an acceptable level by the submission of a Flood Consequences Assessment.
- 7.4.2 The site is an existing employment site. The TAN tests allow location in Zone C to support employment objectives and this test is considered to be met. The site is clearly previously developed land and the submitted Flood Consequences Assessment shows that the consequences of a flood event can be acceptably managed. CNC/NRW have not objected to or raised any concerns with the proposal on flooding grounds. The submitted FCA notes that to make the development flood free for a 100 year lifetime (allowing for climate change) the site needs to be raised 300mm to 9.3m above Ordnance Survey Datum. This can be secured by condition and is not considered to have any unacceptable landscape or visual implications. Policy CE9ii is complied with since the proposal will not exacerbate the risk of flooding and the site will be raised to reduce the risk of flooding to the site itself acceptable in TAN15 terms and in accordance with Policy SP3 (Flood Risk).
- 7.5 *Archaeology*
- 7.5.1 GGAT has advised that Archaeological Evaluation is carried out. The site lies within an Archaeologically Sensitive Area (the Levels). Consequently the site is subject to an Archaeological constraint. Planning Policy Wales (PPW) supported by Welsh Office Circular 60/96 advises evaluation in circumstances where important archaeological remains may be found. The Levels are such an environment.
- 7.5.2 This site is previously developed and has been raised by the importation of fill material. Any archaeology would be buried below this made ground but might be disturbed by deep excavations, hence the Trust's concerns.
- 7.5.3 There is a high risk that the site is contaminated and this mitigates against any works of evaluation which will require excavation through potentially contaminated layers of fill to reach the archaeologically important layers. As such evaluation in this instance is not likely to be a quick and inexpensive exercise as hypothesized in national advice. Currently the applicant has not provided the desk based archaeological assessment as advised at Paragraph 6.5.6 of Planning Policy Wales. However given the Trust's request for evaluation (physical investigation) of archaeology this is not considered to be fatal to the application since its absence has not been the Trust's cause for concern and if a desk top study were to be produced it is unlikely to change the Trust's advice.
- 7.5.4 Consequently the issue is how reasonable it is to insist on an archaeological evaluation which will be complex to undertake and would not guarantee that any remains that exist on the site will be found prior to development. The risk to the applicant is that should

permission be granted valuable remains may be found during construction. If extremely important these could be scheduled meaning the development cannot proceed as anticipated potentially wasting the costs of preparing the scheme. This risk would be reduced if an evaluation was undertaken. In these particular circumstances it is considered that the application of a conditional regime requiring a scheme of archaeological work / evaluation to be undertaken in the event of works that extend beneath the made ground and the requirement that a scheme of mitigation be provided in the event remains are encountered would protect the public interest. At its worst this might mean that the scheme cannot be implemented in part or potentially even at all although this is highly unlikely given that remains in this location are likely to be spot remains and not extensive over a wide area. It should be noted that this risk would not be eliminated even if evaluation was undertaken since trenching could still miss spot remains.

7.5.5 Overall in this particular instance given the practical difficulties in providing an archaeological evaluation it is considered that a condition will protect the public interest whilst not being unduly onerous on the applicant by exposing them to an unacceptable level of risk that the permission will not be capable of implementation in full or part. Given that the applicant could voluntarily remove this risk by providing the information required by the Trust the use of the condition is considered appropriate in this instance. It should also be noted that the economic benefits of the scheme would need to be balanced out against the value of any remains that may be encountered whether that be before or after implementation of a permission. In essence even if evaluation took place and remains were found this does not mean permission would be withheld. Policy CE6 (Archaeology) is not complied with since an Archaeological Impact Assessment will not have been provided prior to determination. However the application of a suitable condition is considered appropriate in these particular circumstances where the practicalities of providing an evaluation are compromised by the contaminated nature of the site.

## 7.6 *Highways*

7.6.1 There is no objection from the Highways section although concerns are raised in relation to abnormal roads in terms of routing. This can be addressed by condition. Highways have not raised any concerns over traffic generation or general highway capacity. The site is adjacent to an existing dock and can be accessed via the Southern Distributor Road and the lower part of Corporation Road. Policy T2 (Heavy Commercial Vehicle Movements) is complied with.

## 7.7 *Character & Appearance*

7.7.1 The tanks will be read against the backdrop of the existing Alpha Steel building. The site is very industrial in character and the tanks, loading gantry and building would not look out of place in landscape and visual terms. Policy GP2ii (visual amenities & landscape character) and Policy GP5v (landscape quality) are complied with.

## 7.8 *Ground contamination*

7.8.1 The site is brownfield and is contaminated. The Public Protection Manager recommends a condition is applied to deal with ground contamination issues.

7.8.2 CNC/NRW also recommends a suite of contamination conditions given the Geo-environmental Desk Study Report submitted with the application shows the site to be contaminated. An appropriate conditioning regime is considered necessary to protect controlled waters, the bio-diversity interests of the River Usk and Human Health. Subject to the application of these conditions Policy GP7 (Environmental Protection & Public Health) is complied with.

## 7.9 *Habitat Regulations*

7.9.1 The site is adjacent to the River Usk SAC. Regulation 61 of the Conservation of Habitats Regulations 2010 requires an appropriate assessment to be undertaken before permission is given for any scheme which is likely to have a significant effect on a European site, either alone or in combination with other plans or projects is allowed to proceed.

### 7.9.2 Appropriate Assessment

7.9.3 The River Usk has been designated because the following species are special features to the River Usk:-

- Allis Shad;
- Twaite Shad;
- Bullhead;
- River Lamprey;
- Brook Lamprey;
- Sea Lamprey;
- Atlantic Salmon;
- Otter;
- Water Crowfoot.

7.9.4 The conservation objectives of the SAC are attached as an Appendix. The Usk is considered one of the best examples of a near natural river system in England and Wales. The range of plants and animals reflects a transition from nutrient poor to naturally rich. It was notified to protect a wide range of habitats and features. It also acts as an important wildlife corridor, an essential migration route and a key breeding area for nationally and internationally important species, including otter.

#### **Otter Features:**

7.9.5 Particular threats to the otter features of the River Usk posed by the development were identified as being:

- The design and location of the development
- Site clearance and Construction
- Site Operation, and
- The effectiveness of mitigation proposals

7.9.6 The proposed scheme is an industrial development of large storage tanks for hydrocarbons. The nearest tank will be set back approximately 18m from the river bank with the others being set back further from the river and closer to the existing industrial building. The tanks will feed to gantries that will be used to load road tankers that access the site.

7.9.7 The site will need to be de-contaminated and then raised by 300mm for reasons of flood prevention. As such some engineering works will be required at the outset of the project. The risk posed to the river would arise from:

- the mobilisation of sediment which could wash into the river,
- run-off of / or the percolation of contaminated waters (derived from the ground contamination on the site) into the river,
- the facilitation of the movement of contaminated waters vertically through the soil profile,
- direct disturbance via operations near the top of the river bank.

- 7.9.8 Proposed conditions seek the submission of a Construction Environmental Management Plan (CEMP) which will require details of the working methods to be employed on the site. Specific clauses refer to control of run-off which should ensure that waters which are polluted by either contamination or sediment do not enter the river. Another requirement of the CEMP relates to specific measure to be taken in the sensitive river front area to limit or prevent direct disturbance to the sensitive river bank environment.
- 7.9.9 Conditional control put in place over any piling methodology reducing the risk of the mobilisation of contaminated waters through the soil profile thereby reducing the risk of contamination of deeper groundwaters.
- 7.9.10 Understanding of the ground conditions at the site is incomplete but at least part of it is known to be contaminated. The proposed finishes are hard surfaces which will reduce contamination pathways and reduce the risk of water infiltration and leaching. As such risks to human health and the aquatic environment are likely to be reduced because of the physical characteristics of the completed development will isolate any ground contamination and prevent rainwater sinking in and leaching out pollutants. It is not clear if the proposed raising of the site (300mm) requires the importation of any material but the chemical characteristics of any imported material can be controlled by condition. CNC/NRW has advised the application of conditions that will deal with ground contamination issues and these are reflected in the suggested conditions from the Council's Scientific Officer. As such the conditional regime can mitigate the impacts of the proposal on the adjacent River Usk SAC.
- 7.9.11 Piling operations could open up pathways between the contaminated perched groundwater in the made ground on the site and the deeper lying waters in the natural ground below. This can be avoided by applying conditional controls to the piling methodology (if any) that is used.
- 7.9.12 Overall it is considered that the proposed conditional controls acceptably control the risk posed by the otter interest of the River Usk during the construction phase of the development.

Risks from site operation to the otter interest arise from:

- direct disturbance by people
- disturbance by lighting
- hydrocarbon contamination from motor vehicles

- 7.9.13 The proposal is on brownfield land which has an existing use in place as a steelworks. The areas where the tanks are proposed could currently be used for industrial activities. As such there is an existing uncontrolled risk of disturbance to otters using the river. Under this proposal CNC/NRW has advised the application of a condition requiring the implementation of a Habitat Management Plan in the interests of otters. This provides a real chance of betterment in terms of reducing the chances of disturbance to otters. A further condition can deal with lighting and prevent light spill to the riverbank which could adversely affect otters. A proposed condition will require that surface water drainage from areas where hydro-carbons may be spilled from motor vehicles is cleansed of hydrocarbons. This will reduce the risks of contaminated run-off reaching the river.

## **Fish Features**

7.9.14 Risk to fish features of the River Usk would arise primarily from:

- contaminated run-off from the site entering the river (sediment load and chemical content)
- direct effects upon the river from construction and operation of the site; noise, vibration & lighting.

7.9.15 Particular Risks will accrue at the following stages:

- The design and location of the development
- Site clearance and Construction
- Site Operation, and
- The effectiveness of mitigation proposals

It is not considered that the design and location of the development will have an adverse effect upon fish features of the river.

7.9.16 Site clearance and operation has the potential to release contaminants or sediment but the proposed CEMP condition in association with the proposed decontamination condition would control these risks.

7.9.17 Specific proposed conditions would protect the fish interest by preventing works that would interrupt the migration of shad. Other proposed conditions would prevent in-river works during the times of significant fish migrations.

7.9.18 Site operation could adversely affect water quality. Proposed conditions requires run-off from areas where 'oil-drop' may be present to be cleansed of hydrocarbons.

7.9.19 These conditions are considered adequate to prevent adverse impacts ion the conservation interests of the river during the operational phase of the development.

## **Contamination**

7.9.20 The site is known to be contaminated by previous uses. The applicant is not in a position to comprehensively understand the extent and nature of the ground contamination and no decontamination strategy is currently outlined. However conditional controls can require site investigation, analysis of contamination risks, a decontamination plan, a decontamination verification plan, appropriate monitoring and a final decontamination validation exercise to show the site is appropriately decontaminated and risks to the wider environment and human health are adequately addressed.

## **Water quality / Hydrology and Drainage**

7.9.21 Risks to water quality would arise from:

- Run-off contaminated with sediment or chemicals leached from polluted ground entering the river,
- Mobilisation of contaminated waters vertically through the soil profile,
- Groundwater movement of contaminated waters through the soil to the river.

7.9.22 Particular Risks will accrue at the following stages:

- The design and location of the development
- Site clearance and Construction
- Site Operation, and
- The effectiveness of mitigation proposals

- 7.9.23 The design and location of the proposal is not considered to pose any inherent risk to water quality over and above that posed by the existing unmitigated site. The provision of hard surfaces and the adequate treatment of run-off from these surfaces will reduce infiltration and potential risks to ground waters.
- 7.9.24 The proposed CEMP condition will protect the river during the construction phase reducing risks to the conservation interests of the River Usk. During the operational phase proposed conditions will deal with run-off requiring the removal of hydro-carbons as required and requiring a generalised control over foul and surface water run-off. The proposed conditions are considered adequate to prevent risk to the conservation interests of the river during the varying phases of the development.

#### Overall consideration

- 7.9.25 The concerns regarding the potential for impact on the River Usk SAC are impacts on the otter feature including via the design and location of development, site clearance and construction, disturbance during the operation phase and mitigation; impacts on fish features; contamination risks; impacts on water quality, hydrology and drainage.
- 7.9.26 Risks arise from the possible discharge of contaminated surface and groundwater water drainage with the potential resultant impacts on the fish and otter features of the SAC. There is the potential for significant effect on the migratory fish and otter features of the River Usk SAC. The specific concerns relate to: how surface water would be disposed of during construction and operation; how potential contamination of groundwater on the site will be addressed; and what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction as a result of disturbance of ground contamination and operational phases of the development. It is therefore recommended that should planning permission be granted conditions are imposed to provide suitable protection.
- 7.9.27 The current and previous uses of the site raise the question of contamination. It is therefore recommended that conditions be imposed to ensure that a full investigation of contamination on the site is carried out and any contamination which is found is remediated in accordance with an approved remedial strategy.
- 7.9.28 It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significant adverse effect on the River Usk SAC.
- 7.9.29 Other risks to the river front, particularly the otter feature are addressed via the proposed Habitat Management Plan which specifically seeks to protect the otter interest in the adjacent River Usk.
- 7.9.30 In terms of in combination effects of the development other developments have taken place along the Usk river frontage up-river from the site. These are overwhelmingly housing schemes which have been subject to comprehensive conditioning regimes to protect the interests of the River Usk SAC. As such the risks of deleterious in-combination effects are very low and pose no significant risks to the River Usk SAC.
- 7.9.31 With the inclusion of appropriate conditions it is considered that any adverse effects on the River Usk SAC associated with the development can be satisfactorily avoided.

7.10 Other controls over Hydro-carbon storage

7.10.1 The Council's Scientific Officer has requested a condition that the fuels on the site are stored in accordance with the Prevention of Pollution (Oil Storage) (Wales) Regulations 2016. However this is a non planning control and it is therefore not considered appropriate to essentially replicate it under this proposal. Welsh Government Circular 016/2014 notes that other controls should not be replicated unless there is some planning reason to do so. However the Oil Storage Regulations also note that 'oil distribution depots' are excluded from the provisions of those regulations. The proposal is considered to be just such a facility and the regulations would not be applicable in any case.

7.10.2 However the Alpha Steel site is also subject to an Environmental Permit and the Environmental Health Section advise that the oil storage will be subject to the constraints of that permitting regime. Consequently the Oil Storage Regulations appear not to be relevant to this proposal but no 'regulatory gap' exists where planning conditions would be required due to the site being subject to an Environmental Permit. Therefore additional planning controls over oil storage are not required in this case.

**8. OTHER CONSIDERATIONS**

8.1 ***Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 ***Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 ***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. PLANNING BALANCE & CONCLUSION**

9.1 The failure to provide an archaeological evaluation goes against the proposal and exposes the applicant to a certain level of risk in the event that remains are found once work commences. However this risk is always extant on any development site and even intrusive ground investigation prior to the determination of an application will not entirely mitigate this risk. Given that the contaminated nature of the ground inhibits evaluation on this site it is considered reasonable and proportionate to apply a planning condition that will require the implementation of a scheme of archaeological investigation which could include evaluation as required. This risks the applicant finding remains on the site that are worthy of Scheduling or other remains of significant value. However it should be noted that this could happen anyway even if an evaluation was undertaken and the existence of remains is not automatically an insuperable impediment to development.

9.2 When the extent of the risk to archaeology which are uncertain but likely to be low given most remains are spot remains and given conditional protection for archaeology is in place is balanced against the economic benefits of the scheme, then the balance is considered favourable to the scheme. Clear economic benefits outweigh the moderated risk to the archaeological resource. Other issues in relation to bio-diversity, flooding, ground contamination, character & appearance and highways are considered to be policy compliant.

9.3 The proposal is acceptable subject to the application of appropriate conditions.

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

#### *Plans*

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

- Drawing 60443992-SHT-00-0000-G-1001 – Tank Setout Elevations
- Figure 3 – Site Layout Plan

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

#### Conditions Requiring the Submission of Information prior to Commencement

#### *CEMP*

02 Notwithstanding the submitted information, prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following:

- i. The position of temporary haul roads and compounds containing site offices, workers welfare facilities or compounds containing plant or for the storage of equipment and materials;
- ii. Wheelwashing facilities;
- iii. Dust suppression measures;
- iv. Noise mitigation measures, including hours of working;
- v. Details of temporary lighting during construction works; these shall include details of how light spill to the river will be prevented;
- vi. Details of the enclosure of working areas;
- vii. The drainage strategy to operate during construction setting out controls of contamination during construction, including controls to surface water run-off, water pumping, storage of fuels and hazardous materials, spill response plans and other pollution control measures.



- viii. Other pollution prevention and contingency measures that are to be implemented.
- ix. Details of specific measure to protect the conservation objectives of the river Usk in terms of control of operations within 10m of the top of the river bank and how adverse impacts on over-wintering birds and the local otter population will be avoided.
- x. Details of an Ecological clerk of works and / or ornithologist who will be appointed to oversee construction operations on the site and ensure the objectives of part ix. of this condition are achieved.

Works shall be carried in accordance with the approved CEMP.

**Reason:** to safeguard the conservation objectives of the River Usk SAC and SSSI.

#### *Habitat Management Plan (Otters)*

03 No works shall commence on site until a Habitat Management Plan (HMP) has been submitted to the Council. The HMP shall identify areas of riverside habitat to be retained and how they will be protected during the construction process as well as any areas to be removed. The HMP shall further identify areas of compensatory habitat to be provided at a ratio of 1:1.5 to replace any areas that are to be removed. Areas of identified new habitat shall include details of planting and management of the new habitat including timings of their provision and how they will be managed for a period of up to 10 years. The HMP shall show how the retained and new habitat will be managed in the best interests of the local otter population. Following the Council's written agreement the HMP shall be implemented fully as agreed.

**Reason:** to compensate for the loss of any otter habitat used for foraging or resting up.

#### Ground Contamination Conditions

##### *Decontamination Plan & Decontamination Verification Plan*

04 Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified;
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors;
  - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

**Reason:** The controlled waters at this site are of high environmental sensitivity and contamination is known/strongly suspected at the site from the previous use of the site.

##### *Decontamination Validation*

05 Prior to the first beneficial use of the any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria

have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

**Reason:** To demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

#### *Decontamination Monitoring & Contingency*

06 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

**Reason:** To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

#### *Unforeseen Contamination*

07 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

**Reason:** Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

#### Other Conditions Requiring the submission of information

##### *Archaeological Investigation / Evaluation*

08 No development involving excavation or piling operations below the level of the made ground on the site shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and agreed in writing by the Local Planning Authority. The scheme (including any archaeological evaluation if required) shall be implemented as agreed prior to any intrusive ground works below the layer of made ground on the site. The results of the investigation including the results of any archaeological evaluation that may be required shall be submitted to the Local Planning Authority and any required archaeological mitigation shall be described in the submitted report. Following the LPA’s written confirmation the development shall proceed as approved in full accordance with any archaeological mitigation required.

**Reason:** to ensure that any archaeological remains that may be found on the site can be preserved in situ or by record.

##### *Piling*

09 No works of piling shall be undertaken on the site until a piling risk assessment has been provided in writing to the Council. The risk assessment shall demonstrate that piling will not cause an unacceptable risk to ground waters on the site. Following the Council’s written agreement piling works shall be undertaken in accordance with the agreed risk assessment.

**Reason:** There is a potential for soil and groundwater contamination from previous uses of the site. If piling creates hydraulic connectivity between polluted waters and groundwaters and the River Usk SAC there is a risk to controlled waters from piling operations at the site.

##### *Removal of Hydrocarbons*

10 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas, hardstandings and road surfaces shall be cleansed of hydro-carbons. The capacity and design of the mechanism to remove hydro-carbons shall be

submitted to and approved in writing by the local planning authority prior to its installation. The mechanism shall be retained thereafter.

**Reason:** to safeguard the conservation objectives of the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

#### *Lighting*

11 The details of any proposed external lighting shall be provided to the Council in writing prior to its installation. Following the Council's written agreement any lighting shall be installed as approved and retained as approved thereafter. No external lighting other than any that has been approved shall be installed.

**Reason:** to protect the conservation objectives of the River Usk SAC in regard to otters.

#### Directive Conditions

##### *Fish Migration – Shad & Lamprey*

12 No works within the River (below the top of the river bank) or associated with piling (unless bored continuous flight auger piling is being used) shall be undertaken during the period from 1 March to 30 June.

**Reason:** To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC and its conservation objectives.

##### *Fish Migration - Salmon*

13 No works in-river (below the top of the river bank) shall be undertaken other than January – February and July-August inclusive without the prior written approval of the LPA.

**Reason:** to avoid adverse impacts on migrating fish species including the Atlantic salmon and to protect the wider interests of the River Usk SAC and its conservation objectives.

##### *Site Raising*

14 The site shall be raised to 9.3m above Ordnance Datum.

**Reason:** In order to protect the site from flooding.

##### *Otter Migration*

15 No work of excavation, land raising or construction shall take place within 10 metres of the top of the riverbank between one hour prior to sunset and one hour after sunrise respectively.

**Reason:** To ensure no disturbance is caused to otters migrating along the river or its banks.

#### *NOTE TO APPLICANT*

##### *Plans & Documents*

01 This decision relates to the following plans and documents:

- Design & Access Statement
- Liberty Steel Newport Proposed Tank Farm – Construction Environment Management Plan (June 2016)
- Aecom File Note - Update to PEA & Otter Report (23 September 2016)
- Liberty Steel Newport Proposed Tank Farm - Wintering Bird Survey Report (June 2016)
- Liberty Steel Newport Proposed Tank Farm – Phase 1 Geo-environmental Desk Study Report & Appendices (June 2016)
- Liberty Steel Newport (LSN) Tank Farm: Flood Consequence Assessment (July 2016)
- Photographs of the woodland proposed to be removed at Liberty Steel Newport (29 September 2015)
- Liberty Steel Newport Proposed Tank Farm – Otter Survey report (June 2016)
- Liberty Steel Newport Proposed Tank Farm – Great Crested Newt Survey Report (June 2016)
- Liberty Steel Newport Proposed Tank Farm – Preliminary Ecological Appraisal & Appendices (May 2016)
- Hazardous Substances Consent Application
- Drawing 60443992-SHT-00-0000-G-1001 – Tank Setout Elevations
- Figure 2 – Site Location Plan
- Figure 3 – Site Layout Plan

- Figure 4 – Ecological Constraints Plan
- Figure 1 – Site Location Plan
- Approximate Site Location Plan
- Figure 2a – Habitat Loss

#### *Policy*

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP3, SP8, GP1, GP2, GP4, GP5, GP6, GP7, CE2, CE9 & T2 were relevant to the determination of this application.

#### *Sewerage*

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

#### *EIA*

The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations (application 16/0410) and it is considered that an Environmental Statement is not required.

#### *Environmental Permit*

This proposal is for an area that is within the existing installation boundary for Liberty Steel's existing EPR Permit EP3830GH. The applicant is advised to discuss the implications of this with the relevant Regulatory Officer at the earliest opportunity. In addition, the proposed petrochemical inventory appears likely to exceed the threshold for a Top Tier COMAH (Control of Major Accident Hazards) site. The applicant is therefore strongly advised to discuss the plans with the COMAH Competent Authority, with us at the earliest opportunity. The COMAH Regulation stipulate specific requirements dependent upon the hazardous material and storage inventory. These include requirements in respect of design and construction of such a storage facility.

#### *Nesting Birds*

The amended Wildlife and Countryside Act 1981 protects bird species whilst nesting in the UK. This protection extends to a bird, its nest, eggs, and young until such time as the young have fledged. Vegetation clearance should proceed outside the peak bird-breeding season (generally considered to be March through August inclusive) or within the breeding season only if a pre-clearance survey shows no breeding birds to be present, nesting or commencing nesting within the vegetation to be affected.

#### *Scrub & Woodland Clearance*

Scrub and Woodland should be cleared in a phased way using only hand tools in order to allow reptiles and other animals a chance to vacate the cleared habitat without being harmed.

## APPENDIX A

### 4. CONSERVATION OBJECTIVES (of the River Usk SAC)

Background to Conservation Objectives:

Outline of the legal context and purpose of conservation objectives.

Conservation objectives are required by the 1992 'Habitats' Directive (92/43/EEC). The aim of the Habitats Directives is the maintenance, or where appropriate the restoration of the 'favourable conservation status' of habitats and species features for which SACs and SPAs are designated (see Box 1).

In the broadest terms, 'favourable conservation status' means a feature is in satisfactory condition and all the things needed to keep it that way are in place for the foreseeable future. CCW considers that the concept of favourable conservation status provides a practical and legally robust basis for conservation objectives for Natura 2000 and Ramsar sites.

Achieving these objectives requires appropriate management and the control of factors that may cause deterioration of habitats or significant disturbance to species.

As well as the overall function of communication, Conservation objectives have a number of specific roles:

Conservation planning and management.

The conservation objectives guide management of sites, to maintain or restore the habitats and species in favourable condition.

Assessing plans and projects.

Article 6(3) of the 'Habitats' Directive requires appropriate assessment of proposed plans and projects against a site's conservation objectives. Subject to certain exceptions, plans or projects may not proceed unless it is established that they will not adversely affect the integrity of sites. This role for testing plans and projects also applies to the review of existing decisions and consents.

Monitoring and reporting.

The conservation objectives provide the basis for assessing the condition of a feature and the status of factors that affect it. CCW uses 'performance indicators' within the conservation objectives, as the basis for monitoring and reporting. Performance indicators are selected to provide useful information about the condition of a feature and the factors that affect it.

The conservation objectives in this document reflect CCW's current information and understanding of the site and its features and their importance in an international context. The conservation objectives are subject to review by CCW in light of new knowledge.

Format of the conservation objectives

There is one conservation objective for each feature listed in part 3. Each conservation objective is a composite statement representing a site-specific description of what is considered to be the favourable conservation status of the feature. These statements apply to a whole feature as it occurs within the whole plan area, although section 3.2 sets out their relevance to individual management units.

Each conservation objective consists of the following two elements:

1. Vision for the feature
2. Performance indicators

As a result of the general practice developed and agreed within the UK Conservation Agencies, conservation objectives include performance indicators, the selection of which should be informed by JNCC guidance on Common Standards Monitoring<sup>1</sup>.

There is a critical need for clarity over the role of performance indicators within the conservation objectives. A conservation objective, because it includes the vision for the feature, has meaning and substance independently of the performance indicators, and is more than the sum of the performance indicators. The performance indicators are simply what make the conservation objectives measurable, and are thus part of, not a substitute for, the conservation objectives. Any feature attribute identified in the performance indicators should be represented in the vision for the feature, but not all elements of the vision for the feature will necessarily have corresponding performance indicators.

As well as describing the aspirations for the condition of the feature, the Vision section of each conservation objective contains a statement that the factors necessary to maintain those desired conditions are under control. Subject to technical, practical and resource constraints, factors which have an important influence on the condition of the feature are identified in the performance indicators.

The ecological status of the water course is a major determinant of FCS for all features. The required conservation objective for the water course is defined below.

#### 4.1 Conservation Objective for the water course

The capacity of the habitats in the SAC to support each feature at near-natural population levels, as determined by predominantly unmodified ecological and hydromorphological processes and characteristics, should be maintained as far as possible, or restored where necessary.

The ecological status of the water environment should be sufficient to maintain a stable or increasing population of each feature. This will include elements of water quantity and quality, physical habitat and community composition and structure. It is anticipated that these limits will concur with the relevant standards used by the Review of Consents process given in Annexes 1-3.

Flow regime, water quality and physical habitat should be maintained in, or restored as far as possible to, a near-natural state, in order to support the coherence of ecosystem structure and function across the whole area of the SAC.

All known breeding, spawning and nursery sites of species features should be maintained as suitable habitat as far as possible, except where natural processes cause them to change.

Flows, water quality, substrate quality and quantity at fish spawning sites and nursery areas will not be depleted by abstraction, discharges, engineering or gravel extraction activities or other impacts to the extent that these sites are damaged or destroyed.

The river planform and profile should be predominantly unmodified. Physical modifications having an adverse effect on the integrity of the SAC, including, but not limited to, revetments on active alluvial river banks using stone, concrete or waste materials, unsustainable extraction of gravel, addition or release of excessive quantities of fine sediment, will be avoided.

River habitat SSSI features should be in favourable condition. In the case of the Usk Tributaries SSSI, the SAC habitat is not underpinned by a river habitat SSSI feature. In this case, the target is to maintain the characteristic physical features of the river channel, banks and riparian zone.

Artificial factors impacting on the capability of each species feature to occupy the full extent of its natural range should be modified where necessary to allow passage, e.g. weirs, bridge sills, acoustic barriers.

Natural factors such as waterfalls, which may limit the natural range of a species feature or dispersal between naturally isolated populations, should not be modified.

Flows during the normal migration periods of each migratory fish species feature will not be depleted by abstraction to the extent that passage upstream to spawning sites is hindered.

1 Web link: <http://www.jncc.gov.uk/page-2199>

Flow objectives for assessment points in the Usk Catchment Abstraction Management Strategy will be agreed between EA and CCW as necessary. It is anticipated that these limits will concur with the standards used by the Review of Consents process given in Annex 1 of this document.

Levels of nutrients, in particular phosphate, will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC, and measures taken to maintain nutrients below these levels. It is anticipated that these limits will concur with the standards used by the Review of Consents process given in Annex 2 of this document.

Levels of water quality parameters that are known to affect the distribution and abundance of SAC features will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC, and measures taken to maintain pollution below these levels. It is anticipated that these limits will concur with the standards used by the Review of Consents process given in Annex 3 of this document.

Potential sources of pollution not addressed in the Review of Consents, such as contaminated land, will be considered in assessing plans and projects.

Levels of suspended solids will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC. Measures including, but not limited to, the control of suspended sediment generated by agriculture, forestry and engineering works, will be taken to maintain suspended solids below these levels.

4.2 Conservation Objective for Features 1-5:

- Sea lamprey *Petromyzon marinus* (EU Species Code: 1095);
- Brook lamprey *Lampetra planeri* (EU Species Code: 1096);
- River lamprey *Lampetra fluviatilis* (EU Species Code: 1099);
- Twait shad *Alosa fallax* (EU Species Code: 1103);
- Allis shad *Alosa alosa* (EU Species Code: 1102);
- Atlantic salmon *Salmo salar* (EU Species Code: 1106);
- Bullhead *Cottus gobio* (EU Species Code: 1163)

<p>Vision for features 1-5</p> <p>The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:</p>	
<p>FCS component</p>	<p>Supporting information/current knowledge</p>
<p>The conservation objective for the water course as defined in 4.1 above must be met.</p>	<p>Refer to sections 5.1 to 5.5 for current assessments of feature populations.</p>

<p>The population of the feature in the SAC is stable or increasing over the long term.</p>	<p>Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates.</p> <p>Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of disease.</p>
<p>The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms e.g. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions e.g. food supply (as described in sections 2.2 and 5).</p> <p>Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4</p> <p>There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.</p>	<p>Some reaches of the Usk SAC are more suitable for some features than others e.g. the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in section 3.2. Further details of feature habitat suitability are given in section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.</p> <p>The characteristic channel morphology provides the diversity of water depths, current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches e.g. through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.</p> <p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p> <p>Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from</p>



	<p>a number of sources including construction works.</p> <p>Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.</p>
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Performance indicators for features 1-5

The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.

Sea lamprey *Petromyzon marinus* :

Performance indicators for feature condition

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> .	<p>This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites</p> <p>considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered overtime. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable .</p>	1-5
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites	This standard CSM attribute establishes a minimum occupied spawning range, in any sampling period, of	2 - 5

	each not less than 5km apart.	15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute.	
	Overall catchment mean >0.1m <sup>-2</sup> (Harvey & Cowx 2003) <sup>1</sup>	Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes m <sup>-2</sup> in suitable habitat <sup>2</sup> , therefore 0.1 m <sup>-2</sup> is a conservative threshold value for unfavourable condition.	

Brook lamprey *Lampetra planeri* and River lamprey *Lampetra fluviatilis* :

Performance indicators for feature condition

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Age/size structure of ammocoete population	Samples < 50 ammocoetes ~ 2 size classes  Samples > 50 ammocoetes ~ at least 3 size classes	This gives an indication of recruitment to the population over the several years receding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability, therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment.	2-10
(b) Distribution of ammocoetes within catchment	Present at not less than 2/3 of sites surveyed within natural range	The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit i.e. all except unit 1.  Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment.	2-10
	No reduction in distribution of ammocoetes	Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit tributary, and will lead to	

		an unfavourable condition assessment.	
(c) Ammocoete density	Optimal habitat: >10m <sup>-2</sup>  Overall catchment mean: >5m <sup>-2</sup>	Optimal habitat comprises beds of stable fine sediment or sand >15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2-10
Twaite shad <i>Alosa fallax</i> and Allis shad <i>Alosa alosa</i> :			
Performance indicators for feature condition			
Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1-5
Performance indicators for factors affecting the feature			
(a) Flow	Targets are set in Relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period.	1-5
Atlantic salmon <i>Salmo salar</i> :			

Performance indicators for feature condition			
(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-seawinter component.  As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality.  Assessed using electro fishing data.	6-10
Performance indicators for factors affecting the feature:  Water quality			
(a) Biological quality	Biological class A GQA	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6-10
(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3].	All
Performance indicators for factors affecting the feature:  Hydromorphology			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
Bullhead Cottus gobio:  Performance indicators for feature condition			
a) Adult densities	No less than 0.2 m <sup>-2</sup> in sampled densities	CSM guidance states that densities should be no less	2-10

	reaches	than 0.2 m <sup>-2</sup> in upland rivers (source altitude >100m) and 0.5 m <sup>-2</sup> in lowland rivers (source altitude <100m). A significant reduction in densities may also lead to an unfavourable condition assessment.	
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by ongoing monitoring will result in an unfavourable condition assessment.	2-10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment.	2-10

4.3 Conservation Objective for Feature 6:

- European otter *Lutra lutra* (EU Species Code: 1355)

Vision for feature 6

The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:

FCS component	Supporting information/current knowledge
<p>The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour. The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between</p>	<p>Refer to section 5.9 for current assessment of feature population.</p> <p>Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance.</p> <p>The decline in eel populations may be having an adverse effect on the population</p>

<p>breeding territories. The whole area of the Usk SAC is considered to form potentially suitable breeding habitat for otters.</p> <p>The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.</p> <p>The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc. at road bridges and other artificial barriers.</p>	<p>of otters in the Usk.</p> <p>Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.</p>
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Performance indicators for feature 6

The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.

Attribute	Specified Limits	Comments	Relevant Unit(s)
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Performance indicators for feature condition

(a) Distribution	Otter signs present at 90% of Otter Survey of Wales sites	Ref: CCW Environmental Monitoring Report No. 19 (2005)3	All
(b) Breeding activity	2 reports of cub/family sightings at least 1 year in 6	Ref: CCW Environmental Monitoring Report No. 19 (2005)3	All
(c) Actual and potential breeding sites	No decline in number and quality of mapped breeding sites in subcatchments (see	Ref: CCW Environmental Monitoring Report No. 19 (2005)3	All

	Ref)	actual or potential breeding sites have been identified, distributed throughout the catchment on the main river and tributaries.	
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## **APPLICATION DETAILS**

**No:** 16/0965      **Ward:** LLANWERN

**Type:** FULL

**Expiry Date:** 29-MAR-2017

**Applicant:** L FITZGERALD

**Site:** GROVE FARM, GOLDCLIFF ROAD, GOLDCLIFF, NEWPORT, NP18 2AX

**Proposal:** ERECTION OF PLAY EQUIPMENT (2.5M HIGH ZIP WIRE PLATFORM WITH CLIMBING WALL, ZIP WIRE AND ZIP WIRE POLE) AND NEW RAISED DECKING AREA IN REAR GARDEN

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for the retention of a raised decking area and erection of play equipment consisting of raised platform, climbing wall and zip wire at Grove Farm, Goldcliffe in the Llanwern ward. The application has been called in front of planning committee by the local councillor in order to assess the potential impact on the Gwent Wetlands Reserve, Newport Wetlands Site of Special Scientific Interest and the amenity of neighbouring properties.
- 1.2 The property is a large farmhouse situated within the eastern levels of Newport. It occupies a large plot adjacent to the farm yard and complex of agricultural buildings. The large rear garden to the south of the property backs on to the Gwent Wetland Reserve and to the east there is a plant depot and the residential property Grove Cottage. The raised deck area is located to the rear boundary of the garden and the raised zip wire platform and climbing wall is located towards the east of the garden with the zip wire running from east to west.

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

16/0524	WORKS TO PROVIDE A FIRST FLOOR REAR EXTENSION TO PROVIDE TWO BEDROOMS, CONSTRUCTION OF A TWO STOREY SIDE EXTENSION TO PROVIDE GROUND FLOOR GARAGING AND A HOME OFFICE AND ENSUITE BEDROOM AT FIRST FLOOR LEVEL; REMODELLING OF AN EXISTING OUTBUILDING TO PROVIDE A GARDEN STORE/SUMMER HOUSE WITH A FIRST FLOOR ROOF TERRACE AND WORKS TO PROVIDE GARDEN PAVEMENTS, PATIO AND WALLING	GRANTED WITH CONDITIONS
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### **3. POLICY CONTEXT**

- 3.1 The adopted Newport Local Development Plan 2011-2026 (adopted January 2015).
- 3.2 GP2 General Development Principles – General Amenity. States that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.3 GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed.



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

#### **4. CONSULTATIONS**

##### **4.1 NATURAL RESOURCES WALES (NRW):**

The development site is adjacent to the Newport Wetlands Site of Special Scientific Interest (SSSI) and Gwent Levels - Nash and Goldcliff Site of Special Scientific Interest (SSSI). Newport Wetlands SSSI is notified for breeding and over-wintering birds whilst the Gwent Levels-Nash and Goldcliff is notified for the network of reens and ditch and their fauna and flora. We have reviewed the submitted information and we do not regard this development as having a significant impact on the features of the adjacent SSSI's. We therefore do not object to the application as submitted.

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST (GGAT): No objection.

ROYAL SOCIETY FOR PROTECTION OF BIRDS (RSPB): No response.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No objection.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE): No objection.

#### **6. REPRESENTATIONS**

##### **6.1 NEIGHBOURS:**

All properties with a common boundary with the application site were consulted (1no. properties) and one objection has been received from the property at Grove Cottage raising the following concerns;

- Intrusion into my children's bedroom windows
- Environmental visual impact
- Environmental noise disturbance from users of zip wire and decking when carrying out recreational activities such as barbecues, socialising and children playing on zip wire/climbing wall.
- Disturbance to local birds and wild life

6.2 COUNCILLORS: Councillor Kellaway has requested that the application be called to planning committee in order to assess the potential impact on the Gwent Wetlands Reserve, Newport Wetlands Site of Special Scientific Interest and the amenity of neighbouring properties.

6.3 GOLDCLIFFE COMMUNITY COUNCIL: This is difficult to see from the road, which in itself allays some concerns on impact. However the height of the poles appears to be out of context with the location.

In view of the proximity of the proposal to the sea defences we would however ask that you consult with NRW and seek their observations. Similarly together with the RSPB they may well have observations to make on any impact this might have on the nearby Wetlands Reserve.

#### **7. ASSESSMENT**

7.1 The raised deck area is located along the southern boundary of the rear garden and backs on to the bank at the rear. The raised timber deck measures 2.23 metres in height from adjacent ground level and has a width of 4.435 metres and a depth of 4.32 metres. Each side of the deck area has a 1.1 metre tall timber rail. The deck also has an access board measuring 1.9 metres in length that allows access from the bank that can be moved for maintenance purposes when required.

- 7.2 The timber zip wire platform that has been erected on site measures 3.7 metres in height to the platform and 5.6 metres to the highest point, however this application proposes to amend what has been constructed on site. The amended zip wire platform in the rear garden will measure 2.5 metres in height to the platform level and 4.5 metres to the highest point. It will have a width of 4.0 metres and a depth of 3.1 metres. The eastern elevation of the platform contains a climbing wall that will have a height of 4.5 metres from floor level and is 2.0 metres above platform level, acting to screen views from the platform towards the east. The zip wire itself will extend 27 metres west where it will adjoin a receiving pole at a height of 2.1 metres. The height of the receiving pole will measure 2.9 metres to the highest point.
- 7.3 Policies GP2 (General Amenity), GP6 (Quality of Design) and CE6 (Archaeology) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 7.4 The occupier of Grove Cottage located to the east of the site has raised concerns regarding loss of privacy and overlooking towards their property from the raised platform. Given the height of the raised platform at 2.5 metres this could potentially have an overlooking impact, however the property at Grove Cottage is located approximately 50 to 55 metres away and the platform has a 2.0 metre screen on each elevation. The climbing wall located on the east facing elevation of the platform does reach a height of 4.5 metres however given the significant separation distance and the barn and outbuilding that partially screen the platform it is considered that any overlooking not be detrimental to the residential amenity of Grove Cottage. The use of the raised deck area for socialising and children playing on the zip wire is no more than what you would expect within the curtilage of a residential property and as such there is considered to be no impact on the amenity of neighbouring residential properties over and above the existing. The objection also states that the raised deck and platform would be harmful to the visual amenity of the area and would not be in keeping with the surrounding area. It is not considered that the raised decking area would have any visual impact on the surrounding street scape due to its location in the rear garden of the property and its size. When undertaking the site visit the posts used to construct the zip wire platform were partially visible from the public realm at Goldcliff Road. The zip wire platform as built on site is significantly higher than the scheme proposed within this application and as such it is considered that the proposed posts (4.5 metres in height) are unlikely to be visible from Goldcliff Road when this scheme is implemented and the posts are reduced in height. Even if the posts are marginally visible from certain vantage points along Goldcliff Road given the location behind the farm house and outbuildings it is not considered that this would cause any harm to the visual amenity of the surrounding area. As such it is considered that the proposal would not have a demonstrable impact on either the residential amenity of the neighbouring property or visual amenity of the surrounding area and is considered to comply with policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).
- 7.5 In terms of design the raised deck is of timber construction and is typically what you would expect to find within the curtilage of a residential property. The zip wire platform again is of timber construction and whilst it may not ordinarily be expected within the domestic garden of a property it is considered that this is not a typical residential property and the garden is generously sized to accommodate such a structure and accompanying zip wire with receiving pole. The height and scale of the platform is akin to the scale of an outbuilding that would be marginally over what could be constructed under permitted development and as mentioned previously due to the location in the rear garden it would be slightly if at all visible from the surrounding street scape. Even so, given the number of outbuildings and barns within the immediate vicinity the timber constructed platform with attached zipwire does not look out of place. As such the proposal is considered to be in accordance with policy GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).
- 7.6 The letter of objection raises concerns in regard to noise impact on the SSSI adjacent to the site. It is claimed that noise generated from the use of the decking for social purposes and noise from children playing on the climbing wall and zip wire could be harmful to the

wildlife. It is considered that the social activities that may occur on the raised deck area are what you would expect within a residential garden and would not exacerbate the existing situation whereby the garden could be used for social events or typical domestic use. In terms of children playing on the zip wire and climbing wall, again it would be expected for children to play in an enclosed rear garden and this would not be considered to amount to noise disturbance over and above that expected from a residential dwelling. Nonetheless the Head of Streetscene and City Services (Ecology) and the Head of Streetscene and City Services (Landscape) have been consulted and have offered no objection to the application. Natural Resources Wales has also been consulted and has stated that the proposal will not impact the features of the SSSI and has offered no objection to the proposal. The RSPB were consulted and no response has been received.

7.7 The Glamorgan Gwent Archaeological Trust has been consulted and has offered no objection to the application due to the limited scale of development.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

### **8.7 *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. CONCLUSION**

- 9.1 The location, scale and design of the raised deck area and platform with zip wire and receiving pole are not considered to impact either the residential amenity of neighbouring properties or the visual amenity of the surrounding area including adjacent SSSI and are considered to preserve the character and appearance of the property and the street scene.
- 9.2 The proposal is therefore in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015)
- 9.3 As such it is recommended that planning permission is granted with conditions.

## **10. RECOMMENDATION**

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Drawing No. R272-01A A3 – Plans and Elevations for Play Equipment and Garden Furniture.

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

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Drawing No. R272-01A A3 – Plans and Elevations for Play Equipment and Garden Furniture; R235-00 A4a - Location Plan; R235-01a A0 - Existing Site Plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6 and CE6 were relevant to the determination of this application.

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

04 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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## APPLICATION DETAILS

**No:** 17/0038      **Ward:** Lliswerry  
**Type:** Full (Major)  
**Expiry Date:** 19-Apr-2017  
**Applicant:** HEYWORTH HOMES (NEWPORT) LTD  
**Site:** LAND AND BUILDINGS FORMING 38 TO 234, LIBERTY GROVE,  
**Proposal:** ERECTION OF 4NO. APARTMENT BLOCKS ACCOMMODATING 92NO. RESIDENTIAL UNITS, CAR PARKING, ACCESS ARRANGEMENTS AND ASSOCIATED WORKS (RESUBMISSION)

**Recommendation:** Granted with Conditions subject to Section 106 Legal Agreement with delegated powers to refuse the application in the event that the agreement is not signed within 3 months of the decision

### 1. INTRODUCTION

- 1.1 This application site is part of a wider area of land that was granted outline planning permission in 2005 for the development of 117 units within 7No.blocks of three and four storey flats. Landscaping was a reserved matter and details were submitted in 2008 pursuant to approving the final reserved matter. The landscaping details were refused and the outline planning permission subsequently expired. Despite there being no complete planning permission for the site, construction of 4 of these blocks commenced. Block A was sold to Fairlake Ltd and received retrospective planning permission in December 2010. Blocks B, C and D are now also built and partly occupied. These were granted retrospectively under planning permission 10/1271, which also gave permission for the 3No.blocks at the southern end of the site.
- 1.2 This current submission seeks full planning permission for an alternative residential scheme to the south of the site comprising 92No. flatted units (1 & 2 beds) within 5no four storey blocks, together with associated parking and landscaping. 9no affordable units are included as part of the development.
- 1.3 The application is a resubmission following the refusal of a similar scheme by Planning Committee in August 2016 due to inadequate parking provision. This amended scheme proposes nine additional parking spaces (total of 108 spaces). The number of units proposed is the same as the previous application - 92. In order to provide the additional spaces the position of one of the blocks (block B) has been altered slightly with it moved backwards by approximately 2.4m and some small areas of landscaping have been removed.

### 2. RELEVANT SITE HISTORY

05/1038	RESIDENTIAL DEVELOPMENT OF 117 UNITS IN 7 (NO) BLOCKS OF THREE AND FOUR STOREY FLATS (OUTLINE)	Granted with Conditions
08/0667	RESIDENTIAL DEVELOPMENT OF 117 (NO) UNITS IN 7 (NO) BLOCKS OF THREE AND FOUR STOREY FLATS (RESERVED MATTERS: LANDSCAPING)	Refused
10/0794	RETROSPECTIVE PLANNING PERMISSION FOR BLOCK A, CONTAINING 15 AFFORDABLE	Granted with Conditions

	RESIDENTIAL UNITS, PROVIDING 1 AND 2 BEDROOM APARTMENTS, 21 CAR PARKING SPACES AND ASSOCIATED LANDSCAPING	
10/1271	RESIDENTIAL DEVELOPMENT (PART RETROSPECTIVE) OF 99 APARTMENTS TOGETHER WITH ASSOCIATED HIGHWAY WORKS, VEHICULAR AND PEDESTRIAN ACCESS, CAR AND CYCLE PARKING, REFUSE STORAGE, LANDSCAPING AND OTHER ANCILLARY USES AND ACTIVITIES (RESUBMISSION FOLLOWING EXPIRY OF 05/1038)	Granted with Conditions
13/0434	PROPOSED DEVELOPMENT OF 25 RESIDENTIAL DWELLINGS AND ASSOCIATED WORKS	Granted with Conditions
15/0419	ERECTION OF 4NO. APARTMENT BLOCKS ACCOMMODATING 92NO. RESIDENTIAL UNITS, CAR PARKING, ACCESS ARRANGEMENTS AND ASSOCIATED WORKS	Refused

### 3. POLICY CONTEXT

#### 3.1

**Newport Local Development Plan** - SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles. The proposal is supported due to its re-use of previously developed land.

SP3 Flood Risk: There is a need to locate development outside of flood risk. Where a proposed site such as this is located partly in flood risk the consequence of flooding must be investigated and justified.

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

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

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

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

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

GP5 General Development Principles – Natural Environment.

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

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

H1 Housing Sites: The proposed development has been allocated within the LDP as a housing site (H43). The site will therefore be supported as to its ability to fulfil part of the housing supply for the plan period.

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

H3 Housing Mix and Density.

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

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

- 3.2 **Supplementary Planning Guidance**  
Planning Obligations adopted August 2015  
Affordable Housing adopted August 2015  
Wildlife and Development adopted August 2015  
New Dwellings adopted August 2015  
Parking Standards adopted August 2015

#### 4. **CONSULTATIONS**

- 4.1 NATURAL RESOURCES WALES: No objection.
- 4.2 DWR CYMRU – WELSH WATER: Request conditions relating to drainage.
- 4.3 NEWPORT ACCESS GROUP: No response.
- 4.4 WALES AND WEST UTILITIES: Provide details of apparatus within the area.

#### 5. **INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The applicant has proposed to increase the number of spaces to 108 in total. When taking into consideration the sustainability of the location and the proposed improvements on Portskewett Street, the proposed layout is now deemed to be acceptable. I would therefore offer no objection to the application subject to the following conditions:
- Engineering details must be submitted and approved for the construction of the highway infrastructure. Details must include construction specifications, alignment, widths, drainage and detailed proposals of the works to be undertaken in Portskewett Street. The roads and footpaths must be constructed to the Council's approved standards.
  - Appropriate barriers must be erected on the footpath which links Portskewett Street to the development in order to prevent it being used by vehicles such as a motorcycle. Full details must be submitted for consideration.
  - A construction environmental management plan must be submitted for approval and implemented in accordance with the approved details. The CEMP is to include details such as wheel wash facilities, dust suppression, delivery routes, contractor parking and compound. Unless otherwise agreed in writing all deliveries to site must access via Willenhall Street and Sea Breeze Avenue. This is to ensure the residents of Gaskell Street and Portskewett Street are unaffected by the construction activities. The only exception being when the highway and drainage works are undertaken in Portskewett Street.
- The applicant must contact Streetscene regarding the proposed works on Portskewett Street in order to facilitate the appropriate highways agreement.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY OFFICER): Is satisfied with the reptile survey submitted and that no reptiles were found. Recommends that a native wildflower mix is planted in the landscape area.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): Offers no objection to the proposals. Detailed landscape plans and a plant schedule and maintenance schedule, plus details of the 'hard' landscape proposals, including all surfaces finishes, must be submitted for approval.
- 5.4 HEAD OF REGENERATION, INVESTMENT AND HOUSING (ESTATES): No response.
- 5.5 PLANNING CONTRIBUTIONS MANAGER: Education - Secondary: The development falls within the catchment area of Lliswerry High School. Taking into account the scale and type of development proposed, as well as 'school capacity' (as at September 2016), no secondary education contribution is required. Primary education: The development is

served by St Andrew's, Maindee and Lliswerry Primary Schools. Taking into account the scale and type of development proposed, as well as the 'school capacity' (as at September 2016), no primary education contribution is required.

Leisure - The on-site provision of over 1000sqm of open space is deemed sufficient to service the leisure needs of the development (site to be maintained and managed by a Private Management Company).

Affordable Housing - Council policy specifies a requirement to provide 9 affordable units (i.e. 20% provision). However, the scheme proposes 12 units in one discrete block, comprising 8 x 1 bed flats and 4 x 2 bed flats to be transferred to an RSL (at 50% of ACG) and to include the freehold of the block, with no additional service charges or management costs relating to external areas comprising landscaping, road or parking space maintenance. The proposed properties will be offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register, attain the appropriate Welsh Government standards and be transferred to a Registered Social Landlord, zoned for Newport by the Welsh Assembly Government.

- 5.6 HEAD OF LAW AND REGULATION (POLLUTION): Offers no objection to the proposals but requests conditions relating to contamination and construction. With regard to air quality the Head of Law and Regulation advises that the development has made provision for over 90 parking spaces which will be matched by a similar increase in vehicles. To encourage the uptake of low/zero emission forms of transport I recommended some provision is made to install electric vehicle charging points.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (133 properties) and a site and press notice were displayed. No responses received.
- 6.2 COUNCILLOR JEAVONS: Has expressed concerns about the footpath linking Liberty Grove with Portskewett Street and the potential for it to be used by people on motorbikes.

## 7. ASSESSMENT

- 7.1 The site lies within the urban boundary and is accessed from Liberty Grove beyond the four flatted blocks that were originally approved under application 05/1038. The site measures 0.73 hectares in area. The southern and western boundaries back onto the rear gardens of those properties that form part of the Taylor Wimpey riverside development. The eastern boundary is formed by the rear gardens of the terraced dwellings that front onto Portskewett Street and Gaskell Street, and the northern boundary is marked by Lysaghts Park recreation ground.
- 7.2 The site was formerly the Croda factory. However, the buildings associated with this former use were demolished prior to the commencement of the first four blocks initially granted planning permission in 2005. The portion of land now under consideration has been cleared of all vegetation and has recently been raised using fill material that has been brought to site.
- 7.3 The site is allocated as an existing housing commitment by Policy H1 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) for a total of 117 units. In view of this allocation and taking into account the extant planning permission for 99 units the principal of residential development is acceptable.
- 7.4 ***Planning History & The Site's Fall-Back Position***

As noted above, the extant planning permission (ref.10/1271) provides a fall-back position for the site. This application was part retrospective and consisted of 6No.three storey apartment blocks providing 99 apartments together with associated highway works, vehicular and pedestrian access, car and cycle parking, refuse storage and landscaping.



Three of the blocks to the north-west of the site have been constructed. However, rather than constructing the three southern blocks, it is proposed to increase the density with 5no four storey blocks totalling 92 apartments, resulting in a net increase of 54 units.

## 7.5 **Proposals**

5no four storey apartment blocks are proposed (blocks A-E) in a courtyard formation creating a 'c' shape based around a central car parking area providing 108no parking spaces and landscaping. The blocks would be of a similar size measuring between 21m in and 24m in length by 8m in depth. Block A would be sited near to the southern boundary, similar to block G approved under 10/1271. Blocks B and C would be sited near to the western boundary and block D and E would be sited to the north of the site. 36no one bed flats would be provided and 56no 2bed flats. The access road to the blocks would also be similar to that previously approved. A new pedestrian link would be provided into Portskewett Street. A communal bin store building would be provided centrally within the site providing 10 x 1100 litre wheelie bins. 5no parking spaces are proposed at the bottom of Portskewett street although there would be no vehicular access to the application site via Portskewett Street.

7.6 Although the footprint and arrangement of the blocks would be similar to that consented under 10/1271, their design would be substantially different being four storey as opposed to three and having flat roofs instead of pitched. The overall height of the proposed blocks would be just less than 12m. The height of the previously consented blocks is 10.5m. Due to the proposed blocks having flat roofs the overall height difference, despite the blocks having another storey would be just 1.5m.

7.7 The consented blocks and those already built are similar in design and are typical of other apartment blocks approved in the area at the time. The façades of the blocks are fairly simple with openings arranged uniformly and the pallet of materials is traditional. The proposed apartment blocks would have a more contemporary appearance. Front and rear elevations would contain a mix of buff and grey masonry white cladded projections with beige cladded infill panels. Further interest would be added with the use of projecting communal entrances and juliet balconies. Due to the generic design of much of the surrounding development, it is considered that there is scope for the introduction of the proposed flat roofed apartment blocks and the variation in design is welcomed.

7.8 A considerable amount of formal landscaping would be provided around the blocks in the spaces between the apartment buildings and neighbouring boundaries and around the parking areas.

7.9 Details of proposed boundary treatments have been provided. Existing 1.8m high perimeter fencing would be retained around much of the site. In addition brick retaining walls with 1.8m high fence on top is proposed behind the parking spaces along the eastern edge of the site. Existing pallisade fencing around the electricity pylon to the south-west of the site would be retained. Dwarf walls with 900mm railings are proposed to the south of the site to the side of block A. The proposed boundary treatments are considered to be acceptable in principle but it is recommended that a condition is imposed requiring full details of the boundary treatments to be submitted for approval if the application is granted.

## 7.10 **Amenity**

The site is surrounded by existing residential development. As such suitable separation distances are essential to safeguard residential amenity. Where the apartment blocks neighbour existing residential dwellings, the blocks would all be sited a good distance away from the common boundaries. The blocks are nearer to the shared boundaries where they would be adjacent to the side elevations of neighbouring apartment blocks without habitable room windows or neighbouring parking forcourts and communal areas which are overlooked in any case. Window to window distances (between habitable room windows) between the development and the existing surrounding dwellings comfortably exceed the

21m standard. It is not considered that the proposals would result in a loss of privacy or amenity to neighbouring occupants taking into consideration the movement of block B by approximately 2.4m to the south.

7.11 Whilst compact, the internal layouts of the apartments are considered to provide a good standard of accommodation. Furthermore, the development would be served by an adequate amount of outdoor space, the full treatment of which could be secured by a landscaping condition. It is also worthwhile noting that the site is adjacent to Lysaghts Park. It is considered that a good standard of amenity would be provided for the future occupiers of the apartments.

#### 7.12 **Highways**

The proposals include the provision of 108 vehicle parking spaces. In accordance with the Council's Parking Standards the applicant has submitted a sustainability assessment which reduces the requirement for parking provision down to one space per unit (92no spaces) plus visitor spaces. The requirement for visitor parking is one space per five units (18no parking spaces). However, only 16no visitor spaces would be provided, resulting in a shortfall of 2no visitor parking spaces. Despite this, the Head of Streetscene (Highways) has advised that when taking into consideration the sustainable nature of the location, and the proposed improvements on Portskewett Street, the proposed layout is now deemed to be acceptable and no objection is offered to the proposals.

7.13 There is little scope for the applicant to provide any additional parking spaces within the proposed layout without impacting the accessibility of the other parking spaces. Some on-street parking is available along Liberty Grove although this could potentially put pressure on the availability of these spaces for residents of the existing flats. However, a number of officer site visits at various times during the week and weekends has shown that level of existing parking provision does not appear to be a problem with dedicated parking spaces largely vacant and very little on-street parking. No objections have been received from neighbouring residents concerning parking which reinforces officer's view that this does not appear to be problematic. Furthermore, the scheme includes the provision of 5no parking spaces within Portskewett Street. Whilst these spaces would not be specifically allocated to residents of the proposed apartments and could be used by the residents in Portskewett Street, a pedestrian walkway link through to the site would be provided and so these spaces could also be used by visitors or occupants of the proposed apartments.

7.14 As noted above, the site is allocated as a housing commitment within the LDP. The site currently offers very little value to the amenity of the area and its re-development for housing is considered to be of significant merit. On balance, it is therefore considered that whilst there would be a shortfall of 2no parking spaces, in this instance, for reasons outlined above the proposals are considered to be acceptable and would not result in a detrimental impact to Highway safety.

7.14 Councillor Jeavons has expressed concerns about the footpath linking Liberty Grove with Portskewett Street and the potential for it to be used by people on motorbikes. In order to prevent this it is recommended that should planning permission be forthcoming, a condition is imposed requiring the applicant to submit details of barriers to be erected. The barriers would be installed prior to the first occupation of the flats.

#### 7.15 **Flooding**

The proposed development site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). NRW Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, a designated main river.

7.16 Policy SP3 flood risk states: Newport's coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.

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

TAN 15 set 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. The key points of the TAN are:

- 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;
- Residential development is defined as 'highly vulnerable development' 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.

7.18 **Summary of NRW consultation response**

- The existing site is unaffected by both the 1% and 0.1% annual probability fluvial flood events in the River Usk.
- The existing site is unaffected by both the 0.5% and 0.1% (plus allowance for climate change) annual probability tidal events, applying a lifetime of development of 100 years (Year 2115)
- The access and egress routes outside the development site are non-compliant with A1.15 of TAN 15.
- Whilst the access and egress routes serving the site exceed A1.15 of TAN 15 and are considered by NRW to result in a corresponding flood hazard greater than Low Risk, the FCA states "*residents should be encouraged to sign to the NRW Flood Warning Service. Residents should have sufficient time to evacuate the premises if necessary....the buildings themselves would also provide an appropriate point of containment for residents if necessary until the floodwaters had subsided*". It is up to the LPA to decide whether this is acceptable.
- The development does not increase flood risk elsewhere as, during the remediation of this site (pre-residential planning permission for 4 residential blocks circa 2005), it was raised to a level of 10.2m AOD. This results in the existing levels being set above the design tidal flood events.

7.19 In summary, NRW confirm that they offer no objection to the proposals subject to a condition requiring the development to be carried out in accordance with the FCA with a finished floor level of 10.25 metres Above Ordnance Datum.

## 7.20 **TAN 15 Tests**

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) Its 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.

7.21 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.

### 7.22 **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**

7.23 Located within the settlement boundary and an allocated housing site within the LDP, Officers consider that the development is necessary as part of a local authority strategy required to sustain an existing settlement.

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

PPW defines previously developed land as:

*Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage (see note 1 below) of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal (see note 2 below) where provision for restoration has not been made through development management procedures.*

7.25 The site accords with this definition.

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

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.

7.27 ***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).***

NRW have not objected to the development on the basis of inadequate flood defences.

- 7.28 ***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.***

No flood mitigation measures proposed as part of the development.

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

It is intended to notify the developer of this by way of an informative to the planning consent.

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

NRW identify that whilst they seek to provide timely and robust warning they cannot guarantee their provision. No objection is offered by NRW on this basis.

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

Flood depths are in excess of 1m along the escape/evacuation routes and velocities are generally above 0.5 metres per second. As such the development does not comply with test 6. However, one of the routes would become compliant with the limits set out within the TAN approximately 5 hours after the flood event occurred as the flood waters begin to withdraw. This route is along the riverside walkway from Argosy Way and it emerges onto Corporation Road opposite the B&Q store.

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

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.

- 7.33 A Flood Emergency Management Arrangement document has not been submitted.

- 7.34 The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. 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.

- 7.35 ***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.***

- 7.37 ***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.***

The proposed buildings have been designed to be flood free. Tests 8 and 9 are therefore satisfied.

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

NRW do not object to the development on this basis.

7.37 **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.**

NRW offer no objection on the basis of the above.

7.38 **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).**

7.39 The applicant has submitted information concerning flooding of access and egress routes. The three routes that the applicant has identified are predicted to flood in excess of 1m at a maximum velocity of 0.5 metres per second. TAN 15 advises that 600mm is an acceptable wading depth and so the levels would clearly be deeper than this. The velocity of the flood waters is also faster than the maximum velocity rate of 0.3 metres per second referred to in the TAN in relation to property access. One of the routes would become compliant with the TAN at approximately 5 hours after the flood event occurred.

7.40 With this in mind it should also be reiterated that the flood risk is tidal and it is likely that occupants would have advanced warning of possible flooding, although this should not be relied upon.

7.41 It is therefore possible that occupants may have to remain in their homes for 5 hours until safe egress can be made. It is likely that in the event of flooding this would be without power and water. However, given that the occupants would be able to remain flood free in familiar surroundings five hours is considered to be an acceptable amount of time to wait in their properties before they would be able to use the evacuation route to access higher ground, should they wish to do so.

7.42 Furthermore, as previously noted, the site benefits from an extant consent that would allow for the provision of three apartment blocks.

7.43 In summary, when assessing whether the risks and consequences of flooding can be satisfactorily managed, whilst the proposals do not satisfy tests 6 and 12 of TAN 15, for the reasons noted above, the development is still considered to be acceptable in terms of flood risk.

#### 7.44 ***Financial Contributions***

Over and above the previous partially implemented planning permission/s (i.e. 05/1038 and 10/1271), the current proposal represents a net addition of 47 units, comprising 23 x 1 bed flats and 24 x 2 bed flats. As such, it is necessary to evaluate whether there is a net increased impact on Council facilities and any consequent need for further planning obligations.

7.45 Council policy (specified in the adopted Planning Obligations SPG 2015) stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. As such, only the 'market' units count towards leisure and education contributions.

7.46 'School Capacity' is calculated taking account of current school capacities, demand generated by extant permissions and/or Joint Housing Land Availability supply, as well as future pupil number projections over the lifetime of the related planning permission.

#### 7.47 **Education**

Secondary: The development falls within the catchment area of Lliswerry High School. Taking into account the scale and type of development proposed, as well as 'school capacity' (as at September 2016), no secondary education contribution is required.

Primary: The development is served by St Andrew's, Maindee and Lliswerry Primary Schools. Taking into account the scale and type of development proposed, as well as the 'school capacity' (as at September 2016), no primary education contribution is required.

#### 7.48 **Leisure**

The on-site provision of over 1000sqm of open space is deemed sufficient to service the leisure needs of the development (site to be maintained and managed by a Private Management Company).

#### 7.49 **Affordable Housing**

Council policy specifies a requirement to provide 9 affordable units (i.e. 20% provision). However, the scheme proposes 12 units in one discrete block, comprising 8 x 1 bed flats and 4 x 2 bed flats to be transferred to an RSL (at 50% of ACG) and to include the freehold of the block, with no additional service charges or management costs relating to external areas comprising landscaping, road or parking space maintenance. The proposed properties will be offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register, attain the appropriate Welsh Government standards and be transferred to a Registered Social Landlord, zoned for Newport by the Welsh Assembly Government.

7.50 The applicant has confirmed their agreement to the Heads of Terms.

#### 7.51 **Ecology**

The site does not contain any trees although it does contain some scrub. The application is accompanied by a reptile survey which confirms no reptiles were found. The Council's Ecology Officer has been consulted and confirms she offers no objection to the proposals. She also recommends that a native wildflower mix is planted in the landscape area.

### 8. **OTHER CONSIDERATIONS**

#### 8.1 **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### 8.2 **Equality Act 2010**

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 ***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. CONCLUSION**

9.1 The development site is allocated within the Council's LDP for housing and the proposals represent a positive contribution towards the Council's housing requirements.

9.2 The development is considered to be acceptable in terms of scale and design and impact on neighbours.

9.3 Whilst there would be a shortfall of two parking spaces, on street parking is available in the vicinity of the site and on balance, the proposals are considered to be acceptable in highway safety terms.

9.4 The development is considered to be acceptable in terms of flood risk despite not satisfying tests 6 and 12 of TAN 15.

9.5 It is recommended that planning permission is granted subject to the following conditions and legal agreement.

**10. RECOMMENDATION**

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

01 The development shall be implemented in accordance with the following plans and documents: A101 Revision M, A109 Revision B, A110 revision A, A119 Revision D, A105 Revision B, A112 Revision A, A108, A107 Revision A, A104 Revision B, A103 Revision C. Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

***Pre- commencement conditions***

02 No development, (other than demolition) shall commence until:

- a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.
- b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.



- c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- wheel wash facilities;
- delivery routes;
- management of vehicles, particularly Heavy Goods Vehicle (HGV), access to the site avoiding Air Quality Management Areas and vehicle idling;
- noise mitigation measures;
- mitigation for vibration arising from piling;
- details of temporary lighting;
- details of enclosure of working areas;
- contractor parking and compound;
- waste disposal.

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

Reason: In the interests of highway safety and to protect the amenities of nearby residents.

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

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

05 Prior to the commencement of development, full details of the means of surface water drainage disposal to serve the site shall be submitted to and approved in writing by the Local Planning Authority. The system shall be implemented in accordance with the details approved prior to the first occupation of any unit on site and retained in this state thereafter.

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

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

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

07 No development, shall commence until details and plans showing the finished slab level of the building(s) hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. Finished Floor Levels must be set at 10.25 metres Above Ordnance Datum (AOD).

The development shall be undertaken in accordance with the approved details.

Reason: In the interests of visual amenities and to reduce the risk of flooding to the proposed development and future users.

08 Prior to the commencement of development, full details of measures to prevent motorcycles from accessing the footpath linking Portskwett Street to the development site shall be submitted to the Local Planning Authority and written approval received. The approved measures shall be installed prior to the first occupation of the dwellings and shall be permanently retained.

Reason: To prevent motorcycles from using the footpath in the interests of neighbouring amenity and pedestrian safety.

09 Notwithstanding the information previously submitted, prior to the commencement of development, full details of boundary treatments and a timetable for their completion shall be submitted to the Local Planning Authority and written approval received. The approved boundary treatments shall be erected in accordance with the approved details and retained thereafter.

Reason: In the interests of visual amenity.

10 Prior to the commencement of development, full details of a timetable for the implementation of the access, parking provision and general arrangement shall be submitted to the Local Planning Authority and written approval received. The development shall be carried out fully in accordance with the approved details prior to the first occupation of any unit on site and the access, parking and general arrangement shall be retained in perpetuity.

Reason: In the interests of highway safety and amenity.

### ***Pre –occupation conditions***

11 Prior to first occupation of the units hereby approved, the roads and footpaths must be constructed to base course as a minimum, the final wearing course on the footways and carriageway must be laid prior to occupation of the last unit on site.

Reason: In the interests of highway and pedestrian safety.

12 The access, parking provision and general arrangement shall be carried out strictly in accordance with the details shown on the approved plans before the dwellings hereby permitted are first occupied and then maintained in such a state thereafter. Visitor spaces shall be kept available for use by all.

Reason: In the interests of highway safety.

13 No unit shall be occupied until the refuse storage area has been completed in accordance with the approved details. These areas shall be retained in the approved manner in perpetuity.

Reason: To ensure that adequate refuse storage facilities are provided in the interests of residential amenities.

14 No unit shall be occupied until full detail of cycle storage provision has been submitted to and approved by the Local Planning Authority. The cycle storage provision shall be provided and permanently retained in accordance with the approved details prior to the first occupation of any unit.

Reason: To ensure there is adequate cycle storage in the interests of sustainability.

*NOTE TO APPLICANT*

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

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

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

04 The applicant must contact the Streetscene department of the Council regarding the proposed works on Porskewett Street in order to facilitate the appropriate highways agreement.

05 The applicant is encouraged to install electric vehicle charging points in order to facilitate the uptake of low/zero emission forms of transport.

06 The applicant is advised that pursuant to condition 3 above (CEMP) all deliveries to site must access via Willenhall Street and Sea Breeze Avenue. This is to ensure the residents of Gaskell Street and Portskewett Street are unaffected by the construction activities. The only exception being when the highway and drainage works are undertaken in Portskewett Street.

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## **APPLICATION DETAILS**

**No:** 16/1256      **Ward:** *PILGWENLLY*  
**Type:** FULL  
**Expiry Date:** 19-MAR-2017  
**Applicant:** *S PARDUE*  
**Site:** *UNIT 27, ENTERPRISE WAY, NEWPORT, NP20 2AQ*  
**Proposal:** *CHANGE OF USE FROM FITNESS CENTRE TO DOG GROOMING SALON*

**Recommendation:** **GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

1.1 This application seeks permission for the change of use of the property from a fitness centre to a dog grooming salon.

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

15/1508      CHANGE OF USE FROM B1 Granted with  
(PRINTING/EMBROIDERY) TO D2 (FITNESS Conditions  
CENTRE)

### **3. POLICY CONTEXT**

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

3.1.1 Policy GP2 (General Amenity): Development will be permitted where, as applicable:  
i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light odours and air quality;  
ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;  
iii) The proposal promotes inclusive design both for the built development and access within and around the development;  
v) Adequate amenity for future occupiers.

### **4. CONSULTATIONS**

4.1 None.

### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.

### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50 metres were consulted (eighty-two addresses). Three letters were received raising the following issues:

- Noise from dogs barking
- Odours from dog fouling etc on grass verges
- Management of waste generated from the premises. If the applicant intends to use the Council's fortnightly waste collection service, the waste generated will cause odours and attract other animals.
- Another grooming business will cause little groomer shops to close down.

- Too many dog grooming salons in Newport and one of this size will be too much competition for the small businesses to cope with. There are already over 10 grooming salons within a 4 mile radius.

## **7. ASSESSMENT**

- 7.1 It is proposed to operate the dog grooming business from 09:00 until 18:00 Monday – Saturday inclusive and at no time on Sunday or Bank Holidays. The applicant has stated that dogs will be dropped off and picked up from the premises and it is anticipated that between 6 and 8 dogs a day will be groomed.
- 7.2 Head of Streetscene and City Services (Highways) has no objection to the proposals on the grounds that the proposal would not result in an increase in parking requirements at the premises.
- 7.3 One objection has been received, citing particular concerns of noise and odour nuisance and waste management. Given the nature of the application site, on an industrial estate, and the number of dogs to be groomed each day, it is not considered that the proposed use would have an unacceptable impact on surrounding residential properties in terms of noise. Whilst some waste would be produced by the nature of the business, it is not considered that the number of dogs each day is excessive and would produce equivalent waste to a domestic property. Furthermore, the Council's Environmental Health section has no objections to the proposal.
- 7.4 Two further objections were received citing issues of competition and the effect of a further business on the existing grooming salons in Newport. These are not material planning considerations.
- 7.5 It is considered that the proposal due to its location on an existing industrial estate would not have an unacceptable impact on the amenity of surrounding occupiers. The proposal is therefore considered to comply with policy GP2 (General Amenity).

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

### **8.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

### **8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.**

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 **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. CONCLUSION**

9.1 It is considered that the proposed use of the premises would not have an unacceptable impact on the amenity of surrounding occupiers or highway safety and is therefore acceptable.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

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

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

**General conditions**

02 The hours of operation shall be restricted to 09:00 to 18:00 Monday to Saturday and at no times on Sundays, Bank or Public Holidays. Outside of these hours the premises shall be vacated and closed to the public.

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

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policy GP2 was relevant to the determination of this application.

02 Newport City Council Parking Standards (Adopted August 2015) were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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## **APPLICATION DETAILS**

**No:** 17/0067      **Ward:** Alway

**Type:** Full

**Expiry Date:** 14-Apr-2017

**Applicant:** B JONES

**Site:** ALBANY GUEST HOUSE, 409 CHEPSTOW ROAD, NEWPORT

**Proposal:** **CHANGE OF USE FROM GUEST HOUSE TO SIX BEDROOM HOUSE IN MULTIPLE OCCUPATION WITH ANCILLARY ONE BED ACCOMMODATION FOR UP TO 8NO. OCCUPANTS WITH ANCILLARY CARER ACCOMMODATION TOGETHER WITH CHANGES TO EXTERNAL OPENINGS AND NEW WINDOW FRAMES**

**Recommendation:** **Granted with Conditions**

### **1. INTRODUCTION**

- 1.1 This application is for the change of use from guest house to six bedroom house in multiple occupation with ancillary one bed accommodation to the rear of the property also included. The proposed HMO would accommodate a maximum of eight occupants. Ancillary carer accommodation is also included. Externally some changes to openings and new window frames are proposed.
- 1.2 The main considerations in this application are the impact of the proposals on parking demand and whether the proposal will harm the character of the area and amenity of neighbouring occupiers.

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

None.

### **3. POLICY CONTEXT**

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

Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that development will be permitted where there will be no significant adverse effect on amenity and provides adequate amenity for future occupants.

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

Policy H8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that applications to convert buildings within the defined settlement boundary into HMOs will only be permitted if:

- i) the scale and intensity of use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on-street parking problems;
- ii) the proposal does not create an over concentration of HMOs in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;

- iii) adequate noise insulation is provided;
- iv) adequate amenity for future occupiers.

#### **4. CONSULTATIONS**

4.1 None.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): When taking into consideration the existing use of the site I am satisfied that the proposed use will not increase the parking demand and I would therefore offer no objection to the application.

5.3 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HMO LICENSING): The applicant will need to speak to the licensing department of the Council to ensure they meet the HMO license requirements.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (71 no properties) and a site notice displayed. No response received.

6.2 COUNCILLORS GUY, TRUMAN AND HARVEY: Express concerns about insufficient levels of parking and request the application be determined by Planning Committee.

#### **7. ASSESSMENT**

7.1 The property is a large semi-detached unit which, as noted above, is currently used as a guest house. It has a dedicated access leading to parking to the rear. This area of Chepstow Road is predominantly residential with a scattering of commercial uses. The adjoining property is also a guest house.

7.2 The accommodation is spread over three floors with a lobby, lounge, landlords bedroom and kitchen/dining area at ground floor, five bedrooms and a bathroom at first floor and four further bedrooms within the loft. The proposed layout would comprise a lobby, two bedrooms and a communal kitchen and lounge area, three bedrooms and a kitchen/lounge area at first floor as well as a dedicated room for a carer and two further bedrooms and a bathroom within the loft. With regard to the care element, the applicant advises that intended occupiers would be substantially independent but would have various medical reasons that may require carer assistance to varying degrees. The examples given of the issues affecting the intended occupiers include learning difficulties, mental health problems and similar manageable conditions. The accommodation is intended to enable people with differing independence and support needs to live together at the same address. The support provided to the tenants of the proposed HMO may include: budget planning and safely managing money, support to access day opportunities (paid employment / courses / college), personal care, social activities, skill development, confidence building, support with making and maintaining healthy relationships, maintaining a tenancy, living with others, holistic support for self-help / awareness, planning holidays / days away.

7.3 Whilst the applicant advises that the intended occupants would live largely independently it is not unusual for there to be an element of care within a household. The presence of a carer within the property does not therefore mean that the proposal is for anything other than the Sui Generis HMO which the applicant is applying for. The Council has no evidence to dispute that the premises would operate other than as the applicant describes and must assess the proposals on face value. If planning permission were to be forthcoming and the property was later being occupied in a way that breached the planning permission the Council would investigate and could take enforcement action if a breach had occurred and was harmful.



- 7.4 An element of the accommodation which includes a bedroom, bathroom and dining/lounge area would not be internally accessible from the rest of the property although it does form part of the envelope of the property. This is no different to the way in which the guest house is currently operated. The applicant advises that this part of the property would likely be occupied by a person or couple and would be incidental to the rest of the property with the carer accessing it via external steps to the rear.
- 7.5 The Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015) seeks to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity, although the existing SPG is being reviewed in light of the introduction of the new C4 use class. It also states that the council will not support a planning application that would take the number of HMOs above 15% within defined areas, measured within a 50 metre radius of the application property. Records show that there are no other HMOs within 50m of the property and therefore it is not considered that the proposal would result in an over-concentration of HMO's in this area.
- 7.6 Turning to matters of parking provision, the property is served by four off street parking spaces which would be retained to serve the occupiers of the intended HMO. In accordance with the Council's Parking Standards the existing guest house generates a demand for 11 vehicle spaces. The proposed use generates a demand for 9 parking spaces. The proposed use is therefore viewed an improvement in terms of parking demand. The Head of Streetscene and City Services (Highways) confirms that no objection is offered to the change of use when taking into consideration the existing use of the site, as the proposed use will not increase the parking demand.
- 7.7 To the rear of the property there is an existing patio area which can be accessed via the communal kitchen/lounge area. Whilst the scale of this area is small, it would provide the occupants of the property with an outdoor area suitable for sitting out or drying of clothes etc. Other than the carers room, the bedrooms are of a good size and would provide an acceptable standard of accommodation. The carer's room is small but the applicant advises that the room would only be used for sleeping on an occasional basis and in the main would provide an office area for the carer.
- 7.8 It is not considered that the scale of the HMO is such that it would harm the character of the building or locality or cause an unacceptable reduction in the amenity of neighbouring occupiers. By its nature, the existing guest house use resulted in a high turnover of guests and adds to the transient population within the area. The proposed use is considered to be appropriate within this predominantly residential area.
- 7.9 The proposals include minor changes to the fenestration of the property and new window frames. The proposals would not result in a detrimental impact to neighbouring amenity and are considered to be acceptable in terms of design.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

- 8.3 Having due regard to advancing equality involves:
- removing or minimising disadvantages suffered by people due to their protected characteristics;
  - taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
  - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.7 ***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. CONCLUSION**

9.1 The proposal will not increase parking demand and it is not considered that it would have an adverse impact on the character of the area or amenities of neighbouring residents. It is therefore recommended that planning permission is granted subject to the following conditions.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 100 Revision A, 101 Revision A, 102 Revision A, 103 Revision A, 104 Revision A, 105 Revision A.

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

***General Conditions***

02 The maximum number of bedrooms at the premises (excluding ancillary carer accommodation) hereby approved shall not exceed seven.

Reason: In the interests of neighbouring and highway amenity.

03 The existing parking provision shall be retained in association with the use of the property as a House in Multiple Occupation in perpetuity.

Reason: To ensure the development is served by adequate parking provision in the interests of highway safety and neighbouring amenity.

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6 and H8 were relevant to the determination of this application.

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

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

04 If it is intended for the dwelling to be converted into a House in Multiple Occupation under the Housing Act 2004, Part 2, where it will be occupied by more than two households, the most appropriate person (usually the landlord/owner of the property) should apply to the Environmental Health Housing Team on 01633 656656 or [hmo@newport.gov.uk](mailto:hmo@newport.gov.uk) for a HMO licence. In addition to HMO Licensing, private landlords are required by the Housing (Wales) Act 2014 to be registered. Also private landlords who undertake letting and management activities or their managing agents, will need to obtain a licence from Rent Smart Wales and undergo training. For further information contact the Licensing Authority; Cardiff City Council, Rent Smart Wales, PO Box 1106, Cardiff CF11 1UA, Tel No: 03000 133344, website [www.rentsmartwales.gov.wales](http://www.rentsmartwales.gov.wales)

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**APPLICATION DETAILS**

**No:** 17/0072      **Ward:** Shaftesbury

**Type:** Full

**Expiry Date:** 26-Mar-2017

**Applicant:** G DRAPER

**Site:** YSGOL GYFUN GWENT IS COED, BRYNGLAS DRIVE, NEWPORT

**Proposal:** PROVISION OF TEMPORARY TWO STOREY MODULAR CLASSROOM

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks consent for the provision of a temporary two storey modular classroom block at Ysgol Gyfun Gwent Is Coed, Brynglas Drive.
- 1.2 This is an existing primary school located within sizable grounds in a predominantly residential area. Domestic properties are located along Brynglas Drive to the south-east and Brynglas Close to the north-east. Graig Wood SINC adjoins the north-western and south-western intervening boundaries.
- 1.3 Planning permission was granted in July 2016 for the provision of a temporary two storey modular classroom block and provision of permanent additional access and on site car parking within the grounds of Ysgol Gymraeg Bro Teyrnnon, to allow Ysgol Gyfun Gwent Is Coed to open for year 7 pupils in September 2016. In advance of the permanent location being available in September 2018, further temporary accommodation is required to allow for the new intake of year 7 pupils to receive secondary education in the medium of Welsh. Ysgol Gyfun Gwent Is Coed will house a maximum of 167 pupils across years 7 and 8 from September 2017.
- 1.4 The use of the buildings is proposed until July 2018.

**2. RELEVANT SITE HISTORY**

01/0484	ERECTION OF NEW AUTISM UNIT COMPRISING 2 NO CLASSROOMS & ANCILLARY ROOMS (SINGLE STOREY) ALSO MODIFIED ON-SITE PARKING & SCHOOL ACCESS	GRANTED WITH CONDITIONS
14/0687	SINGLE STOREY EXTENSION TO REAR OF SCHOOL INCORPORATING A NEW CANOPY TOGETHER WITH REPLACEMENT WINDOWS AND NEW FELT ROOF	GRANTED WITH CONDITIONS
16/0374	PROVISION OF TEMPORARY TWO STOREY MODULAR CLASSROOM BLOCK AND PROVISION OF PERMANENT ADDITIONAL ACCESS AND ON SITE CAR PARKING	GRANTED WITH CONDITIONS

**3. POLICY CONTEXT**

- 3.1 **National Planning Policy**  
*Planning Policy Wales (Edition 8, January 2016)*  
 Chapter 4 (Planning for Sustainability)

- So far as possible, local planning authorities should direct development to brownfield land.
- Chapter 11 (Tourism, Sport and Recreation)  
 Para 11.1.12 states 'All playing fields whether owned by public, private or voluntary organisations, should be protected from development except where:
- Facilities can best be retained and enhanced through the redevelopment or a small part of the site;
  - Alternative provision of equivalent community benefit is made available; or
  - There is an excess of such provision in the area.

#### TAN 16 in detail

Paragraph 3.7 states the following:

- Playing fields and green spaces, when not required for their original purposes, may help to meet the need for informal recreational or amenity land in the wider community.
- Only where it can be clearly shown that there is no deficiency should the possibility of their [that is, playing fields and green spaces] uses for alternative development be considered.
- Playing field loss will need to be justified in relation to policies in the LDP, PPW and, where available, be consistent with the findings of the Open Space Assessment.

#### **Planning (Wales) Act 2015**

- Section 31 states that the use of the Welsh language may be a material consideration in the determination of an application for planning permission.

#### **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 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 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 WALES AND WEST UTILITIES: No response.

4.2 DWR CYMRU WELSH WATER: Request drainage conditions.

4.3 FIELDS IN TRUST: No objection subject to the building being temporary.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object to the application however I concur with the recommendations made by Richard Watkins that the tree line should not be lit and the trees should be inspected for nesting birds prior to removal.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Does not oppose the application.

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

5.4 HEAD OF LAW AND REGULATION (NOISE): No objection.

5.5 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): No objection.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (74no properties) and a site notice displayed. No response received.

#### **7. ASSESSMENT**

7.1 Newport City Council had a statutory obligation to provide Welsh-medium Secondary School places by September 2016. As noted above, the Council gave planning permission for the temporary siting of a demountable classroom at Ysgol Gymraeg Bro Teyrnnon in 2016. In advance of a permanent location being available in September 2018, further temporary accommodation is required to allow the new year 7 pupils to receive secondary education in the medium of Welsh in September 2017.

7.2 The school has been identified as an appropriate site for the temporary accommodation as the existing primary school is not at full capacity and the existing Autistic unit pupils (ASD) will be transferred to the Gaer by September 2017. The transfer of the ASD pupils will lead to a significant reduction of vehicle movements each day and also provide an additional 5no off road parking spaces for school staff.

7.3 The proposed modular building would be erected to the north-west of the site in an area that is currently used as a netball court on the fringe of the adjacent wood. The building would be of a similar design to that approved last year. However, due to the tender process being delayed pending planning permission, the exact size of the building is not yet known. The applicant has provided maximum dimensions and full details can be controlled by way of condition should planning permission be forthcoming.

7.4 The building would be no greater than 6.3m in height with a flat roof, 18m in length and 10m in depth. It would have a similar design to the demountable building previously approved at the site which is utilitarian in appearance.

7.5 *Principle of Development*

The 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 proposals satisfy policy SP12 of the LDP. The proposals are therefore considered to be acceptable in principle, subject to other material considerations that are discussed below.

## 7.6 ***Planning Policy***

Policy CF1 of the LDP protects playing fields, land and buildings used for leisure, sport, recreation and play. Proposals which involve the loss of recreational facilities will not normally be acceptable. However, considering the temporary nature of the proposal, and the immediate educational need, it is considered that the educational need of children outweighs the temporary loss of some of the schools sport facilities.

## 7.7 ***Visual Impact***

Due to the siting of the proposed building to the rear of the site behind the existing school building, away from neighbouring dwellings and the site frontage, it is not considered that the building would be visually prominent or of detriment to the visual amenity of the area.

## 7.8 ***Highway Matters***

Whilst no additional parking is proposed as part of this application it should be noted that 29no additional parking spaces were provided as part of the application for the previous demountable building. The number of parking spaces provided was in excess of the demand created by the development (that being 16no spaces). A condition of the previous consent was that prior to the commencement of development full details of a highways access strategy had to be submitted to the Local Planning Authority. The strategy included details of how sustainable travel will be encouraged and confirmation of how pupils will be managed between the bus terminal and preferred parent pick up/drop off location and the school.

7.9 The current application is accompanied by a Traffic Assessment. The applicant advises that the School will be encouraged to advise pupils and parents to use more sustainable and healthy forms of transport and to minimise the need for travel. To help encourage cycling to the site, eight cycle parking spaces were previously provided.

7.10 As part of the Traffic Assessment the applicant carried out consultation with residents. Feedback from residents fed into the final design of the car parking and drop off/pick up arrangements indicated within the Transport Statement. Residents felt the drop off zone should be at the top of Brynglas Road. This practice has been successfully used during the first year of occupation by Ysgol Gyfun Gwent Is Coed, and will continue into the second year of occupation. Residents raised concerns about issues created when evening events are held on site. To alleviate this problem, a drop kerb is to be provided in the existing school car park, which will allow vehicles access to event parking on the rear school yard.

7.11 In response to the current proposals the Head of Streetscene (Highways) confirms no objection is offered.

7.12 It is pertinent to note that no objections have been received in response to the proposals from the consultation of neighbours.

## 7.13 ***Neighbour Amenity***

The proposed building would be located at least 70 metres away from the nearest residential properties and would not result in a detrimental impact in terms of neighbouring privacy or amenity.

#### 7.14 ***Protected Species***

As noted above, the site lies adjacent to a wooded SINC. The development does not encroach into the SINC, but a number of trees along the border which overhang the boundary of the school are to be cut back. An inspection of nesting birds and bats on the trees highlighted for work has been carried out. The inspection found that the trees had negligible potential for bats and no nesting birds were observed.

7.15 The Council's Ecology Officer offers no objection to the proposals but advises that the tree line should not be lit and the trees should be inspected for nesting birds prior to removal.

#### 7.16 ***Trees***

A Tree Survey has been submitted in support of the planning application which identifies a number of management recommendations that includes pruning and removal of dead wood.

7.17 The Council's Tree Officer has no objection to the proposal.

### **8. OTHER CONSIDERATIONS**

#### 8.1 ***Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### 8.2 ***Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

The above duty has been given due consideration in the determination of this application. It is considered that that the proposal would have significant benefits in promoting the use of the Welsh language within the City.

#### 8.7 ***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. CONCLUSION**

- 9.1 The proposals would have a number of significant benefits including the promotion of the Welsh language in the City. The loss of the sports facility would be temporary only and the benefits of the development are considered to outweigh the temporary loss.
- 9.2 The proposals would not have a detrimental impact on protected species or trees, neighbouring amenity or highway safety.
- 9.4 It is recommended that the application is granted subject to the following conditions.

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: NPS-00-00-SU-A-002, NPS-00-00-SH-A-010, NPS-00-00-SU-A-004, NPS-00-00-SU-A-003, NPS-00-00-SU-A-006, NPS-00-00-SU-A-007, NPS-00-00-SU-A-020, NPS-00-00-SU-A-007 Revision B.

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

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

02 Prior to the installation of the building hereby approved, full details shall be submitted to the Local Planning Authority and written approval received.

Reason: In the interests of visual amenity.

03 No external lighting shall be erected without the prior written consent of the Local Planning Authority.

Reason: In the interests of ecology.

### ***General conditions***

04 This permission shall be for a limited period expiring on 31<sup>st</sup> August 2018, when the modular building shall be removed, the use discontinued and the land restored to its former condition, unless prior to that date an application has been submitted to the Local Planning Authority for consideration.

Reason: To enable the Local Planning Authority to review the situation at the end of the temporary period due to the temporary nature of the buildings and due to the shortfall in play space as a result of pupil number increase at the site.

05 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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.

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

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

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

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

04 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

05 The amended Wildlife and Countryside Act 1981 protects bird species whilst nesting in the UK. This protection extends to a bird, its nest, eggs, and young until such time as the young have fledged. Vegetation clearance should proceed outside the peak bird-breeding season (generally considered to be March through August inclusive) or within the breeding season only if a pre-clearance survey shows no breeding birds to be present, nesting or commencing nesting within the vegetation to be affected. Prior to removal of any trees they should be inspected for nesting birds.

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**APPLICATION DETAILS**

**No:** 17/0105      **Ward:** GRAIG

**Type:** FULL

**Expiry Date:** 05-APR-2017

**Applicant:** M SHARP

**Site:** 3, BLUEBELL WAY, ROGERSTONE, NEWPORT, NP10 9JB

**Proposal:** GARAGE CONVERSION TO HABITABLE ROOM AND MODIFICATIONS TO EXISTING PORCH

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

1.1 This application seeks full planning permission for the conversion of an integral garage to a habitable room and modifications to an existing open sided porch to form an enclosed porch. The application building is a detached house known as 3 Bluebell Way.

**2. RELEVANT SITE HISTORY**

98/0849	RESERVED MATTERS APPLICATION RELATING TO OUTLINE APPROVAL 97/0223/O RESIDENTIAL DEVELOPMENT (355 UNITS) INCLUDING PROVISION OF PUBLIC OPEN SPACE AND LANDSCAPING (AFFECTING FOOTPATHS 57 & 58)	Approved conditions with
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**3. POLICY CONTEXT**

3.1 **Newport Local Development Plan 2011-2026 (Adopted January 2015)**  
 Policy **GP2 General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.  
 Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.  
 Policy **GP6 General Development Principles – Quality of Design** states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.  
 Policy **T4 Parking** states that development will be expected to provide appropriate levels of parking.

**4. CONSULTATIONS**

4.1 None

**5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): In light of the submitted information and on street parking survey I would remove my objection to this application.
- 6. REPRESENTATIONS**
- 6.1 NEIGHBOURS: All properties sharing a common boundary with the application site were consulted (3 properties). No responses.
- 6.3 GRAIG COMMUNITY COUNCIL: Objection on the grounds that insufficient parking provisions have been made.
- 7. ASSESSMENT**
- 7.1 The proposed garage conversion would include the removal of the garage door and its replacement with a window which would match an existing window on the left side of the elevation. The proposed materials would match those of the existing house.
- 7.2 The modifications of the porch include enclosing the side elevations and inserting a small window in each side; and enclosing the front elevation and inserting a new door. The materials would match the existing house although the applicant has stated that the materials of the front door would either be wooden, UPVC or a composite.
- 7.3 Policies GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design) and T4 (Parking) of the Newport Local Development Plan are relevant to the determination of this application. The Newport Parking Standards Supplementary Planning Guidance is also relevant.
- 7.4 The parking requirement for residential properties in this area is 1 no. space per bedroom, up to a maximum of 3 no. spaces. The application property has three bedrooms and the house was designed with two spaces on the driveway and one space within the integral garage. The integral garage measures 2.43m by 5.1m. The Head of Streetscene and City Services (Highways) originally considered this to be a useable space and required the applicant to provide a third space within the plot to compensate for the loss of the garage space.
- 7.5 The applicant has provided written and photographic evidence that the existing garage is not useable for both a medium family size car and a smaller vehicle. There are difficulties entering the garage with the medium size car as it is wider than the garage opening with wing mirrors out. Once in the garage there is only a 28cm gap between the closed door and garage wall; and there isn't sufficient space to enter or exit the vehicle. Whilst the smaller vehicle can enter the garage, the applicant states that this is a difficult manoeuvre and requires assistance from another person outside of the vehicle. Once in the garage there is a 27cm gap to enter/exit the vehicle and whilst this is sufficient for child to use it is not wide enough for an adult to use.
- 7.6 The applicant has also carried out an on-street parking survey conducted between the hours of 9pm to 10pm across 5 days. The survey shows that on-street parking is not in significant demand with the highest count of on-street vehicles being 3. Furthermore the applicant argues that there is currently sufficient on-street space for one vehicle outside of 3 Bluebell Way. Should a third space be provided within the application site this would require an extension of the drop kerb thereby removing the provision of the on-street space. As such there is no benefit to providing the third off-street parking space.
- 7.7 In light of this evidence the Head of Streetscene and City Services (Highways) no longer objects to the proposal.
- 7.8 The visual impact of the proposed new window and brick work is considered to be acceptable as the materials and design of window would match those of the existing house. The proposal to enclose the porch is also considered to be a minor alteration with a minimal visual impact.

## **8. OTHER CONSIDERATIONS**

### **8.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **8.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

### **8.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

### **8.7 *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. CONCLUSION**

9.1 The proposed development is considered to be acceptable and in accordance with policies GP2, GP4, GP6 and T4 of the Newport Local Development Plan 2011-2026. It is recommended that planning permission is granted with conditions.

## **10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: drawing A, drawing B, site location plan and Supplementary Parking Information (M. Sharp, 5 March 2017).

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

02 The external surface of the garage conversion and porch modification (except the new front door) hereby approved shall be of materials to match those of the existing dwelling.

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

03 Two parking spaces shall be retained within the grounds of the property at all times.

Reason: In the interests of highway safety.

*NOTE TO APPLICANT*

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

02 The Newport Parking Standards Supplementary Planning Guidance (Adopted August 2015) were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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# Report

## Planning Committee

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### Part 1

Date: 5 April 2017

Item No: 6

**Subject** **Appeal Decisions**

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

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

**Ward** Caerleon, Malpas, Victoria, Allt-yr-Yn, Marshfield

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

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

**Action by** Planning Committee

**Timetable** Not applicable

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

## **Background**

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

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

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

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

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

## **Financial Summary**

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

## **Risks**

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

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

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

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.



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

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

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

### Options Available

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

### Preferred Option and Why

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

### Comments of Chief Financial Officer

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

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

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

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

### **Comments of Monitoring Officer**

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

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

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

### **Local issues**

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

### **Equalities Impact Assessment 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**

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

### **Consultation**

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

### **Background Papers**

Not applicable

Dated: 5<sup>th</sup> April 2017

## PLANNING APPLICATION APPEAL

APPEAL REF: APP/G6935/C/16/3161464  
APPEAL TYPE: Written Representations  
WARD: Caerleon  
SITE: Berry Field House, Lodge Road, Caerleon, Newport, NP18 3QW  
SUBJECT: Erection of shed forward of principal elevation  
APPELLANT: Mr Alan Cresswell  
PLANNING INSPECTOR: Clive Nield  
DATE OF COUNCIL'S DECISION: 14<sup>th</sup> October 2016  
OFFICER RECOMMENDATION: Issue Enforcement Notice  
COMMITTEE/DELEGATED: Delegated



### SUMMARY

The appeal was against the issuing of an Enforcement Notice which required the removal of an outbuilding, forward of the principal elevation of the dwelling. The Inspector considered the main issues in the determination of the appeal to be effect of the shed on the character and appearance of the area and the street scene.

The outbuilding is 4.3 metres wide, 2.8 metres in height; constructed with timber walls and a felt shingle roof and is located two metres behind the front boundary wall, which is 1.2m-15m metres high. The appellants house lies in an elevated position about 16 metres back from the front boundary wall.

The outbuilding is largely concealed behind the front boundary wall; however its top section can clearly be seen from the public highway. The appellant has planted shrubs which will further screen the outbuilding in due course. The appellant's house is of a substantial size and at an elevated position appearing as the dominant feature of the site. The wider area is characterised by a variety of house designs elevated above road level and varied boundary treatments alongside the road. Several other properties have substantial ancillary buildings in the front gardens.

In view of the above, it is considered that the outbuilding is a subservient structure and is not detrimental to the character and appearance of the main dwelling or the street scene. The appeal has therefore been allowed on ground (a).

As the Enforcement Notice has been quashed and planning permission granted for the retention of the outbuilding, the appeal under ground (g) was not considered.

**DECISION: ALLOWED**

## PLANNING APPLICATION APPEAL

APPEAL REF:	APP/G6935/D/17/3166405
APPEAL TYPE:	Written Representations
WARD:	Malpas
SITE:	21 Graig Park Road, Malpas, Newport, NP20 6HD
SUBJECT:	Proposed erection of first floor extension to side and rear
APPELLANT:	Mrs Sharon Ahern
PLANNING INSPECTOR:	Melissa Hall
DATE OF COUNCIL'S DECISION:	8 <sup>th</sup> November 2016
OFFICER RECOMMENDATION:	Refuse
COMMITTEE/DELEGATED:	Delegated



### SUMMARY

The appeal sought the erection of a first floor side and rear extension. The Inspector considered the main issues in the determination of the appeal to be the effect of the proposed development on the character and appearance of the area and on the living conditions of neighbours.

The appeal property is a modest, semi-detached dwelling of simple design, scale and form. Although there have been a number of alterations and extensions to the dwellings in the vicinity, there remains a degree of uniformity in terms of their external appearance. The adjoining semi-detached property (No 23) has not been subject to any alterations to its front or side elevations. The appeal property benefits from an existing garage extension, however, given the subordinate nature of the side extension, the symmetry and balance of the pair of semi-detached properties is retained overall.

The proposed extension would not be set back resulting in an uninterrupted elevation. Such design would fail to represent a subservient addition to the existing dwelling and when read in context of the attached dwelling; the proposal would have an unbalancing effect on the pair to the detriment of their appearance.

Given the siting relationship between the appeal property and the neighbouring pair of semi-detached properties, it was not considered that the proposal would result in a terracing effect. However, this does not overcome the harm previously described. For these reasons, the proposal was considered to be contrary to Local Development Plan Policies GP6.

The Inspector noted that the Council took issue with the overbearing impact of the extension on the occupants of No 19, by reason of its scale, location and design. The Inspector noted No 19 to be orientated at an oblique angle to the appeal dwelling and has a lower slab level. Nevertheless, the siting relationship is such that there would be no direct outlook onto the extension from the rear habitable room windows serving the neighbouring dwelling. Furthermore, the single storey garage in the intervening side garden of No 19 would obscure the massing of the two storey elevation to some extent, such that it would not be read in its entirety from the garden of this neighbouring property.

In view of the above, it was considered that the design, scale or siting of the extension would not have a significant harmful overbearing impact which would adversely affect the living conditions of neighbours. The proposal was therefore considered to comply with Policy GP2. However, this matter does not outweigh the harm to the character and appearance of the area.

For the reasons given above, the appeal has been dismissed.

**DECISION: DISMISSED**

## PLANNING APPLICATION APPEAL

APPEAL REF: APP/G6935/A/16/3162542  
APPEAL TYPE: Written Representations  
WARD: Victoria  
SITE: 148-152 Chepstow Road, Newport, NP19 8EG  
SUBJECT: Retention of roller shutters  
APPELLANT: Mr A Ryzinski  
PLANNING INSPECTOR: Janine Townsley  
DATE OF COUNCIL'S DECISION: 20<sup>th</sup> May 2016  
OFFICER RECOMMENDATION: Refuse  
COMMITTEE/DELEGATED: Delegated



### SUMMARY

The appeal sought the retention of pinhole roller shutters and associated shutter housing on the shopfront. The Inspector considered the main issue in the determination of the appeal to be the effect of the proposal on the character and appearance of the appeal site and the surrounding area.

The appeal property comprises a building in retail use set within the district centre. The appeal shopfront comprises two large display windows and a glazed door area. The shutters have been designed to cover the whole shop frontage, which is wider than many other premises in the area. The appeal building is surrounded by other commercial and retail premises along a busy road and this establishes the character and appearance of the area. The Inspector noted that similar roller shutters in the vicinity of the appeal building does not justify the development.

Evidence demonstrating two attempted break-in incidents within a 12 month period was provided by the appellant. The incidents related to a break through the front door and a side window within the recessed main entrance. The Council stated that such evidence did not justify exceptional circumstances and therefore the need for a pinhole roller shutter across the whole shop front was not considered acceptable. However, the Inspector considered the shutters were installed in response to more than one security breach and the fact that one of the incidents related to a side window is insufficient to dismiss the appeal for that reason alone.

The Inspector noted that the roller shutters only covered glazed sections of the shopfront and its colour matched that of the shopfront. The roller shutters were therefore considered to comply with the Council's 'Security Measures for Shop Fronts and Commercial Premises Supplementary Planning Guidance'. The scale of the shopfront dictates the width of the shutters and this justifies their size. The development is therefore considered to accord with Policy GP6 of the Newport Local Development Plan.

For the reasons given above, the appeal has been allowed.

**DECISION: ALLOWED**



## PLANNING APPLICATION APPEAL

APPEAL REF: 16/0107  
APPEAL TYPE: Hearing  
WARD: Allt-yr-Yn  
SITE: Northern Hey Stables, Brickyard Lane, Newport, NP20 5EJ  
SUBJECT: Variation of conditions 1 (number of caravans) and 2 (occupants) of planning permission 15/0325 (part allowed by appeal) to allow for the siting of 8no. additional caravans (16 No. in total)

APPELLANT: Ms C Rogers  
PLANNING INSPECTOR: Vicki Hirst  
DATE OF COUNCIL'S DECISION: 16<sup>th</sup> June 2016  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Delegated

## DECISION: PART ALLOWED/PART DISMISSED



### Summary

The site is an authorised gypsy and traveller site limited to 8 touring caravans for occupation by the individuals listed in the previous permission. The appeal was against a refusal to grant planning permission under Ref 16/0107.

### *Gypsy and Traveller Status*

The inspector concluded that based on the evidence before them, that neither Mr Richards or Miss Timmins met the definition of gypsies and travellers for planning purposes and they have no overriding personal needs or circumstances that would justify their occupation of the appeal site. The inspector concluded that Mr and Mrs Rafferty, who are existing residents, have demonstrated a gypsy and traveller lifestyle and that the appeal site would provide a suitable site in principle for two additional caravans to accommodate them and their children.

### *The need for gypsy and traveller sites in Newport, other alternative sites and the personal circumstances of the proposed occupants*

Hartridge Farm Road is an authorised gypsy and traveller site that was allocated by the council. None of the four proposed occupants have registered for a pitch on this site.

### *Highway Safety*

Visibility is restricted and falls considerably short of the recommended standards. Additional occupants are likely to generate additional movements to and from the site irrespective of whether or not they drive. Whilst the inspector concludes that highway safety would not be unacceptably compromised by two

additional caravans for the existing residents, in the assessment, any additional caravans for new occupants would have a significant effect on highway safety.

**Conclusion**

The appeal is allowed in part relating to two additional caravans for existing residents, the omission of reference to named children and their replacement with a generic reference to dependents. Planning permission is granted for the mixed use of the land for the siting of a mobile home, siting of touring caravans, and the keeping of horses together with the retention of hardstandings, extension to the stable block to create a utility/amenity room and the rebuilding of an ancillary building to create an amenity block in accordance with application Ref 16/0107.

**Decision: PART ALLOWED/PART DISMISSED**

## PLANNING APPLICATION APPEAL

APPEAL REF: E16/0069 and 15/0761  
APPEAL TYPE: Hearing  
WARD: Marshfield  
SITE: Land adjacent to and north of Green Farm, Green Lane, Peterstone Wentlooge, Cardiff CF3 2TN  
SUBJECT: Retention of the use of the land for the siting of 1no. mobile home and 2no. touring caravans for use as a private gypsy and traveler site  
APPELLANT: Mr and Mrs W and M Cassidy  
PLANNING INSPECTOR: Richard E Jenkins  
DATE OF COUNCIL'S DECISION: 26<sup>th</sup> February 2016  
OFFICER RECOMMENDATION: Refused  
COMMITTEE/DELEGATED: Committee

### DECISION: PART ALLOWED/ PART DISMISSED



### Summary

The appeal was made against enforcement notice E16/0069 and against a refusal to grant planning permission for the change of use of land to a private gypsy and traveller caravan site. Planning permission was granted for a temporary period of three years. This temporary permission expired on 31<sup>st</sup> December 2014. An enforcement notice was issued on the 8<sup>th</sup> of March 2016, the appellant alleges that the compliance period is too short and that planning permission should be granted.

The inspector recognised that the appellant and the other proposed beneficiaries comprise Gypsies and Travellers, as defined by Welsh Government Circular 30/2007. The introduction of a mobile home, touring caravans and other structures has materially altered the character of the site and its immediate surroundings. The inspector concludes that the relatively isolated location does not render the scheme unacceptable, the use does injuriously alter the character and appearance of the areas. As such, it runs counter to the general thrust of Policy SP5.

The appellants had not engaged with the process of applying for a pitch on the council's authorised gypsy and traveller site Hartridge Farm Road as they felt it would be unsuitable in meeting the needs of their eldest son. Nothing was shown to the inspector by way of medical evidence that would suggest that a well-designed pitch at the Hartridge Road site would not represent a suitable solution to the family's needs. The inspector found that the development would fail to maintain the openness of the Green Belt

and concluded that the harm to the greenbelt was substantial and as such the very exceptional circumstances did not outweigh this harm.

The development is contrary to both national and development plan policy relating to flood risk. The appeal site falls within the Zone C1 flood area. Residential caravan sites are deemed to be highly vulnerable development and should be directed away from Zone C.

With regards to the compliance period in the enforcement notice, the inspector considered that a period of 12 months would strike an appropriate balance between restricting the harm identified and providing a realistic timeframe for alternative accommodation to be found

### **Conclusion**

The enforcement notice is varied by the deletion of the 6 months compliance period and the substitution of 12 months as the period for compliance. The planning application was dismissed and so planning permission is refused for the change of use of land to a private gypsy and traveller caravan.

**Decision: PART ALLOWED/PART DISMISSED**