

Agenda



Planning Committee

Date: Wednesday, 4 October 2017

Time: 10.00 am

Venue: Council Chambers, Civic Centre, Newport

To: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, J Clarke, C Ferris, Y Forsey, J Jordan, M Linton, R Mogford, C Townsend and R White

NEWPORT CITY COUNCIL WEBCASTS

Webcasts of Newport City Council's full Council and Planning Committee meetings are being temporarily suspended while the sound system is upgraded.

It is expected that broadcasts will be resumed before the end of the year.

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

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

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

Part 1

Item	Wards Affected
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 of Meeting held on 6 September 2017</u> (Pages 5 - 10)	
5. <u>Development Management: Planning Application Schedule</u> (Pages 11 - 80)	
6. <u>Appeal Decisions</u> (Pages 81 - 92)	

Contact: Michele Chesterman

Tel: 01633 656656

E-mail: michele.chesterman@newport.gov.uk

Date of Issue: Wednesday, 27 September 2017

This page is intentionally left blank

Agenda



Pwyllgor Cynllunio

Dyddiad: Dydd Mercher, 6 Hydref, 2017

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cyngorwyr Richards (Cadeirydd), Guy (Dirprwy Gadeirydd), Al-Nuaimi, Clarke, Ferris, Forsey, Jordan, Linton, Mogford, Townsend a White

Gwe-ddarllodiadau Cyngor Dinas Casnewydd

Mae gwe-ddarllodiadau o gyfarfodydd llawn Cyngor Casnewydd a'r pwyllgor cynllunio yn cael eu hatal dros dro tra bo'r system sain yn cael ei huwchraddio. Disgwylir y bydd y darllodiadau'n ailgychwyn cyn diwedd y flwyddyn.

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.

Eitem

Wardiau dan Sylw

1. Agenda Cym
2. Ymddiheuriadau dros Absenoldeb
3. Datganiadau Diddordeb
4. Cofnodion y cyfarfod (ydd) diwethaf Pob Ward
5. Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio Pob Ward
6. Penderfyniadau Apeliadau

This page is intentionally left blank

Planning Committee

Minutes

Date 6 September 2017

Time 10.00 a.m.

Present Councillors Richards (Chair), Ferris, Guy, Jordan, Mogford, Townsend, R White

T Brooks (Development and Regeneration Manager), E Jones (Principal Planning Officer), J Davidson (East Area Development Manager), S Williams (West Area Development Manager), G Roberts (Principal Planning Officer), J Evans (Senior Solicitor), C Jones (Principal Highway Engineer), A Lowe (Planning Contributions Manager), M Tett (Principal Environmental Officer), M McEwan (Technical Assistant, Traffic Management & Development) S Davies (Strategy & Development Manager), R Sexty (Education Business Development Officer), L Jackson (Service Manager, Adult and Community Services), M Chesterman (Democratic Services Officer)

Apologies Councillors Clarke, Al-Nuaimi, Forsey, Linton

1 Minutes

The Minutes of the meeting held on 2 August 2017 were submitted.

Resolved

That the Minutes of the meeting held on 2 August 2017 be taken as read and confirmed.

2 Development Management: Planning Application Schedule

Resolved

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

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

3 Appeal Decisions

Consideration was given to a report following recent appeals.

Planning Application Appeals – Allowed

- Application No: 16/1292 – 166-168 Cromwell Road, Newport NP19 0HP – Erection of for two storey unit for use as A1 with ancillary office and storage space in connection with A1 business.
- Application No: 15/0432 – Black Horse Inn, 56 Somerton Road, Newport NP19 0JE – Erection of 8 dwellings with off road parking and associated works.
- Application No: 16/1236 – Broad Towers, Broadway, Caerleon, Newport NP18 1AY – Retention of enlargement of first floor side elevation window and installation of balcony.

Planning Application Appeals – Dismissed

- Application No: 16/1042 – 19 Old Hill Crescent, Christchurch, Caerleon, Newport – Demolition of existing dwelling and construction of replacement dwelling and new dwelling to the rear

Resolved

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

Appendix

PLANNING COMMITTEE – 6 SEPTEMBER 2017

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
17/0520	90 Heather Road, Newport NP19 7QX Change of use from Post Office (use Class A1) to Hot Food Takeaway (use Class A3)	Beechwood	Mr T Evans, Applicant spoke on the application. Councillor Deb Davies spoke on the application. Councillor Mark Spencer who had been due to speak sent apologies.	Granted with conditions
17/0070	Croes-Carn-Einon Farm, Holly Lane, Newport NP10 8RR Change of use to Waste Transfer Station (affecting footpath 393/89/1)	Graig	Councillor Corneilious spoke on the application.	Refused with delegated powers to undertake enforcement action
17/0431	Land and buildings formerly known as Durham Road Junior and Infant School, Durham Road, Newport Residential Development for 57No Apartments together with associated vehicular and	St Julians	Mr M Southall, Agent spoke on the application. Councillor P Hourahine spoke on the application.	Granted with conditions subject to a legal agreement with delegated authority to refuse permission if the agreement is not completed within 3 months of any resolution to grant

	pedestrian accesses, car parking, amenity areas, mobility scooter and bin store, landscaping and ancillary development, site preparation, clearance, treatment, re-profiling and the installation of new services and infrastructure.		After this item the meeting was adjourned for a 10 minute break	permission
15/0775	Land formerly known as Whitehead Works, Mendalgief Road, Newport Construction of 529No residential units, 24 No assisted living units, pub/restaurant, retail units, primary school and associated landscape and highway infrastructure.	Pillgwenlly	Members were made aware of late representations previously circulated in respect of this application Mr D Ward, Agent spoke on the application. Councillor Tracey Holyoake spoke on the application. Councillor Ibrahim Hayat who had been due to speak sent apologies Councillor Carmel Townsend left after this item The meeting was adjourned for 5 minute break	Granted subject to completion of Section 106 agreement and conditions. Failure to sign the agreement within 3 months to result in delegated powers to refuse application
17/0365	Land and buildings adjacent and west of Derwen House, Spring Lane, Newport Demolition of Garage Block and Erection of New Dwelling	Stow Hill	Councillor Carmel Townsend returned for this item Members were made aware of late representations previously circulated in respect of this application Cllr Kate Thomas spoke on the application	Refused

17/0605	<p>Caerleon Lodge Hill Primary School, Lodge Hill, Caerleon, Newport NP18 3BY</p> <p>Demolition of Existing Junior School and erection of new primary school, to include public play equipment and public open space, creation of parking area and sports facilities and drop off/collection bay and associated infrastructure</p>	Caerleon	<p>Members were made aware of late representations previously circulated in respect of this application</p> <p>Councillor Jason Hughes spoke on this application</p>	Granted with conditions
17/0657	Information Station, Station Buildings, Queensway, Newport, NP20 4AX	Stow Hill		Granted with conditions
17/0662	Bannatyne's Health Club, Enterprise Way, Newport NP20 2AQ	Pillgwenlly	Members were made aware of late representations previously circulated	Granted with conditions

This page is intentionally left blank

Report

Planning Committee

Part 1

Date: 4 October 2017

Item No: 5

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

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

Ward As indicated on the schedule

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

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

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

Proposal **1. To resolve decisions as shown on the attached schedule.**
2. To authorise the 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.

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	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.

Background Papers

NATIONAL POLICY

Planning Policy Wales (PPW) Edition 9 (November 2016)
Development Management Manual 2016

PPW Technical Advice Notes (TAN):

- TAN 1: Joint Housing Land Availability Studies (2015)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Commercial Development (2016)
- 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 (2016)
- 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: Planning and The Welsh Language (2013)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)
- TAN 24: The Historic Environment (2017)

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 2017 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:1 **17/0604** **Ward:** **LANGSTONE**

Type: **OUTLINE**

Expiry Date: **18-OCT-2017**

Applicant: **N PHILLIPS**

Site: **MALVERN HOUSE, CHEPSTOW ROAD, NEWPORT, NP18 2JP**

Proposal: **SUBDIVISION OF CURTILAGE AND ERECTION OF DETACHED TWO STOREY DWELLING WITH ACCESS FROM TREGARN ROAD AND CREATION OF NEW VEHICULAR ACCESS OFF CHEPSTOW ROAD (A48) TO SERVE EXISTING DWELLING**

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

1. INTRODUCTION

- 1.1 This application seeks outline planning permission with all matters reserved for the subdivision of curtilage and construction of detached two storey property within the rear garden of Malvern House, Langstone. The application also includes the provision of a parking area to the front of the existing property at Malvern House and the formation of a new vehicular access onto Chepstow Road.
- 1.2 The application site is a detached residential property that is located within a large curtilage comprising of a garden that fronts onto Chepstow Road to the south and a large private rear garden that backs onto and benefits from a vehicular access onto Tregarn Road to the north. To the north east the site shares a boundary with 2no. residential properties namely Acer House and Snaefell and to the south the site borders with Walton House.

2. RELEVANT SITE HISTORY

98/0206	ERECTION OF A DETACHED DWELLING (OUTLINE)	REFUSED
---------	-------------------------------------------	---------

3. POLICY CONTEXT

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

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

SP10 House Building Requirement.

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.

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.

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

4. CONSULTATIONS

- 4.1 DWR CYMRU/WELSH WATER: Having had an opportunity to review the application submission package, we advise that the proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs; however, having regard to drawing reference: PL/01, it appears the proposed development would be situated within the protection zone of the public sewer measured 3 metres either side of the centreline. It is possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act and we request that they contact us to discuss our concerns and consider possible solutions. Alternatively we recommend the proposed development is repositioned to accommodate for the required protection zone.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The proposed property will utilise the existing access off Tregarn Road and I'm satisfied that parking will be provided in accordance with the Newport City Council Parking Standards.

Visibility for the new access onto Chepstow Road is acceptable and sufficient parking will be provided along with a turning area to allow access and egress off the highway in a forward gear.

Subject to the driveway being hard paved, and suitable drainage being employed to prevent surface water run off onto the adopted highway, I would offer no objection to the application.

- 5.2 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): I confirm I have no objections to the proposals; however the following condition should be attached to any permission granted;

Construction Environmental Management Plan (CEMP)

Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The Construction Environmental Management Plan (CEMP) shall identify the steps and procedures that will be implemented during development resulting from the site preparation, groundwork and construction phases of the development regarding:

- noise mitigation measures - to minimise the creation and impact of noise;
- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003;
- waste disposal;
- details of enclosure of working areas;
- details of contractor parking areas and construction site accesses;

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

The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To protect the amenities of nearby residents and in the interests of highway safety.

Development/Construction Hours

No development, (including land raising and demolition if required) shall be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays.

Reason: To protect the amenities of nearby residents.

Air Quality – Advisory

Newport is known to suffer from particularly poor air quality compared to the rest of Wales. To encourage a change to low/zero emission methods of transport, I advise electric vehicle charging points are installed within the vehicle parking area. Funding may be available for the installation via the government grant scheme - <https://www.gov.uk/government/collections/government-grants-for-low-emission-vehicles>

- 5.3 HEAD OF REGENERATION AND REGULATORY SERVICES (HOUSING): With regard to the above named application for the construction of an additional dwelling within the curtilage of the existing property, I can confirm that due to the affordable housing need within the area there would be a requirement for a commuted sum payment; this figure will be advised by planning policy colleagues.
- 5.4 HEAD OF REGENERATION AND REGULATORY SERVICES (CONTRIBUTIONS MANAGER): Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Rural Newport, based upon a 40% target. The methodology for establishing the housing target areas and calculating the associated payments is set out within the adopted [Affordable Housing SPG \(August 2015\)](#) .

Based upon a net increase of 1 x 2 bed house, and subject to economic viability, a commuted contribution of £2385 would be requested for affordable housing provision.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties that share a common boundary and are opposite the application site were consulted (13no. properties) and 5no. objections have been received, stating the following objections;

Walton House

- The site is not large enough to accommodate a suitably sized building so as to be in keeping with the character of the adjoining properties (previously refused application 98/0206/O
- The erection of this dwelling would seriously impact on the privacy of the rear garden of both Acer House and Walton House where much time is spent during the summer months and privacy, currently enjoyed would be lost forever, contrary to Policies GP2, GP6 and H6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).
- The rear of these properties would be directly overlooked into their rear windows at both ground and first floor levels, exaggerated by the fact that the proposed dwelling is “upside down”. This would devalue the properties and also other nearby properties in Tregarn Road.
- The drainage in Tregarn Road is barely coping in winter months due to over development impacting on the original drainage systems. Witness the recent burst water main in Tregarn Road and blocked culvert crossing under Tregarn Road causing localised flooding some two years ago. Further development would cause even more problems for an already overstretched system.
- It is noted vehicular access would be required directly onto the A48. Malvern House, Walton House and indeed Green Gates have never been allowed vehicle access onto the A48 so near to its busy junction with the B4245 due to the obvious road safety aspect. The junction is a notorious accident black spot and I have seen several fatal road accidents there during my 40 years as a Langstone resident. The access would be more dangerous than the curve in the A48 at this point is taken

into account which restricts vision in both directions and road safety would be severely compromised, especially considering the speed limit.

Hillside

- **Detrimental impact to Langstone's Drainage system.**

The drainage system in Langstone, and in particular in the area of Tregarn Road, is already over-stretched with frequent surface flooding and blocked drains. Any additional pressure on this system will exacerbate the problem.

- **Detrimental impact to privacy**

The neighbour's garden is currently un-overlooked. The proposed new dwelling is very close to the boundary and will reduce privacy in the neighbouring garden. The proposed new development is oversized in relation to the actual plot size available. (Which was the rejection reasons given for a previous application on this site)

Snaefell

- **Detrimental impact to the Highways**

The proposed development property exits on to a very busy road which is on route to Langstone Primary School, additional traffic will increase the risk to drivers and pedestrians.

The existing Malvern House will need to create a new entrance / exit impacting and compromising the highway traffic to the already busy A48 Chepstow Road (as shown on the proposed plans)

The additional traffic movements associated with the proposed dwelling and existing dwelling in this location is not acceptable and deemed as detrimental to highway safety.

- **Detrimental impact to Drainage system.**

The drainage system in Langstone, and in particular in the area of Tregarn Road, is already over-stretched with frequent surface flooding and blocked drains. Any additional pressure on this system will exacerbate the problem.

- **Detrimental impact and Loss of privacy.**

The position of the proposed dwelling will negatively impact upon our privacy, and that of our neighbours. Our garden would be majorly overlooked, and the privacy we currently enjoy, removed.

Due to the positioning and size of the area the property is proposed to be sited in, is detrimental by means of there does not seem to be any measurement / dimensions with regard to the new proposed development on the submitted plans. The proposed dwelling size appears to be squeezed into a disproportionately small plot and within touching distance of our boundary.

The proposed development will invade the current right to quiet and private enjoyment of our garden due to the close proximity of the proposed new development to the boundary of our and neighbouring property resulting in a serious invasion of our privacy.

Thus owing to its scale, position, orientation and position of its windows the proposal will directly overlook the rear gardens of neighbouring properties to the detriment of their residential amenity and contrary to policies GP2, GP6 and H6 of the Newport Local Development Plan 2011 -2026 (Adopted January 2015) and Supplementary Planning Guidance for New Dwellings (Adopted August 2015).

- **Detrimental visual impact**

The proposed development would reduce the current Malvern House development site current square meterage and thus reduce the new proposed development square meterage site thus meaning smaller plots than those that surround it.

The neighbour's garden adjoining the proposed development is currently un-overlooked from that direction. The proposed new dwelling is very close to the boundary and will reduce privacy in our and in the neighbouring gardens thus casting shade.

Owing to the orientation and position of its windows the proposal will directly overlook the rear gardens of neighbouring properties to the detriment of their residential amenity and contrary to policies GP2, GP6 and H6 of the Newport Local Development Plan 2011 -2026 (Adopted January 2015) and Supplementary Planning Guidance for New Dwellings (Adopted August 2015).

- **Detrimental to the Newport Land Development Plan**

Newport LDP Policy H6 aims to prevent over-development of land. The supporting text to the Policy points out those proposals for back land development can have significant effects, and that strict criteria will be applied to ensure that substandard living environments are not created. This proposal does not meet those criteria. The development would be intrusive from the neighbouring rear garden.

- **Environmental impact**

Safety during Construction based upon the proposed position of the dwelling, construction works would have to protect the amenities of nearby residents.

The proposed development factors listed above will thus cause detrimental impact to the highways, drainage system, visual impact, the loss of privacy, change outlook, restrict current views, environmental impact, restrict light to all surrounding properties and thus demonstrably harm the character and appearance and the right to enjoy a quiet residential garden environment currently enjoyed by us and neighbouring residents.

Green Gates

- The site is not large enough to accommodate a suitably sized building so as to be in keeping with the character of the adjoining properties (previously refused application 98/0206. It may also be said that it may cause devaluation of properties in the vicinity.
- The drainage in Tregarn Road is barely coping in winter months due to over development impacting on the original drainage systems. Witness the recent burst water main in Tregarn Road and blocked culvert crossing under Tregarn Road causing localised flooding some two years ago. Further development would cause even more problems for an already overstretched system, not even taking into account of the as yet undeveloped plot at 2, Tregarn Road opposite.
- It is noted vehicular access would be required directly onto the A48. Malvern House, Walton House and indeed Green Gates have never been allowed vehicle access onto the A48 so near to its busy junction with the B4245 due to the obvious road safety aspect. This junction is a notorious accident black spot with several fatal road accidents there in the past. The access would be more dangerous when the curve in the A48 at this point is taken into account which restricts vision in both directions and road safety would be severely compromised, especially considering the speed of the traffic. Additionally, as the previously mentioned junction is a difficult one to negotiate from Tregarn Road, vehicles accessing the A48 near to this junction would only add to the difficulty.

- An “upside down” house will indeed give privacy to the new owner but not to existing neighbouring properties and our own property.
- The proposed dwelling is out of step with the character and ambience of the neighbourhood
- Additional traffic movement close to the junction of Tregarn Road/Chepstow Road will endanger lives of school children going to and from Langstone Primary School and we therefore also object on highway safety grounds.

6.2 COUNCILLORS: Councillor Routley has requested that the application is determined at Planning Committee for the following reasons;

- The land accommodating a building of this size would encroach the neighbour’s boundary on one side & have a detrimental visual impact on the other Boundary property.
- This residential rear garden property development would impact upon the street scene of Tregarn Road.
- Also would create a precedent for future, back garden development.

6.3 LANGSTONE COMMUNITY COUNCIL: No objection.

7. ASSESSMENT

- 7.1 The proposal is to construct a detached dwelling within the curtilage of Malvern House, Chepstow Road and create a new vehicular access off the A48 to serve the existing dwelling. The application is outline with all matters reserved. The proposal is tandem development for the purposes of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and the Supplementary Planning Guidance for New Dwellings (Adopted August 2015). Owing to its location within the settlement boundary of Newport, the principle of residential development in this location is acceptable however the other material issues for consideration in this instance are the amenities of existing occupants of Malvern House and neighbouring properties, the residential amenities of the future occupants of the proposal, highway safety and the impact of the proposal on the character and appearance of the area.
- 7.2 Policies GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design), H4 (Affordable Housing), H6 (Subdivision of curtilages, infill and backland development) and T4 (Parking) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application.
- 7.3 Malvern House is a large detached property with a principal elevation that is set back from Chepstow Road (A48), however has vehicular access to the rear from Tregarn Road. The property forms part of a row of detached properties along Chepstow Road and backs onto Tregarn Road and the proposed dwelling would be an addition to a row of property to the south of Tregarn Road. Due to the proposed location being to the rear of Malvern House the impact on the character and appearance of the site within the context of Tregarn Road is more relevant to the determination of this application. The character, appearance and design of properties along Tregarn Road is varied and whilst many properties, particularly on the opposite side of the road are set within large open plots, there are examples of smaller properties within the area that have smaller plot sizes.
- 7.4 Whilst the application is an outline application, details of the size of the property have been provided in order to assess the relationship with neighbouring properties and the surrounding street scape. The property is indicatively shown as a two storey dormer bungalow with maximum footprint measuring 8.6 metres wide by 6.5 metres in depth and with a maximum height of 6.8 metres from adjacent ground level. The indicative design shows a roof dormer in both front and rear elevation and a single storey car port incorporated into the south west facing side elevation. The indicative drawings show the proposed property would benefit from 2no. parking spaces and an area for vehicles to turn. In terms of the subdivision of the existing curtilage the proposed property would have an overall curtilage measuring approximately 350m² and the existing property would have a reduced curtilage of approximately 43m². Boundary treatment is proposed to separate

the two properties however no details have been provided of this. In terms of the proposed arrangements to the existing property a new vehicular access is proposed onto Chepstow Road (A48) by partially removing the existing boundary hedge and crossing the highway verge. Within the front garden of the property a new paved area is being provided with a turning area and parking spaces for 3no. vehicles. No elevational details for the access or materials of the parking area have been provided at this stage as this is an outline proposal.

7.5 **General Amenity**

- 7.6 A number of the objections received have referenced that the proposal would lead to an overdevelopment of the site. The 'New Dwellings' SPG (adopted August 2015) states that there must be 1 square metre of amenity space for every 1 square metre of the building's footprint, this would relate to both the existing and proposed property. Given the relatively modest size of the proposed property and the large curtilage of the existing property it is clear that both properties would benefit from at least a minimum of 1 square metre of amenity space for every 1 square metre of property footprint, which is satisfactory.
- 7.7 The objections received also refer to overlooking and loss of privacy caused to neighbouring properties, namely Snaefell, Walton House and Acer House. These are material planning considerations along with the impact caused on the amenity of the existing host property. The SPG states that in order to ensure all residents have sufficient privacy at their homes, suitable separation distances must exist between protected windows in existing and proposed dwellings. Policy H6 states that the sub-division of residential curtilages, infill within existing residential areas, and the development of back land to existing residential properties will only be permitted where this does not represent an overdevelopment of land. The existing curtilage of Malvern House is large and the proposal would provide the proposed dwelling with a generous curtilage whilst maintaining a reasonable sized curtilage for the existing property. There should be 10.0 metres between the rear elevation of the property and the rear boundary. The indicative location of the proposed boundary between the new property and the existing property would lead to the proposed property having a distance of 10.5 metres from the rear elevation to the intervening boundary. Malvern House does have a small ground floor rear extension that would have a distance less than 10 metres to the intervening boundary, however the majority of the rear elevation has 11 metres to the intervening boundary and meets the SPG. In terms of the separation distance between the host property and proposed property this would measure 21 metres between protected first floor windows, meeting the SPG also. As such it is considered that the amenity of the occupiers of the host and proposed dwelling would not be demonstrably harmed by the proposal in principle. In terms of the amenity of neighbouring properties the indicative plan of the dwelling shows no windows that would directly face either of the neighbouring properties. Walton House is located to the south west and Acer House and Snaefell to the north east and south east. Whilst there may be views from the first floor windows of the proposed property towards the rear elevations of these properties, there is a window to window separation distance of at least 21.0 metres in all cases, which satisfies normal requirements.
- 7.8 Due to the topography of the site the sectional drawing shows that the first floor of the proposed property will be at a greater height than the first floor of the existing property. This is considered to limit the potential for having habitable rooms in the rear elevation of the property facing Malvern House. Whilst the plans are indicative it is noted that the proposed layout for the property show an "upside down" layout that would have a living room and kitchen facing Malvern House. Should the application be granted outline planning permission then a more traditional layout with bedrooms at first floor fronting onto Tregarn Road would be considered more appropriate.
- 7.9 The proposed property will look straight towards the existing property however there would be opportunities for peripheral views from the rear elevation at first floor to the rear gardens of Snaefell and Acer House. The indicative drawing shows the nearest first floor window is set approximately 2.0 metres off the boundary with Snaefell and the existing large boundary hedge will prevent direct overlooking towards the gardens and protect the amenity of these properties from any harmful loss of privacy. The proposed property is angled away from Walton House and set off the boundary by 3.5 metres. Importantly,

fenestration detailing will be further considered at Reserved Matters stage. For the purposes of this outline proposal it is considered that an acceptable arrangement can be achieved in terms of the amenity of existing and future occupants of the site and neighbouring dwellings albeit that some details on the indicative drawings are unlikely to be acceptable. Nonetheless 'an acceptable' arrangement of window and door openings is reasonably achievable. The distance to the boundary with Walton House is approximately 4.0 metres from the nearest part of the dwelling and when combined with the orientation of the house and the existing boundary treatment there is not considered to be a harmful overlooking or loss of privacy to the rear garden of Walton House. Overall whilst the proposal would introduce a new dwelling to the rear of an existing property that has close relationships with neighbouring properties it is considered that with careful design there will be no demonstrably harmful impact on the amenity of these properties, by way of overlooking, loss of privacy, loss of light or overbearing impact and the proposal is in accordance with Policy GP2 and H6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

7.10 Limited information has been submitted with the outline application in respect of the design of the property, however plans have been submitted to show the property in relation to the existing property and the street scape, notably to confirm the maximum height parameter provided is appropriate in this context. This is acceptable, however careful consideration will need to be given to the location of first floor windows in any new property. These should principally face forward.

7.11 **Visual Impact and Design**

7.12 Objections state that the proposed property would be out of keeping with the character and appearance of the properties along Tregarn Road and would be detrimental to the visual amenity of the street scape. There are a variety of different house types and designs within Tregarn Road and there is considered to be a lack of consistency in character and appearance. The parameters given indicate that the proposed dwelling would be in keeping with the height of the neighbouring property Snaefell immediately to the north east and would be read in conjunction with this property. Whilst it is recognised that the width of the site is relatively narrow, the size of the property is considered to be proportionate to the plot size and would not look out of context in the urban location characterised by such a mix of house types, sizes and styles. The property would be set back from the highway and of modest scale and is not considered to be a dominant or overly prominent addition to the street scape that would harm the amenity. For these reasons it is considered that subject to specific details being submitted under reserved matters that relate to the design and materials the proposal is in accordance with Policy GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

7.13 **Highway Safety**

7.14 The Head of Streetscene and City Services (Highways) is satisfied that the parking provision proposed for both the existing and proposed properties meets the adopted standards. Objections have been received in terms of highway safety and in particular the proposed access onto Chepstow Road (A48). Access is reserved for subsequent consideration at Reserved Matters stage. However, the visibility splays that can be achieved satisfy the requirements for a road of that speed limit and it is also demonstrated that vehicles can access and egress the site in a forward gear. As such, there is no objection subject to the driveway being hard paved and suitable drainage being employed to prevent surface water run off onto the adopted highway.

7.15 **Environmental Health**

7.16 The Head of Law and Regulation (Environmental Health) has offered no objection to the application subject to conditions that relate to the submission of a Construction Environmental Management Plan (CEMP) and hours of construction. The former is reasonable but construction hours can be regulated by other parties.

7.17 **Planning Contributions**

7.18 Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Rural Newport, based upon a 40% target. Based upon a net increase of 1 x 2 bed house, and subject to economic viability, a commuted contribution of £2385 would be requested for affordable housing provision.

7.19 The applicant has agreed to the Draft Heads of Terms.

7.20 **Drainage**

7.21 Objections have been raised in relation to the capacity of the local drainage system, with examples being given of existing issues. Dwr Cymru Welsh Water have been consulted and have noted that the proposed property would be located within the protection zone. As such the developer would need to apply to WWDC to divert the sewer. Importantly, WWDC raise no objection to sewerage capacity and the matter of a sewer on site must be resolved between the applicant and WWDC directly.

7.22 A high proportion of the objections received reference the refusal of planning permission under outline planning application 98/0206. The reason for refusal is stated below;

“The site is not capable of accommodating a building of a suitable size, so as to be in keeping with the character of the adjoining properties, without resulting in a loss of amenity to those properties. The development of this site would be detrimental to the appearance of the area.”

7.23 Since the refusal of the previous application the Newport Local Development Plan 2011-2026 (adopted January 2015) has been adopted with “New Dwellings” Supplementary Planning Guidance also adopted in August 2015. At the time of previous determination there would have been no adopted SPG to assess specific elements of the proposal against. The current proposal has been assessed on its own merits and it is considered that subject to further details being addressed at Reserved Matters stage the indicative plans and principle of the development is acceptable and a proposal within the parameters stated can be achievable on site.

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 (Wels***

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 subdivision of the curtilage at Malvern House, erection of new dwelling and construction of new vehicular access and parking area for the existing property is considered to be acceptable in terms of scale, impact on neighbours and future occupiers and highway safety and as such outline planning permission is granted with conditions subject to Section 106 Agreement.

10. RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO SECTION 106 AGREEMENT

01 The development shall be implemented in accordance with the following plans and documents; 'Drawing Number PL/01 – Existing and Proposed Site Revision A (20th September 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

Pre- commencement conditions

02 Approval of the details of layout, scale, appearance/materials of the dwelling and access and the landscaping of the site (hereinafter called the "Reserved Matters" shall be obtained from the Local Planning Authority.

Reason: To safeguard the rights of control of the Local Planning Authority in respect of the reserved matters and to comply with the provisions of Article 3(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

03 Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The Construction Environmental Management Plan (CEMP) shall identify the steps and procedures that will be implemented during development resulting from the site preparation, groundwork and construction phases of the development regarding:

- noise mitigation measures - to minimise the creation and impact of noise;
- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003;
- waste disposal;
- details of enclosure of working areas;
- details of contractor parking areas and construction site accesses;

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

The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To protect the amenities of nearby residents and in the interests of highway safety.

04 No development, other than demolition, shall commence until full details of the foul and surface drainage systems has been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented fully in accordance with the approved scheme prior to the occupation of any dwelling.

Reason: To ensure adequate drainage is provided.

General conditions

05 Provision shall be made within the site for parking provision for both the proposed and existing properties in accordance with the 'Parking Standards 2015' Supplementary Planning Guidance (adopted August 2015).

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

06 The maximum height of the dwelling hereby approved shall be 5.87 metres from finished floor level and 6.8 metres from lowest adjacent ground level.

Reason: To protect the visual amenity of the surrounding street scape and the general amenity of neighbouring properties.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan; Block Plan; 'Drawing Number PL/01 – Existing and Proposed Site Revision A (20th September 2017)'.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4, GP6, GP7, H6 and SP13 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.

05 This permission is subject to a S106 Legal Agreement.

APPLICATION DETAILS

No:2 17/0635 Ward: **GRAIG**

Type: **FULL**

Expiry Date: **18-OCT-2017**

Applicant: **E NIGRO**

Site: **NEW PROPERTY ON SITE OF, 18, FORGE LANE, BASSALEG, NEWPORT**

Proposal: **REPLACEMENT DWELLING ALONG WITH NEW DETACHED GARAGE (AMENDMENT TO PERMISSION 09/0252)**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the construction of a replacement dwelling and a detached triple garage on a site known as 18 Forge Lane, Bassaleg.
- 1.2 Planning permission (09/0252) was granted in May 2009 for the demolition of the then existing bungalow and the construction of a replacement dwelling with an attached garage. The bungalow was demolished in 2009 and as such the permission has been partly implemented and is now extant in perpetuity
- 1.3 This application is seeking permission for a different design of dwelling and a garage which would be detached.

2. RELEVANT SITE HISTORY

09/0252	DEMOLITION OF BUNGALOWS AND REPLACEMENT WITH DETACHED DWELLING AND ATTACHED GARAGE	Granted with conditions
---------	------------------------------------------------------------------------------------	-------------------------

3. POLICY CONTEXT

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

Policy **SP1 Sustainability** favours proposals which make a positive contribution to sustainable development.

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 WALES AND WEST UTILITIES: Advise of apparatus in the area.
- 4.2 DWR CYMRU – WELSH WATER: Recommend a condition preventing surface water and/or land drainage from connecting directly or indirectly with the public sewerage system.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF LAW AND REGULATION (ENV.HEALTH): No objection subject to conditions requiring the submission of a Construction Environmental Management Plan, a restriction of hours of construction and advice regarding electric vehicle charging points.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection. The proposal would utilise the existing access and I'm also satisfied that ample off street parking will be available.
- 6. REPRESENTATIONS**
- 6.1 NEIGHBOURS: All properties sharing a common boundary with the application site were consulted (2 properties) and a site notice was displayed. Three representations were received from two addresses raising the following concerns:
- The revised application is not acceptable in terms of its design and its impact on the street scene;
 - The revised design now presents a full height side elevation which will significantly affect the outlook from my side extension front window (no 19). For this design to be acceptable it is expected that the building size should be reduced and the front building line should not be as far forward as proposed;
 - The new proposal contains more windows at a high level which overlook my (no. 19) property both at the front and rear;

Following re-consultation on amended plans

- The front building line has been moved back 675mm and the two front gables have been lowered. Despite these revisions it is considered that the proposal has significantly greater impact on both neighbouring properties than the previous consent;
- The proposal includes two full front gables which do not reflect the dormer bungalow character of the neighbouring properties and therefore further accentuates the height and impact of the development on the whole neighbourhood;
- It is considered that the proposal now presents a front elevation which is "unreasonably conspicuous and overbearing"
- While it would appear that the revised proposal does not contravene guidance in terms of protected windows and sight lines in relation to no. 19, it is now a two storey side elevation and not the previous dormer style roof sloping away and so has much greater impact and obstruction to the outlook from the kitchen window;
- The proposed design is contrary to the New Dwellings SPG in respect of the French window of the ground floor room of no.17. The room is currently used as a study however, it is still a habitable room and could well be used as a small bedroom or nursery in future. Irrespective of its current use the definitions with Building Regulations clearly define the room as a habitable room and as such the proposed side elevation greatly exceeds the 25 degree rule within the SPG and other provisions in respect of perceived space and light;
- It is considered that the revised proposal is an insensitive development and presents more overshadowing to neighbouring properties;
- The New Dwellings SPG states that developers should pay particular attention to buildings footprints, building lines, development density, height, depth and width of buildings. It is considered that the proposal seems to push each test of its suitability to its absolute limit; and if a modified design is ultimately considered acceptable then greater consideration should be given to these guidelines to reduce the impact;
- The building footprint should be further reduced and the front building line moved further back. The building should be sited as low in the plot as possible and the ground floor should be the same as no.17;
- There is concern that the proposed ground level is higher than no.17 which could cause privacy issues. When the resident of no.18 is walking next to the pathway by the fence of no.17 the resident could overlook the property due to the high level of the ground;

- The amenity space available to the proposal seems to only just meet the criteria within the SPG. Bearing in mind this development is for a large family home it seems barely adequate and again is an example of the general overdevelopment of this proposal;
- The existing shared drain from No.17 running to No.18 is the responsibility of Welsh Water. The drain is in a deteriorating condition and it should be renewed as part of the No.18 building work.

6.2 COUNCILLOR CORNELIOUS: Initially requested the application to be heard by planning committee and she considered the proposal to be too large and overbearing on the adjacent properties; and out of place with the street scene.

6.2.1 Following a site visit Councillor Cornelious now supports the application as she does not consider that it would impinge or overshadow the neighbouring property because it is quite a large bungalow which is built on a bank.

6.3 COUNCILLOR WILLIAMS: Requests the application to be heard by planning committee and a site visit undertaken.

6.3 GRAIG COMMUNITY COUNCIL: Objection, considers that this would be overdevelopment of the site and has real concerns this development will have an overbearing effect on it's surrounding neighbours.

7. ASSESSMENT

7.1 The application site slopes up from the road, the previous bungalow has been demolished and a static caravan has occupied the site since around 2013. The site is located on the south side of Forge Lane within a row of detached properties. The neighbouring properties are bungalows and dormer bungalows although there are two storey properties in the wider streetscene.

Extant permission

7.2 Planning permission was granted in May 2009 for a replacement dwelling and garage; and this permission has been implemented in so far as the bungalow has been demolished. The approved dwelling was split level with a total of three storeys. There was a detached garage with dimensions of 7m by 7m located to the front of the dwelling. The lower ground floor would have a hallway, store, plant room and WC. The ground floor would have a hall, living room, study, utility room, WC, family room with kitchen breakfast area. The first floor would have three bedrooms with en-suites and a dressing room. A balcony would extend across the rear elevation of the property accessed off the rear facing bedrooms. A loft media room would be within the roof space. The property would have a hipped roof (to both sides), with two dormer windows to the front elevation and a pitched gable roof projection to the rear. The height of the dwelling (from garage floor level) was 11.6 metres. However, the height to ridge of the property would be on a par with the neighbouring property at No. 19 Forge Lane.

Current proposals

7.3 It is proposed to utilise the existing access which would be widened by 200mm and would lead to a triple garage which would sit in the eastern corner of the site. The garage would measure 7m by 7.7m, with a maximum height of 4.6m. It would be elevated above the road by 1.1m.

7.4 The proposed house would sit behind the garage and would be in an elevated position relative to the garage and road. The ground floor level of the house would be 1.9m above the ground floor level of the garage; and 3m above road level. It would be set back 20m from the road. Steps would lead up from the garage and drive to the front entrance. The ground floor would accommodate a hall, living room, study, utility room, pantry, WC, family room with kitchen breakfast area. The first floor would have four bedrooms with en-suites and a dressing room. A balcony would extend across the rear elevation and would be accessed off the rear facing bedrooms. The balcony would have a solid enclosure on each side. A loft gym/media room and shower room would be within the roof space.

7.5 The house would have a hipped roof to both sides, with two gable projections to the front and rear elevations. The height of the dwelling would be 10.5m from garage floor level and 11.6m above road level. The height to the main ridge of the house would be the same as the neighbouring property at no. 19 Forge Lane. The height of the house is also the same as the extant consent although this proposal now includes projecting gables to the front and rear rather than dormer windows to the front and one gable to the rear in the extant approval. The siting of the proposed house has been altered from the extant consent, it would now sit further back in the plot and would project 400mm (obliquely) forward of the neighbouring property (no.19) compared to 2m allowed by the extant consent; and 700mm (obliquely) forward of no 17 compared to 1.2m allowed by the extant consent.

7.6 The application is assessed against the guidance in the New Dwellings Supplementary Planning Guidance (SPG). Policy GP6 is relevant in terms of design and policy GP2 is relevant in terms of the impact on residential amenity.

Design

7.7 Policy GP6 states that developments should be sensitive to the unique qualities of the site and respond positively to the character of the area; 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, development should appropriately reflect the scale of adjacent townscape and care should be taken to avoid over-scaled development.

7.8 The immediate locality consists of dormer bungalows although the neighbouring property (no.19) has a two storey front projection. There are a range of materials generally consisting of render and brick work. In the wider street scene there are two storey houses, with a variety of architectural styles. Houses within the immediate locality are generally developed close to the shared side boundaries and the spacing between plots is limited. Houses are set back from the road and they have generous front gardens. The depth of rear gardens varies and the designated countryside lies beyond those rear gardens.

7.9 It is considered that the proposed house is consistent with the pattern of development along this particular section of Forge Lane. It would be close to the shared side boundaries like the neighbouring properties and with the exception of the forward position of the garage it would have a comparable building line to the neighbouring properties. The proposed dwelling would be set down within the site and its ridge line would be no higher than no 19 Forge Lane. Whilst the house would be two storey its set down helps to reduce the impact of its scale and massing; and as such it is not considered to be incongruous or at odds with the character of the surrounding area.

7.10 It is acknowledged that the proposed garage would sit forward of the building line created by neighbouring properties. However, it is not considered that wider pattern of development is so distinctive that a building in this position would be harmful to the character and appearance of the surrounding area, indeed when travelling further east along Forge Lane the properties are positioned much further forward towards the road.

Amenity

7.11 Policy GP2 states that development will be permitted where it does not have a significant adverse effect on local amenity in terms of noise, disturbance, privacy, overbearing, light, odours and air quality; and where there is adequate amenity for future occupiers.

7.12 The New Dwellings SPG sets out guidance in order to protect neighbouring amenity. In terms of loss of natural light the SPG sets out a number of tests to help maintain adequate levels of natural light for neighbours. These tests refer to a relationship whereby a new house would be in front of an existing property and where side habitable windows would be affected. The New Dwellings SPG does not set out tests to protect light entering front and rear facing windows where a new house would be to the side of a neighbouring property. However, it is still necessary to carry out assessment of the impact on front and rear protected windows. The House Extensions SPG provides useful tests to protect neighbouring daylight and as such these tests are used in order to assess the impact on neighbouring front and rear windows.

- 7.13 Side window: No.17 Forge Lane has a window in the side elevation facing towards the application site. It serves a dining room and as such is a protected window. The SPG sets out a 45 degree test whereby a line is drawn from the horizontal centre of an original protected side window at 45 degrees to the vertical. A new dwelling should not project beyond the 45 degree line. The 45 degree line narrowly dissects the proposed dwelling however; this is not considered to be significantly worse than the extant consent which also narrowly dissects the 45 degree line. It is also recognised that there is a 2m high close boarded fence running along the shared boundary which is less than 1m from the window. This fence already impacts on the amount of light entering this window.
- 7.14 Front and rear windows: No. 19 Forge Lane has a kitchen window in the front elevation and conservatory windows in the rear elevation closest to the application site. The kitchen and conservatory appear to be one room and is considered to be a habitable room. No. 17 Forge Lane has a set of double doors serving a study in the front elevation and a kitchen/dining room window in the rear elevation closest to the application site. The daylight tests set out in the House Extensions SPG are therefore applicable to these rooms.
- 7.17 Plan-view 45° test for natural light: this test is performed by drawing two lines at 45° angles from the centre of a protected window. The proposed development should not project beyond the nearest 45° line. The proposed dwelling satisfies the test in terms of the kitchen and conservatory windows in no.19 Forge Lane. The kitchen/dining room window in the rear elevation of no. 17 extends beyond the proposed dwelling and as such there is no impact on light entering this window. The 45 degree line narrowly dissects the proposed dwelling when measured from the double doors serving the study in the front elevation of no .17. This is considered to be a minor infringement and it is noted that when the line is drawn at 50 degrees it satisfies the test. Furthermore the proposed dwelling is now set further back than the extant consent where the infringement would be greater.
- 7.18 Elevation-view 45° test for natural light: a line is drawn from the centre of a protected window at 45° to the horizontal. If the protected “window” is a floor-length window or a door, the 45°line will be taken from a point on the horizontal centre of the opening at 2.00 metres above ground level. The proposed development should not project beyond the 45° line. The proposed dwelling satisfies this test in respect of all protected windows.
- 7.19 In terms of privacy no windows are proposed in the side elevations which serve anything other than a utility room at ground floor and ensuite bathrooms at first floor. It is not considered that any views from these windows would cause a loss of privacy as they are not habitable rooms. Notwithstanding this, it is considered necessary to require ensuite bathrooms to be obscurely glazed to protect the amenity of future occupiers.
- 7.20 It is proposed to create a balcony on the rear elevation at first floor. The height of this balcony is comparable to the ground level of the rear garden of no.19 Forge Lane, due to the topography of the site. Although it would be a comparable first floor height in relation to no. 17. In order to protect the privacy of the neighbouring occupiers it is proposed to enclose the balcony on the sides with a solid wall. This is considered to provide acceptable protection to neighbouring amenity. Furthermore it is noted that the extant consent has a similar arrangement.
- 7.21 Given the relationship with the neighbouring properties it is considered necessary to remove Permitted Development rights under Part 1, Class A, B, C and E of the Order 2013.
- 7.22 The New Dwellings SPG advises that a new dwelling should provide private amenity space at a ratio of 1 square metre for every square metre of the unit’s footprint. The proposed dwelling achieves this standard.
- 7.23 Due to the distance from the neighbouring properties it is not considered that the proposed garage would give rise to any concerns regarding loss of light or overbearing.

Parking

- 7.24 The proposed dwelling would have 4 bedrooms and as such 3 parking spaces would be required. Three parking spaces would be provided within the proposed garage and as it is

proposed to utilise the existing access the Head of Streetscene and City Services (Highways) has no objection to the proposal.

Drainage

- 7.25 Welsh Water recommend a condition preventing surface water and/or land drainage from connecting directly or indirectly with the public sewerage system. As the proposed dwelling would have a larger footprint than the previous bungalow there would be an increase in the impermeable area and it is considered necessary to impose such a condition.

Other matters

- 7.26 The Head of Law and Regulation (Environmental Health) has no objection to the proposed development subject to conditions requiring the submission of a Construction Environmental Management Plan (CEMP), a restriction of hours of construction and an informative regarding electric vehicle charging points. A CEMP condition is considered to be necessary however it is considered that hours of construction are more effectively controlled under the Environmental Protection Act 1990 should a statutory noise complaint be established. An informative is added to draw the applicants' attention to the recommended hours of construction.
- 7.27 A neighbour has raised concern that there is an existing shared drain through the site which is in a deteriorating condition. The neighbour suggests that it should be renewed as part of the construction work. These comments are noted however, the condition of a drain is not a material planning consideration and is a matter for discussion with Welsh Water.
- 7.28 It is considered that the other concerns raised by neighbouring occupiers have been addressed in the preceding paragraphs.

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 development is in accordance with policies SP1, GP2, GP4, GP6 and T4 of the Newport Local Development Plan 2011-2026; and satisfies the advice contained with the New Dwellings SPG and House Extensions SPG (which was considered relevant in this instance). 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: AFA/FLB/001, 1291 001 rev B, 002 rev C, 003 rev C, 004 rev C, 005 rev C, 006 rev E, 007 rev C, 008 rev B, 009 rev C, 010 rev C, 011 rev A, 012 and 014 rev 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

Pre- commencement conditions

02 Notwithstanding the approved plans, no work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

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

03 Prior to work first commencing on site, full details of the proposed methods of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. These details shall be fully implemented in compliance with the approved scheme prior to first beneficial occupation of the dwellings hereby approved.

Reason: To ensure the provision of adequate drainage.

04 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 Construction Environmental Management Plan (CEMP) shall identify the steps and procedures that will be implemented during development resulting from the site preparation, groundwork and construction phases of the development regarding:

- noise mitigation measures to minimise the creation and impact of noise;
- vibration;
- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003;
- waste disposal;
- details of enclosure of working areas;
- details of contractor parking areas and construction site accesses;

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

Reason: To protect the amenities of nearby residents and in the interests of highway safety.

Prior to occupation conditions

05 Prior to the occupation of the dwelling hereby approved, the first floor en-suite windows in the north west and south east elevations shall be fitted with obscure glazing and shall be retained in that state thereafter in perpetuity.

Reason: To protect the privacy of future and adjoining occupiers.

General conditions

06 No window openings (other than those shown on the approved plan) shall be formed in the side elevations of the dwellings hereby approved.

Reason: To protect the privacy of adjoining residents.

07 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2013 (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C, or E shall be carried out without the prior written permission of the Local Planning Authority.

Reason: To ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties.

08 The garage hereby approved shall be provided prior to the first occupation of the dwelling hereby approved and shall be kept available for such use at all times thereafter.

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

NOTE TO APPLICANT

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

02 The New Dwellings and the House Extensions Supplementary Planning Guidance (Adopted August 2015) were relevant to the determination of this application.

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

04 Development (including land raising and demolition if required) should be carried out between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays in order to protect the amenities of nearby residents.

05 Newport is known to suffer from particularly poor air quality compared to the rest of Wales. To encourage a change to low/zero emission methods of transport, the applicant is advised to install electric vehicle charging points within the vehicle parking area. Funding may be available for the installation via the government grant scheme - <https://www.gov.uk/government/collections/government-grants-for-low-emission-vehicles>

APPLICATION DETAILS

No:3 **17/0388** **Ward:** **LLISWERRY**

Type: **FULL (MAJOR)**

Expiry Date: **19-JUN-2017**

Applicant: **STARBURST LTD**

Site: **LAND NORTH WEST OF AND ADJACENT TO, PLOVER CLOSE, LLANWERN, NEWPORT**

Proposal: **ERECTION OF 2NO. UNITS TO PROVIDE 4139 METRES SQUARED B1/B2/B8 FLOORSPACE AND ASSOCIATED PARKING AND LANDSCAPING**

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the erection of 2no Class B1/B2/B8 units totalling 4139m² in floor area and associated parking and landscaping.
- 1.2 The site is located within the well-established mixed industrial/commercial Queensway Meadows Estate and existing neighbouring uses include a car sales showroom, manufacturing warehouse, car repair warehouse and container storage. Vehicle access to the buildings would be from both Plover Close and Curlew Close. The nearest residential properties are situated approximately 150m to the north-east at the Glan Llyn housing site.
- 1.3 The mixed commercial/industrial estate is considered to have a high visual amenity value with buildings buffered from the service roads by mature landscaping buffers.
- 1.4 The site is situated within the urban boundary and is sandwiched between existing urban uses but having no former use, it does not constitute previously developed land.
- 1.5 As the proposals include the creation of more than 1000 square metres the application falls within a 'major' category.

2. RELEVANT SITE HISTORY

95/0455	RESERVED MATTERS RELATING TO UNIT 1 (APPLICATION 90/0384/VC - APPROVED ON APPEAL)	Withdrawn
99/0455	ERECTION OF COMMERCIAL TRUCK DEALERSHIP WITH ASSOCIATED VEHICLE PARKING AND WASH BAY	Granted with conditions
08/0575	CONSTRUCTION OF 13NO. SMALL INDUSTRIAL UNITS (USE CLASS B1, B2 AND B8) WITH ASSOCIATED PARKING AND SERVICE AREA	Granted with Conditions

3. POLICY CONTEXT

- 3.1 **The following policies of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the proposals:**
 - SP1 – Sustainability favours proposals which make a positive contribution to sustainable development.
 - SP3 – Flood Risk ensures development is directed away from flood risk areas.

SP17 – Employment allocates 172 hectares of employment land for the plan period.

GP2 – 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.

GP3 – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.

GP4 – 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 GP5 - General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.

GP6 – 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.

CE6 – Archaeology states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.

T4 – Parking states that development will be expected to provide appropriate levels of parking.

3.2 The following Supplementary Planning Guidance Adopted August 2015 is relevant to the proposals:

Parking

Archaeology & Archaeologically Sensitive Areas

Wildlife and Development

4. CONSULTATIONS

4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The proposals will require mitigation and conditions are requested.

4.2 NATURAL RESOURCES WALES: Offer no objections subject to suitable conditions.

4.3 WALES AND WEST UTILITIES: Provide details of apparatus within the area.

4.4 DWR CYMRU - WELSH WATER: Conditions relating to surface water drainage are requested.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): An acceptable level of parking provision is to be provided within the site. The parking requirement for offices is not met, however I note that the applicant wishes this to be excluded from B1 which I accept subject to a condition. The parking requirements for Highly Technical industry is 1 space per 20sqm which is clearly not achievable and therefore this will also have to be excluded for the proposed level of parking to be acceptable.

A separate pedestrian link to the site from Longditch Road would be beneficial in terms of reducing required walking distances and encouraging non-vehicular travel. I would be happy for this to form a condition of any approval. I am satisfied with the information submitted with the Transport Assessment and would offer no objection to the application subject to conditions

relating to the pedestrian link, submission of a CEMP, surface water drainage and the submission of a travel plan.

- 5.2 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): The proposal is on land which has predominantly commercial and industrial sites surrounding it. The nearest residential properties appear to be approximately 100m away in a north/north west direction from the site on the opposite side of the A4810. Having considered the information supporting this application I have no objections to the proposal. I would however recommend that standard conditions are attached to any permission granted to cover the construction stage. For example, the applicant should take all relevant precautions to minimise the disturbance to neighbouring premises in terms of noise and dust during the development of the buildings. This should include not working outside regular daytime, weekend and bank holiday hours.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Is satisfied with the ecological information submitted with the application. A condition requiring the development to be carried out in accordance with the measures set out in the ecological plan must be imposed.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (TREES): No objections.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPING): A planting plan is required, this should incorporate the recommendations of Appendix IV of the Ecological Survey and seek to provide adequate boundary treatment with road frontages and neighbouring units. A maintenance and management plan for the planting is required.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (4no properties), a site notice displayed and a press notice published in South Wales Argus. 1no response received objecting to the development for the following reasons:
- Vehicle access to the site is already extremely dangerous with cars parked on both sides of Curlew Close, along pavements and on almost every piece of kerbside. The proposed development will only exacerbate this problem. A site visit in the middle of the working day will highlight this. The parking on Longditch Road also causes danger when vehicles leave Curlew Close, and further traffic will make matters worse;
 - There is inadequate parking on the site for the proposed buildings. This will lead to overspill parking and make the feeder highways ever more dangerous;
 - When our company developed our site the planning office was extremely forceful in ensuring that the building was attractive, sustainable, and of a very high standard, both visually and practically. At the time it was stated that the planners no longer wanted industrial sites to look like slums as soon as they are built. The proposed buildings are of a low cost construction, more utilitarian, and after a short time will be like a lot of the units on Leeway, tired, tatty, and in need of pulling down. We feel that the value of our property would be reduced if planning consent is granted in its current form;
 - In the traffic report it says that there have been no accidents on the roundabout leading onto Longditch Road. This is untrue. We have seen and had our staff involved in incidents on this roundabout. The increase in traffic caused by the "opening" of the Steelworks Road has made everything more dangerous;
 - Redesigning the layout of the proposed development with no access from Curlew Close, only using Plover Close, will improve traffic management, as will applying and enforcing "no parking" on certain of the roads;
 - In summary, we ask that the planners request a standard of construction and design that fits with the original planning guidelines for Curlew Close, and resolve the existing parking issues before allowing further development in the area.

7. ASSESSMENT

- 7.1 The larger of the two buildings would be sited adjacent to Longditch Road with the side gable elevation orientated towards the highway. It would measure 111m in length, 21m in width and 8.4m in height with a shallow pitched roof. It would provide 2457m² of floorspace. The building

would be accessed via Plover Close. The smaller of the two buildings would be sited to the north-west with its rear elevation back-to-back with the larger building with a distance of approximately 4m between the two buildings. It would measure 81m in length, 20m in width and 8.3m in height with a shallow pitched roof and would provide 1682m² of floorspace. This building and its associated yard would be accessed via Curlew Close.

7.2 **Design**

The buildings would be sub-divided to provide smaller units in order to provide flexibility for future occupiers. Parking would be provided to the front of the proposed buildings. Cycle storage is also proposed within the site. Roller shutter doors would be installed in both buildings to enable vehicular access.

7.3 Whilst the buildings would have a largely utilitarian design, this is considered to be in keeping with the surrounding commercial/industrial uses. In terms of materials, the buildings would be clad in metallic silver micro-rib whilst the roofs would be clad in Kingspan Goosewing Grey, with skylights within the roofs. Value has been added to the scheme during the course of the application with feature glazing proposed in the southern elevation of the building nearest to Longditch Road at the request of officers as this elevation would be particularly prominent from Longditch Road. The buildings would feature a dark blue trim around the apex, the colour of which would match the window frames in the building and would provide contrast with the lighter coloured materials on the rest of the building. Whilst the scale of the proposed buildings is considerable, it is not considered that they would be out of keeping in this predominantly light industrial/commercial area and in particular the design and materials are reminiscent of the neighbouring car show room and vehicle repair warehouse. Furthermore, it is not considered that the buildings would have a 'tired' or 'tatty' appearance, contrary to the concerns of the neighbouring occupier and as previously stated the design and appearance of the buildings is thought to be entirely acceptable within the context of the commercial/industrial estate. It should be noted that loss of property value is not a material planning consideration.

7.3 As noted above, the existing commercial/industrial estate has very pleasant visual amenity value which is largely down to the generous, mature landscaping buffers adjacent to the estate roads. It is considered important to ensure that this is replicated within the application site. The proposals include 5m wide landscaping buffers around the edge of the site where it is most prominent adjacent to Longditch Road, Plover Close and near to the access with Curlew Close. The existing screening to the north would be retained. Subject to conditions relating to the type of plants and requiring a future maintenance plan, it is considered that the site would preserve the high amenity value which the estate benefits from.

7.4 **Amenity**

As noted above, the nearest residential properties are situated approximately 150m away with the A4810 dual carriageway separating the residential estate and the Queensway Meadows estate. Neighbouring premises appear to be unrestricted in terms of operating hours and given the distances involved and the range of existing light industrial/commercial uses within the estate, it is not considered that a condition relating to hours of operation is warranted. It is not considered that the proposed building would result in a detrimental impact to residential amenity or to the amenity of the neighbouring commercial occupiers.

7.5 **Economic Benefits**

The buildings would contribute to the Council's employment land supply. The proposals represent a sustainable use of land within the settlement boundary and are located within an existing industrial area with associated infrastructure. The proposals are considered to be an appropriate use at the site despite not constituting previously developed land.

7.6 **Highways**

The application is accompanied by a Transport Assessment which the Head of Streetscene and City Services (Highways) confirms to be acceptable. The level and layout of the parking provision is acceptable for the proposed use of the site, subject to the restriction of the use of the buildings for offices or highly technical industries as these uses would require a higher level of parking provision.

- 7.7 As noted above, objections have been received from an occupier of a neighbouring unit stating that inadequate parking provision is proposed and vehicle access to the site is dangerous with cars parked on both sides of Curlew Close and along pavements. These comments are duly noted and visits to the site by both Highways and Planning officers has identified that parking within the vicinity is in high demand with vehicles parked on the pavements along both sides of Curlew Close as well as Longditch Road. It is unclear who the vehicles belong to or whether they are parked there by people working at the units within the estate, or by car sharing commuters. In any case, this is an existing situation and the acceptability of the proposals depends on sufficient parking being provided for the proposed development. The Head of Streetscene and City Services (Highways) confirms the proposals include sufficient parking provision and are compliant with the Council's Adopted Parking Standards. As such, there are no reasonable grounds to judge that there will be any overspill of parking onto the surrounding highway network and it is not considered that the proposals would exacerbate the existing parking problems experienced in the area.
- 7.8 The Council cannot legitimately require the applicant to remedy an existing situation. Drivers must comply with any traffic restrictions in the area and adhere to the Highway Code. Failure to do so is a police matter.
- 7.9 Conditions requiring the submission of a travel plan, a Construction Environmental Management Plan, surface water drainage proposals and pedestrian link are requested. Subject to these conditions it is not considered that the proposals would result in an adverse highways impact.

7.10 **Ecology**

The site is currently vacant and is located near to the edge of the Gwent Levels which is a SSSI. The Council's Ecology officer has been consulted due to the potential for the development to have ecological impacts. The application is accompanied by an Ecological Report. The report identifies that there is no evidence to suggest that the proposals would be harmful to the SSSI but the report does identify a mitigation strategy. The Council's Ecology officer confirms she concurs with the findings of the report and offers no objections subject to a condition requiring the development to accord with the mitigation measures identified.

7.11 **Flood Risk**

The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). 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, which is a designated main river.

- 7.12 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.

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

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

7.14 **Summary of NRW consultation response**

NRW have reviewed the updated submitted Flood Consequences Assessment (FCA) and note the following:

- The current site levels range between 5.5m AOD to 6.0m AOD.
- The proposed finished floor levels (FFL) for the units and car parking areas will be set at 6.45m AOD.
- During the 0.5% (1 in 200 year) including climate change allowance (CCA) excluding upper confidence interval results, the site is predicted to flood to a depth of 6.42m AOD as per Appendix C – Table 3.
- During the 0.1% (1 in 1000 year) plus climate change event the site is predicted to flood to a depth of 6.57m AOD.

7.15 Based on the above FFL of 6.45m AOD the site will be designed to be compliant with A1.14 of TAN 15 for the 0.5% event plus CCA. NRW therefore advise a condition to set the finished floor levels at 6.45m AOD is included on any permission the Authority is minded to grant. NRW also note that during the predicted 0.1% event plus CCA, based on the proposed FFL the site is predicted to flood to a depth of 120mm which is within the tolerable limits (600mm) set out in A1.15 of TAN 15.

7.16 NRW notes that the FCA has identified an access/egress route via Queensway Meadows. This route has been identified as a flood hazard of Danger for Most. However, a 75 year lifetime of development would equate to 2092. The flood data provided does not specify results for 2092, only 2090 but given the difference of only two years it is considered unlikely to make a significant difference to the results. Based on a lifetime of 75 years for industrial development of this nature, the mean flooding values are 1.07m which is classified as 'danger for some' (0.75m to 1.25m) and not 'danger for most'. As such the access/egress route identified by the applicant is considered to be acceptable. The proposals are therefore considered to be acceptable in flood risk terms.

7.17 **NRW Response with regard to Land Drainage and Surface Water**

The site falls within the Caldicot and Wentlooge Levels Drainage District. Internal Drainage Districts (IDDs) are typically found in low-lying land where a particular need for water level management has been identified. Under the provisions of the Land Drainage Act 1991 NRW have a duty to exercise general supervision over all matters relating to the drainage of land within its Drainage District. In particular, the Caldicot and Wentlooge Levels Internal Drainage Board Byelaws permit NRW to control the rate of surface water run-off from development sites into the Drainage Districts. Therefore the proposed development must manage surface water disposal effectively.

7.18 Therefore, NRW request that a suitably worded planning condition is imposed on any planning permission which ensures an adequate surface water drainage scheme is submitted and agreed prior to the commencement of development.

7.19 **Archaeology**

The site is archaeologically sensitive and Glamorgan Gwent Archaeological Trust has been consulted. In response to the proposals they advise that the area is situated within the Archaeologically Sensitive Area and located close to the edge of the Gwent Levels Registered Historic Landscape (HLW (Gt) 2), specifically the Nash/Goldcliff Character Area (HLCA001), as defined within the *Register of Landscapes of Outstanding Historic Interest in Wales*.

7.20 Therefore, it is GGAT's recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent. GGAT envisage that this programme of work would take the form of a watching brief during the groundworks required for the development, with detailed contingency arrangements including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results.

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 proposals represent the development of urban land which is situated within an established business estate and would provide economic benefits,

9.2 It is considered that the proposals would not result in a detrimental impact to the local highways networks, ecological interests or the character of the area.

9.3 It is therefore 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: Drawing no's 515013/1B, 515013/2 (with the exception of the south-west elevation), 515013/3, 515013/4 and the Ecological Update Report dated July 2016 (and the recommendations contained therein).

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-construction

02 Prior to construction of the building hereby approved full details of a surface water drainage scheme shall be submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved drainage scheme.

Reason: To ensure the site is adequately drained and to reduce the risk of flooding.

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

- dust suppression measures, having regard to BRE guide 'Control of Dust from construction and demolition activities;
- construction site compound;
- contractor parking and
- wheel washing facilities.

The development shall be carried out in accordance with the approved CMP.

Reason: In the interests of highway safety.

04 Before the development, is commenced, written approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (indicating the number, species, heights on planting and positions of all trees and shrubs). The approved scheme shall include measures for the protection of the existing vegetation along the northern boundary of the site and shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

05 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the

programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

06 Prior to commencement of development full details of boundary treatments shall be submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved boundary treatments.

Reason: In the interests of visual amenity.

Pre-occupation conditions

07 Prior to the first beneficial use of the buildings hereby approved, the vehicle parking spaces shall be demarcated as per the approved plans and shall remain available for parking in perpetuity.

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

08 Prior to the first use of the buildings hereby approved a Travel Plan shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall clearly explain how reliance on private motor vehicles is to be reduced and how the use of other forms of transport by occupiers of the site will be encouraged. The Travel Plan shall be implemented as approved.

Reason: To ensure the efficient function of the site, to avoid any adverse impacts on the local highways and to promote sustainable transport.

09 Prior to the first beneficial use of the buildings hereby approved, a pedestrian link from Longditch Road shall be provided to the building which is nearest to Longditch Road in accordance with details which have first been submitted to and approved by the Local Planning Authority. The pedestrian link shall be permanently retained.

Reason: To encourage non-vehicular travel to the site.

General conditions

10 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 and the Town & Country Planning Use Classes Order 1987, as amended (or any order revoking and re-enacting those Orders with or without modification) the premises the subject of this permission shall not be used for any other use than for purposes falling within Class B1(c)/B2/B8 of the Use Classes Order 1987 (as amended).

Reason: To ensure that the use remains compatible with surrounding land uses in the area and in the interests of ensuring there is sufficient parking provision.

11 The development shall be carried out in accordance with the approved FCA produced by Marsden Associates (MA/NPT/03/C) updated June 2017. Finished Floor levels and the proposed development, and car parking areas at the site are set at a minimum of 6.45m AOD.

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

12 The landscape buffer s as shown on the approved plans shall be kept free of development at all times.

Reason: In the interests of visual amenity.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP17, GP2, GP3, GP4, GP6, CE6 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 On behalf of GGAT the applicant is advised that the archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member.

05 The applicant is advised to contact the Streetscene section of the Council in order to facilitate the appropriate highways agreement for any works which will take place within the adopted highway.

APPLICATION DETAILS

No:4 17/0429 Ward: **LANGSTONE**

Type: **FULL (MAJOR)**

Expiry Date: **06-OCT-2017**

Applicant: **MICHAEL DAVIES, BROADHALL (COLDRA WOODS) LTD; CELTIC MAN**

Site: **LAND TO SOUTH WEST OF HILTON HOTEL, CHEPSTOW ROAD, NEWPORT**

Proposal: **DEVELOPMENT OF 146 BEDROOM HOTEL UP TO FOUR STOREYS IN HEIGHT AND ASSOCIATED PARKING, SERVICING ARRANGEMENTS AND LANDSCAPING, PROVISION OF A DRIVE-THROUGH COFFEE SHOP OF 209m² IN FLOOR AREA AND CONSTRUCTION OF A NEW ACCESS ONTO THE A48 AFFECTING PUBLIC RIGHT OF WAY 394/80/1**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 The applicant is seeking permission to build a 146 bedroom hotel of 3 and 4 storeys in height with a ground floor area of 2350m², on land between Coldra Woods and the former Hilton Hotel, now the Coldra Court Hotel at the western end of Langstone. The development will include the provision of 157 parking spaces and the construction of an A3 unit with a floor area of 209m². A new access will be formed on to the A48 Chepstow Road and landscaping provided. The proposed accommodation will be three star and it is expected to meet demand created by the construction of the new conference centre at the Celtic Manor Resort.
- 1.2 The Hotel is estimated as having a £3 million turnover per annum and the coffee shop an annual turnover somewhere between £1 and £1.5 million. All of this is expected to be new revenue within the Newport area since very little diversion from existing accommodation within the city area is expected. The Hotel will meet new demand generated by the conference centre. Anticipated new jobs are 71 in number with these being entirely new jobs created within the hotel and the drive-thru coffee shop. The expected payroll for these jobs would be £1.2 million per annum much of which can be anticipated as being spent within the local economy. The applicant notes that the International Conference Centre Wales (ICCW) has been estimated as providing £70 million of additional expenditure much of which will be retained within the Newport area (Miller Research).
- 1.3 The applicant notes that hotels of the proposed grade are absent from Newport and that the projected benefits will not accrue elsewhere in the local economy (i.e. delegates and exhibitors will not use existing hotel provision) if the development does not proceed. The applicant notes the close location of this site to the ICCW give functional benefits and increases the overall attractiveness of the conference centre as a venue.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
1/17298/O	USE OF THE SITE FOR CLASS B1 AND HOTEL USE WITH CONSTRUCTION OF ASSOCIATED INFRASTRUCTURE AND STRUCTURAL LANDSCAPING.	Granted with Conditions 30 September 1988
89/0141/O	USE OF LAND FOR CLASS B1 (OFFICE/LIGHT INDUSTRIAL) USE	Refused 06 October 1989
90/1140	USE OF SITE FOR HOTEL B1 B2 & B8 USES (OUTLINE)	Withdrawn 14 January 1991

3. POLICY CONTEXT

3.1 National Planning Policy

3.1.1 Planning Policy Wales (PPW) (Edition 9 – November 2016) provides the overarching policy framework for planning in Wales.

Chapter 4 (Planning for Sustainability): So far as possible, local planning authorities should direct development to brownfield land. (4.9)

Chapter 7 (Economic Development): Local planning authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence. In assessing these benefits, key factors include:

- The number and types of jobs expected to be created or retained on the site;
- Whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;
- A consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas. (7.6)

Chapter 8 (Transport): When determining a planning application for development that has transport implications, local planning authorities should take into account:

- The impacts of the proposed development on travel demand;
- Accessibility by a range of different transport modes;
- The effects on the safety and convenience of other users of the transport network. (8.7)

Chapter 10 (Planning for Retail and Town Centres): PPW states that wherever possible retail provision should be located in proximity to other commercial businesses, leisure and community facilities, employment and housing (10.1.3). When determining a planning application for retail, leisure or other uses best located in a town centre, including redevelopment, extensions or the variation of conditions, local planning authorities should take into account:

- Compatibility with the development plan;
- Quantitative and qualitative need for the development/extension, unless the proposal is for a site within a defined centre or one allocated in an up-to-date development plan;
- the sequential approach to site selection;
- impact on existing centres;
- net gains in floorspace where redevelopment is involved, and whether or not it is like-for-like in terms of comparison or convenience;
- rate of take-up of allocations in any adopted development plan;
- accessibility by a variety of modes of travel;
- improvements to public transport;
- impact on overall travel patterns; and
- best use of land close to any transport hub, in terms of density and mixed use. (10.4.1)

Chapter 11 (Tourism, Sport and Recreation): Tourism is vital to economic prosperity and job creation in many parts of Wales. It is a significant and growing source of employment and investment, based on the country's cultural and environmental diversity.

The Welsh Government's aim is for:

- Tourism to grow in a sustainable way and to make an increasing contribution to the economic, social and environmental well-being of Wales. (11.1.2)

3.1.2 Technical Advice Notes

TAN 4 Retailing and Town Centres

TAN 12 Design
TAN 13 Tourism
TAN 18 Transport
TAN 23 Economic Development

TAN 13 Tourism: Hotel development can bring benefits for the local community and support amenities and activities for residents and tourists. Such development should be compatible with neighbour uses. (p1)

TAN 23 Economic Development: 1.2.5 Local planning authorities should recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development.

1.2.6 In line with these principles, there will be instances where the planning system may not provide the land the market demands, and in the places where the market demands it. Some proposed developments or sites may be resisted by planning authorities – for example because they would have unacceptable environmental impacts, divert demand from town centres or would go against agreed spatial strategies. In these circumstances, so far as possible planning authorities (and planning applicants) are encouraged to look for alternative sites which offer the same, or very similar, advantages.

1.2.7 PPW establishes the principle of a sequential test in relation to town centre related uses which have direct relevance to economic land uses. Accordingly when identifying land for economic uses in development plans, or when determining applications, local planning authorities should seek to replicate this approach. Local planning authorities should apply judgement depending on the nature of the economic use and its applicability to a particular location. They should give first preference to sites within the boundaries of settlements (including planned new settlements and urban extensions). As a second preference, they should consider edge-of-settlement sites. As a third preference, they should consider identifying land in the open countryside. Land may be identified in less preferable locations if the resulting benefits outweigh any adverse impacts of the development.

3.2 Local Planning Policy

3.2.1 Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

The following policies are relevant to the consideration of this proposal:

- SP1 Sustainability
- SP5 Countryside
- SP19 Assessment of Retail Need
- GP4 Highways and Accessibility
- GP5 Natural Environment
- GP6 Quality of Design
- T4 Parking
- T7 Public Rights of Way and New Development
- R8 Small Scale Retail Proposals
- CF8 Tourism

3.2.2 Adopted SPG

- Wildlife and Development SPG
- Parking Standards SPG
- Trees, Woodland, Hedgerows and Development Sites

4. CONSULTATIONS

4.1 HEALTH & SAFETY EXECUTIVE (H.S.E.): No interest.

- 4.2 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.
- 4.3 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES: No objection subject to the application of conditions in relation to European Protected Species (Dormice).
- 4.4 DWR CYMRU / WELSH WATER (DCWW): No objection subject to the application of conditions.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY):

ASSESSMENT OF APPLICATION: The site is within the countryside. Development within the countryside would usually merit a straight objection, however this site and proposal presents a more complex situation.

With regard to the proposed hotel, policy allows such development in a countryside setting. The site itself, in close proximity to other commercial properties and hotels would mean an additional hotel in this location would not necessarily be out of place. With the Wales International Convention Centre due to be constructed at the Celtic Manor Resort, there is a need for additional supporting hotels to accommodate the increase in visitors that this Centre is expected to attract during key events.

With regard to the restaurant and drive-thru, if the Council accepted the need for the hotel, then it is considered that the applicant has submitted sufficient information to satisfy polices SP9 and R8 of the LDP.

However, there are important environmental factors that need careful consideration as they appear to be contrary to policy. There will be a loss of ancient semi-natural woodland which is contrary to Policy GP5. The loss of this woodland is also likely to mean the loss of habitats for certain species and the views of the Council's Ecologist should be sought. In addition, the proposal would also mean the loss of high quality agricultural land, which is again contrary to policy unless the developer has demonstrated a proven need for the proposal or there is no alternative site.

CONCLUSION: This is a complex application where economic benefits of the proposal need to be weighed against the anticipated environmental harm. The need for an additional hotel in this broad location appears to have been demonstrated, but further works need to be undertaken to understand the consequences of the environmental impacts, particularly the loss of woodland and habitat, and to understand whether appropriate mitigation could be put in place. If appropriate mitigation can be agreed, then it is considered that the hotel and associated facilities should be supported (subject to highway comments on access and parking).

Following comments from the tree officer and ecologist, if the proposal is expected to cause unacceptable environmental harm, then in accordance with TAN 23, alternative sites should be explored, however, if no appropriate alternatives are found, the Council must decide whether the economic benefits of the scheme outweigh the environmental damage.

- 5.2 HEAD OF REGENERATION, INVESTMENT & HOUSING (TOURISM): I would support the proposal for the following reasons:
- Job creation of 40 jobs (mix of FTE and part time).
 - This will be a 3 star hotel.
 - Extra rooms are required in the location to support the International Convention Centre Wales opening in 2019.
 - From a business perspective it makes sense for The Celtic Manor Resort to have the suite of grading.

- For larger events and conferences, the staff required to support them cannot be accommodated in the main resort. Not all exhibition events want a 5 star product.
- The suite means that the total offer is in the control of the Celtic Manor itself, as such this supports a more sustainable business .
- Good to have the 'Magic Bean 'for more sense of place and support to Welsh business.
- Client demand for signage at this roundabout might increase owing to the increase in hotel numbers, and correct approach required.

5.3 PUBLIC PROTECTION MANAGER (ENVIRONMENTAL HEALTH)

The location of the proposed development has a similar type of development to the east without the drive through facility. There is however a drive through facility in close proximity to the south of the proposed development. The other boundaries of the development are adjacent to the A449 and the A48. The nearest residential property is approximately 90m away from the boundary of the proposed development to the south west.

In the information contained in the Arcadis Consultation report to support the application on page 50 there is a copy of the letter written by the planning officer Geraint Roberts which indicates the type of comments deemed relevant by Environmental Health Officer at pre application stage. These were summed up in this letter as “No objection subject to the application of planning conditions relating to noise, fume extraction and a ‘Construction Environment Management Plan’ being applied.

I cannot see any information to support how noise, dust, fume etc. will be managed or a ‘Construction Environment Management Plan’ should the application be granted. Having considered the conditions attached to other similar applications granted I am of the opinion that opening restrictions should not be applicable.

I am not in a position to substantiate an objection to the development however I would recommend the following conditions be included in any application granted:

- Prior to the commencement of the development a written Construction Environment Management Plan shall be submitted to and approved in writing by the local planning authority to confirm how noise, dust etc. will be managed during the construction of the development. This should include a statement of the intended hours of working throughout the construction period
- Noise emitted from plant and equipment located at the development shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 5dB below the existing background level, with no tonal element to the plant.
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.
- Fumes from the food preparation areas of the development shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odourising filters. The equipment shall be installed in accordance with the approved details submitted to support the application prior to the commencement of use for the cooking of food.
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities.
- Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work should be

located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
Reason: To prevent pollution of the water environment.

Whilst I have not suggested conditions of hours of operation for the drive through in this or similar applications these should be considered further where appropriate.

5.4 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS): No objection.

5.5 HEAD OF STREETSCENE & CITY SERVICES (DRAINAGE): I have no objection to the above application. However, a drainage strategy is required in order for a full assessment to be made in terms of surface water management. The FCA (in Section 6) advises that a drainage strategy will be undertaken in due course. I therefore look forward to reviewing this when available.

5.6 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): The tree survey information does not appear to show the impacts of the proposed scheme although tree removal is shown on Site Layout Plan. There is no tree protection plan and a standard 5m offset has been used. From a landscape point of view the key implications of this are:

- i. Concern remains over the adequacy of the screening woodland strip between the A449 and proposed hotel and substation on the north boundary. Some trees will be removed and although there is some proposed replacement planting (hedge and 3 trees 10-12cm g oak, hazel, Norway maple) this will not adequately create a sufficient screen between the road users and the proposals.
- ii. Tree losses at the proposed entrance are shown and are minimal which is welcomed, however there is still no visibility splay shown. Without the splay shown on the plan the impacts on vegetation to the west of the entrance are difficult to assess and may be greater than currently shown.
- iii. The impact of the car parking cell web construction is not clear, there are no proposed levels shown or sections and this appears to impact on frontage trees and native shrubs which currently provide a useful screen.
- iv. The entrance road will require bridging of the existing ditch, how this is to be achieved is not shown and again may impact on the frontage vegetation.
- v. The Landscape Management Plan July 2017 rev 1 will need to be updated to tie in with updated layout and planting plans.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 100m of the application site were consulted (12 properties), 2No. site notices were displayed, and a press notice was published in South Wales Argus.

Eleven responses were received; one in support and ten objecting. The following comments were made:

- Increased use of Chepstow Road by traffic using the new crematorium at Magor Road has not been taken into account.
- The site is in the countryside which enjoys policy protection from development under the adopted Local Development Plan.
- The development will compromise protected ancient woodland.
- The Coldra roundabout and Catsash Road are already too busy and Catsash Road is frequently closed to accommodate Celtic Manor this should not be worsened.
- The area around the application site is heavily parked by car sharers, the proposal will increase local parking demand.
- The Coldra roundabout is already overburdened and prone to dangerous driving, this will be worsened.
- Local road surfaces are very worn and will get worse.
- The Starbucks will add to the existing littering problem in the area (fast food wrappers).
- The cycle path along Chepstow Road will be compromised by the new access to the hotel.

- There is no safe pedestrian crossing from the facilities on the south side of Chepstow Road to the site.
- The facility provides no benefit to local people (only to Celtic Manor).
- The proposed access is too close to the Coldra roundabout and will be dangerous.
- This part of Chepstow Road is already congested and this will be made worse.
- More traffic will cause increased pollution.
- The proposed access is dangerous.
- At 4 storeys the hotel is much higher than nearby buildings.
- The plot is too small to accommodate the scheme.
- The development will have an adverse impact on the amenity of residents across Chepstow Road in terms over-looking, noise, exhaust emissions and general disturbance via comings and goings.
- The site is used by bats.
- There is no demand for the coffee shop.
- Additional traffic / parking will have an adverse impact on the residents of Priory Drive.
- The scheme will be car reliant. The local bus service is inadequate.
- The new access does not comply with the overall traffic management plan for the Langstone Business Park which envisaged a single access point (not two). The site should be accessed from the existing road network (via the Hilton) and no new access should be provided from the A48.
- The scheme has insufficient parking provision.
- The local sewerage provision is inadequate.
- The Celtic Manor Resort should absorb this development within its existing boundary.
- Catsash Road is heavily rat-run by traffic accessing Celtic Manor Resort, this will make things worse.
- Acoustic fencing should be provided along the A449 to protect the existing houses from road noise.

6.2 COUNCILLORS: No responses received.

6.3 LANGSTONE COMMUNITY COUNCIL: Objects for the following reasons:

- i. **Parking** - The number of parking spaces planned is inadequate for the number of guests and staff who will be staying and working at the hotel. Commuter parking is a major issue in Langstone already and if there are insufficient staff parking spaces, additional staff in the area looking for parking in surrounding streets will make the problem even worse. Only 3 staff parking spaces are to be provided. It should be noted that public transport to/from Langstone is extremely poor and likely to be unusable for most staff shift patterns so most staff are likely to use cars to get to and from work.
- ii. **Road safety** – The A48 short stretch of dual carriageway from J24 to the Coldra Court Hotel roundabout is already heavy, with vehicles consistently speeding along this stretch of road. The planned access road will result in a hazard with vehicles turning off the A48 into the hotel. It has been suggested that the existing access via the Coldra Court Hotel would be less hazardous.
- iii. **Weight of traffic** – Residents attempting to exit Lydia Beynon Gardens onto the Coldra Court roundabout already have difficulty entering the heavy flow of traffic from the right, and the additional traffic from the new hotel and coffee shop which would, in all probability, have to circumnavigate the roundabout to return to the M4 or the Celtic Manor Hotel would exacerbate the problem.
- iv. **Drive-through coffee shop** – This will inevitable increase traffic and cause more litter in an area already blighted by litter from the McDonalds Drive-through situated about 100 metres away on the opposite carriageway.
- v. **Building height** – There are no other buildings in Langstone of this height (up to 4 storeys including the ground floor) and it is out of character with the area.
- vi. **Sewage & drainage systems** – These are already under pressure in Langstone and we are constantly being told that the drainage and sewage systems are not adequate for the demands

placed up on them in Langstone, resulting in frequent flooding at times of heavy rain. This hotel will simply add to the demand and will remove the soak-away function of more open land without resolving any of the infrastructure issues.

- vii. **Trees** – The plans include the demolition of several trees currently protected by a Tree Preservation Order. It is unclear how many trees will be removed and how many will be planted in their place, but mature protected trees can only be replaced by younger saplings which will take years to grow to the same stature.

7. ASSESSMENT

7.1 The Proposal

7.1.1 The applicant is seeking permission to build a 146 bedroom hotel of 3 and 4 storeys in height and a ground floor area of 2350m², on land between Coldra Woods and the former Hilton Hotel at the western end of Langstone. The building will reach a maximum height of approximately 15.6 metres. In terms of appearance the building will form a loose 'U' shape and will be completed in blockwork (ground floor) and various coloured cladding on the upper floors. Windows will be aluminium framed. Differences in cladding colour and irregular fenestration will break up facades. The hotel will also provide a dining room for 112 covers which will include an outdoor seating area as well as normal hotel facilities including reception, lounge / foyer, toilets, storage areas and kitchen facilities. Scope for high level signage on the building has been allowed for but this will need separate Advertisement Consent. The front area of the hotel has a drop off facility and is demarcated by an over door canopy structure. The proposed accommodation will be three star and it is expected to meet demand created by the construction of the new conference centre at the Celtic Manor Resort.

7.1.2 The hotel will lie in the northern part of the site, the A3 unit in the south east part of the site; with parking generally being in the southern part of the site. A service road will pass along the north eastern edge of the site to the rear of the hotel to provide access for service vehicles.

7.1.3 The development will include the provision of 157 parking spaces A new access will be formed on to the A48 Chepstow Road with a splitter island i.e. ingress from the west only and egress to the east only. A new A3 unit with a floor area of 209m² is proposed, this is a coffee shop which will be operated by the Starbucks chain. It will be a flat roofed structure with a height of 4.12m and 24m long and 13m wide at its maximum. A higher roof structure provides scope for advertising. The adverts will need separate advertisement consent.

7.1.4 A site wide planting scheme is proposed with some planting intended to mitigate the loss of scrub / hedgerow planting that must be removed from the site to accommodate the scheme as proposed.

7.2 Designations

7.2.1 The site is located within the countryside for the purposes of the adopted Newport Local Development Plan 2011-2026. Coldra Wood which lies immediately west of the site is subject to an 'Area' Tree Protection Order meaning that the trees within the woodland at the time the TPO was put in place are protected. The order dates to 1964. The TPO'd area is also classified as semi-natural Ancient Woodland which has strong protection under national policy. The main part of the development site consists of two agricultural fields which are currently disused. The fields are separated into two equal areas by a grown out hedge. A similarly grown out hedge separates the site from the former Hilton Hotel to the east. The development site is immediately adjacent to the urban boundary.

7.3 Assessment

Key Issues:

- Countryside – Character and Appearance

- Retail Policy & the Sequential Approach
- Tree Issues
- Ecological Issues & Mitigation
- Parking & Access
- Economic Benefit

Minor Issues:

- Highway capacity
- Visual Amenity
- Sewerage
- Public Right of Way
- General Amenity – light, noise and disturbance
- Agricultural Land Classification

7.4 Countryside – Character and Appearance

- 7.4.1 In general terms development in the countryside is restricted to that which is appropriate in a rural setting and respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Proposals should comply with national planning policy as outlined in Planning Policy Wales Edition 9. National policy is generally restrictive but PPW9 allows at Paragraph 7.3 that many commercial activities can be located in a rural area without causing unacceptable disturbance or other adverse effects. However the advice assumes that small scale enterprises are more acceptable and proposals must be long-term viable offering more than short term economic gains.
- 7.4.2 Where new buildings are required to support rural employment PPW9 advises that the sites should be small and located within or adjacent to existing settlements preferably where public transport is established. As such this location is broadly in conformity with this advice. The red lined area is approximately 1.7Ha but of this only 1.3Ha would be developed with the rest being the protected Coldra Woods. The development area is therefore relatively modest if not strictly speaking small although national advice does not define what small means in the context of rural development. In essence whether the site is small is a judgement. However the site is adjacent to the urban boundary and close to the A48 Chepstow Road and the A449 dual carriageway making it accessible to public transport. The adjacent road has a wide pavement and is street lit and the nearest bus stop is approximately 400m away.
- 7.4.3 That said the development proposal is for a substantial 4 storey building that will be distinctly urban in appearance. However as a hotel NLDP Policy CF8 (Tourism) supports the improvement of tourism related development including hotels and conference & exhibition facilities. The policy places no geographical limitation on such development. As such the rural area is a suitable location for a hotel in principle. However rural protection policies clearly engage in the consideration and as such it would not follow that all hotels are acceptable in all rural locations. It is necessary to consider the specifics of the proposal and the location chosen in order to ensure that rural character is not adversely impacted in an unacceptable way or that any harm is outweighed in the planning balance. This proposal is for a large building of substantial massing, significant areas of car parking will be provided and substantial existing landscape elements will be removed to accommodate the proposal. This will consist of the removal of three main elements:
- The grown out hedge between the two agricultural fields on the site
 - The grown out hedge between the site and the former Hilton Hotel.
 - Trees from the belt of trees along the front of the site, facing the A48.
- 7.4.4 The impact of the proposal will be adverse in landscape terms and the building will be an imposing structure. The proposal will fundamentally alter the character of the site and rural character would be significantly undermined by the development. A degree of visual enclosure of the site will be retained due to the retention of the protected woodland to the west of the site

(Coldra Woods) and most of the trees to the front of the site. The removal of the scrub / hedge between the site and the former Hilton site will result in the development site being more visually integrated with the commercial development to the east. Screening between the site and the A449 dual carriageway is less densely developed but much of this can be retained and significant planting has taken place along the roadside verge. However the site and the hotel building will be clearly visible from the dual carriageway. In effect the site will become integrated with the commercial development to the east, it would be partially screened from some views by retained vegetation but ultimately rural character and appearance would be significantly eroded in an adverse way and the site would become urban in character. In conclusion NLDP Policy SP5 (Countryside) is not complied with since although the use can be considered appropriate there is significant harm to landscape character, the design is distinctly urban in character and the scale of the proposal is significant. However the development is supported by NLDP Policy CF8 since it is new tourism related development which will support conference and exhibition facilities. Additionally national policy allows for commercial development in the countryside in certain circumstances which are considered to be met here. As such the harm to Policy SP5 is mitigated by support under other policies related to economic activity. How much weight to give to these economic benefits will be considered elsewhere in this report.

7.5 Retail Policy & the Sequential Approach

7.5.1 In terms of the A3 unit, this is proposed to be a 'coffee pod' operated by Starbucks. It is a small scale development but national policy considers such uses are best located within existing commercial / retail centres such as the city or district centres. This location is outside of existing centres and as such policy requires that need for the proposal is demonstrated and that the sequential (existing centres first) test is engaged. The applicant has produced a Planning & Retail Statement (May 2017). The applicant considered the availability of sites that were suitable and available for the A3 unit within the City Centre and Newport Retail Park (Spytty District Centre). The Council agreed other centres should be scoped out of the assessment. The applicant concluded that no suitable sites were available within these realistically alternative locations for the proposed development. There is no reason to disagree with this assessment since sites must be suitable as well as available. The applicant points to appeals and case law where it was established that alternative sites must be suitable for the proposed scheme rather than some notional alternative that the developer is not seeking to pursue. They note that the proposal has a 'drive-thru' element that cannot be accommodated in traditional store layouts typical of the city centre and Newport Retail Park. This assessment is considered appropriate and officers accept that although other sites of similar floor areas may be available they are not suitable for the form of the proposal and a significant part of its intended market (passing motorists).

7.5.2 In terms of need the applicant considers that the A3 unit is likely to be used by residents at the nearby hotels and by passing trade (M4 / A449 / A48) in a similar way to the use of the existing McDonalds restaurant across from the site. As such the demand already exists from passing motorists. The applicant also considers that the coffee shop will also offer a qualitative improvement for customers being a named 'brand' operator which is not currently available in the vicinity of the site. The applicant concludes that the A3 unit is unlikely to become a destination unto itself since it will primarily offer a range of hot drinks and limited snacks all of which are already provided within established centres where there would be a better range and choice for the most part. Therefore there will be no or highly limited 'trade diversion' from existing centres to this unit and consequently no harm to existing centres. Officers consider this assessment to be correct. An existing qualitative under provision in the natural catchment of the proposal will be addressed if the proposal goes ahead. This conclusion is predicated on the 'catchment' for the coffee shop being passing motorists on the road network with no or very limited walk up trade from the surrounding area. In short passing motorists would not be potential customers for any existing in-centre facility if this development did not go ahead. Overall the catchment for the A3 unit is diffuse but it can be reasonably concluded that the additional provision in this location will not be harmful to any in-centre location in Newport or anywhere else and is unlikely to have a harmful impact on any existing out of centre location. In any event these do not enjoy any policy protection. As such the centre first approach sought in national policy is met and NLDP Policy R8

is complied with. The development is at an appropriate scale, there would be no adverse effects on the viability & vitality of any defined centre and local residential amenities would not be unacceptably affected due to the separation of the unit from nearby houses.

7.5.3 The applicant has also made a consideration of the hotel in terms of the existing centre first approach since that is required under national policy (Paragraph 10.1.5 of PPW9). They note that the key locational decision is for the proposed hotel to serve the needs of the new International Convention Centre Wales (ICCW). The accommodation is likely to be used by exhibiting staff at the ICCW who will need to arrive on site early in the morning and leave late at night. A close location to the ICCW is therefore necessary for the relevant benefits to accrue and although not specifically addressed it is unlikely that any existing centre would be able to provide a site of the relevant area (even allowing for the possible reduction in parking provision enabled by the presence of existing car parking arrangements within centres) or suitable to accommodate the massing of the building. Overall officers accept that no sequentially preferable location is suitable or available for the hotel. This weighs in favour of the proposal notwithstanding the concerns over the harm to rural character and appearance identified earlier in this report.

7.6 Tree Issues

7.6.1 The site has significant woodland interest due to the presence of Coldra Woods to the west which is TPOd and a Semi-natural Ancient Woodland. This part of the site is not to be developed but proposed car parking will be located close to the woodland edge. However the 'Trees' SPG requires that a 5m buffer exists between the canopy edge and the development or its curtilage. In terms of the TPOd woodland this is achieved and minimally achieved in relation to the screen planting along the A449. It is not achieved in relation to the screening planting at the southern end of the site where car parking impinges on this buffer. The overgrown hedgerows within the site and along the site's eastern boundary are to be removed. The belt of trees at the southern end of the site will be broken by the development of the site access.

7.6.2 The proposal will require the removal of substantial elements of hedge / scrub cover on the site estimated at 3500 square metres by the applicant (0.35Ha). NLDP Policy GP5vii requires that there should be no unacceptable loss of or harm to trees, woodland or hedgerows that have wildlife or amenity value. In this case the Semi-ancient Natural Woodland (Coldra Wood) is protected from development with no encroachment and an acceptable offset of 5m. Other woodland is to be retained but the required buffer will not be achieved. However the developer will seek to mitigate this in the context of the car park by adapting the construction methodology to reduce harm to the root protection area of the tree by using 'Cellweb' construction, essentially a construction technique that has a limited impact on the ground and therefore any roots within the ground. This is considered an appropriate mitigation for the intrusion within the root protection zone of these unprotected trees and it can be secured under condition.

7.6.3 In the area of parking to the south of the Drive-thru restaurant a concrete retaining wall and standard surfacing is proposed. The applicant acknowledges that this will impact on the root protection area of one of the trees that are proposed to be retained. However the impact is limited affecting only 8% of the retained tree's root protection area. This is not considered to be unacceptably harmful to the interests of the retained tree. Additionally several of the trees that abut the southern edge of the car park will need to have their crowns raised (lower branches removed) in order to accommodate the parking use.

7.6.4 The loss of the hedgerows which actually present as belts of scrub since the hedges have not been managed cannot be mitigated, they amount to a total loss. The applicant seeks to compensate for this loss by planting new areas of scrub. The proposed area amounts to 1,357m². This is considered sufficient to compensate for the loss of hedgerows in landscape terms and it will provide replacement habitat. The ecological issues will be considered further in the ecology section of this report.

7.6.5 Overall it is concluded that NLDP Policy GP5vii is complied with, the scheme includes appropriate tree planting and would not result in the unacceptable loss of or harm to trees, woodland or hedgerows when allowing for appropriate mitigation or compensatory planting.

7.7 Ecological Issues & Mitigation

7.7.1 The applicant has provided a 'Dormouse Method Statement' (April 2017). This contains a survey showing that dormice are on the site having been found in the central hedge (to be removed) and the south eastern part of the site (scrub to be retained). Dormice are a European Protected Species and are subject to significant policy protection as well as statutory protection under the Habitat Regulations.

7.7.2 Cyfoeth Naturiol Cymru / Natural Resources Wales have not objected to the proposal subject to the application of conditions to require the implementation of the proposed Dormouse Mitigation Strategy and requiring that no work be done until the relevant licence required under the Habitat Regulations has been issued by CNC/NRW.

7.7.3 The Dormouse Mitigation Strategy requires the careful removal of the existing habitat and the provision of alternative habitat by providing new scrub planting within the site. 1,357m² is shown as being provided and by management within the Coldra Woods TPOd area to provide additional habitat suitable for dormice. This would involve the removal of up to 4No. mature ash trees and hazel planting within the glades that have been created. 30No. dormouse nest boxes will be provided around the site. Currently the woodland consists of mature trees that have shaded out the ground meaning there is very limited vertical stratification in the wood and a limited range of tree species and tree ages. In ecological terms the proposed woodland management would be beneficial and the programme of works is supported by CNC/NRW.

7.7.4 The Nature Conservation SPG requires replacement habitat at a rate of 1.0 lost to 1.5 replacement allowing for a qualitative assessment of how good the replacement habitat is. Additionally replacement is the last option to be pursued with avoidance and mitigation being preferred. However it must be accepted that the scheme as sought cannot be delivered if the hedgerows on the site are retained in their current form and the ecological harm (as opposed to any harm in character and appearance) could be mitigated through replacement planting and the introduction of a new management regime within Coldra Woods. The applicant has assessed the adequacy of the Dormouse mitigation and compensation measures that have been proposed (Dormouse Mitigation Compensation Rationale & Adequacy – September 2017). This document concludes that the proposed compensatory measures are adequate to replace the lost habitat. The proposed measures are:

- Replacement scrub & hedge planting equating to 1357m²;
- Provision of 30 dormouse nest boxes;
- Enhancement / Management of the existing woodland habitat – 3430m² (not all of this area will be specifically managed in the interests of Dormice).

The assessment concludes:

'the three compensation measures proposed are in line with published guidance on establishing and enhancing habitat for dormouse (i.e., quality and connectivity – habitats won't become isolated / fragmented); in combination amount to significant mitigation; and are regarded as suitable for offsetting the habitat that will be lost as a result of the proposed development'.

There is no reason to disagree with this assessment and in conclusion the interests of the Dormice on the site can be protected and NLDP Policy GP5ii is met since the negative impacts on Dormice habitat can be avoided (by scrub retention in places), mitigated by the provision of nest boxes and compensated for by replacement planting and a new management regime within Coldra Wood.

7.8 Parking & Access

7.8.1 There is no objection to the proposal from the Highways Officer in terms of the proposal in terms of Parking Provision and the Access arrangements. Total Parking provision is 157 spaces including 6 disabled spaces. 16 of these spaces will serve the A3 unit and 141 of them will serve the hotel. 5 disabled spaces are provided for the hotel and one disabled space for the A3 unit. The site is in Parking Zone 4 as described in the Council's Parking SPG. The required parking spaces for a hotel in this zone are:

	Operational	Non-operational
Hotel	1 commercial vehicle space	1 space per 3 non-resident staff and 1 space per bedroom
A3 unit (Cafes and Drive thru)	1 commercial vehicle space	1 space per 3 non-resident staff and 1 space per 14m ² of dining area

7.8.2 The Hotel is expected to provide 36 fulltime jobs and 10 part time staff. It is expected that 12 staff will be on site at any one time. This would require four spaces for staff. The 146 bedrooms would require 146 spaces. As such the total parking demand is 150 spaces for the hotel. The hotel will provide 141 spaces and as such there is a deficit of 9 spaces for the proposal. This is a shortfall of 6% of the parking requirement. The proposal has not drawn any objection from the Highways Section and the shortfall is not considered to be so harmful as to constitute a reason for refusal unto itself although the deficit does weigh slightly against the proposal in the minds of officers.

7.8.3 The A3 unit is expected to employ a total of 25 staff (Source: Issues Requiring Clarification). The applicant confirms that 5 staff would be on site at any given time. This would require 2 staff spaces and 8 spaces for customers based on a dining area of 103m². In effect 16 spaces are provided and 10 are needed. This is an appropriate level of parking provision for the A3 unit.

7.8.4 Overall Policy GP4iv (Parking) is not complied with since adequate parking provision within the terms of the Council's Parking SPG has not been shown to be provided. However deficits are slight and have not attracted criticism from technical consultees and any resultant harm should be seen as slight.

7.8.5 The proposed access from Chepstow Road has been subject to careful assessment and a safety audit has been completed. No objection is made to the access in terms of its placement, geometry or proximity to the Coldra roundabout. As such the proposed access provides a safe and suitable access and it is not detrimental to highway or pedestrian safety and accords with NLDP Policy GP4vii (Highway Safety).

7.9 Economic Benefit

7.9.1 The applicant has provided information relating to the financial / economic benefits of the scheme over the next 5 years as follows:

Benefit	Hotel	A3 Unit	ICCW
Direct Employment	36 Full time 10 Part time	25 Full time & Part time	Undefined but additional demand anticipated on facilities in the Celtic Manor Resort due to increased visitor levels.
Turnover	£3 million	£1-1.5 million	
Wages	£1.2 million		ICCW will be dependent on the accommodation offer in the vicinity. Any deficiencies in the hotel offer in Newport will see trade displaced to Bristol or Cardiff or a potential loss of
Sales	£1 million on food and drink (excludes accommodation)	£1 - £1.5 million	

	income)		business altogether. The hotel is not expected to divert trade from existing hotels within Newport.
Construction Jobs	40-50 workers over a 12 month period. Wages not quantified.		n/a

7.9.2 Although unclear on certain aspects of the economic impact of the proposal, for example the increased income in the supply chain (building materials / plant hire etc.) from the construction process, as well as the scheme's prospective spend with local suppliers (linen, food wholesalers etc.) it can be safely accepted that the proposal will have significant economic benefits within the Newport economy via direct employment and a wider multiplier effect via the purchase of goods and services and wages spend within the city. National policy in terms of PPW9 and TAN23 advises that significant weight should be given to such benefits. There is no specific NLDP Policy relating to the economic benefits of commercial development but the supporting test to Policy CF8 (Tourism) recognises the economic importance of tourism to the City's economy.

7.9.3 National advice requires that economic evidence be robust, there is no reason to doubt the information provided. TAN23 advises that within settlement sites are always preferable but notes that settlement edge sites are the next most acceptable sites allowing for an assessment that the benefits of the scheme outweigh any adverse impacts.

7.9.4 As such the successful balancing of planning interests requires that they be robustly evidenced and properly understood. Even allowing for the slight deficiencies in the economic evidence provided there are clear benefits capable of bearing significant weight in any planning judgement.

Minor Issues

7.10 Highway capacity

7.10.1 The capacity of the highway network has been called into question by some persons who have commented. The Highways Officer has not objected in terms of the capacity of the A48 or the junction placement and there is no reason to think there would be an adverse highways impact in relation to roads under the control of the Council as a Highway Authority. The Welsh Government and the Trunk Road Manager have been consulted in response to the comments received in relation to the potential impacts on the Coldra (Junction 24) of the M4 but have not had sufficient time to respond prior to this Committee Meeting. Officers propose to seek delegated authority from the Committee to determine the application in accordance with the recommendation on confirmation of no objection from those consultees. Or alternatively after the statutory period for these Consultees to comment has elapsed. In the event objections are received the matter will be reported back to the Committee for those objections to be considered.

7.11 Visual Amenity

7.11.1 The buildings are remote from neighbouring residential development and are not considered to have any overbearing impact or unacceptably adverse impact on visual amenity. NLDP Policy GP2ii is complied with since the development would not be detrimental to the visual amenities of nearby occupiers.

7.12 Sewerage

7.12.1 There has been no technical objection to the proposal on the grounds of inadequate sewerage provision in the area. Dwr Cymru / Welsh Water have not objected to the proposal subject to the

application of a condition to control drainage. There is no reason to think that the local sewerage network is inadequate. NLDP Policy GP3 (Service Infrastructure) is complied with.

7.13 Public Right of Way

7.13.1 Footpath 394/80/01 crosses the site from Chepstow Road and effectively ends on the northern edge of the site next to the A449. The path does continue on the other side of the dual carriageway but there is no provision to cross the road and in reality the path is a little used and isolated spur which strictly speaking is currently impassable due to scrub growth. It appears the public do occasionally enter the site but that is via the existing field access and then they make a circular walk around the site. In terms of the legal pathway scope can be made to accommodate it within the curtilage of the development and there is no reason to think the amenity of any users of the (legal) path would be unacceptably effected. Policy T7 (Public Rights of Way & New Development) is complied with since a suitable alternative provision can be made.

7.14 General Amenity – Light, Noise & Disturbance

7.14.1 There is no reason to think that the proposal would have an unacceptable impact on local residents in terms of noise, light, fumes or traffic generation given the level of separation between the site and local houses.

7.14.2 The rear of the building will abut the A449 dual carriageway so road noise will be an issue. However this is not residential accommodation so it is considered unnecessary to condition a noise mitigation scheme. In essence if the rooms are noisy then occupiers will complain to the hotel and not stay there in the future. As such this is an issue best left to the market to address since the operator will have a direct commercial interest in ensuring rooms are quiet enough to sleep in.

7.14.3 Both the A3 unit and the hotel have the potential to prepare hot food. As such a condition requiring appropriate fume extraction and filtering is necessary as well as controls over the noise emissions of such equipment. Given the context of the site provision of fume extraction should not have any unacceptably adverse impact on visual amenity.

7.14.4 Policy GP7 (Environmental Protection and Public Health) and R8iv(Small Retail – impact on residential amenity) are complied with.

7.15 Agricultural Land Classification

7.15.1 The applicant completed an Agricultural Land Classification survey. This confirmed that the northern field was in Grade 3a and the southern field was in Grade 3b. This means that should the development proceed then some 0.44Ha of higher grade agricultural land would be lost permanently. NLDP Policy GP5iv requires that there be no loss of any higher grade agricultural land. National policy gives considerable weight to the protection of such higher grade land. Higher Grade land should only be developed if there is an overriding need and brownfield land or land in lower grades of low ecological value is not available.

7.15.2 The applicant reports that the size of the site nor limiting factors such as access do not in principle affect the grade of the land but may have practical implications on how the land might actually be farmed. It seems likely on this site that the land would not be used to its fullest potential because of such limiting factors.

7.15.3 The applicant suggests in his submission that no other sites are suitable but this assessment related to the centre first approach rather than explicitly to the requirement to consider the availability of land at lower agricultural grades. As such it is possible that other rural sites (in principle acceptable as sites for hotels) on lower quality land might have been available but this has not been demonstrated in this submission. In any event there is no spatial limit on loss of higher quality land i.e. even small areas of higher grade land are protected under policy.

7.15.4 However in this case the area affected is small inherently limiting harm to the public interest and the practicalities of using the land further reduce its utility. Part of the applicant's justification for developing this site is the agglomeration benefits that accrue from its near location to existing facilities and to the site of ICCW. These benefits would not accrue if the hotel was not located here. As such officers consider that an overriding need is established and an assessment of land availability elsewhere would be superfluous since a location further away would undo the agglomeration benefits of the chosen site. As such the failure to show fully that national policy on higher grade agricultural land is met is not considered to be harmful in this instance and the breach of Policy GP5iv(Higher Quality Agricultural Land) is technical and not harmful.

7.16 Planning Balance

7.16.1 The proposal will have an adverse impact on rural character resulting in the removal of significant landscape elements and a fundamental change in the character and appearance of the site. The character of the site will be changed from a distinctly rural appearance to an urbanised one. This harm is partly mitigated by the site's location close to the existing urban boundary. Impacts on hedgerows within the site will be significant with two grown out hedges being removed. Other tree interests are broadly protected and overall the scheme is not considered to have an unacceptably adverse impact on tree interests within the site. Dormice have been found on the site and some of their habitat (the hedgerows) will be removed. The proposed mitigation strategy has been accepted by CNC/NRW and the scheme does not pose an unacceptable risk to this European Protected Species. Parking provision for the hotel is marginally deficient but has not led to any technical objection from the Highways Officer and the shortfall in parking provision is not considered to be sufficiently harmful to justify refusing permission. The development will see the loss of some higher grade agricultural land but the harm is limited by the size of the area and the practicalities of using the land to its fullest potential. The proposal will bring significant economic benefits directly via construction and revenues spent within the hotel and the A3 unit. There will be wider benefits from spend in the Newport area from employees and visitors alike. The hotel will support the functioning of the International Conference Centre Wales by filling an accommodation gap that is currently present. The close location of the proposed site offers co-locational benefits both in terms of the direct function of the ICCW and in terms of the sharing of existing facilities in the area. These benefits cannot accrue if the new hotel is not located in close proximity to the ICCW and the rest of the Celtic Manor Resort. These co-locational benefits also justify a departure from the Welsh Government's 'existing centre' first approach for hotel location since they cannot accrue if the hotel is located away from the ICCW. National advice is clear that economic benefits should be given significant weight in any planning decision. TAN23 (Economic Development) requires a consideration of alternatives, jobs accommodated and special merit. Co-locational benefits can only accrue on sites that are close to the ICCW so the range of alternative locations is narrow and none have been shown to be suitable and available. Job creation is outlined in this report and wider indirect job creation although not quantified will be relevant. In terms of special merit this can also be tied back to the co-locational benefits which do not accrue on other sites. Overall officers conclude that the significant economic benefits of the scheme carry sufficient weight to outweigh the harm to the rural interest in terms of significant harm to character and appearance and that planning permission should be granted subject to conditions.

8. **OTHER CONSIDERATIONS**

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

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

8.2 **Equality Act 2010**

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

8.3 Having due regard to advancing equality involves:

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

8.4 The above duty has been given due consideration in the determination of this application. It is considered that 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 On balance the proposal is acceptable and planning permission should be granted subject to conditions.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

Plans Condition

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

- Drawing GA-01 C – Ground Floor Plan
- Drawing GA-02 C – First Floor Plan
- Drawing GA-03 C – Second Floor Plan
- Drawing GA-04 C – Third Floor Plan
- Drawing GA-05 A – Roof Plan
- Drawing GA-06 B – Elevations Sheet 1
- Drawing GA-07 C – Elevations Sheet 2
- Drawing ST-01 N – Site Layout
- Drawing ST-04 B – Site Sections
- Drawing ST-05 D – Site Plan Reduced Footprint
- Drawing ST-06 – Site Entrance Detail
- Drawing ST-06 – Ancillary Structures

- Drawing 60786/GA/L/0001 R – Landscape Plan
- Drawing 60786/GA/L/0200 F – Soft Landscape Plan
- Drawing 16046-GA200 – A3 Unit Plans & Elevations

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 CEMP: Prior to the commencement of the development a written Construction Environment Management Plan shall be submitted to and approved in writing by the local planning authority. The CEMP shall contain details of:

- Noise mitigation
- Dust suppression
- Soil storage areas and other material dumps
- A Traffic Management Plan showing how construction traffic will be managed in order to maintain highway safety.
- Arrangements for the storage of fuels
- Location of offices, welfare facilities, storage areas and plant
- Contractors off-road parking
- Temporary lighting
- Means to secure the site perimeter

Reason: to protect residential amenity and highway safety and the wider environment.

03 DRAINAGE: No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

04 TREE PROTECTION: No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until Root Protection Barrier fencing has been installed in accordance with details of its location and formation that have first been submitted to and agreed in writing by the Local Planning Authority . No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned unless the submitted details include an appropriate phasing programme that allows for such a re-positioning within an agreed programme of works.

Reason: To protect important landscape features within the site.

05 ACCESS PROVISION: No other work shall commence on the development until the new access shown in Drawing ST-06 – Site Entrance Detail has been provided minimally to base course level. Only this access point shall be used to gain entry to the site and any other access to the site shall not be used following the provision of this access.

Reason: to ensure the site is safely accessed from an early stage in its development.

Pre – construction conditions

06 ROAD COMPLETION: No development of any roads, carriageways, footpath or cycleways shall commence until full details of the means of construction of those roads, carriageways, footpaths or cycleways have been submitted to and approved in writing by the Local Planning

Authority. With the exception of the final wearing course, the roads, carriageways, footpath or cycleways shall be completed in accordance with the details as approved prior to the first occupation of any building served by that road, carriageway, footpath or cycleway. The final wearing courses shall be completed within 12 months of the first use of any associated building.
Reason: To ensure that the roads, carriageways, footpath or cycleways are constructed and completed to a satisfactory standard in the interests of appropriate access and general amenity.

07 PERMEABLE SURFACING: No hard surfacing of any kind shall be provided in the areas notated as 'Proposed extent of permeable car park surface' in Drawing 60786/GAL/0001 – R (Landscape Plan) until details of the construction methodology of that surfacing have been provided in writing to the Local Planning Authority. Following the LPA's written agreement the surfacing shall be installed as agreed and retained as such thereafter.
Reason: to protect the interests of retained trees on the site.

08 DETAILS OF EXTERNAL MATERIALS: Details of the external materials to be used in the scheme shall be provided in writing to the Local Planning Authority (other than details of any hardsurfacing provided under conditions 06, 07 & 09). Following the written agreement of the LPA the agreed materials shall be used to complete the development. No materials shall be used that have not been previously agreed.
Reason: to ensure the development is completed to a high standard of visual amenity.

09 DETAILS OF RETAINING WALLS AND OTHER MEANS OF ENCLOSURE: No work shall commence on any retaining wall or other means of enclosure until details of that structure including its proposed finishes have been submitted to and agreed in writing by the Local Planning Authority. Thereafter works shall proceed fully in accordance with the agreed details and retained as agreed thereafter.
Reason: to protect valuable tree features on the site and wider visual amenity.

Pre –occupation conditions

10 PARKING PROVISION: Prior to the first beneficial use of the hotel and the A3 unit hereby approved, the parking and access provision for those elements of the scheme as may be completed shall be fully provided and thereafter retained for the purposes of parking and access.
Reason: to ensure the site can be accessed and sufficient parking is provided and retained.

Other conditions requiring the submission of information

11 FUME EXTRACTION: Fumes from the food preparation areas of the development shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odorising filters. The equipment shall be installed in accordance with the approved details submitted to support the application prior to the commencement of use for the cooking of food.
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities.

12 LANDSCAPING IMPLEMENTATION & MANAGEMENT PLAN: The scheme of landscaping hereby approved as shown in Drawings 60786/GAL/0001 – R (Landscape Plan) & Drawing 60786/GA/L/0200-F (Soft Landscape Plan) shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the development or any part of the development to which the landscaping relates if the development is constructed in phases. Thereafter the trees, shrubs and other plants shall be maintained in accordance with the Coldra Woods Landscape Management Plan (July 2017) for a period of 5 years following the full implementation of the landscaping scheme. Any plants which die or are damaged shall be replaced and then maintained until satisfactorily established. For the purpose of this condition, a full planting season shall mean the period from October to April inclusive.
Reason: To secure a satisfactory landscaping scheme for the site in the interests of the character & appearance of the area, its ecological value and the visual amenity of the vicinity in general.

13 DETAILS OF IMPROVEMENTS TO RETAINED LANDSCAPING: Prior to the implementation of the Landscaping scheme required under Condition 11 details of the measures to be taken to improve the 'Existing Vegetation Retained & Improved' shall be submitted in writing to the Local Planning Authority along with a maintenance schedule for those measures. Following the Council's written agreement the improvement measures shall be implemented and maintained as agreed.

Reason: to ensure retained landscape elements are effectively maintained and improved in the interests of the character & appearance of the area, its ecological value and the visual amenity of the vicinity in general.

14 DORMOUSE MITIGATION: The Dormouse Mitigation & Monitoring Scheme described in Table 5.1 of the Dormouse Management & Monitoring Scheme (April 2017) shall be carried out fully as described other than no trees in the area of the protected woodland (Coldra Woods) shall be felled without the prior written agreement of the Council as to precisely which trees shall be felled.

Reason: to ensure that lost Dormouse habitat is mitigated and compensated for and to protect the interests of the protected Coldra Woods.

15 LIGHTING: Notwithstanding any lighting details that have been submitted with this application, full details of any proposed external lighting shall be submitted in writing to the Local Planning Authority. Following the Local Planning Authority's written agreement the lighting scheme shall be implemented fully as agreed in accordance with a timetable that shall be submitted with the scheme. No additional lighting shall be installed.

Reason: the site is on the urban / rural boundary and excessive lighting would be detrimental to the character of the urban / rural boundary.

Directive Conditions

16 PLANT NOISE: Noise emitted from plant and equipment located at the development shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 5dB below the existing background level, with no tonal element to the plant.

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

17 STOPPING UP: The existing access to the site from the A48 located at 336104E 189776N shall be permanently stopped up within one month of the access approved under this application coming into use (including use for construction purposes).

Reason: in the interests of highway safety and to facilitate the proposed landscaping scheme and dormouse mitigation strategy.

18 P.D. RESTRICTION: The A3 unit hereby approved shall only be used for a use falling within Use Class A3 of the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.

Reason: To prevent the unit being converted to an A1 use under permitted development rights. Such a use would be inappropriate in this out of centre location.

NOTE TO APPLICANT

01 Non-conditioned plans and documents considered as part of this application were:

- Drawing 60786/GA/L/0004 B – Landscape Plan (in relation to vegetation removal)
- Drawing ME001 P2 – Mechanical & Electrical Engineering Incoming External Services
- Drawing LOC 1 – Location Plan
- Economic Statement (September 2017)
- Dormouse Management & Monitoring Scheme (April 2017)
- Outline Construction Environment Management Plan
- Coldra Woods Hotel – Landscape Management Plan (July 2017)
- Flood Consequences Assessment (April 2017)

- Outdoor Lighting Report
- Transport Assessment (April 2017)
- Written Scheme of Investigation for a Cultural Heritage Desk Based Assessment (March 2017)
- Agricultural Land Classification (March 2017)
- Tree Survey Report & Arboricultural Impact Assessment (April 2017)
- High Level Advice on Landscape & Visual Matters (March 2017)
- Stage 1 Road Safety Audit (March 2017)
- Cultural Heritage Desk-Based Assessment (March 2017)
- Consultation Report (May 2017)
- Ecological Assessment (May 2017)
- Dormouse Method Statement (April 2017)
- Planning & Retail Statement (May 2017)
- Drawing WCM/SSR/CWH/BL/SJH/RPA/1 – Tree RPA Plan
- Drawing WCM/SSR/CWH/BL/SJH/TS/1 – Tree Shadow Plan
- Drawing WCM/SSR/CWH/BL/SJH/TSP/1 – Tree Survey Plan
- Tree Survey Schedule B.S.5837:2012 (14 September 2017)
- Issues Requiring Clarification – Received 25.09.2017
- Dormouse Mitigation (Compensation) Rationale & Adequacy (September 2017)
- Email from agent 27.09.2017 (09:24) regarding carpark surface treatment

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP19, GP4, GP5, GP6, T4, T7, R8 & CF8 were relevant to the determination of this application.

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

04 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations (screening opinion 16/1310) and it is considered that an Environmental Statement is not required.

05 Nothing in this decision gives approval for any proposed advertisements which will require separate consents under the Advertisement Regulations.

APPLICATION DETAILS

No: 17/0429 Ward: **LANGSTONE**

Type: Full

Expiry Date: 06-OCT-2017

Applicant: **M. DAVIES, BROADHALL (COLDRA WOODS) LTD.**

Site: **Land to the South West of the Hilton Hotel (Coldra Court Hotel), Chepstow Road, Newport.**

Proposal: **DEVELOPMENT OF 146 BEDROOM HOTEL UP TO FOUR STOREYS IN HEIGHT AND ASSOCIATED PARKING, SERVICING ARRANGEMENTS AND LANDSCAPING, PROVISION OF A DRIVE-THROUGH COFFEE SHOP OF 209M² IN FLOOR AREA AND CONSTRUCTION OF A NEW ACCESS ONTO THE A48 AFFECTING PUBLIC RIGHT OF WAY 394/80/1.**

1. LATE REPRESENTATIONS

1.1 Comments have been received from the Tree Officer and the Ecology Officer as follows.

1.2 HEAD OF STREETSCENE & CITY SERVICES (TREES)

1.2.1 With reference to Drawing ST-05 revision D - Site Plan reduced footprint:

- It is good to see that the TPO'd (TPO 14 / Monmouthshire) and the Ancient Woodland is not going to be impinged upon by the development.

1.2.2 Loss of Trees and hedges within the site:

- Objections in principle to the loss of these environmental and ecological features.

1.2.3 Adopted SPG: 'Trees, Woodland, Hedgerows & Development Sites' (January 2016)

- The advice of the SPG is contravened, it is stated that there should be a buffer of 5m between the tree canopy and the development e.g. car parking. This is not achieved.

1.2.4 Lighting.

- Consideration needs to be given to the lighting within the car park area, details of this need to show that there is no impact on the tree/roots.

1.2.5 Woodland strip parallel to the A48

- This will be bisected to create an access point into the site. It is good that a "no dig" method of construction is proposed for part of the woodland edge, however, it should extend to all areas where the woodland is adjacent to the car park, this is currently not shown on the plan.
- No details have been provided regarding the extent of loss of tree cover to create the access point, the tree cover is dense so it will not be easy to identify individual trees for removal and the tree roots and canopies will not provide a clean line of access into the site i.e. the tree removal may be more extensive than shown on the plan.
- The landscape buffer planting is shown along the car park edge adjacent to the woodland edge, this will be difficult to establish given the tree roots and dry/shady ground conditions.
- The images showing cars parked under trees highlight potential future management issues:
 - Increased frequency of health and safety tree inspections will be required to mitigate the risk to vehicles.
 - Regular maintenance of overhanging / low branches will be required.
 - Leaf fall, bird poo, aphid poo all landing on cars will be an issue.
 - Potential storm damage to cars.
 - Tree debris on hard surfaces will need regular maintenance.
 - Inevitable root damage to the trees whilst installing the car park (even with "no -dig" method of construction).

- 1.2.6 Boundary near A449
- Similar issues as above.
- 1.2.7 Should permission be granted conditions should be applied in relation to the following matters:
- Tree protection Plan
 - Tree Retention
 - Aboricultural Method Statement
 - Aboriculturalist
- 1.3 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY)
- 1.3.1 Insufficient information regarding compensation for loss of habitats has been provided at this point.
- 1.3.2 Full details of how the woodland is proposed to be managed to encourage and sustain the dormouse population on site will be required. In accordance with the Dormouse Conservation Handbook Section 4.2: *Each woodland will require individual management prescriptions and plans for conserving dormice.*
- 1.3.3 This has not been provided. Which trees are to be thinned? When are they going to be thinned etc. In accordance with the best practice guidance 4.6.2 a simple survey detailing what the existing conditions of the woodland including shading etc. should be undertaken and this should form the basis of what thinning etc. is required and where it needs to be undertaken first.
- 1.3.4 Dormice are likely to be found in cut ancient hedgerows than uncut hedgerows because of their need for species rich habitats. Dormice are indicators of ancient hedgerows. Ongoing hedgerow management should be incorporated into the overall management plan, coppicing and hedge laying should be used as opposed to flails and when planting new hedgerows use at least five-seven different shrub/tree species. (English Nature Hedgerow Management, Dormice and Biodiversity).
- 1.3.5 Section 5.6.2 of the Dormouse Conservation Handbook discusses the principles of mitigation and the difference between mitigation and compensation. Compensation refers to work that offsets damage caused by a development whereas mitigation is reducing or avoiding damage. The proposed compensation is to replace scrub and hedge planting equating to 1357m² however the loss of habitat is 3365m². The NCC Wildlife and Development SPG states that compensation should be required at 1:1:5.
- 1.3.6 The woodland management is considered an enhancement and it will take time for this woodland to become suitable for dormice. Therefore, there will be a period when the dormice would've lost over half their habitat. It clearly states in the handbook that "**Dormice cannot wait five years for hazel to mature**" (page 50).
- 1.3.7 It is not disputed that woodland management is required; however the woodland needs to be suitable for dormice prior to them being translocated and it should be detailed how this is to be achieved.
- 1.3.8 It should also be noted that Table 10.1 of the Dormouse Method Statement April 2017 the Indicative programme of works 2017/218 states that nest boxes will be installed prior to September and the vegetation will be cleared before November. Coppicing within the woodland will take place the following February and planting over the winter. In effect the dormouse food resource will be removed during that winter and will not be replaced for some time.
- 1.4 NEIGHBOUR REPRESENTATION
- 1.4.1 This is the third application to develop greenfield sites in Langstone in recent times (the crematorium & the solar farm being the other two).

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 The proposal requires the removal of hedgerows, trees within the hedgerows and some of the trees that front the site along the A48 (to allow the creation of the new access). Officers accept that this will mean a degree of landscape harm ensues and that there will be a loss of rural character. In strict tree terms the relevant Policy is GP5vii which reads:

The proposal includes appropriate tree planting or retention where appropriate and does not result in the unacceptable loss of or harm to trees, woodland or hedgerows that have wildlife or amenity value.

- 2.2 The proposal will require tree loss and encroachment within Root Protection Areas, contrary to the advice the 'Trees' SPG. However the relevant policy does not require there should be no loss or harm but that the impacts on trees or hedges should not be unacceptable in terms of loss or harm. Additionally any harm would need to be weighed in the balance against other costs and benefits of the scheme.
- 2.3 Overall officers conclude that the tree and hedge loss will not be unacceptably harmful which is to say the harm that will occur to the tree interest on the site is not so great that permission should be refused. There is no absolute prohibition on tree loss within development sites and the primary point of tree interest – the TPOd woodland will not be adversely affected.
- 2.4 In terms of intrusion within the root protection area (RPA) of trees that are scheduled to be retained the harm will be minimised by use of a 'no-dig' construction technique within the RPA. The provision of the buffer would be a preferable solution but the proposed construction approach minimises harm whilst allowing the required parking provision to be accommodated so on balance it is concluded that the trees can be appropriately retained whilst the development proposal is accommodated. The close location of the trees to the parking will pose future management issues but the applicant notes that many existing scenarios place parking areas and trees in close location without having jeopardised the long-term retention of the trees. Consequently there is no particular reason to think that the trees will be at risk of removal in the future. In any event the trees appear lie outside the application area and are confirmed as being beyond the applicant's control. In terms of parking areas where standard construction methodology is proposed the applicant comments that only the root protection area of one tree will be impinged upon and then only 8% of the RPA will be affected. As such the future of the tree will not be jeopardised. Officers agree with this assessment and conclude that intrusion of development within the Root Protection Areas of retained trees will not be harmful.
- 2.5 In terms of the ecological interest on the site the Ecology Officer objects to the proposal due to the loss of Dormouse habitat and concerns over the adequacy of the proposed mitigation / compensation measures on the site. A significant area of scrubland will be lost which is likely to provide useful habitat for Dormice. The proposal is transplant hazel into various parts of the site and to clear glades within the protected woodland and plant out a new area of hazel. Retained areas of scrub will be managed in the interests of Dormice. The Ecology Officer is concerned over the time issue i.e. the habitat loss is immediate and the replacement habitat will take time to mature as well as expressing concern over the details of the mitigation / compensation. Officers consider that the details of the mitigation / compensation strategy can be conditioned so this element of concern can be overcome through the planning process. The time issue cannot be immediately addressed and it is clear the mitigation measures will take some time to become fully effective.
- 2.6 Works that would interfere with the resting place of a European Protected Species are proscribed under law unless an appropriate licence from Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) is in place. In legal terms planning decisions must take into account the interests of European protected species that might be affected by development schemes. As part of this consideration planning authorities are required to consider whether proposed works are likely to

receive the relevant licence from CNC/NRW. Development that does impact on a European Protected Species, such as this application can be approved subject to certain tests being met. Natural England which is the licensing authority in England offer the following advice (European Protected Species and the Planning Process, 2010):

'the proposed development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'. In addition the competent authority must be satisfied that, (a) 'that there is no satisfactory alternative' and (b) 'that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'. Natural England applies the tests on a proportionate basis; thus the justification required increases with the severity of the impact on the species or population concerned.

- 2.7 Although Wales is under a different licensing authority it is reasonable to anticipate that CNC/NRW will take a similar approach. The advice allows that a scheme can proceed if it is considered to provide significant economic benefits, there is no satisfactory alternative and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The economic benefits of the scheme have been made out and are a very significant reason for allowing the scheme to proceed. The site offers agglomeration benefits being in close proximity to other Celtic Manor Resort accommodation and the International Conference Centre Wales that is currently under construction which could not accrue on alternative sites. Finally the mitigation / compensation package proposed for the local Dormouse population has been accepted as adequate by CNC/NRW which requires that it is conditioned as part of any approval.
- 2.8 Officers conclude that the relevant licensing tests are highly likely to be met and there is no reason to think that CNC/NRW will not proceed to licence the removal of the hedges that provide the Dormouse habitat. As such notwithstanding the concerns of the Ecology Officer it is not considered that any unacceptable harm will accrue to ecological interests on the site and Policy GP5ii is complied with since no significant adverse effects to a European Protected Species (or any other important ecological consideration) will occur if the development proceeds.

3. OFFICER RECOMMENDATION

- 3.1 That the application is granted subject to conditions but that the following revised / additional conditions are applied to any permission granted:

TREE PROTECTION: No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until Root Protection Barrier fencing has been installed in accordance with the details of its location and formation contained in the 'Tree Survey & Arboricultural Impact Assessment, Rev. B'. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Areas which have been fenced off. The fencing shall be retained for the full duration of the period when works are being undertaken on site, and shall not be removed or repositioned during that period unless such removal or repositioning details have been submitted to and agreed in writing by the Local Planning Authority as part of a phased programme of development.

Reason: To protect important landscape features within the site.

TREE RETENTION: No trees or hedges on the site shall be lopped, topped, felled or otherwise structurally altered or destroyed other than as shown in the 'Tree Protection Plan' contained in the 'Tree Survey & Arboricultural Impact Assessment, Rev. B' or in accordance with approval given under other conditional discharges.

Reason: To protect retained landscape features on the site.

OTHER TREE / HEDGE WORKS: Prior to any works to prune, lop or otherwise structurally alter any retained tree or hedge on the site a detailed scheme of works describing any operations that are to be undertaken to those trees or hedges shall be provided to the Council in writing. The scheme shall describe works to prune, lop or otherwise structurally alter any retained tree or hedge on the site including timings and working methods. Following the Council's written agreement the works shall proceed as agreed. No other works to retained trees or hedges on the site shall be undertaken other than as expressly agreed for a period of 5 years following the Council's agreement to those works as detailed.

Reason: to protect retained trees and hedges on the site during the construction phase of the development.

ARBORICULTURALIST: No development, to include demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for:

- Supervision and monitoring of the approved Tree Protection Plan;
- Supervision and monitoring of the approved tree felling and pruning works;
- Supervision of the alteration or temporary removal of any Barrier Fencing;
- Oversee working within any Root Protection Area;
- Reporting to the Local Planning Authority;

The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site.

DORMOUSE MITIGATION: Notwithstanding the submitted information in relation to Dormouse Mitigation, no development shall be commenced on the site until a detailed Dormouse Avoidance, Mitigation & Compensation Strategy (DAMCS) has been provided in writing to the Council. The DAMCS shall contain details of the following:

- How vegetation shall be removed in such a way as to protect Dormice,
- Full details of the transplantation regime showing areas that are to be planted, planting schedules, on-going management for a period of 5 years and contingency plans in the event planting fails.
- Full details of the Dormouse boxes including their location and details of a 5 year monitoring and maintenance programme.
- Full details of how retained scrub planting including its location and how it will be planted / reinforced and thereafter managed for a 5 year period in order to maximise its attractiveness to dormice.
- Full details of the trees within the Coldra protected wood which are to be felled and full details of the new planting which is to be provided as new dormouse habitat including planting specifications and its management for a 5 year period and how the new planting will link to retained and transplanted scrub areas to provide a contiguous habitat for dormice.
- Any additional measures to protect the existing dormouse population over the 5 year period whilst replacement habitat is established.
- Details of a 5 year monitoring and reporting programme for the DAMCS shall be provided which is to include target setting against which the monitoring programme can be tested. In the event stated objectives are not achieved the DAMCS shall be revised to provide appropriate contingency to ensure stated targets are met. Monitoring Reports shall be provided to the Council and Contingency plans agreed in writing prior to their implementation.

Following the Council's written approval the DAMCS shall be implemented as approved for a period of 5 years from the date of that approval or for 5 years from the implementation of the final mitigation / compensation measure, whichever is the later.

Reason: to protect the interest of Dormice, a European Protected Species.

APPLICATION DETAILS

No:5 **17/0705** **Ward:** **MARSHFIELD**

Type: **FULL**

Expiry Date: **06-OCT-2017**

Applicant: **L RICHARDS**

Site: **LIGHTHOUSE INN, BEACH ROAD, ST BRIDES WENTLOOGE, NEWPORT, NP10 8SH**

Proposal: **UPGRADING THE GATEWAY TO THE WALES COASTAL PATH TO INCLUDE PUBLIC REALM WORKS, LANDSCAPING, TIMBER SEATING/SHELTER, CYCLE STORAGE, INTERPRETATION AND DIRECTIONAL PANELS, BOUNDARY TREATMENTS, WALLS, HANDRAILS AND UPGRADING OF CAR PARK WITH RESURFACING WORKS, BARRIERS AND TRAFFIC CALMING FEATURES (AFFECTING FOOTPATH 412/9/1)**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 This application seeks full planning permission to provide a visitor gateway to the Wales Coastal Path. The application is submitted by the Councils Tourism Officer and the project is part of the Living Levels Partnership which has received around £2.8 million from the Heritage Lottery Fund. The partners include the RSPB, Gwent Wildlife Trust, Natural Resources Wales, Newport City Council, Mounmouthshire County Council, Cardiff City Council, the National Trust, Sustrans and other environmental and heritage groups. The partnership brings together these stakeholders to work together to restore, enhance and protect the historic area for all to enjoy.
- 1.2 The site is part of the existing Lighthouse Inn car park where there is an existing pedestrian bridge access over the Wharf Reen and onto the coastal path. It is proposed to improve this bridge access and the hard and soft landscaping in the approach to the access.

2. RELEVANT SITE HISTORY

None relevant.

3. POLICY CONTEXT

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

Policy **SP1 Sustainability** favours proposals which make a positive contribution to sustainable development.

Policy **SP2 Health** promotes development which has a positive contribution to health and well-being by being in a sustainable location, close to walking/cycling routes and green infrastructure.

Policy **SP3 Flood Risk** ensures development is directed away from flood risk areas.

Policy **SP5 Countryside** limits development outside of the settlement boundary.

Policy **SP7 Green Wedges** restricts development that impacts on the openness of the four designated Green Wedges.

Policy **SP8 Special Landscape Area** restricts development that may impact on the characteristics of the six designated Special Landscape Areas.

Policy **SP9 Conservation of the Natural, Historic and Built Environment** protects habitats and species as well as Newport's listed buildings, conservation areas, historic parks and gardens, scheduled ancient monuments, archaeologically sensitive areas and landscape designated as being of outstanding historic interest.

Policy **SP12 Community Facilities** promotes development of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas,

concert halls, allotments, leisure use etc. Development that affects existing community facilities should be designed to retain or enhance essential facilities.

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 **GP5 General Development Principles – Natural Environment** states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.

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 **CE4 Historic Landscapes, Parks, Gardens and Battlefields** protects such sites against the impacts of inappropriate development. They are conserved and the policy promotes enhancement where possible.

Policy **CE6 Archaeology** states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.

Policy **CE9 Coastal Zone** restricts development within the area of the River Usk and Severn Estuary unless development is required to be on the coast to meet an exceptional need or it is demonstrated that the area itself is not at risk of flooding, erosion or land instability.

Policy **T6 Public Rights of Way Improvement** promotes the improvement and extension of public rights of way.

Policy **T8 All Wales Coast Path** protects the All Wales Coast Path and encourages the enhancement and provision of new links to the path.

Policy **CF8 Tourism** promotes tourism related development particularly where regeneration objectives will be complemented.

4. CONSULTATIONS

4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The proposed development is located within the Gwent Levels Registered Historic Landscape (HLW (Gt) 2), specifically the Western St. Brides Character Area (HLCA 016), as defined within the *Register of Landscapes of Outstanding Historic Interest in Wales*. We also note that it is located within the Newport Archaeological Sensitive Area. However, there are no recorded archaeological sites or features located within the proposed application area.

4.1.1 The proposed development is to upgrade the Gateway to the Wales Coastal Path. The proposed groundworks, as indicated from the submitted proposed plans, are limited in scale and the current carpark is likely to have already disturbed any potential archaeological remains. Therefore, it is unlikely that the archaeological resource would be adversely affected by the proposed application. As a result, there is unlikely to be an archaeological restraint to this proposed development and consequently, as the archaeological advisors to your Members, we have no objections to the positive determination of this application.

4.2 **NATURAL RESOURCES WALES:** No objection. We note the application is for the upgrading of an existing gateway connection to the Wales Coastal Path. The application site lies partially within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map, 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 Severn Estuary.

4.2.1 Given the nature of the proposed development (and in the absence of a flood consequence assessment) we consider the risk could be acceptable subject to the developer being made aware of the potential flood risks during construction, and advised to install flood-proofing measures as part of the development. In areas at risk of flooding, we recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development.

4.2.2 We note that the development is in close proximity to the Wharf Reen, a designated river at this location. If development works in this area are within 8 metres of the reen the applicant may need to apply for a Flood Risk Activity Permit.

4.2.3 The proposed new crossing over Wharf reen is within the Gwent Levels – St. Brides SSSI. The Gwent Levels - St Brides SSSI is notified for its range of aquatic plants and invertebrates associated with the reens and ditches of the drainage system. In summary, the special interests of the SSSI are dependent on the water quality, water quantity, the existence of the drainage system and its continued management. Any development which has an adverse impact on any of these factors will have an adverse impact on the wildlife for which the area was notified.

4.2.4 We recommend there is a 10 metres buffer zone between the reen and any storage of materials or refuelling of machinery. This buffer is to safeguard the water quality of the reen during construction works. We would only want inert material to be used for any works across the site.

4.3 **GWENT WILDLIFE TRUST:** No response.

4.4 **SOUTH GWENT RAMBLERS ASSOCIATION:** No response.

4.5 **NEWPORT ACCESS GROUP:** No response.

4.6 **WILDLIFE IN NEWPORT GROUP:** No response.

5. INTERNAL COUNCIL ADVICE

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

5.2 **HEAD OF STREETSCENE AND CITY SERVICES (PUBLIC RIGHTS OF WAY):** As noted in the proposal this application affects footpath 412/9/1. Whilst no building work appears to permanently affect this Public Right of Way the following points should be noted:

1. All PROW's (as shown on the Definitive Map) are legally required to remain completely unobstructed and be clear and available for safe public use at all times including during construction works – unless a temporary closure/diversion order is applied for and granted beforehand);
2. The PROW users must not be endangered or disadvantaged in any way by the proposals (during construction and following completion);
3. The fabric of the PROW's must not be adversely affected in any way;
4. PROW users must be protected from any vehicle/plant associated with the works. All potential conflicts should be risk assessed and managed accordingly.

- 5.2.1 Should the applicants require to close the footpath while works are being carried out a temporary closure can be applied for. The initial closure will last for six months from the date the order comes in to effect, not from when the footpath is affected. A second six month order can be made to follow on from the initial order. We will require one month's notice to make this second notice (five months into the first order).
- 5.3 PLANNING POLICY MANAGER: The proposed scheme is supported on the basis that it does not have any detrimental impact to the natural or historic environment and overcomes any highway concerns.
- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE): No objection.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No comments regarding the application, however NRW may need to be consulted with regards to gaining assent for the works.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.
- 5.7 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): It is proposed for the surface water run-off from the car park to convey to the existing watercourse (as current). Whilst in principle I have no objection to this proposal it is important that all falls of the car park are designed accordingly to allow for such movement of surface water run-off. I advise this as no drawings have been provided to illustrate such an arrangement.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 100m of the application site were consulted (40 properties), a site notice displayed and a press notice published in South Wales Argus.
- 6.1.1 One letter supporting the proposal was received.
- 6.2 WENTLOOGE COMMUNITY COUNCIL: No response.

7. ASSESSMENT

- 7.1 In detail the proposal consists of the following elements:

Hard landscaping:

- Interpretation shelter constructed of oak timber measuring 3.6m by 2.3m and 3.2m in height. It would be constructed in the south east corner of the car park, close to the access point to the coastal path;
- A pennant stone rumble strip at the entrance to the car park, along with a new barrier;
- A new resin bound surface in buff colour around the proposed shelter and leading to the access point to the coastal path and over the existing bridge;
- New self-binding gravel adjacent to the resin bound surface;
- 1m high picket fence along side the Wharf Reen (southern boundary of the car park);
- 1.8m high oak sleeper fence incorporating interpretation features, opposite the proposed shelter and along the south eastern boundary;
- A 1.6m high oak pier engraved with the name of the reen;
- A timber car park entrance sign;
- 0.9m high oak bollards defining the edge of the car park with the new gateway area;
- 0.9m high square bollards defining the edge of the car park with the reen;
- A replacement and larger kissing gate on the coastal path side of the reen bridge;
- A timber hand rail to the reen bridge; and
- Cycle parking using a block of oak with channels cut for the wheel and metal hooks for cycle locks; the block could double as seating.

Soft landscaping:

- Gaps in the reen-side native hedge would be replanted with the same species; and

- Ornamental coastal evergreen hedge and occasional small trees would be planted along the Lighthouse Road boundary to visually soften the car park appearance;
- 7.2 It is also proposed to remove the corrugated steel fencing along the one side of the reen bridge and remove some self seeded trees on the bridge.
- 7.3 The application site is subject to a number of designations including being within the countryside, the Green Wedge, flood zone C1, a Special Landscape Area, a Landscape of Outstanding Historical Interest, an Archaeologically Sensitive Area and partly within the Gwent Levels SSSI.
- 7.4 The proposed development seeks to improve and enhance access to the All Wales Coastal Path. The existing environment is fairly neglected and as such the proposals to improve the area with good quality materials which respect its countryside setting are welcomed. The proposals would improve the existing reen bridge by removing overgrown vegetation, unattractive corrugated steel fencing; and replacing it with a timber hand rail and an enlarged kissing gate. The proposals would encourage greater use of the access onto the coastal footpath and provide a designation point for visitors which would also be to the benefit of the existing Lighthouse Inn. The proposals would be in accordance with policy T8 All Wales Coast Path) which states that the development proposal should protect and enhance the All Wales Coast Path. The proposals are also supported by policy CF8 (Tourism) which states that new and improved tourism related developments including activity tourism in the countryside will be permitted.
- 7.5 It is considered that the proposals are appropriate in the countryside and the minor works would not prejudice the open nature of the land. The proposal therefore satisfies policies SP5 (Countryside) and SP7 (Green Wedge).
- 7.6 The proposals involve relatively minor works in terms of the built form and the other aspects such as new surfacing works, soft landscaping, bollards and timber structures are not considered to harm the special landscape area. The Councils Landscape Officer has no objection to the proposals.
- 7.7 Natural Resources Wales (NRW) advise that the application site lies partially within Zone C1 as defined by the Development Advice Map (DAM). Their Flood Map 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 Severn Estuary. They advise that given the nature of the proposed development the risk could be acceptable subject to the developer being made aware of the potential flood risks during construction; and being advised to install flood-proofing measures as part of the development. Given the nature of the development proposed, that is, landscaping, boundary treatments and outdoor structures it is not considered that flood proofing measures would be necessary or practicable. However, the applicant has been made aware of the risk of flooding.
- 7.8 The Glamorgan Gwent Archaeological Trust advise that there are no recorded archaeological sites or features located within the proposed application area despite its designation as within an Landscape of Outstanding Historic Interest and an Archaeologically Sensitive Area. They advise that the existing car park is likely to have already disturbed any potential archaeological remains. They consider the proposals to be limited in scale and there is unlikely to be an archaeological restraint to the proposal. The Trust has no objection to the proposal.
- 7.9 The application site is partly within the Gwent Levels SSSI and some of the development involves work in close proximity to the Wharf Reen. NRW advise that the Wharf Reen is a designated river and as such any works within 8 metres of the reen would need to gain a Flood Risk Activity Permit. This is a separate consenting regime and the applicant has been advised of this requirement. An informative is added to remind them of this duty.
- 7.10 NRW advise that there should be a 10m buffer zone between the reen and any storage of materials or refuelling of machinery. The buffer is to safeguard the water quality of the reen

during construction works. NRW advise that only inert materials should be used for any works across the site. Both of these matters can be secured by conditions.

7.11 The site is part of a public right of way. The Councils Public Rights of Way Officer advises that the applicants would need to apply for a temporary closure of the public right of way while works are being undertaken. This is a separate consenting regime and the applicant has been informed of this requirement. An informative is added to remind them of this duty.

7.12 The proposal does not involve the creation of any additional impermeable areas and the applicant has not indicated that any new surface water drainage arrangements are proposed. The Councils Drainage Officer comments that surface water run-off from the car park would convey to the existing watercourse. The Officer has no objection to this providing the car park is designed to allow for such movement. It is noted that the proposed works do not include works within the wider car park. As the proposed drainage arrangement does not differ to that which exists there are no further requirements in terms of drainage.

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 SP1, SP2, SP3, SP5, SP7, SP8, SP9, SP12, GP2, GP4, GP5, GP6, CE4, CE6, CE9, T6, T8 and CF8 of the Newport Local Development Plan 2011-2026 (Adopted January 2015). It is recommended that planning permission is granted with conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 13/382/05 rev A, 13/0382/06 rev A, 13/0382/07, 2565, 001 rev C, "Severn Trow – Seat Elevations 1", "Severn Trow – Seat Plan View", "Replacement Manual Barrier", site location plan, Landscape Planting Schedule and Outline Specification and Design and Access Statement. 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 development hereby approved shall only use or be constructed of inert materials. Reason: To safeguard the special interests of the Gwent Levels SSSI.

03 There shall be no storage of materials or refuelling of machinery within 10m of the Wharf Reen. Reason: To safeguard the special interests of the Gwent Levels SSSI.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP3, SP5, SP7, SP8, SP9, SP12, GP2, GP4, GP5, GP6, CE4, CE6, CE9, T6, T8 and CF8 were relevant to the determination of this application.

02 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.

03 The applicant should be aware that the site is located within flood Zone C1 and flood risk precautions should be considered during the construction phase.

04 The Public Right of Way that passes through the site should never be blocked, even partly for short periods, by any approved building works or site clearances unless a formal temporary Closure Order and Notice is first obtained from the Council. Please contact the Public Rights of Way Officer on 01633 656656 to discuss the process and the cost.

05 Any works within 8 metres of the reen would need to gain a Flood Risk Activity Permit. Please contact Natural Resources Wales on 0300 065 3000.

This page is intentionally left blank



Report

Planning Committee

Part 1

Date: 4th October 2017

Item No: Insert item number here

Subject **Appeal Decisions**

Purpose To inform Members of the outcome of recent appeals

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

Ward Victoria, Langstone, Stow Hill

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: 4th October 2017

PLANNING APPLICATION APPEAL

APPEAL REF: 16/0924
APPEAL TYPE: Written Representations
WARD: Victoria
SITE: 123-125 Chepstow Road, Newport, NP19 8BZ
SUBJECT: Proposed mixed use as a bakery and pastry business with customer seating area and shisha lounge/smoking area and retention of building to rear service yard.

APPELLANT: Mr Iakender Dogru
PLANNING INSPECTOR: Mr Richard E. Jenkins
DATE OF COUNCIL'S DECISION: 8th December 2016
OFFICER RECOMMENDATION: Refuse
COMMITTEE/DELEGATED: Delegated



SUMMARY

The appeal site comprises an existing bakery business with an associated customer seating area. The appeal proposes the mixed use of the premises as a bakery business and shisha lounge; the shisha lounge would be incorporated within the new building located within the rear service yard.

The main issues in the determination of the appeal were the effect of the proposed development upon the character and appearance of the area, the living condition of the occupiers of neighbouring properties and highway safety.

Character and Appearance

The service yard is large enough to accommodate the building, however, by virtue of its form and overall design, including the use of material, it would represent an insensitive and poor standard of design that would be out of keeping with both its immediate and wider context. Furthermore, it would appear as a discordant feature from public vantage points along Duckpool Road. The proposal is therefore contrary to Policy GP6 of the Local Development Plan (LDP).

Living Conditions

The proposed opening hours would be 11:00 – 00:00 Monday to Friday and Sunday, with extended hours of 11:00 – 01:00 on Saturdays. The rear yard where the shisha lounge is located is within close proximity to existing residential properties on Duckpool Road. As such, there is no doubt the proposal would adversely affect the living condition of the occupiers of nearby residential properties in terms of increased levels of noise and disturbance. It was recognised that such impacts could be controlled through the imposition of planning conditions. However, given the external toilet, kitchen and shisha preparation rooms, it would be difficult to prevent customers and staff congregating in external areas, to the detriment of the living conditions of the occupiers of neighbouring properties. Furthermore, whilst it is acknowledged the site is located within a District Centre and there are other commercial uses within the vicinity, it is not considered such matters outweigh the need to safeguard the living conditions of neighbouring occupiers. As such, the proposal is considered contrary to Policy GP2 and GP7 of the Local Development Plan.

Highway Safety

The Council contended the proposal would result in the loss of parking within the site and remove the ability of the rear yard to be accessed by large vehicles. The Inspector noted that there is no requirement for the yard to be used for customer or staff parking and in any event, a public car park is located a short distance away. Notwithstanding this, given that the premises is located within a District Centre, it is likely that a number of customers would visit the premises through linked trips, with many utilising sustainable modes of transport.

The appellant stated deliveries are made by a car or a small van; it is evident that such vehicles could still access the yard for such purposes. Moreover, no evidence has been provided to indicate that the proposed shisha lounge would result in a materially increased number of deliveries to the premises. For these reasons, the proposed development would found to comply with Policy GP4 of the Local Development Plan.

In view of all the matters addressed above, the potential harm of the proposal on the character and appearance of the host property and the living conditions of the occupiers of neighbouring properties were compelling reasons to dismiss the appeal.

DECISION: DISMISSED

PLANNING APPLICATION APPEAL

APPEAL REF: 16/0665
APPEAL TYPE: Written Representations
WARD: Victoria
SITE: Land formerly known as 21 Kelvedon Street, Newport, NP19 0DW
SUBJECT: Proposed residential development comprising 2 No. small retail units and undercroft parking to the ground floor and 52 No. apartments to the upper floors.
APPELLANT: EJL Properties
PLANNING INSPECTOR: Mr Clive Neild
DATE OF COUNCIL'S DECISION: 28th June 2016
OFFICER RECOMMENDATION: Refuse
COMMITTEE/DELEGATED: Committee



SUMMARY

The Inspector considered the main issues in the determination of the appeal to be the effects of the proposed development on the street scene and on the amenity of neighbouring residents, whether or not provisions for flood evacuation routes, on-site parking and outdoor amenity space are sufficient to provide acceptable levels of safety and amenity.

Street Scene

The proposal would introduce a modern flat-roofed building at a height almost twice that of the neighbouring traditional two storey terraced houses. It was noted that both national and local development plan policies encourage new development to promote creative and innovative design rather than just replicate the styles of neighbouring buildings. However, in this case, the scale and mass of the building would be so dominant and alien to its surroundings that it would go far beyond the bounds of good design and would be detrimental to the street scene. The proposal would therefore conflict with Policies GP2 and GP6 of the Newport Local Development Plan (LDP).

Neighbours Amenity

The proposal has been designed to reflect the traditional layout of buildings in the area which front directly on to the pavements. Consequently, the proposal would only be 14 metres away from the houses on the opposite side of Witham Street. Whilst this is similar to the separation distances between the existing rows of terraced houses, it is considerably less than the minimum 21 metres recommended in the adopted Supplementary Planning Guidance. Front windows of houses along Witham Street would be overlooked from windows in the proposed flats; the impression of being overlooked would be much greater due to it being from many more windows and greater heights than from other 2 storey houses.

In addition, the amenity of existing neighbouring properties would be further harmed by the overbearing visual impact of such a large building just 14 metres from their front façade and by loss of light to the same façade for lengthy periods of time each day. The proposal would therefore conflict with Policy GP2.

Flood Risk and Safety

The site lies within Flood Zone C1 and is at risk of tidal flooding. It is common ground that the development would meet the justification set out in Technical Advice Note 15. The building has been designed with only car parking provision at ground floor level and given a minimum floor level was provided, the risks to the buildings from extreme flood events is considered acceptable. The only concern is in connection with a safe evacuation route from the building. It had not been possible to demonstrate that the tolerable conditions detailed in TAN 15 (on maximum depth, rate of rise, speed of inundation and velocity of floodwaters) would be met. These are important criteria and reflect conditions under which emergency activities could reasonably take place.

Although the site is in an urban area and is surrounded by properties at a similar risk of flooding, the proposed development of flats would increase the number of people at risk, and the lack of comprehensive information to address the criteria in TAN 15 is a shortcoming. Although not considered a problem that would warrant refusal in its own right, it serves to reinforce the conclusions on the first two issues.

On-Site Parking

Based on the location of the site reasonably close to the town centre and small size of the flats proposed, it is common ground that 1 parking space per flat would be sufficient; 6 further spaces would be provided for visitor parking. 11 visitor spaces would be required to meet the requirements of the supplementary planning guidance; however, the Council's Highway Officer raised no concerns on grounds of safety. As such, the provision of 58 spaces for 52 flats was considered acceptable.

Outdoor Amenity Space

The Council stated that the proposal would provide substandard outdoor amenity space for future occupants. The Inspector considered the lack of adequate on-site provision of outdoor amenity space to be a significant shortcoming. This is not sufficient to justify refusal of the scheme, however, again serves to reinforce the conclusions on the first two issues.

For the reasons given above, the Inspector considered that the appeal should be dismissed.

DECISION: DISMISSED

PLANNING APPLICATION AND ENFORCEMENT APPEAL

APPEAL REF:
APPEAL TYPE: Written Representations
WARD: Langstone
SITE: Land to the north of 1 Roundwood Close, Penhow, Cladicot, NP26 3BT
SUBJECT: Change of use of land for the parking of vehicles and associated engineering works to create an off road parking space
APPELLANT: Mr David Baldwin
PLANNING INSPECTOR: Mr Alwyn B Nixon
ENFORCEMENT NOTICE ISSUED: 12th January 2017
DATE OF COUNCIL'S DECISION: 22nd July 2016
OFFICER RECOMMENDATION: Refuse
COMMITTEE/DELEGATED: Delegated



This decision relates to an appeal against the refusal of planning permission and the issuing of an Enforcement Notice. The appellant appealed the Enforcement Notice on the following grounds:

- Ground A: That planning permission should be granted for what is alleged in the Notice;
- Ground C: That there has not been a breach of planning control; and
- Ground F: The steps required to comply with the requirements of the Notice are excessive, and lesser steps would overcome the objections.

Ground C

The development site relates to an area of land lying on the north side of Roundwood Close, a private road serving a development of 4 dwellings on the edge of a small cluster of properties at Penhow. The land to the north of Roundwood Close is open countryside; the Enforcement Notice relates to a small

area of this land. A number of small structures and enclosures have been erected on part of the field and some excavation work has been carried out forming a parking area which links to the private road.

The Enforcement Notice identifies the development as a change of use of the land to use for the parking of vehicles, which has been accompanied by operational development to facilitate the change of use. The Inspector considered this was the correct way to view the development concerned and not to consider the development as a series of individual components as argued by the appellant.

Schedule 2, Part 6, Class B(e) of the GPDO permits the provision of a hard surface on agricultural land comprised in an agricultural unit of not less than 0.4 but less than 5 hectares in area. Such development can only qualify under the provision where 'reasonably necessary for the purposes of agriculture within the unit'. The parking area goes beyond this qualification since its purpose is in part to provide parking in connection with the residential occupation of the nearby property. As such, the parking constitutes a material change of use of the land. The appellant argued the development constituted works for the maintenance or improvement of a private way, which is permitted under Schedule 2, Part 9 of the GPDO. The private way in this case being the way into the appellant's field, however, the Inspector noted that it is clear that the works undertaken facilitate the parking of vehicles.

In light of the above, it was concluded that the development alleged in the Enforcement Notice constitutes a breach of planning control; therefore the appeal on Ground (c) did not succeed.

Ground A

The Ground (a) appeal against the enforcement notice and the appeal against the refusal of planning permission both seek to argue that planning permission should be granted.

The locality of the site has a rural character and whilst not prominent from further afield, the site occupies a prominent position in terms of its more immediate context. In addition, a public footpath passes close by on the site's western side. The Inspector did not consider residential parking on separate land lying beyond the existing residential area as a use appropriate in the countryside. Whilst hedge planting would screen the parking to an extent, the presence of vehicles would still be apparent; the development is therefore considered to harm local visual amenity.

With respect to highway safety matters, the Inspector took account of the narrow and winding layout of Pen-y-Worlord Road and considered any vehicle speeds would more than likely be low. Whilst it is accepted that vehicles leaving 'The Row' have to exercise caution and that there may be occasions when an oncoming vehicle may have to slow or even stop, in the context of the site and likely traffic levels, it is not considered that the existing situation presents a significant risk to highway safety. Additionally, the Inspector considered the current 'tandem' parking arrangement a common layout and as such, did not give overriding weight to this argument. The highways benefits of the development are not considered to outweigh the conflict with the LDP.

Having taken into account all matters raised, it is concluded that the development would have an inappropriate and detrimental urbanising effect on the agricultural land forming part of the open countryside, thereby harming the character and appearance of the locality. Therefore the Ground (a) appeal did not succeed.

Ground F

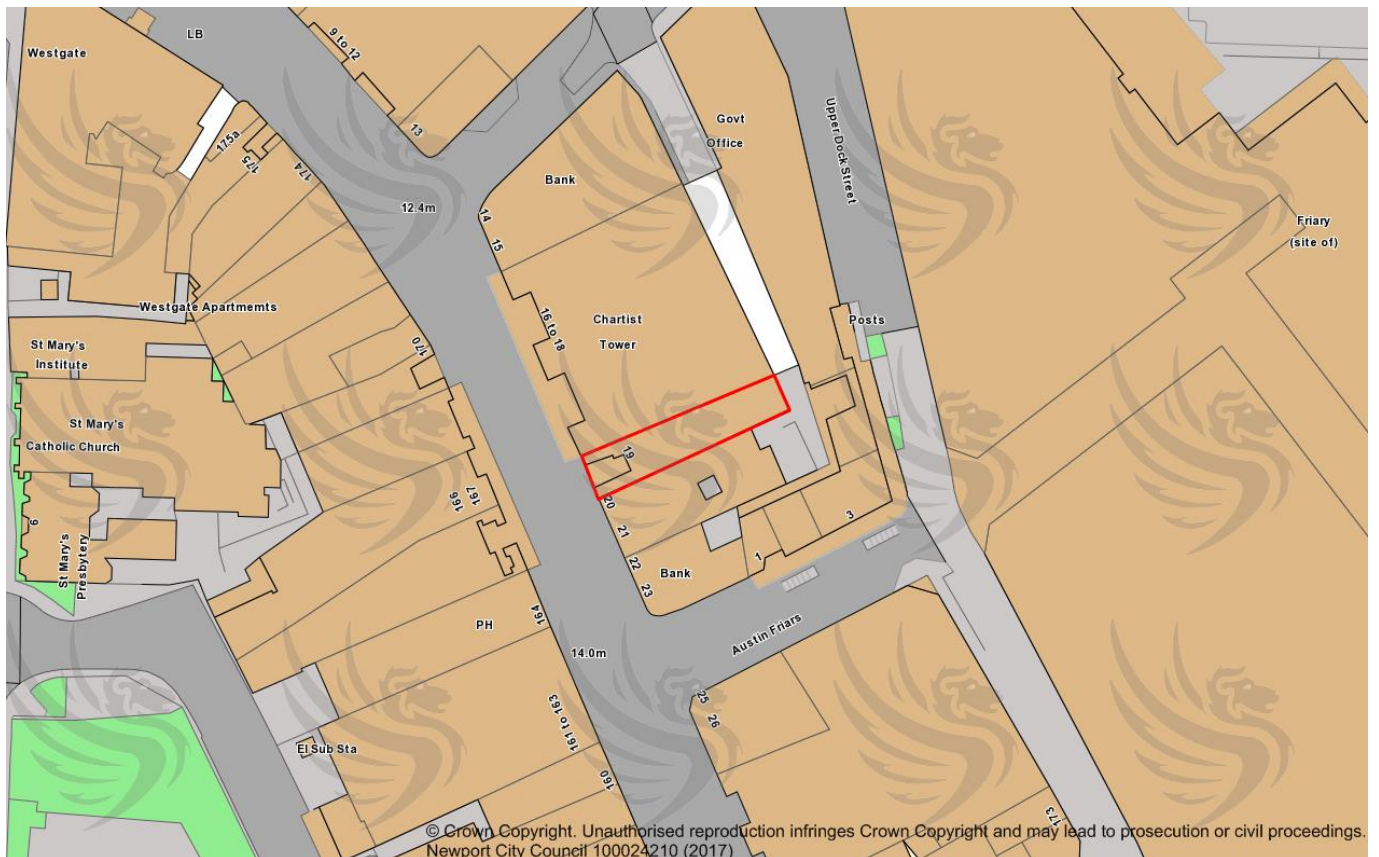
The appellant argued that should the Enforcement Notice be upheld, its requirements should be reduced. Firstly, it is argued that the requirements should cease the use of the land for parking except when ancillary to agricultural activity. The Enforcement Notice does not prevent the use of the land for its lawful purpose. Secondly, the appellant suggested a single vehicle should be allowed to park in the field between 7pm and 7am only. Even with this limitation in place, the Inspector considered that harm to the countryside would occur. The appeal on Ground (f) did not succeed.

For the reasons given above, and having taken account of all matters raised, both appeals failed.

DECISION: DISMISSED

PLANNING APPLICATION APPEAL

APPEAL REF: 16/0724
APPEAL TYPE: Written Representations
WARD: Stow Hill
SITE: 19 Commercial Street, Newport, NP19 8BZ
SUBJECT: Installation of replacement shopfront.
APPELLANT: Mr Brian John
PLANNING INSPECTOR: Ms Joanne Burston
DATE OF COUNCIL'S DECISION: 9th March 2017
OFFICER RECOMMENDATION: Refuse
COMMITTEE/DELEGATED: Delegated



SUMMARY

The appeal site consists of a mid-terrace, three-storey building incorporating a shop at ground floor level. Properties on this section of Commercial Street include shops, offices, cafes and dwellings, giving the area a diverse and bustling character.

The main issue is the effect of the proposed development on the character and appearance of the building and whether it would preserve or enhance the surrounding Town Centre Conservation Area.

Character and Appearance

The appeal property forms a prominent part of the terrace, which is situated in a key public space within the Town Centre Conservation Area. Although the Street is dominated by key corner plot buildings, the more modest commercial buildings, including the appeal property, make an important contribution to its overall character.

The proposed shopfront was considered to be uncharacteristic of the area by virtue of the absence of a central door, the presence of a full width fascia and the inclusion of large areas of sheet glazing, which do not respect the scale and proportion of neighbouring properties. The addition of the proposed mullion and stallriser did not adequately compensate for the absence of traditional detailing.

In considering development proposals in such locations there is a statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas such as this. However, the Inspector noted that the use of non-traditional materials, in combination with the design and scale, would exacerbate the discordant appearance, on which painting would have only a limited moderating effect. This would exacerbate the situation by attracting attention away from the traditional fenestration of the building, which further detracts from the historic character of the building as a whole. The Inspector also observed that the proposed shopfront would have a harmful impact on the character and appearance of the Conservation area.

In conclusion, the Inspector considered the main issue to be that the proposed development would fail to preserve or enhance the character or appearance of the Town Centre Conservation Area and would significantly harm the character and appearance of the host building, therefore failing to comply with Local Development Plan Policies CE7 (Conservation Areas), GP2 (Amenity) and GP6 (Quality of Design).

For the reasons set out above and taking into account all matters raised the Inspector concluded that the appeal should be dismissed.

DECISION: DISMISSED