

Agenda



Planning Committee

Date: Wednesday, 9 January 2019

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, G Berry, J Clarke, V Dudley, D Fouweather, T Holyoake, J Jordan, C Townsend and R White

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Part 1

Item	Wards Affected
1. <u>Agenda yn Gymraeg/Agenda in Welsh</u> (Pages 3 - 4)	
2. <u>Apologies for Absence</u>	
3. <u>Declarations of Interest</u>	
4. <u>Minutes of the meeting held on 5 December 2018</u> (Pages 5 - 8)	
5. <u>Development Management: Planning Application Schedule</u> (Pages 9 - 90)	
6. <u>Appeal Decisions</u> (Pages 91 - 96)	

Agenda

Pwyllgor Cynllunio



Dyddiad: Dydd Mercher, 9 Ionawr 2019

Amser: 10.00 a.m.

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At sylw: Y Cyngorwyr Richards (Cadeirydd), Guy (Dirprwy Gadeirydd), Al-Nuaimi, Berry, Clarke, Dudley, Fouweather, Holyoake, Jordan, Townsend a White

HYSBYSIAD GWE-DDARLLEDU

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

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

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

Os oes gennych unrhyw ymholiadau ynghylch hyn, cysylltwch â Rheolwr Democratiaeth a Cyfathrebu

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. | <u>Agenda yn Gymraeg</u> | |
| 2. | <u>Ymddiheuriadau dros Absenoldeb</u> | |
| 3. | <u>Datganiadau Diddordeb</u> | |
| 4. | <u>Cofnodion y cyfarfod (ydd) diwethaf</u> | Pob Ward |
| 5. | <u>Rheoli Datblygu: Rhaglen Ceisiadau Cynllunio</u> | Pob Ward |
| 6. | <u>Penderfyniadau Apeliadau</u> | |

Cysylltwch â: Michele Chesterman, Swyddog Llywodraethu

Rhif Ffôn: 01633 656656

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

Dyddiad Cyhoeddi: 3 Ionawr 2019

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Minutes



Planning Committee

Date: 5 December 2018

Time: 10.00 am

Present: Councillors J Richards (Chair), J Guy (Deputy Chair), M Al-Nuaimi, G Berry, J Clarke, V Dudley, D Fouweather, T Holyoake, J Jordan, C Townsend and R White

In Attendance: Joanne Evans (Senior Solicitor), Tracey Brooks (Development and Regeneration Manager), Stephen John Williams (West Area Planning Manager), Joanne Davidson (East Area Development Manager), Lindsay Christian, Alun Lowe (Planning Contributions Manager), Carl Jones (Principal Engineer), Sally Davies (Strategy & Development Manager), Richard Sexty (Education Business Development Officer) and Michele Chesterman (Governance Officer)

Apologies: None

1. **Declarations of Interest**

Councillor D Fouweather stated that he felt he would be seen to have pre-determined the applications 18/0507 and 18/05031 and therefore he would not take part in them. However, he wished to speak as ward councillor on 18/0507. He would leave the Chamber after speaking and not return until after the two items had been discussed and voted on.

2. **Minutes of the meeting held on 7 November 2018**

The minutes of the meeting held on 7 November 2018 were submitted.

Resolved

That the minutes of the meeting held on 7 November 2108 be taken as read and confirmed.

3. **Development Management: Planning Application Schedule** **Resolved**

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

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

4. **Planning Enforcement Schedule** **Resolved**

(1) That the decision be recorded as shown on the Planning Enforcement Schedule and attached as Appendix A.

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

Appendix A

PLANNING COMMITTEE – 5 DECEMBER 2018

DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
18/0507	<p>Queen's Hill Education Centre, Queens Hill, Newport NP20 5XN</p> <p>Hybrid Application: Outline planning permission for the Demolition of Existing Building and Erection of up to 96No Dwellings (including 14No affordable dwellings) and ancillary development, with all matters reserved apart from the principle of means of access; and full planning permission for the partial demolition and making good of 1 & 2 Fields Road and Change of use of the Remaining part to a Single</p>	Allt-yr-yn	<p>Members were made aware of late representations previously circulated.</p> <p>Mr S Hannaby, Agent, spoke on the application</p> <p>Cllr D Fouweather, ward member, spoke on the application and then left the Chambers.</p> <p>The application had been deferred from the Planning Committee on 7 November 2018 to enable further information on the following matters:-</p> <ol style="list-style-type: none"> 1) Fire safety at St Mary's 2) Height of flats in relation to Shire Hall 3) Pedestrian access to St Mark's Crescent and potential impact on anti-social behaviour 4) Impact on Shire Hall in relation to large side windows and the impact on amenities 	Granted with conditions

No	Site/Proposal	Ward	Additional Comments	Decision
	Dwelling.			
18/0531	<p>St Mary's R C Junior and Infant School, Queens Hill, Newport NP20 5HJ</p> <p>Demolition of existing buildings, construction of new canteen building, 2No additional play areas, pick up and drop off area and improved vehicular access via Queens Hill and Associated works</p>	Allt-yr-yn	Mr S Hannaby, Agent, Spoke on the application	Granted subject to conditions
17/1036	<p>Whitson Church, Porton Road, Whitson, Newport</p> <p>Conversion of Grade II Listed Church into Two Bedroom Domestic Dwelling</p>	Llanwern	<p>Cllr Fouweather returned to Chamber for discussion of this item.</p> <p>Ms D Johnson, Agent, spoke on the application</p> <p>The main considerations were heritage and ecological impact and flood risk. The Planning Officers were recommending refusal.</p>	<p>Refused</p> <p>Planning Officers shared members' concerns regarding the heritage (grade II listed). Members would like Officers, through negotiation, to achieve an acceptable solution.</p> <p>Planning Officers to speak separately to the applicant to encourage</p>

No	Site/Proposal	Ward	Additional Comments	Decision
				submission of additional information that may resolve current objections
E18/0245	Installation of Flag Advertisements and a Hoarding Advertisement at Land to the South of 35 Courtney Street, Newport	St Julians	<p>Councillor Jordan and Al-Nuaimi left the Chamber for discussion of this item and did not take part in the vote.</p> <p>Members were made aware of late representations previously circulated.</p> <p>Councillor P Hourahine, Ward Member spoke on the application.</p> <p>Planning Officers were recommending the adverts were acceptable and it was not expedient to prosecute - providing the flags and hoarding is removed within one year after the completion of the final dwelling on the site.</p>	<p>Members voted to reject the officer recommendation.</p> <p>Members Confirmed that they were not inclined to prosecute the developer but would rather officers seek to negotiate the removal of the unauthorised signs within 28 days</p> <p>Members confirmed that they agreed that officers could resolve this matter under delegated powers.</p>

Meeting finished 12.30 pm

Report

Planning Committee

Part 1

Date: 9 January 2019

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

Signed

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).

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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, well-being of future generations, 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.

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. Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Planning Committee Development and Regeneration Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Development and Regeneration Manager
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee Development and Regeneration Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee Development and Regeneration Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Council's Corporate Plan 2017-2022 identifies four themes, including the aim to be a Thriving City. In order to achieve this, the Council is committed to improving:

- jobs and the economy
- education and skills
- fairness and equality
- community safety and cohesion
- the environment, transport, culture and social well-being

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 contains the Council's Well-being Statement and well-being objectives, which contribute to the achievement of the national well-being goals. The Corporate Plan also links to other strategies and plans, the main ones being:

- Improvement Plan 2016-2018;
- Local Development Plan 2011-2026 (Adopted January 2015);

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 and considered

- 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.

Comments of Head of People and Business Change

Within each report the sustainable development principle (long term, prevention, integration collaboration and involvement) of the Well-being of Future Generations (Wales) Act has been fully considered.

From an HR perspective there are no staffing issues to consider.

Comments of Cabinet Member

The Cabinet Member for Regeneration and Housing has been made aware of the report.

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

Scrutiny Committees

None

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.

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

The Well-being and Future Generations (Wales) Act seeks to improve the social, economic environmental and cultural well-being of Wales. Public bodies should ensure that decisions take into account the impact they could have on people living in Wales, in the future. The 5 main considerations are:

- | | |
|----------------|--|
| Long term: | Decisions made by the Planning Committee balances the need to improve the appearance of areas as well as meeting the needs of residents in order to make places safe to live in and encourage investment and employment opportunities. Planning decisions aim to build sustainable and cohesive communities. |
| Prevention: | Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable. |
| Integration: | Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities. |
| Collaboration: | Consultation with statutory consultees encourages decisions to be made which align with other relevant well-being objectives. |
| Involvement: | Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the |

planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

Decisions made are in line with the Council's well-being objectives published in March 2017. Specifically, 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.

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. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the consultation of these guidance documents.

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 10 (December 2018)
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 (2017)
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)
Air Quality (adopted February 2018)

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 18/0408 Ward: **LLANWERN**

Type: **FULL+ENV STATEMENT**

Expiry Date: **30-AUG-2018**

Applicant: **JENNA FOLKARD, CLEAN EARTH**

Site: **LAND ADJACENT TO AND SOUTH OF, RUSH WALL, REDWICK, NEWPORT**

Proposal: **INSTALLATION OF SINGLE WIND TURBINE OF MAXIMUM TIP HEIGHT 130M AND ASSOCIATED SWITCH GEAR HOUSING UNITS, TEMPORARY ACCESS TRACK, UNDERGROUND CABLING AND TEMPORARY CRANE HARD-STANDING**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 The applicant is seeking planning permission for the following development:
'A single wind turbine of maximum 130m to blade tip, along with associated infrastructure including a crane pad, access track and electrical housing.'
- 1.2 The turbine would have a 3-bladed rotor design, and associated infrastructure including a crane pad, access track and electrical housing. Supplementary elements include: two permanent switchgear housing units (both approx. 5m x 4m x 3m), underground cabling, a short access track and a temporary crane hard standing area (approx. 45m x 25m). The total site area will be approximately 0.89 hectares,
- 1.3 The site location is on the north eastern Gwent Levels off Rush Wall Lane approximately 2Km north of the historic centre of Redwick village and approximately 550m east south east of the Tesco Distribution Centre complex on Gwent Europark. The site is typical of the levels landscape being flat however the field for the proposed turbine is atypically large and lacks the usual pattern of grips and small reens having been amalgamated from smaller fields in the past and improved for agricultural purposes. This larger field is however bordered by larger reens and elements of hedging / trees. There are other turbines in the vicinity with two at the Tesco Distribution Centre and one at Little Longlands. Two HT lines are visible to the south of the site and Gwent Europark and the Eastern Distributor Road (EDR / Queensway) are visible to the north. The energy generation would be 8,931,998 kW hours per year which would typically power 2,390 houses. The power output is 3.5MW. The proposed lifetime of the development is thirty years.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
17/1085	EIA SCREENING OPINION FOR PROPOSED INSTALLATION OF SINGLE WIND TURBINE OF MAXIMUM TIP HEIGHT 130M WITH A THREE BLADE ROTOR DESIGN AND ASSOCIATED SWITCH GEAR HOUSING UNITS, TEMPORARY ACCESS TRACK, UNDERGROUND CABLING AND TEMPORARY CRANE HARD STANDING	ES Required 13 December 2017

3. POLICY CONTEXT

- 3.1 Planning Policy Wales 10, December 2018 (PPW 10) Placemaking in Rural Areas

Paragraph 3.34 - the countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake

of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources. The need to conserve these attributes should be balanced against the economic, social and recreational needs of local communities and visitors. Fostering adaptability and resilience will be a key aim for rural places in the face of the considerable challenge of maintaining the vibrancy of communities and availability of services as well as contributing to the Cohesive Communities well-being goal. This is coupled with ensuring the countryside is resilient to the impacts of climate change and plays a role in reducing the causes of climate change through the protection of carbon sinks and as a sustainable energy source in line with the Resilient Wales well-being goal.

Paragraph 3.7 - Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution.

Chapter 5 - Above all, a Globally Responsible Wales is promoted by reducing our carbon footprint through integrated public transportation infrastructure, encouraging globally responsible business and the promotion of renewable energy over carbon-emitting sources and resource choices through which multiple benefits can be realised. Development proposals should look to the long term to consider how they can be flexible to adapt to future employment needs and practices, including responding to relevant future trends, the decarbonisation of our energy system, how people will move around or communicate in the future and safeguard the resources which may be needed by future generations. Development should prevent problems from occurring or getting worse such as the generation of carbon emissions, poor air quality and waste and the depletion of our natural resources which will need to be managed for many years to come.

The key issues in this theme include: embracing the challenge of decarbonising our energy and transport sectors including phasing out of fossil fuels and moving towards local, decentralised renewable energy systems, the increased use of energy storage to balance supply and demand and the challenge this creates on our distribution networks;

Paragraph 5.6.11 - (Rural business) diversification can also include renewable energy proposals such as anaerobic digestion facilities or solar and wind installations, which will help to increase the viability of rural enterprises by reducing their operating costs. These schemes should be supported where there is no detrimental impact on the environment and local amenity.

Paragraph 5.7.1 - The planning system plays a key role in delivering clean growth and the decarbonisation of energy, as well as being crucial in building resilience to the impacts of climate change.

Paragraph 5.7.3 - Development allowed today will be around for decades to come. The most important decision the planning system makes is to ensure the right developments are built in the right places.

Paragraph 5.7.4 - The Welsh Government is committed to delivering the outcomes set out in Energy Wales: A Low Carbon Transition⁵⁶. Our priorities are:

- reducing the amount of energy we use in Wales;
- reducing our reliance on energy generated from fossil fuels; and
- actively managing the transition to a low carbon economy.

Paragraph 5.7.5 - These priorities contribute to reducing carbon emissions, as part of our approach to decarbonisation, whilst enhancing the economic, social, environmental and cultural well-being of the people and communities of Wales, in order to achieve a better quality of life for our own and future generations. This means taking precautionary action to prevent Wales being 'locked in' to further fossil fuel extraction and high carbon development. The planning system should facilitate delivery of both this and Welsh, UK and European targets on renewable energy.

Paragraph 5.7.7 - The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development.

Paragraph 5.7.8 - The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance. The continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. The planning system should:

- integrate development with the provision of additional electricity grid network infrastructure;
- optimise energy storage;
- facilitate the integration of sustainable building design principles in new development;
- optimise the location of new developments to allow for efficient use of resources;
- maximise renewable and low carbon energy generation;
- maximise the use of local energy sources, such as district heating networks;
- minimise the carbon impact of other energy generation; and
- move away from the extraction of energy minerals, the burning of which is carbon intensive.

Renewable Energy Targets

Paragraph 5.7.16 The Welsh Government has set targets for the generation of renewable energy:

- for Wales to generate 70% of its electricity consumption from renewable energy by 2030;
- for one Gigawatt of renewable electricity capacity in Wales to be locally owned by 2030; and
- for new renewable energy projects to have at least an element of local ownership by 2020.

Paragraph 5.9.1 - Planning authorities should facilitate all forms of renewable and low carbon energy development. In doing so, planning authorities should seek to ensure their area's full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved.

Paragraph 5.9.9 - Outside identified areas, planning applications for renewable and low carbon energy developments should be determined based on the merits of the individual proposal. The local need for a particular scheme is not a material consideration, as energy generation is of national significance and there is a recognised need to optimise renewable and low carbon energy generation. Planning authorities should seek to ensure their area's renewable and low carbon energy potential is achieved and have policies with the criteria against which planning applications outside of identified areas will be determined.

Paragraph 5.9.10 - Wales has an abundant wind resource and, as a result, wind energy forms a key part of meeting the Welsh Government's vision for future renewable energy production.

Paragraph 5.9.12 - The Welsh Government accepts the introduction of new, often very large structures for on-shore wind needs careful consideration to avoid and, where possible, minimise their impact.

Development Management and Renewable and Low Carbon Energy

Paragraph 5.9.16 - In determining applications for the range of renewable and low carbon energy technologies, planning authorities should take into account:

- the contribution a proposal will make to meeting identified Welsh, UK and European targets;

- the contribution to cutting greenhouse gas emissions;
- and the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development.

Paragraph 5.9.17 - Planning authorities should give significant weight to the Welsh Government's targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling climate change and increasing energy security. In circumstances where protected landscape, biodiversity and historical designations and buildings are considered in the decision making process, only the direct irreversible impacts on statutorily protected sites and buildings and their settings (where appropriate) should be considered. In all cases, considerable weight should be attached to the need to produce more energy from renewable and low carbon sources, in order for Wales to meet its carbon and renewable targets.

Paragraph 5.9.18 - Planning authorities should also identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development. The construction, operation, decommissioning, remediation and aftercare of proposals should take into account:

- the need to minimise impacts on local communities, such as from noise and air pollution, to safeguard quality of life for existing and future generations;
- the impact on the natural and historic environment;
- cumulative impact;
- the capacity of, and effects on the transportation network;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so, consider whether measures to adapt to climate change impacts give rise to additional impacts.

Paragraph 5.9.24 - Energy-related developments should be decommissioned and sites remediated as soon as their use ceases. Planning authorities should use planning conditions or legal agreements to secure the decommissioning of developments and associated infrastructure, and remediation of the site.

Paragraph 6.3.3 - All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. Considering landscape at the outset of formulating strategies and policies in development plans and when proposing development is key to sustaining and enhancing their special qualities, and delivering the maximum well-being benefits for present and future generations as well as helping to deliver an effective and integrated approach to natural resource management over the long term.

Paragraph 6.3.4 - Where adverse effects on landscape character cannot be avoided, it will be necessary to refuse planning permission.

Paragraph 6.3.11 - Planning authorities should provide for the conservation and, where appropriate, enhancement of local landscapes. This may include policies for landscape features, characteristics and qualities of local significance, and the designation of Special Landscape Areas (SLAs). Planning authorities should state which features, characteristics or qualities require extra protection, and explain how the policy or designation will achieve this protection.

3.3 The adopted Newport Local Development Plan 2011-2026

Relevant Policies are:

Policy	Text	Page 21
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SP1 Sustainability	Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to: ii) the reuse of previously developed land and empty properties in preference to greenfield sites; iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources;
SP5 Countryside	Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.
SP8 Special Landscape Areas	Special Landscape Areas are designated as follows within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features: v) Caldicot levels vi) Wentwood
SP9 Conservation of the Natural, Historic and Built Environment	The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.
GP1 General Development Principles – Climate Change	Development proposals should: ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on-site energy provision where practicable;
GP2 General Development Principles – General Amenity	Development will be permitted where, as applicable: i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality; ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
GP3 General Development Principles – Service Infrastructure	Development will be permitted where, as applicable: i) necessary and appropriate service infrastructure either exists or can be provided;
GP5 General Development Principles – Natural Environment	Development will be permitted where, as applicable: ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national, Welsh Section 4233 and local protected habitats and species, and protecting features of importance for ecology; v) there would be no unacceptable impact on landscape quality;
GP6 General Development Principles – Quality of Design	Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed: i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area; iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. care should be taken to avoid over-scaled development;

GP7 General Development Principles – Environmental Protection and Public Health	Development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.
CE5 Historic Landscapes, Parks, Gardens and Battlefields	Sites included in the Register of Landscapes, Parks and Gardens of Special Historic Interest and identified historic battlefields should be protected, conserved, enhanced and where appropriate, restored. attention will also be given to their setting.
CE10 Renewable Energy	Small scale micro-generation will be encouraged within the settlement boundary. Large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist.

3.4 Other Local Documents

LDP Background Paper (Deposit Plan, April 2012) - Renewable and Low Carbon Energy Assessment (May 2013)

- 3.4.1 This document identifies opportunities for renewable and low carbon energy in Torfaen and Newport. In Newport a mapping exercise was undertaken to identify the constraints upon the implementation of electricity generation using wind. The application of the constraints identified areas where wind power was possible and adverse impacts would be minimised. One applied constraint was a 7Km separation distance from any existing wind turbines. Given the small scale of the LPA's area this excluded much of the land within Newport. However the Report acknowledged that this level of separation was overly pessimistic. The report noted most wind development in Newport had been of dispersed turbines feeding into consumer services by 'private wire'. It envisaged future development would be of a similar type and accepted that the currently installed capacity could be increased by a factor of five. The constraint modelling did not identify the site of this proposal as a wind power opportunity area

LDP Background Paper (Deposit Plan, April 2012) - A Technical Capacity Study for Wind Turbines within Newport County Borough

- 3.4.2 This identified that Newport had no capacity for a major wind farm but did identify areas where individual turbines could be sited. The mechanism involved identifying appropriate separation distances from other landuses for particular turbine types. This exercise identified industrial sites, parts of the Gwent Levels and a site near Bishton as appropriate for turbines.

LDP Background Paper (Deposit Plan, April 2012) - Special Landscape Areas

- 3.4.3 The Background paper identifies areas of local landscape significance within the Local Authority Area. The areas identified include:
- The Wentlooge and Caldicot Levels;
- 3.4.4 The relevant Local Development Plan policy is SP8 (Special Landscape Areas) which reads as follows:

Special Landscape Areas are designated within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features:

The Policy amplification states at Paragraph 2.32 of the adopted Newport Local Development Plan:

Developers will be required to ensure that proposals do not impact or affect the intrinsic character, quality, features or conservation value of the SLA. Designs will be required to be of a high standard, appropriate in scale and massing, integrated sympathetically into the

landscape as well as ensuring long term management. Supplementary Planning Guidance will provide detail concerning the value, management and maintenance of the areas.

4. CONSULTATIONS

4.1 CADW:

- 4.1.1 Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monuments and registered historic parks and gardens. Our assessment of the application is given below.
- 4.1.2 Our role Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority. It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

Cadw's Assessment

- 4.1.3 Located within a 5km ZTV are scheduled monuments: MM068 Standing Stone 252m South of Bencroft Lane MM069 The Larches Camp MM126 Undy Churchyard Cross MM127 Wilcrick Hill Camp MM128 Bishton Castle MM170 Moated Site E of Grangefield Farm MM180 Medieval Building adjoining Magor Churchyard MM198 Medieval Moated Site 400m N of Undy Church MM201 Moated Site 250m SW of Pencoed Castle MM202 Deserted Medieval Village W of St Mary's Church MM226 Relict Seawall alongside Collister Pill Reen MM274 Pencoed Castle MM314 St. Mary's Churchyard Crosses, Magor MM325 St. Michael's Churchyard Cross, Llanfihangel Rogiet and registered historic parks and gardens: Gt2 Llanwern Park (Grade II) Gt29 St. Pierre Park (Grade II) Assessment Located within a 5km ZTV are scheduled monuments: MM068 Standing Stone 252m South of Bencroft Lane MM069 The Larches Camp MM126 Undy Churchyard Cross MM127 Wilcrick Hill Camp MM128 Bishton Castle MM170 Moated Site E of Grangefield Farm MM180 Medieval Building adjoining Magor Churchyard MM198 Medieval Moated Site 400m N of Undy Church MM201 Moated Site 250m SW of Pencoed Castle MM202 Deserted Medieval Village W of St Mary's Church MM226 Relict Seawall alongside Collister Pill Reen MM274 Pencoed Castle MM314 St. Mary's Churchyard Crosses, Magor MM325 St. Michael's Churchyard Cross, Llanfihangel Rogiet and registered historic parks and gardens: Gt2 Llanwern Park (Grade II) Gt29 St. Pierre Park (Grade II)
- 4.1.4 The turbine location is within HLW (GT) 2 Gwent Levels Landscape of Outstanding Historic interest.
- 4.1.5 The application is accompanied by a detailed Historic Environment Desk-Based Assessment produced by consultants ECUS Ltd. This has identified that the majority of above scheduled monuments and registered historic parks and gardens assets are not considered to receive either a significant or any impact as a result of the proposal. MM127 Wilcrick Hill Camp is the only scheduled monument identified as having potential to receive effects from the proposal. It is concluded that MM127 Wilcrick Hill Camp whilst in close proximity to and sharing inter-visibility with the proposed turbine because of its elevated position in the landscape will remain visible from a wide vista, and that the proposal will not detract from how the historical, evidential and aesthetics values of the scheduled monument can be appreciated and experienced within its immediate setting.
- 4.1.6 The impact of the proposal on the Landscape of Outstanding Historic Interest has been assessed through ASIDOHL2. This has identified that the addition of one turbine would slightly add to the congestion of modern intrusive elements present and that an immediate visual impact on the areas adjacent to the site which would be reduced with distance from the site, with very slight impact upon areas of the landscape. The proposal would have a

slight visual impact upon the registered historic landscape, a slight direct physical impact on character area HLCA08 Northern Redwick and no indirect physical impact. Impacts would continue throughout the operational lifespan of the wind turbine and no mitigation is considered practical as the turbine site has been chosen to minimise impact. Impacts are considered to be temporary and reversible upon decommissioning. Overall significance of the impact on the Landscape of Outstanding historic Interest has been assessed as Slight. With regard to the impacts of the proposal on the designated historic assets listed above, the results of the Historic Environment Desk-Based Assessment produced by ECUS Ltd are concurred with.

4.2 DEFENCE INFRASTRUCTURE ORGANISATION (DIO):

4.2.1 I am writing to tell you that the MOD has no objection to the proposal. The application is for 1 turbine at 130 metres to blade tip. This has been assessed using the grid references below as submitted in the planning application or in the developers' or your pro-forma. Turbine Easting Northing 1 341283 186111 In the interests of air safety the MOD will request that the turbine is fitted with MOD accredited 25 candela omnidirectional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point. The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations. Defence Infrastructure Organisation Safeguarding wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests. If planning permission is granted we would like to be advised of the following prior to commencement of construction;

- the date construction starts and ends;
- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

This information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area. If the application is altered in any way we must be consulted again as even the slightest change could unacceptably affect us.

4.3 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT):

4.3.1 The supporting information with this application includes a Historic Environment Desk-Based Heritage Assessment (Ecus, dated April 2018 reference 11030. As noted in our response to the screening for this development, the area of the proposal is located in the Newport Archaeologically Sensitive Area and in the Gwent Levels Registered Historic Landscape (HLW (Gt) 2), specifically the Northern Redwick Character Area (HLCA008), as defined within the Register of Landscapes of Outstanding Historic Interest in Wales. The assessment considers the potential for visual impact of the proposal relating to the Registered Landscape and character area, and the physical impact on buried archaeological resource. The visual impact on the landscape and designated assets is deemed slight, as there are pylons, wires and other single turbine visible. Due to recurrent phases of inundation, the Levels has the potential for buried, waterlogged deposits belonging to earlier landscapes, recorded to occur within peat levels. The assessment notes the potential for these layers and archaeological deposits, likely to be of significance due to their survival, and recommends mitigation for this impact. We therefore recommend the attachment of a condition, which will ensure that a suitable mitigation strategy is prepared and implemented. This will reduce the impact of the development on the archaeological resource and heritage assets: we recommend that the applicant employ an archaeological contractor to submit a written scheme of investigation prior to the commencement of the development, for the implementation of a programme of archaeological work. It is envisaged that this scheme would take the form of a watching brief during all ground disturbance works, which will include all foundations, works to create tracks, works to connect the turbine with the grid and any other ground disturbing work.

4.3.2 The written scheme should also include detailed contingency arrangements to ensure sufficient time and resources to allow that any archaeological features and finds that are revealed during the work are fully investigated and recorded, including any requirement for

sampling, and post-excavations work, and a report containing the results of the work produced. The suggested wording of the condition is:

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.*

4.4 YMDDIRIEDOLAETH NATUR GWENT / GWENT WILDLIFE TRUST: The Gwent Wildlife Trust objects to the above application, on the following grounds:

1. The development proposal is likely to cause significant adverse impacts to the biodiversity of the development site and vicinity, including the UK-nationally important, statutorily-designated Gwent Levels SSSI, and species and habitats of acknowledged conservation importance such as otter, water vole, breeding lapwing, and breeding cranes, bats (species) and coastal and floodplain grazing marsh (habitats).
2. Arithmetical errors in respect of calculations concerning wintering lapwings on the part of the developer mean that there is a legal requirement placed up on the local planning authority to consider whether an Appropriate Assessment is required pursuant to the EU (Conservation of Species and Habitats) Regulations 2010 (hereafter referred to as the Habitats Regulations).
3. The application is deficient from the point of view of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (hereafter referred to as the EIA Regulations), and the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, because the developer's Environmental Statement (ES), produced pursuant to the Regulations, was incorrectly labelled on the Newport planning portal, until eight days before the deadline for representations, meaning that it was too late for the reader of the document to have time to gain a full appreciation of the likely adverse impacts arising from the development proposal. The planning application contains numerous factual errors, meaning that it should not have been validated by the local planning authority. Furthermore, the maps accompanying the application are inaccurate, as they fail to show the extent of GWT land ownership in the close vicinity of the development site, and fail to identify the full suite of SSSIs which comprise the Gwent Levels SSSI. Furthermore, it appears that, contrary to guidance set out in Table 4.1 of Technical Advice Note (TAN) 5 2009 "Nature Conservation and Planning", the local planning authority's Ecologist has not been involved in consideration of the application, despite repeated requests for updates from GWT. We therefore consider that for the above reasons, no decision on the application should be taken until such time as the requirements of this legislation can be satisfied.
4. The development proposal is contrary to the local planning authority's own Renewable and Low Carbon Energy Assessment 2013, which shows that:- 4.1 There is no need for the development proposal, and 4.2 The only areas indicated in the document as having any potential whatsoever for wind energy is in the northeast of the local planning authority area, at a very considerable distance from the development site.
5. The application is further deficient from the point of view of the EIA Regulations, because the developer's Environmental Statement (ES) is deficient, for the following reasons :- 5.1 Incorrect and insufficient survey effort has been deployed. Important elements of biodiversity have thus been completely overlooked (for example, no breeding bird survey whatsoever was carried out, and thus no survey of breeding lapwings) and thus the developer's conclusions regarding the severity and scale of likely adverse impacts is a very significant underestimate. 5.2 The developer failed to carry out a scoping exercise pursuant to Regulation 15 of the EIA Regulations, which is presumably one reason for the above deficiencies and omissions. 5.3 The developer failed to correctly assess the likely cumulative adverse impacts of the development

proposal, in combination with other developments and consentable activities, from the point of view of biodiversity.

6. The development proposal is contrary to national planning policy (PPW9) in terms of biodiversity and renewable energy.
7. The development proposal is contrary to Welsh Government primary legislation in terms of the Well-being of Future Generations (Wales) Act 2015 in respect of the way in which significant adverse impacts on the Gwent Levels Site of Special Scientific Interest (SSSI) have been addressed, and the Environment (Wales) Act 2016 in respect of the objective of the sustainable management of natural resources, and the general duty to further biodiversity, including certain species and habitats of acknowledged conservation concern.

Additional comments of the Trust are:

Thank you for supplying GWT with developer comments in respect of our objection. This letter constitutes a supplementary objection to the development proposal, based on these comments, and it should be read in conjunction with our original objection, dated 6th June 2018. GWT reserves the right to submit further representations in respect of this matter. We would like to make the following points:-

1. It is instructive to note that the developer does not attempt to rebut the following grounds of GWT's original objection:- a. The need for the development proposal, in the context of the adopted Newport Renewable and Low Carbon Energy Assessment 2013. b. The lack of a scoping request pursuant to Regulation 15 of the EIA Regulations. c. Deficiencies in the methodology employed to assess the cumulative impacts of the development proposal, in combination with other development proposals or allocations in the vicinity. d. The fact that the application is not in conformity with the provisions of the Wellbeing of Future Generations Act (Wales) 2015 or the Environment (Wales) Act 2016.

In the absence of any attempt whatsoever to rebut these grounds, it is difficult to avoid the conclusion that the developer cannot construct an argument against them. They are substantive planning issues, and material considerations in respect of this application. We thus urge the Committee to refuse permission on these grounds.

2. Reen Compaction and the 300 Tonne Laden Crane, and other Plant and Machinery: The developer's claim that "It (the crane) will not pass along the edge of the reens", is contradicted by his own Water Vole Report, Map 2 (page 10) of which shows the access track directly abutting the reen in a number of locations. Furthermore, the fact that water voles are reliant upon suitable vegetation along the reen bank shows via this map that water vole burrowing habitat would be likely to be destroyed by the proposed development.
3. Water Vole Burrowing Depth: The developer claims that "Water vole holes are deep down at the water edge". This is factually incorrect. Water voles may burrow at a variety of reen bank heights, depending on a number of factors, including water level height. Water levels are highly controlled through penning and are thus raised and lowered. Water voles may even construct above-ground nests in times of high water levels.
4. Location of Access Road: An examination of the highway network junction and the first 300m of the access road shows that it is clear that it would not be possible for the large and long vehicles required to access the development site without deviating considerably from the line of the road as shown on the map, because the curves are too acute to allow this to happen. Thus we consider it likely that, in the event that the development proposal receives planning permission, the resultant road would both abut the reens in some locations, and extend some considerable distance into the adjacent field at others. We further note that this field is not under the control of the developer, and thus some form of legally binding agreement would need to be made between the developer and the landowner. There is no indication in the documentation that such an

agreement has been completed and signed, meaning that the project is not developable.

5. Water Vole Surveys: 5.1 Timing of Survey Effort: Widely accepted good practice states that water vole surveys should start in mid-April, therefore the developer is incorrect to state that the survey was 11 days too early – it was 26 days too early. Notwithstanding the above, 11 days is not an insignificant amount of time, considering the lifecycle of this very short-lived species. Furthermore, the developer chose to carry out his survey on one day, the day after extreme snow conditions on 18th March, which the developer fails to refer to. Such weather conditions would mean that a small mammal like water vole would be more difficult to detect. Thus the survey was particularly badly timed. The developer further fails to identify any further widely-accepted indicators of the presence of water voles, relying solely on “mammal burrows”, without identifying whether they are active or old burrows. He should also have surveyed for latrines, feeding stations and live sighting, and mapped these on a site drawing. From the number of latrines, it is possible to work out an estimate of the number of breeding females, and this can also give an indication of areas where water vole activity may be highest and therefore, more sensitive to development.
6. Site-Faithfulness of Water Voles: The developer merely states, in response to evidence provided by GWT, that water voles are site faithful, that “This is not relevant, because it is accepted that water voles are present”. This constitutes a misunderstanding of this ground for objection, namely that the developer’s mitigation/compensation proposals are deficient because they make no reference to habitat management adjacent to tracks and bridges. Thus the success of his mitigation/compensation proposals (habitat management) elsewhere is likely to be limited.

4.5 WELSH GOVERNMENT HIGHWAYS DIVISION: No objection.

4.6 BRISTOL AIRPORT: No technical or operational objections.

4.7 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW):

4.7.1 CNC/NRW (21 November 2018) continues to have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions as set out in our previous response dated 14 September 2018. Otherwise, we would object to this planning application.

4.7.2 We have reviewed the following submitted amended information:

- Bat activity surveys and remote monitoring - Land off Rush Wall Lane, Caldicot - Summer and Autumn 2018.
- Ecological Impact Assessment - Proposed single wind turbine at land off Rush Wall Lane, Caldicot, November 2018.

4.7.3 We note the results of the October survey. We note the comments in section 4.1. (Survey Constraints) that the inclusion of spring survey data would lead to a reduction in the calculated level of bat activity on site and would reduce the assessed level of impact on bats, and therefore it would be safe to continue the assessment without any information on bat activity at the site during spring. Our view is that the level of bat use of the site during summer and autumn has been established by survey to date. Therefore, it is reasonable to require bat activity data for spring, a season when bats are also active, if the turbine is proposed to operate in this period. The inclusion of data for the spring season would not detract from the data already obtained, rather offer a comprehensive assessment of the likely impacts of the proposal across the full period in the year that bats are active.

4.7.4 In line with our previous response, Table 2 of the Bat Conservations Trust ‘Good Practice Guidelines for Surveying for Onshore Wind Farm’ 2nd edition (2011) does indicate that the minimum survey standards for a low risk site should include information on all three seasons during which bats are active. We therefore recommend that further information is submitted in line with our previous

- 4.7.5 CNC/NRW (14 September 2018) also previously raised concerns in regard to the following:
- Requirement 1: Further information is required to demonstrate the proposal will not be detrimental to the maintenance of the favourable conservation status of bats, a European Protected Species.
 - Requirement 2: Further information is submitted to demonstrate that the proposed upgraded access track design, including crossings will not have an impact on the features of the SSSI.
 - Requirement 3: Further information is submitted to demonstrate that the proposed cable grid connection design will not have an impact on the features of the SSSI.

European Protected Species

We have reviewed the following additional submitted information:

- Bat activity surveys and remote monitoring - Land off Rush Wall Lane, Caldicot, June/July 2018.
- Ecological Impact Assessment - Proposed single wind turbine at land off Rush Wall Lane, Caldicot, August 2018.

We note that two transect surveys of two hours' duration have been completed on 21st June 2018 and 24th July 2018 respectively. We also note the static monitoring of a hedgerow to the west of the proposed turbine, and near the proposed turbine site itself have been undertaken between the above dates. We note the most common result of the surveys included calls of noctule bats, a species for which both the likely population and individual impact from wind turbines is classed as high. However, the information provided comprises only one season (summer) worth of data and fails to provide an indication of the time of night of the noctule recordings.

In line with Table 2 of the Bat Conservations Trust 'Good Practice Guidelines for Surveying for Onshore Wind Farm' 2nd edition (2011), the minimum survey standards for a low risk site should comprise of 'one visit per transect per season (spring, summer and autumn)'. In addition, it should also include static surveys of '5 consecutive night for each turbine within the proposed developable area, per season'.

As stated in section 6.2.2 of Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009), 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted'. The planning authority should take this into account when considering development proposals where a European Protected Species is present. In this instance, we are unable to determine whether there will be a detriment to the maintenance of the favourable conservation status of the bat species present. We therefore recommend that further surveys be completed in line with best practice guidelines.

Requirement 1: Further information is required to demonstrate the proposal will not be detrimental to the maintenance of the favourable conservation status of bats, a European Protected Species. This should include but is not limited to the following:

- an indication of seasonal variation in species activity and composition;
- variations in activity and species composition in relation to different wind speeds and potentially other environmental conditions, such as precipitation and temperature;
- nightly activity patterns for different species, to indicate whether features are used as commuting routes;
- the proximity of the site to roosts and the importance of the site for foraging.

Protected Sites

We have reviewed the additional submitted plans, 'Drawing PR3522-CT-02' and 'Drawing PR3522-CT-01' however, these are poor quality and do not include any detailed design parameters of the new cable grid connection or its future connection to the grid. In addition, there is no new information on how the new section of track will be constructed and its potential impacts to the existing reed bed and surrounding vegetation during and post construction. Therefore, it is

still unclear what the full impact of the scheme will be on the features of the SSSI. We understand it is intended to lay the proposed cable for grid connection 12.5m away from watercourse at all times. However, this is not clearly shown on the submitted plans. We note that the proposed cable will be sited 1-2m from the track, with the track being 4-4.5m wide. However, there are no details of the distances from the track to the watercourse. In addition, we note that it is intended for the cable to cross in the centre of the existing reen crossing. This would result in a reduction in width between the cable connection and the reen. We therefore require further details of this, and the impacts of the grid connection on the watercourses including how many reen crossings will be required. In addition, we note that the current track is intended to be upgraded including reinforcement of the existing crossings / bridges over the reens, however, no details of this has been included. We are therefore unable to determine whether this will have an impact on aquatic features of the SSSI.

Therefore, we advise the following information is submitted prior to determination:

Requirement 2: Further information is submitted to demonstrate the cable grid connection design will not have an adverse impact on the SSSI, or suitable avoidance or mitigation measures are implemented.

Requirement 3: Further information is submitted on the proposed upgraded access track which demonstrates that there will be no adverse impacts on the SSSI, or suitable avoidance or mitigation measures are implemented. Please note if further information is provided to satisfy the requirements, it may then be necessary to request further conditions to avoid / mitigate environmental effects.

Flood Risk

We have reviewed the submitted 'FRA Statement' sent via email from Gareth Davies to Geraint Roberts on the 22 June 2018. We note that the majority of the turbine equipment is water compatible or will be positioned above the maximum water levels. In addition, the turbine system will be fitted with a SCADA system which will enable an automatic system shutdown should flood water exceed a specified level. As outlined in our previous response, the FCA states that due to the flood defence, during the 0.1% (1 in 1000 year) event the site will be flood free using a 30-year lifetime of development. However, this does not include an assessment of the breach scenario in this event, and we are therefore unable to provide advice on A1.15 criteria during a 'worse case' scenario.

Given the applicant appears unwilling to undertake this further work and has accepted this risk, we no longer require this assessment to satisfy our concerns. However, we remind you that in terms of A1.15 acceptability it is for the planning authority to be satisfied on the operational effectiveness of emergency plans / procedures or measures to address structural damage that may result from flooding.

4.8 MONMOUTHSIRE COUNTY COUNCIL: no response.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE & CITY SERVICES (PRoW): No comment.

5.2 PUBLIC PROTECTION MANAGER (NOISE): The noise assessment isn't clear on whether any noise impact from the existing turbines has been excluded from the background noise assessment. Please can this be confirmed? Similarly, can it be confirmed whether the background measurements were impacted by the dawn chorus and if so if that data has been excluded?

5.3 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): Comments

1. The proposal is a green field site, with electricity generation for the grid rather than local use, and within the Special Landscape Area whereas other turbines in the study area (except Little Longlands) lie outside the SLA albeit within the immediate setting.

2. TAN 8 (2.13) states for areas outside the Special Search Areas (SSA's) these 'should remain free of large wind power schemes'.

3. At 130m height, the proposal is considerably taller than the nearby existing turbines at Tesco Distribution Centre (2no at 100m) and Little Longlands (1no at 100m). The proposal is classified as 'very large', the existing turbines as 'large'. I have no reason to doubt the accuracy of the wire frame and photomontages, but due to the location of the viewpoints the proposed turbine will be seen at the same height as existing. Slightly moving the viewpoints but still picking up the intended viewers may demonstrate a more significant impact. Page 112 of the Environmental Statement states 'viewpoints represent the most 'exposed' publicly accessible views' which I am not sure is accurate.

4. Paragraph 7.2 of the LVIA leads to the conclusion that long distance views are 'largely restricted to artificial high points within the landscape, such as bridges', however views will be available from the Wales Coast Path which runs along the elevated coastal flood bank and from some elevated footpaths and open access land within the Wentwood Special Landscape Area to the north.

5. The site is located at the north east corner of the Caldicot Levels Special Landscape Area. The rationale for the SLA (by consultants TACP) acknowledges there are detractors to the north of the SLA which is close to the application site.

6. A key question is whether the four turbines will be seen as one farm, or as a number of individual turbines. More detailed mapping at 1:25,000 scale to show the exact location of the nearby three turbines would help for the record.

A couple of points that I think should be explored or conditioned.

1. The LVIA does not cover the following elements which should be assessed in more detail to review more localised impacts and mitigation: Switchgear housing Access roads/farm tracks temporary widening Grid connection

2. There are no proposed on the ground mitigation measures. Given the large scale of the proposal, how will the application meet the requirements of GP5 General Development Principles – Natural Environment. The LVIA states that due to the size of the proposal, mitigation is not proposed, but small-scale changes across the land holding could:

- provide localised screening of the proposal or other existing visual detractors and
- provide biodiversity benefits. Proposals should respect the character of this part of the Caldicot Levels Special Landscape Area. A considerable body of recent landscape work has been undertaken as part of the Living Levels project to guide restoration and enhancement, the Living Levels Green Infrastructure Strategy by Chris Blandford Associates may help identify opportunities.

5.4 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY):

I would object to this application as it stands as there is insufficient ecological information provided in order to make an accurate assessment of potential impacts. The impact of the turbine needs to be considered in combination with the other turbines and other projects/plan which may impact upon species/habitats on both the application site and adjacent sites. Could I seek further clarification as to why bat surveys were not undertaken. At present, we do not know what value the hedge has for bats as surveys have not been undertaken. Also, bats may fly over the site to access roosts or other foraging areas. The bat species recorded within 2km are considered to be medium/high risk in particular pipistrelle and noctule. Badger Could I seek clarification was the site was deemed unsuitable for badgers. (Paragraph 149 ES) Birds: Could I seek clarification as to why there was only one years of surveying for birds, and this does not include breeding bird surveys. The ES states that the habitat on site is unsuitable for ground nesting birds however, adjacent fields as well as other fields in the area do have ground nesting birds such as lapwings. The behaviour during breeding season across the site may differ from that in the winter and may also differ from year to year hence why one year's monitoring is not generally considered sufficient. The Preliminary Ecological Appraisal describes the field, in March 2018 as improved grassland consisting of perennial rye, Yorkshire fog, annual Meadow grass with a few other ruderals. However, the justification for not undertaking breeding bird surveys was that the habitats on the site were unsuitable. Could I seek clarification as to what the habitat was like on the site prior to being sown with the 'fodder' mix? Lapwing were recorded 'flying' within the field boundary as are heron, kestrel, lesser black backed gull and the collision risk model suggests that there could be fatalities. Mallard, great black blacked gull, Buzzard, Black headed gull were recorded flying across the position of the proposed turbine. The in combination effects of this turbine need to be considered along with the other turbines in the area as this could increase for example the collision rates. Could the applicant also provide a detailed Phase 1 map illustrating where

the habitats are located in proximity to the proposed turbine. The PEA described a damp grassland and patches of scrub which are not shown on the Phase 1 map. (It should also be noted that there is a proposed mitigation site for Cranes within 500m of the proposed turbine.)

5.5 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS):

Where the proposed access route utilises the existing road network the route falls outside of the boundary of Newport City Council. Monmouthshire County Council and the Welsh Government must therefore be consulted for comment on the proposed route and access arrangements to the site. Notwithstanding the above please note that in April 2012 the Welsh Government recommended that planning permission for any wind farm development is not determined until such a time as a Traffic Management Plan (TMP) has been agreed with all relevant authorities. Whilst a TMP has been submitted, the information provided does not satisfy the scope of a TMP as defined by the Welsh Government. Whilst the proposed access route has been identified within the Construction Transport Management plan, I note that it's referred to as the "suggested route" and that "it is likely that the wind turbine will be delivered from the M4 junction 23a". Delivery of the wind turbine to site is a key consideration and therefore the proposed access route must be clearly defined and assessed in order to determine its suitability to accommodate the proposed loads. Should the route be determined as acceptable then it should be conditioned as part of any TMP. A construction management plan should be conditioned as part of any approval which requires the submission of the following information for approval:

- Contractor Compound
- Contractor Parking
- Wheel Wash facilities
- Dust suppression
- Provision of turning areas

6. REPRESENTATIONS

6.1 NEIGHBOURS:

No properties were consulted since none lie within 100m of the application site. A site notice was displayed at the junction of Rush Wall (the lane past the site) and North Row which was considered to be the nearest part of the adopted highway with sufficient levels of usage for the notice to be reliably seen. A press notice was published in the South Wales Argus on 19 May 2018.

4No letters of objection raising the following points:

- This proposal uses the existence of the Longlands Lane turbine as the thin end of the wedge to justify further turbines.
- The proposal is harmful to an open landscape of high landscape and historic value.
- The turbine will be harmful to visual amenity.
- Flicker effect from the turbine blades will be intrusive.
- The applicant's Open Day was not well publicised.
- The proposal is contrary to the aims of the Living Levels Project.
- The turbine will adversely impact on the historic character of the Levels and Redwick.
- The turbine will be widely visible, unlike commercial development to the north of the EDR.
- Deliveries will adversely impact on the EDR, a busy high speed road.
- The site is near the proposed M4 CAN route.
- 30 years is a long time to look at a turbine.
- The turbine will frighten birds and livestock.
- If incapable of significant effect the application would not need an Environmental Statement.
- Wind power is unreliable and base load must be maintained by conventional means, so in reality little green energy is produced.
- Tidal power would be more reliable.
- The turbine is very big and will be very prominent and overbearing, it will be significantly taller than other turbines in the area.
- The additional wind turbine will mean that the landscape takes on a windfarm feel and will be dominated by turbines.

- Birds will be at risk of collision, loss of migration routes and loss of foraging habitat.
- There is an airfield at Whitson which could be affected.
- The turbine will cause shadow flicker.
- There is no evidence the proposal is 'generally well received' or any evidence attendees at the Open Day were representative.
- The chosen site is rural not industrial.
- There are already three wind turbines in the area.
- The information provided is too technical for ordinary people to understand.

15 no. semi-proforma letters of support raising the following points:

- Wind energy is clean and sustainable.
- The site is suitable for wind power.
- The site is far from dwellings.
- Wind energy offers future energy security.
- Local businesses will be supported.
- The Local Community will benefit.
- It will help diversify the country's energy mix

6.2 COUNCILLOR KELLAWAY: Requests the application is considered by the Planning Committee and comments on the scale of the turbine and that it is out of scale with other development in the vicinity.

6.3 REDWICK COMMUNITY COUNCIL: Objects for the following reasons;

- The proposal is contrary to the adopted Newport Local Development Plan since it fails to protect the Gwent Levels which are of national and international importance for their ecology, cultural heritage and landscape.
- Regardless of pylons and overhead lines in the area the character of the site is rural.
- The turbine will negatively impact on the villages of Redwick, Bishton, Magor and Llandevenny. At 130m high it will be visible in Clevedon, Portishead and Avonmouth.
- The turbine will be widely visible across the Gwent Levels which are flat. Local 'blocking' will not be significant.
- 30 years is not a temporary period and any negative impacts will be significant and long lasting.
- There is no access track to the site from the Eastern Distributor Road and a road will have to be constructed adding to the overall impact.
- The proposal does not accord with the Well-being of Future Generations Act (Wales) 2015.
- Existing turbines are underused and frequently do not operate meaning any new proposal will make the same limited contribution to electrical generation.
- Any new road will be out of character with this rural area.
- Impacts on visual amenity and landscape character will go beyond the 'moderate' impacts acknowledged by the applicant.
- The development will adversely impact on local habitats.
- There is a risk to birds via collision, disruption to migration and loss of nesting and foraging habitat.
- Due to its scale the turbine will impact on heritage assets including Wilcrick Hill (Scheduled Ancient Monument), Redwick village (Conservation Area) and Brick House (Listed Building).
- The turbine will be noisy.
- The turbine will have a significant cumulative impact alongside the existing turbines in terms of visual amenity and landscape character and its impact on wildlife.
- Flood risk will be increased.
- There will be shadow flicker.
- Onshore wind turbines are ecologically unsound and are not viable financially.
- The nearest residential property is Tonew Kennels and not in Llandevenny as stated.¹

7. ASSESSMENT

¹ Greenmeadow Farm Llandevenny is the nearest residential property (approximately 600m away)

7.1 The Site

7.1.1 The site is a large field in the Gwent Levels which has been improved for agriculture. It is bounded by reens with some elements of hedging and trees particularly on the western and southern boundaries. The field lies just off the Rush Wall which is private lane / track with no public right of way along it. The site is accessed off the Rush Wall via a culverted access. The EDR lies approximately 400m to the north of the site with the nearest development being the Gwent Europark. HT lines traverse the site to the south and the Longlands Lane turbine is visible to the south west as are the turbines at the Tesco Distribution Centre. The protected buffer zone for the M4 CaN lies just to the north of the site.

7.1.2 The following designations apply to the site:

- Redwick & Llandeenny SSSI (National Designation)
- Landscape of Outstanding Historic Interest in Wales (National Designation)
- Flood Zone C1 (defended floodplain, National Designation)
- Archaeologically Sensitive Area (Local Designation)
- Gwent Levels Special Landscape Area (Local Designation)

7.2 The Proposal

7.2.1 The proposal is to construct a 130m tall wind turbine (to blade tip) which will have three blades on a rotor of 100m in diameter. Additionally there will need to be a crane pad (45m by 25m), approximately 150m of access track (across the field) and 2no. switchgear housing units measuring 5m by 3m and 3m high). Underground cabling will also be required both inside and outside the application site. Component delivery is proposed via the EDR and then via an existing agricultural track that leads to Bareland Street close to its junction with the EDR

Assessment

7.3 Key Issues

- Landscape Character / Special Landscape Area / Visual Impact
- Historic Landscape
- Ecological Impacts
 - Bats
 - Cranes
 - Water Voles
 - Lapwings
 - Appropriate Assessment
- Access Track
- Noise
- Shadow Flicker
- Cable Routing
- M4 CaN
- Delivery Route
- Flooding
- Agricultural Land Grading

Minor Issues

- Archaeology
- Other Heritage Assets

7.4 Landscape Character / Special Landscape Area / Visual Impact

7.4.1 The applicant has completed a Landscape & Visual Impact Assessment as part of the submitted Environmental Statement. This considers the impact of the proposal on the landscape and upon the visual amenity of various 'receptors' who will be able to see the turbine. The sensitivity of receptors is classed as High to Low on a 5 point with dwellings and users of national trails being seen as high sensitivity and users of high speed roads and work places being in the low category with various other categories being in between.

7.4.2 Impacts on receptors are also classified into varying magnitudes varying from high to no change on a 7 point scale. A high magnitude change would produce a major alteration in a view by introducing elements that were immediately noticeable, visually dominant and incongruous. A low magnitude change would cause a low level of change, merge into the background and even go unnoticed, with no change being barely noticeable.

7.4.3 Using the above scales an 'effect' matrix can be produced where the sensitivity of the receptor and the magnitude of the change are measured against one another. Effects vary from High to No Change on a 7 point scale:

- High sensitivity coupled with a high magnitude change would result in a 'major' effect.

This LVIA notes the requirement to exercise professional judgement in making assessments meaning that the methodology provides a framework for a consistent approach but different practitioners could arrive at different conclusions. The process is not entirely objective. The LVIA notes that major-moderate effects could be considered significant. The LVIA offers the following summary of 'effect' and their significance:

Table 4 Broad criteria for assessing the significance of effect on landscape character and visual amenity receptors

Significance of effect	Landscape character description	Visual amenity receptor description
Major	Where the proposed development would be noticeably out of scale with the character or noticeably alter a recognised landscape or landscape element.	Where the proposed development would substantially alter a valued/ very important view or view of high quality.
Major-moderate	Where the proposed development would be out of scale with the character or noticeably alter a landscape element.	Where the proposed development would noticeably alter a local view.
Moderate	Where the proposed development would be at variance with the character and/or landscape elements.	Where the proposed development would be readily apparent.
Moderate-minor	Where the proposed development would be at slight variance with the character and/or landscape elements.	Where the proposed development would be noticeable.

Significance of effect	Landscape character description	Visual amenity receptor description
Minor	Where the proposed development would be perceived but be at very slight variance with the character and/or landscape elements.	Where the proposed development would be barely noticeable.
Minor-negligible	Where the proposed development would have a slightly discernible effect on the character and/or landscape elements.	Where the proposed development would provide a small change to the existing view.
Negligible	Where the proposed development would have a barely discernible effect on the character and/or landscape elements.	Where the proposed development would provide a very small change to the existing view.
Neutral	No change	No change

Mitigation

7.4.4 The applicant suggests the choice of one large turbine minimises impacts since several smaller turbines would have a greater impact on landscape and visual terms. The location

was chosen due to the presence of other turbines in the vicinity and to link to the commercial development to the north of the EDR, approximately 500m from the site. The location also maximises the distance from the centre of Redwick village (2Km). The chosen site would minimise the requirement for enabling works with only a short stretch of new track being needed.

- 7.4.5 Access is proposed from the EDR to the north using existing field gates. Impact on vegetation is expected to be slight. The construction phase will be limited resulting in a low visual impact during the construction phase. During the operational phase of 30 years, no mitigation is possible.
- 7.4.6 The LVIA considers the landscape and visual impact during the construction and de-commissioning phase to be minor.
- 7.4.7 During the operational phase the turbine will be widely visible. The LVIA provides a Zone of Theoretical Visibility (ZTV) over a 15Km radius which shows that the turbine would be readily visible across the eastern levels and beyond. Additionally there would be views available from the high ground to the north particularly the low hills immediately north of the Levels and from Wentwood. Other areas of high ground also offer views towards the turbine but at greater distances than 15Km limiting the effect. The LVIA also notes that the visibility is theoretical based on topography and that in reality local blocking by vegetation or buildings would reduce actual visibility. However the turbine will be inescapably prominent in the landscape.
- 7.4.8 The LVIA goes on to consider a series of representative viewpoints towards the turbine site which demonstrate the visual impact of the scheme. These include:
- Local roads
 - The National Cycle Route (NCR4) – along North Row
 - Public Rights of Way
 - Redwick
 - Wales Coastal Path
 - Celtic Manor
 - Dwellings
 - Mainline Railway

The impact on the identified views are summarised as follows in the LVIA:

Location	Sensitivity of receptor	Magnitude of Impact	Effect and its significance
EDR travelling east	Low – high speed road	High – the turbine will be a prominent vertical element in a cluttered view containing lines of pylons	Moderate-Minor The turbine will be prominent but will not be out of place due to the lines of pylons
Public Right of Way (Barecroft Common)	Medium-High – rural footpath	Medium-High – the turbine will be a prominent vertical element in the Levels. There are existing views of other turbines and the lines of pylons.	Moderate The turbine will add an additional vertical element that moves but will not look out of place in a landscape containing other turbines and pylons.
National Cycle Route (North Row)	Medium-High – national bicycle route	Medium – the turbine will be visible but views will be filtered through roadside vegetation and it will appear as a single vertical element in a view that contains other turbines and pylons	Moderate – the turbine will be apparent but not out of place in a landscape containing other turbines and

			pylons
Redwick	High – Settlement	Medium-low – the turbine will be apparent in the flat levels landscape but will be seen in combination with other turbines and pylons	Moderate – the turbine will be apparent in the flat landscape but will not be dominant. It will be seen in the context of other turbines and pylons
Public Right of Way (Bishton) 388/17/1	Medium – Public Right of Way outside of a recognised landscape.	Low – the wind turbine will be apparent in a view where there are other turbines and pylons	Minor-Negligible The turbine will be noticeable but would not dominate the view
Wales Coastal Path –Elevated view	Medium-High	Low – the turbine will be distant and an additional vertical feature in landscape that contains other vertical features including other turbines.	Minor – the turbine will be distant and absorbed into wider views. There are existing vertical elements in the view.
Celtic Manor Resort	Medium-High	Negligible – the wind turbine will be barely noticeable and will not be prominent in a view containing other turbines and pylons	Negligible – the turbine will not be prominent in a distant view that contains other vertical elements.
Nearest Dwellings (worse case)	High	Medium-low; an apparent but minor change to the view	Moderate – the turbine will be apparent
Nearest Rights of Way	Medium (outside of protected landscape)	Medium-high; the turbine will be obvious in the landscape and will be seen as a determining factor in the local landscape	Moderate – the turbine would be readily apparent.
Mainline Railway	Low – high speed railway	Medium – partial alteration of view	Minor-negligible – limited impact on users

7.4.9 In landscape terms the LVIA acknowledges that the scheme will add an additional vertical element in a protected landscape; the Caldicot Levels Special Landscape Area. It notes that this will be viewed in a backdrop that already contains turbines and HT lines. The LVIA considers at close quarters the magnitude of the impact will be medium (noticeable but not necessarily a determining factor of the landscape character) and would have moderate significance in this landscape (at variance with the character of the landscape). At distance the LVIA asserts that the turbine will have a diminishing landscape impact tending to be visible from higher and more distant points but being less obvious within the Levels due to intervening vegetation and seen in the context of other turbines. It concludes that 'the proposed development will not *'impact or affect the intrinsic character, quality, feature or conservation value of the SLA'*.² The LVIA concludes the impact on the wider SLAs (primarily Wentwood) will be minor-negligible.

Historic Landscape & Other Heritage Assets

7.4.10 In terms of the Gwent Levels Historic Landscape the LVIA concludes that the magnitude of the impact caused by the turbine will be medium (noticeable but not dominant in the landscape) with the significance being moderate (at variance with the character / landscape elements). Impacts on other heritage assets such as Listed Buildings, Registered Parks & Gardens and Conservation Areas (other than Redwick) with effects expected to be neutral

² Paragraph 2.32 of the adopted Newport LDP

due to the extent of separation. In regard to the Redwick Conservation Area the magnitude of the impact is assessed as medium at worse (noticeable but not dominant) with a moderately significant effect (at variance with the landscape character / landscape elements). It is noted that local blocking of views out to the turbine by buildings and vegetation will mean many parts of the Conservation Area will not be affected and the impact will be neutral.

Access to the site

- 7.4.11 The LVIA notes there will be limited hedgerow removal to achieve site access (the section of new track) and localised widening of the existing track. This will be of minimal landscape impact.

Landmap Aspect Areas

- 7.4.12 The key impact will be on the Caldicot Levels aspect area which is described as an extensive, large-scale, flat, regular landscape with a strong sense of place. The turbine is acknowledged as being a prominent new vertical element which will have impact of medium magnitude upon a landscape of high sensitivity (although the LVIA hedges and suggests medium-high sensitivity). The LVIA suggests this would have a moderate effect on the landscape although Table 3 of the LVIA would suggest Major-moderate / moderate impact which is considered being 'out of scale with the character or noticeably alter a landscape element' (Table 4). For clarity Landmap is clear that the Caldicot Level is of 'High' value in visual and sensory terms which is defined as possibly being designated for landscape value and having few or no visual detractors.
- 7.4.13 The LVIA concludes impacts diminish with distance and notes the turbine is a single vertical element amongst a landscape that contains other vertical elements.
- 7.4.14 The LVIA concludes that in terms of landscape (Paragraph 6.121):

(In a landscape) already influenced by wind energy schemes, numerous lines of pylons and substantial industrial buildings, the addition of the proposed wind turbine will not dramatically change the wider characteristics of the aspect areas or create a landscape dominated by wind turbines. The introduction of another vertical element to the levels landscape however will very slightly increase the perception of wind energy on the aspect areas.

And in terms of visual amenity (Paragraph 6.124):

The proposed wind turbine will very slightly add to the perception of wind energy schemes, although set within the expansive levels landscape already influenced by large-scale built structures, including wind turbines and pylons, the addition of the proposed wind turbine, even when perceived in combination with other wind energy schemes, will not dominate the view.

And in sequential terms:

In sequential views from the transport corridors, the proposed wind turbine will add an additional vertical element, largely viewed as part of, and adjacent to the surrounding close proximity wind energy schemes, perceived from selected open locations. The proposed wind turbine has the potential to be selectively sequentially glimpsed with other wind energy schemes but in reality will barely contribute to a journey already influenced by numerous wind turbines. The addition of this single moving element will not create a 'wind farm' dominated journey.

And in overall terms:

The proposed wind turbine will add an additional single vertical element to the existing landscape, already influenced by numerous vertical elements including wind turbines and pylons. The proposed wind turbine will not affect the majority of the landscape character areas, landscape relevant designations or visual amenity receptors. The proposed turbine

will, at worst, have moderate effects on landscape character areas, moderate effects on landscape relevant designations and moderate effects on very few of the close range visual amenity receptors.

- 7.4.15 In terms of landscape the key policy considerations are Policy SP8 (Special Landscape Areas), Policy GP2ii (character or appearance of the surrounding area) and GP5v (impact on landscape quality). The LVIA concludes that the overall effect of the development on the landscape and visual amenity would be moderate. Within the terms of reference of the LVIA a moderate effect would be at 'variance with the character of the landscape' and would be 'readily apparent' to observers. However the LVIA considers such a level of effect as not significant in terms of the EIA Directive, (presumably Directive 2011/92/EU) and U.K. Regulations which presumably are the Town & Country (Environmental Impact Assessment) (Wales) Regulations 2017. This is to say the LVIA considers that the proposal is not significant in environmental terms in relation to its landscape and visual impact.
- 7.4.16 However it is clear that the turbine will have a material impact on the landscape and the visual amenity of those that observe it. Much of the justification for the low overall impact of the proposal comes from the existence of vertical elements within the Levels landscape currently. This includes the existing turbines at the Tesco distribution centre and the turbine at Longlands Lane approximately 760m south west of this site. An additional intrusive vertical element in this part of the levels is caused by the two HT lines that cross the Levels to the south of the site (approximately 300m and 950m to the south).
- 7.4.17 The Tesco turbines lie to the north of the Eastern Distributor Road close to the large buildings of the distribution centre and separated from the undeveloped Levels landscape by the Eastern Distributor Road which consists of two lanes at this point. When viewed from the EDR itself these turbines read as being in a separate visual envelope from the development site clearly forming part of a significantly developed site that is discrete and very distinct from the rural character of the wider Gwent Levels. However in views from the south the turbines form a more contiguous mass since the separating features are much less apparent and the height of the turbines leads to them being seen more in a group context. From the south, the EDR and even the Distribution Centre buildings are often locally blocked by vegetation and although the road is noisy, it and the Distribution Centre buildings are not especially visible despite their scale. The Distribution Centre turbines remain prominent when viewed from the south due to their height and movement.
- 7.4.18 The other turbine at Longlands Lane is separated from the application site being roughly 750m away. Both turbines will be visible in many views particularly across the Levels although the separation partially reduces but does not remove the sense of a windfarm development. There is clearly an increased perception of turbines in the landscape with an additional turbine spreading the extent of turbine development further across the Levels. This is quite marked particularly the southern viewpoints adjacent to Redwick (Viewpoint 5). In this instance the LVIA assessed the magnitude of the impact as medium-low primarily due to the existence of other turbines and the HT lines (pylons). However in reality the impact is seen by Officers as higher than this with the turbine having a medium magnitude being justifiably arrived at (partial level of change, the development will be apparent in the landscape and when perceived with other wind energy schemes would be obvious and contribute to a landscape with wind farms (turbines). In combination with high sensitivity landscape then the effect could be major-moderate (out of scale with the character of the area or noticeably alter landscape elements) in relation to this particular viewpoint. This would be in part due to the creep of turbines towards the east spreading the field of view containing turbines significantly.
- 7.4.19 In terms of the general Levels landscape, CNC/NRW's Landmap identifies this area (Caldicot Levels) as being of High landscape value in Visual & Sensory terms. In the LVIA terms this translates into landscape of medium-high sensitivity. Officers consider the overall magnitude of the proposed development to be Medium. This would lead to an effect (impact) that would be Moderate in overall terms notwithstanding specific concerns in relation to some views and concerns over the spread of turbines across the Levels. However it could be argued that the magnitude of impact will in fact be Medium-high since the proposed turbine will be obvious in the landscape and will be perceived as a determining factor in the local landscape since in-combination with the other turbines it will

be obvious and contribute to a landscape with a windfarm, as opposed to a landscape with widely scattered turbines. In visual terms the spread of turbine development will be prominent in views and would become the determining factor within certain fields of view (particularly from Redwick) and that view would become a view influenced by a windfarm. In combination with a landscape of Medium-high sensitivity this would lead to major-moderate impact that would be significant within the terms of the LVIA.

7.4.20 In terms of Policy SP8 the proposal should contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features. In essence the proposal does not comply with this since the particular features of the area are its openness in combination with the pattern of fields and field drainage. Although the scheme will not impact on the drainage pattern (the historic reens in this field having been lost at some indeterminate point in the past) the turbine will adversely impact on the openness of the Levels and this cannot be mitigated as the LVIA acknowledges. In effect the proposal will under its own terms of reference have a negative impact on landscape and visual amenity being at variance with the character of the area and being readily apparent in a negative way. It is noticeable that the LVIA never states any impact is 'negative' although this is implicit. The harm identified to landscape character and visual amenity is to some extent mitigated by existing turbines and the HT lines which Landmap and the Council's 'Special Landscape Background Paper' acknowledge as the main visual detractors in the Caldicot Levels.

7.4.21 The LVIA argues down much of the harm by the presence of these features. It is fair to say that this section of the Caldicot Levels is adversely impacted by the presence of the commercial development to the north (retained Steelworks and the Distribution Centres and the associated turbines) and by the HT lines and latterly by the Longlands Lane turbine. However this proposal would add a further disruptive element to the landscape and so contravenes Policy SP8 (Special Landscape Areas), GP2ii (detriment to visual amenity & the character of the area). However the extent of the harm should also be weighted and in this case it is agreed that the harm is mitigated to some extent by the presence of other 'detractors' within the landscape i.e. the other turbines and the HT lines. Nevertheless it is concluded that the further spread of turbine development in the Special Landscape Area of the Gwent Levels is harmful and undesirable and fails to protect the particular character of the SLA. Overall Officers conclude that this harm should be given moderate weight in the determination since it goes beyond the 'very slight' increase in the perception of wind energy schemes identified in the LVIA.

7.4.22 In the recent Development of National Significance (solar farm) at Whitson which is also in the Caldicot Levels, the Welsh Ministers accepted that the proposal would have a negligible impact on landscape and visual amenity due to the highly limited views of that proposal. This proposal will be inescapably visible and so adverse impact on the SLA can be reasonably anticipated in this case.

7.4.23 In a recent appeal (T6850/A/17/3176128) on land near Llandegley in Powys the Inspector concluded that the impact of the proposed scheme (7 turbines and ancillary works) would have an adverse impact on a landscape that had no landscape designations and lay in a Visual & Sensory Aspect Area (Landmap) classified as moderate (albeit with VSAs nearby that were classified as being of high value). The Inspector also took into account an approach to overall landscape classification that amalgamated or 'unioned' the various elements of Landmap to give an overall landscape evaluation meaning that no element of the landscape would be undervalued by an overconcentration on the Visual & Sensory element of Landmap to the relative exclusion of the other 4 elements. These being Historic, Cultural, Habitat and Geology. CNC/NRW have developed this methodology to identify Special Landscape Areas within Wales but it was accepted at this appeal that the approach would have validity in assessing landscape in relation to windfarm applications. In the case of the Caldicot Levels the relevant Landmap classifications are:

Landscape Element	Classification
Visual & Sensory	High
Historic	Outstanding
Cultural	Outstanding

Habitat	Outstanding
Geology	High

- 7.4.24 It can be reasonably concluded that in overall terms the Caldicot Levels represent a landscape of importance which is reflected in its Special Landscape Area status. As such any harm is amplified in this location.
- 7.4.25 In terms of the Landegley appeal the Inspector ultimately concluded that notwithstanding the benefits of renewable electricity generation and some local economic benefit that the detrimental effects on local landscape (as distinct from visual amenity) and harm to heritage assets meant that on-balance the appeal should be dismissed. However the appeal was recovered by Welsh Government and the Cabinet Secretary for Energy, Planning & Rural Affairs allowed the appeal considering that the balance of the determination lay with renewable generation to the extent that the accepted adverse impacts on landscape and heritage assets were outweighed. This gives some clarity on the thinking of Welsh Government in relation to the proper weighting of these matters. The report will return to this point in the subsequent 'balancing exercise'.
- 7.4.26 In terms of the cumulative effect of the proposal in combination with existing developments (including the existing turbines) the LVIA concludes the additional turbine will not dominate the view. However there are significant concerns over the spread of turbine development within this vicinity which increasingly risks moving from a landscape with occasional and widely separated turbines to being one that in effect contains a windfarm. The rationale within the LVIA seems to be predicated on existing development to justify further development. This is a stance that invites turbine creep or in-filling in the future. However it is clear that further development in this vicinity would decisively tip the balance towards a landscape dominated by turbines and an unacceptable cumulative effect which to some extent is understated within the LVIA in the opinion of officers.
- 7.4.27 In landscape and visual terms the proposal is contrary to Policies SP8 and GP2ii due to the harm caused to the Special Landscape Area and wider visual amenity. The harm is inherent in the scale of the proposed structure and in the spread of turbine development although it is in part mitigated by the presence of other turbines and the HT lines. Officers judge the harm attracts moderate weight due to the presence of these detractors but notes the increasing cumulative harm in a designated landscape which tends to amplify concerns and lead to the conclusion that in landscape and visual terms the proposal is unacceptably harmful and not policy compliant.

7.5 Historic Landscape

- 7.5.1 The site lies within the Gwent Levels Historic Landscape. The applicant has produced a 'Historic Environment Desk-Based Assessment' (April 2018) to consider the impact of the proposal on the Historic Landscape and other heritage assets in the vicinity.
- 7.5.2 An 'Assessment of the Impact of Development on Historic Landscape 2' has been undertaken in relation to the development. This concludes:
- The proposed development would have a slight visual impact upon the registered historic landscape, a slight direct physical impact on HLCA08 (the Northern Redwick Historic Character Area) and no indirect physical impact.*
- 7.5.3 The study also considers other heritage assets nearby, these being Brick House (Listed Building), Redwick Conservation Area (including the Listed Church of Saint Thomas) and Wilcrick Hill (Scheduled Ancient Monument). It concludes no significant harm to the setting of these assets or any harm to how these assets are appreciated and experienced will occur.
- 7.5.4 The assessment acknowledges the risk of high quality archaeological remains being found within the site and concludes that archaeological investigation will be required.

7.5.5 The Glamorgan & Gwent Archaeological Trust advise that any archaeological resource can be protected through the conditional regime. Cadw confirm that they agree with the assessment of impact on the historic landscape (slight harm).

7.5.6 In terms of Policy CE4 (Historic Landscapes), they should be protected, conserved, enhanced and where appropriate restored. Given the policy is not qualified then any harm would breach the policy as such although the identified harm is slight it weighs against the proposal. Policy SP9 (Conservation of the Natural, Historic & Built Environment) also seeks conservation and enhancement of the protected features and as such any harm even slight would weigh against the proposal.

7.6 Ecological Impacts

7.6.1 The application was submitted in April 2018 and raised adverse comment from ecological consultees. Subsequently the applicant submitted a document titled '*Ecological Impact Assessment, Proposed single wind turbine at land off Rush Wall Lane Caldicot*' (November 2018) to further address the issues that had been raised. This EclA followed on from the Preliminary Ecological Appraisal that had been submitted as part of the initial application. The EclA undertook various surveys and considered background data that records ecological records in the site vicinity and then went on to assess the ecological impact of the proposal in accordance to the magnitude and duration of the effect, the sensitivity of the receptor and the likelihood of the anticipated outcome. Ultimately the EclA sought to identify significant impacts on matters of ecological significance. The structure of the approach is similar to that of a Landscape & Visual Impact Assessment in which positive and negative effects are identified and then scale of the impact is assessed in order to identify whether it is significant.

7.6.2 The EclA identified habitats of international value within 2.7Km of the site, this being the Severn Estuary which is a SAC, SPA and Ramsar site. The turbine site potentially offers foraging habitat for birds associated with the river. The EclA also identified nearby SSSIs which mainly consisted of wet pasture, marshland, the River Severn and woodland at Penhow. The site is within the Redwick and Llandeenny SSSI which is a wet pasture important for plants and invertebrates which are primarily found in the reens.

7.6.3 The EclA also considered local Sites of Importance for Nature Conservation in the vicinity, these were mainly various grassland habitats near to the site.

7.6.4 Species records indicated the site is likely to be important for birds, otter, watervoles and one plant (Tubular Dropwort). Locally important insect species were not likely to be present on the site due to its character (improved Grassland).

7.6.5 In terms of site assessment the EclA found that:

- The field itself is of negligible ecological value
- The western and southern hedges are of local importance (species poor)
- The reens were of national value and the key reason for the designation of the SSSI
- Amphibians are unlikely to be within the application site other than near to the northern reen and even then it was not likely.
- There is no evidence of badgers on the site.
- It was considered that bats might forage along the boundary hedgerows but that the site itself was of low value for bats.
- In terms of birds it was concluded that birds from the Severn Estuary were unlikely to use the site since it offered unsuitable habitat. Surveys in May and June 2018 recorded 39 species on the site of which 14 were declining with the rest being common and widespread. Of those 14 species 3 were found to be breeding near the site (in the boundary reens and within a field to the south) but none within the site itself.
- Winter bird surveys on the site confirmed most bird activity was to the south of the site beyond the power lines with limited transit across the site. The EclA concludes the site is of local value for wintering birds.
- There is no evidence of dormice on the site.
- Hedgehogs may occasionally use the site
- Snakes may be found on the site boundaries.

- Water voles are almost certainly present in the site edges along the reens making the site of County importance for wolvervoles.
- Invertebrates present within the site are likely to be common and widespread, there is insufficient floral diversity to support the shrill carder bee. The site edge reens may support a wider variety of species.
- As improved grassland the site is of negligible value for plant species.

7.6.6 The anticipated impact on protected sites are summarised in the table below. Impacts are divided between the construction / decommissioning phase and the operational phase for each of the areas of ecological interest.

	Construction / De-commissioning Phase	Operational Phase
River Severn: SPA / SAC / Ramsar Site	Adverse effects unlikely and minor and short term if experienced due to separation and prevailing wind direction	Negligible Impact
Gwent Levels SSSI	Risks to sensitive reen habitat due to bridge strengthening work. Proposal is for use of road plates over bridges so habitat loss would not occur. Dust is unlikely given prevailing ground conditions. General disturbance from vehicles, vibration, lighting is possible but can be controlled under a conditional regime (CEMP). Risk from fuel spillage can also be controlled under any CEMP condition. Risk reducing with distance from the site.	Negligible Impact
Gwent Levels SINC	As per Gwent Levels SSSIs.	Negligible Impact
Reens	Minor and short term, main risk from temporary bridge strengthening	Negligible Impact
Amphibians	Negligible impact	Negligible Impact
Bats	Negligible impact	Negligible Impact
Wintering Birds	Short term minor - disturbance	Collision risk for birds associated with the statutory conservation sites for the Severn Estuary were considered (Lapwing, Mallard, Lesser Black-backed Gull & Teal. This has been estimated as low, below 1% of their SPA populations and not significant. Collision assessments were made for other birds that use the site and other than Lapwing were found to be at negligible risk. Lapwing was slightly more prone to collision at more than 1 individual per annum but overall the risk was considered near negligible. In terms of the common crane which has successfully bred in the eastern Levels the collision risk was assessed as 1 every 33 years which was not considered to impact upon cranes any more significantly than existing risk of collision, predation or illness.
Breeding Birds	No ground nesting birds found within the site, impact likely to be minor and short term.	
Summer birds	Birds may be displaced by activity but this would be short term and minor.	

		5.3% of all observed bird flights were within 400m of the turbine site. The rest were mostly away to the south beyond the power lines.
Reptiles	Negligible effect	Negligible
Otter	Potential minor negative effect but short term in duration (disturbance)	Negligible
Water vole	Potential minor negative effect but short term in duration (disturbance)	Negligible

7.6.7 The EclA suggests the following mitigation could be employed:

- Suitable CEMP
- Scrub / hedge vegetation to be cleared September to February (outside bird nesting season) or under the supervision of an ecologist otherwise
- No construction April to September to protect wintering birds
- Vegetation to be removed in a series of cuts to displace small animals prior to works commencing.
- The site to be used as improved grassland or forage maize to avoid attracting birds to the site.

The applicant considers the cumulative collision risk to birds in association with the other developments in the area including turbines to be negligible.

7.6.8 The EclA looks at 'residual effects', these being effects that cannot be mitigated away and concludes the following:

Construction Phase					
Receptor	Description of Impact	Scale of Effect	Pre-mitigation Impact	Mitigation	Residual Impact
Birds (Spring & Summer)	Adverse effects may occur from loss of habitat and disturbance	Minor, short term	Slight adverse	None. Effects are not significant at the level of assessment	Slight adverse
Operational Phase					
Receptor	Description of Impact	Scale of Effect	Pre-mitigation Impact	Mitigation	Residual Impact
Gwent Levels – Redwick & Llandeenny SSSI	Adverse effects may arise from habitat loss	Minor, short term	Slight adverse	None proposed. Effects would be unlikely and are not significant at the level of assessment.	Slight adverse
Birds (wintering / passage)	Adverse effects may occur from loss of habitat and increased mortality from collision	Minor permanent	Slight adverse	None proposed. Effects would be unlikely and are not significant at the level of assessment	Slight adverse

All other effects are considered to be none either due to low initial impact or due to mitigation.

Impact on Bats

- 7.6.9 Following a very protracted period during which further ecological information was submitted in order to address the concerns CNC/NRW continue to have reservations in relation to the application. They state in their most recent consultation (November 2018):

it is reasonable to require bat activity data for spring, a season when bats are also active, if the turbine is proposed to operate in this period. The inclusion of data for the spring season would not detract from the data already obtained; rather offer a comprehensive assessment of the likely impacts of the proposal across the full period in the year that bats are active.

- 7.6.10 Bat surveys in the summer and autumn have confirmed a certain level of bat activity around the site and on this basis CNC/NRW consider that further surveys are needed to establish the potential bat use of the site in the spring. They consider that this extra survey effort would align with the advice of the Bat Conservation Trust's *Good Practice Guidelines for Surveying for Onshore Wind Farms' 2nd Ed (2011)*. The EclA notes that most bat activity is along the hedges that mark the edge of the site and few bats use the central area of the field since as improved grassland it offers little foraging opportunity for them. The turbine is approximately 80m from the nearest hedge with the blades being no nearer than 50m. They conclude this minimises the risk to bats. The applicant is also confident that their survey effort is adequate to assess the risk to bats and have unfavourably compared the stance CNC/NRW have taken on this application as compared to others for similar developments within Newport. Nevertheless CNC/NRW is a statutory consultee and offer advice in relation to European Protected Species such as bats. Their advice is capable of carrying significant weight in the minds of Officers and they are adamant that the spring survey work is needed to correctly assess the impact of the proposal on bats. There is no objection to the proposal in terms of its impact on bats in the summer and autumn which is judged by the EclA to be negligible with some slight risk to individual bats but no risk to bats on local population level.
- 7.6.11 In the light of this concern over springtime bats the applicant has suggested the application of a curtailment condition so that the turbine will not operate in springtime when bats are likely to foraging. On first consideration there was concern that such a condition would be contrary to the principle that the impact of development on a European Protected Species should be fully understood before permission is granted i.e. all surveys should be completed upfront. However the applicant has provided Welsh wind turbine decisions where the Inspectorate has applied such curtailment conditions. This is rational since no adverse effect can accrue to bats if the development is not operating, which is to say the collision risk arises from operational turbines rather than inoperable ones. As such if the turbine does not operate in the spring when bats are likely to be flying then there is no risk to bats at all.
- 7.6.12 However this approach does raise further issues. Significant curtailment would undo the purpose of the application to some extent since an inoperable turbine produces no benefits whilst inflicting certain costs to wider interests. In relation to this concern the applicant suggests a springtime curtailment of the turbine in warmer weather, low wind speeds and at night (including dusk and dawn) would cost 1.4% of the generation potential. This is based on 1.25 million kWh of power being generated by the turbine from windspeeds of 6mps or less in a year (at higher windspeeds bats won't fly). Assuming an average shut down of 6 hours per day from May to September this equates to 10.4% of all the hours in a year. If lower windspeeds are assumed to be evenly distributed through the year then this would lead to the loss of 10.4% of all the low speed energy generation across the year, that is 130,000kWh (10.4% of 1.25 million kWh). This would be 1.46% of a total power output of 8.9 million kWh per annum. However even it was assumed that lighter winds would be more common in the summer and the generating loss would be greater than this it is still unlikely to be greater than 2.5% of total annual power output. Overall curtailment is not likely to so reduce power generation as to prejudice the delivery of low carbon energy to the extent that those benefits no longer attract significant weight in any planning determination.
- 7.6.13 In short the lack of information over spring time bat activity is not considered to be a reason to withhold permission so long as a condition is attached to curtail operation of the turbine

in the spring when bats will be active. The curtailment is not seen as harmful to the overall benefits of low carbon electricity generation.

Cranes

- 7.6.14 The common crane is known to use this area of the Levels. There is a breeding pair on the eastern Levels who are known to have hatched chicks although non survived (presumed to have been predated). The EclA noted three flights over the site (and back) by a crane in late March 2018. It appeared to fly towards the river and then return flying over the power lines. Given the extreme scarcity of the crane (two individuals in Wales) the applicant was asked to consider the collision risk as they are large and ungainly flyers. The applicant reports that the risk would be one collision in 33 years which is not a significant increase in risk to these birds. There is no reason to think this assessment is incorrect.

Water Voles

- 7.6.15 The EclA concludes that water voles are present in the area with a March 2018 survey finding signs of water voles in the reens to the north and east of the site. They are very likely to be present on the site and in its environs following a reintroduction project.
- 7.6.16 The Gwent Wildlife Trust (GWT) has raised concerns in relation to these animals. The applicant undertook a water vole survey on the 19 March 2018 and examined local biodiversity records. It was concluded that voles would be present in the area particularly in the large reens to the north and east of the field that forms the application site. The reens that run along the edge of the proposed delivery route were judged to offer lower potential for voles with those reens showing fewer signs of voles being present. The report suggests the voles live down near the waterline and risk to them from deliveries to the site would be low subject to appropriate temporary reinforcement of the reen crossings and reinforcement of the track. Particular concerns relate to chemical contamination from stored fuels during the construction and de-commissioning phase but the applicant concludes an appropriate CEMP condition would address this.
- 7.6.17 The Gwent Wildlife Trust note wolveroles can live nearer the surface than allowed for by the applicant and therefore they are at risk from delivery where ground compression is a risk. GWT also note that the acute turns in the delivery route mean that in reality the route will deviate off the track and into the fields in order to achieve the necessary turns.
- 7.6.18 It is clear that the delivery route will transit along reen edges and equally clear that some divergence from the identified route will be necessary in order to make the dog-leg turns work. Walking the delivery route shows that it has at some point in the past been 'stoned' and it is firm underfoot even under wet conditions (December 2018). The reen crossings appear to be un-culverted i.e. when the track was constructed the reens were filled in so they would not be at risk of collapse.
- 7.6.19 The applicant confirms local strengthening by use of road plates and temporary matting will be used to reinforce the track as necessary. These techniques are an established and normal mechanism to allow site access whilst minimising ground compression. As such given the established nature of the track and the scope to minimise impact on the ground through compression then it is concluded risk to water voles can be acceptably reduced subject to the application of an appropriate condition.

Lapwings

- 7.6.20 No lapwings nested or bred within the application site but a breeding pair were noted in the field 200m to the south, however these are assumed to have failed to successfully raise young after a silage cut likely destroyed the nest.
- 7.6.21 The EclA noted habitat to the north is not attractive to lapwings nor the site itself due to its improved grassland status. As such it concluded lapwings are not likely to use the site or the land to the north minimising the risk of lapwings crossing the site. Any lapwings seen flying over where normally crossing at significant height, presumed to be because of the nearby power lines.

- 7.6.22 The EclA concludes that the construction phase could disturb over-wintering lapwings who use the fields to the south but these have mostly left by the end of April meaning that the impact would be slight and of limited duration. The EclA suggests no mitigation is required but if necessary construction in the over-wintering period could be precluded by condition. Collision risk to lapwing was estimated as not being significant for the local population.
- 7.6.23 The Council's Ecology Officer is concerned about the in-combination effects of this scheme alongside other schemes on the local lapwing population. At Little Longlands the local grassland habitat is managed to deter lapwings but this means that they are displaced to other fields. The M4CAN and the approved DNS solar scheme at Whitson may also impact on lapwing. The applicant went on to consider the cumulative risk to lapwing from a variety of schemes in the vicinity of the site and concluded that it was near certain that there would be no adverse cumulative impact on the Severn Estuary SPA, Ramsar and SSSI from the scheme including upon lapwing.
- 7.6.24 In conclusion given the distance of the site from the over-wintering lapwing, the lack of use of the site by lapwing, the limited lapwing transit across the site and the lack of any demonstrable cumulative harm to lapwing the proposal is considered to have a low risk of harm to lapwing overall. Any risk to the overwintering population could be addressed via condition but given the overall separation distances this is not considered necessary.

7.7 Appropriate Assessment

- 7.7.1 Appropriate Assessment is required for development projects which are likely to have a significant effect on a European Site or a European Offshore Marine Sites either alone or in combination with other projects (Section 63 of The Conservation of Habitats & Species Regulations 2017). Gwent Wildlife Trust question whether the application should be subject to appropriate assessment. The Ecological Impact Assessment confirms the Severn Estuary is a SPA, SAC and Ramsar site and that it lies 2.7Km to the south of the application site. The EclA concludes that any significant risk would accrue to the bird species that use the estuary in terms of collision risk and risk of disturbance when they are in supporting habitats outside the confines of the SPA. Given the EclA concludes that these risks are minor adverse in terms of bird populations (primarily collision risk, given the site is of very little value to birds) then no significant risk to the SPA bird populations can be envisaged and no Appropriate Assessment is required. Cyfoeth Naturiol Cymru / Natural Resources Wales have not identified any need for an appropriate assessment to be undertaken.
- 7.7.2 In policy terms Policy GP5 the proposal will not have any significant adverse impacts on nature conservation interests and is acceptable.

7.8 Access Track

- 7.8.1 The proposed access is via the junction between Bareland Street and the A4810 (Eastern Distributor Road). Immediately after the junction, within 25m there is a field access leading to a track which leads to the application site. The track was apparently constructed to provide access when the HT lines were built. Although heavily grassed the track is compacted with a stone finish and well established reën crossings which appear to be unculverted.
- 7.8.2 The local road network has been shown to be capable of allowing turbine delivery since one has already been installed at Little Longlands. There is no reason to think the route along the public highway to the field access is unacceptable or would be inaccessible to long vehicles notwithstanding the concerns of the Welsh Government's Transport Division. In terms of the access track across the fields, again there is no reason to think the turn from the public highway into the field is unachievable or that with suitable road mats and the temporary use of reinforcing plates cannot overcome tracking issues where tight corners need to be negotiated. Subject to conditions proving the route and requiring the use of appropriate temporary reinforcement access arrangements are acceptable. Policy GP4v (suitable and safe access arrangements) is complied with.

7.8.3 The applicant has confirmed that some works to upgrade the track may be needed with new stone put down and rolled into the track. However these works would constitute permitted development under Part 9 (repairs to unadopted streets or private ways) of the General Permitted Development Order 1995 (as amended) and fall outside the Council's control. In any event the access track is in Monmouthshire and falls outside the identified application site.

7.9 Noise

7.9.1 The applicant has provided a noise assessment in accordance with ETSU-R-97 (the Assessment and Rating of Noise from Wind Farms). The report identifies the nearest residential properties and the proposed wind turbine's noise emission characteristics. Each identified property is considered in turn. The study identified existing background noise levels at the identified affected houses.

7.9.2 The assessment considered the impact of the turbine alongside existing noise sources and concluded that the noise levels at each identified house would fall within the specified limits and as such there would be no unacceptable noise impact on either financially uninvolved or financially involved properties. The latter are allowed higher levels of noise impact.

7.9.3 The Public Protection Manager queried some of the assumptions of the noise assessment and sought further information on whether the assessment included noise from the existing turbines and noise from the dawn chorus. The applicant clarified that these issues had been accounted for and the Public Protection Manager has made no further comment. As such it can be concluded that the turbine will not have an unacceptable noise impact on the nearest residential properties nor is there any evidence that the operational noise of the turbine will have any adverse ecological impact. Policy GP7 (Environmental Protection) is complied with.

7.10 Grid Connection

7.10.1 Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) have raised concerns over the impact of the grid connection from the turbine. This is proposed to follow the access track out to the EDR and then eastwards along that road. CNC/NRW are concerned that the provision of the grid connection may adversely impact on the reens and therefore upon the interests of the relevant SSSI.

7.10.2 The applicant is not seeking permission for these works since they lie outside the application site. Nor has this land been blue lined meaning it is not clear that it is under the applicant's control. As such it is not possible to conditionally control this element of the development.

7.10.3 However it is possible that these works can be achieved under permitted development rights. Schedule 2 Part 17 Class G of the General Permitted Development Order 1995 (as amended) gives statutory undertakers rights to install electrical cables in, on, over or under the land. As such if the statutory undertaker or their agent is contracted to complete these works then they do not need planning permission from the Council. It is not clear how the grid connection will be achieved but in the event the works are not carried out by the statutory undertaker then permission will be required from this Council and from Monmouthshire County Council. In that event the impact on the SSSI can be fully considered. There is no reason to think that subject to an appropriate conditional regime that the cabling works cannot be completed in such a way to protect the SSSI and wider ecological interests as they were at Little Longlands when that turbine was installed. As such the current lack of detail on how the grid connection will be achieved is not seen as a reason to withhold permission since it will either be achieved under permitted development or under an application to this Local Planning Authority (and Monmouthshire). There is no / low risk that the turbine cannot be connected to the grid and if it transpired the connection could not be made then the turbine would not be constructed.

7.11 Shadow Flicker

- 7.11.1 The applicant has produced a shadow flicker assessment. That document considers whether the turbine blades will throw shadows which when viewed through narrow window apertures will cause visual nuisance and risk of epileptic events in some people. The effect is considered to be operational within ten times the rotor diameter, up to 1000m in this case. The assessment identified two properties at risk of the flicker effect. One of these was the Tesco Distribution Centre at risk for 33.3 hours a year between 13:50 and 14:25 in December and January. The other Oxford House is at risk for 0.06 hours per year between 14:25 and 14:26 in December. Impact may be reduced by local shading or obstruction - from vegetation for example, the turbine may not operate, the blades may not be orientated to throw shadow towards the affected properties or the sun may not be out. In all of these cases flicker will be reduced.
- 7.11.2 In terms of the Distribution Centre the study notes it is a commercial premises with lorry bays on the southern elevations and significant screening vegetation between it and the turbine site (along the EDR). Also people moving around are less likely to be affected by flicker than those sat in offices. As such the risk to occupiers is seen as low. Oxford House is screened from the turbine by vegetation between it and the road so the assessment concludes the risk to this property is also low as well as time limited.
- 7.11.3 Cumulative impact from the other turbines is considered in the assessment as being nil since the other turbines have no shadow flicker impact.
- 7.11.4 Given the low risk of shadow flicker to affected properties it is unlikely that any unacceptable adverse impact will accrue. However it is appropriate to apply a condition that will require limitation on the operation of the turbine in the event shadow flicker events occur. These in effect require the rotation of the blades to be slowed or stopped when there is bright sunshine in the relevant parts of the year and the rotors are in a position where shadows will be thrown at the effected properties. Such a condition can be implemented in the event complaints are received. Consequently shadow flicker is not a reason to withhold permission.

7.12 M4 CAN

- 7.12.1 The Welsh Government's Transport Division initially raised concerns over the proximity of the turbine to the protected M4CAN. The application site lies outside the protected corridor and at 130m is well outside the corridor allowing for topple distance. In any event there is no policy requirement for any turbine to be have a topple distance allowance from any other nearby development. The Distribution Centre turbines for example are within topple distance of the EDR and the Distribution Centre buildings. Transport Division also raised issues in relation to public access works that are proposed. The published drawings show a new bridleway south of the motorway which will link to the Rush Wall. The new turbine will be approximately 125m from the proposed bridleway which is within the topple distance. The British Horse Society recommend that separations should be minimally 200m or three times the height to blade tip (390m in this case). The new turbine would be nearer to the proposed bridleway than this. However this section of Rush Wall is neither highway nor public footpath nor bridleway at the current time and the status and final form of the M4CAN and even whether it will go ahead is still uncertain. As such the provision of a public bridleway along this part of Rush Wall is by no means certain, even in the event the motorway is constructed provision of the bridleway is still uncertain. In any event should it be provided there is already significant separation and the turbine will be readily visible for long periods of time as horses approach it. Although there will be a risk of spooking for any passing horses this is considered to be a sufficiently low risk as to be acceptable given the level of separation that is achieved. The proposed turbine would not frustrate efforts to improve recreational routes in the future which would be in accordance with the aspirations of Policy SP2 (Health) and Policy T5 (Walking & Cycling).

7.13 Flooding

- 7.13.1 The site lies within Flood Zone C1 as identified in the Welsh Government's Development Advice Maps. It is a defended floodplain.

- 7.13.2 As such the development must be justified in this location and shown to be flood resilient, usually within the requirements of Technical Advice Note 15 (TAN15). The chief flood risk on the site is a tidal food from the Severn Estuary approximately 2.5Km to the south of the site.
- 7.13.3 The lifetime of the proposal is 30 years and this can be conditioned. The proposed site of the turbine is 4.6m above Ordnance Datum. The table below shows the anticipated depth of flooding on the site over time:

Flood Depth (m)

	2015	2048 (plus 30 years)	2090 (plus 75 years)	2115 (plus 100 years)
1 in 200 year flood (0.5%)	nil		2.13	2.57
1 in 1000 year flood (0.1%)	0.93		3.1	3.46
1 in 200 year flood – breach scenario		1.33		3.17
1 in 1000 year flood – breach scenario				3.94

- 7.13.4 The applicant points out that the defences for this part of the Levels stand at 9.85m which would be sufficient to defend the site for the 1 in 1000 year flood over a 100 year lifetime of development. The defences are noted to be fair condition and subject to routine maintenance.
- 7.13.5 The applicant has also considered a breach of the sea defences over the lifetime of the development (30 years) and has concluded the flood depth on the site would be 1.33 during the 1 in 200 year flood in the event the defences were to fail.
- 7.13.6 The applicant proposes to lift the flood sensitive elements of the scheme which are the turbine sub-station, transformer kiosk and other electrical equipment to 6.03m AOD which will take it above the 1 in 200 year breach scenario of 5.93m AOD. This will be 1.43m above existing ground level. How this is achieved can be secured under condition.
- 7.13.7 In terms of access and egress the applicant accepts that the routes will flood to a maximum depth of 1.83m in the event of the 1 in 200 year breach scenario but notes that post construction there will only be occasional maintenance visits and therefore the risk to personnel is low.
- 7.13.8 Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) have commented on the FCA and notes that normally commercial schemes would be assessed over a 75 year lifetime but agrees that the Council could make an assessment over the 30 year period that the turbine is expected to be operational. CNC/NRW also notes that the breach scenario for the extreme event (1 in 1000 year flood) has not been modelled for the 30 year lifetime of the scheme.
- 7.13.9 In terms of TAN15, development should be directed away from Zone C to suitable land in Zone A or otherwise Zone B, that is areas that are not at risk of flooding. Any development that is located in Zone C should be justified in that location and it should be shown that the consequences of the inevitable flood event at the site can be appropriately managed. Justification comes from compliance with the local plan or otherwise supporting key employment objectives. Additionally the site should be previously developed. In this case the development of renewable energy is supported under local policy CE10 where no over-riding environmental or amenity considerations exist. Flooding is capable of being an over-riding environmental consideration but the impact of the flood event should be considered and location within a floodplain has not been seen as an impediment to other renewable energy schemes including the recent DNS solar farm application at Whitson. Additionally in

many instances location of such schemes is often under the control of the local availability of grid capacity or other factors such as the reliability of the wind or sunshine in the case of solar, these can amount to justifications for a flood plain location or possibly render the scheme exceptional and exempt from justification (TAN15, Paragraph 5.3). As such the siting of the turbine in this location is capable of justification in the opinion of officers.

7.13.10 In terms of the consequences of a flood event the flood defences would protect the site from flooding for the 30 year life of the scheme, including the extreme event (1 in 1000 year flood). The site is at risk of flooding in the event of a breach of the sea wall and under these circumstances would flood to a depth of 1.33m during the 1 in 200 year flood and although not modelled presumably to greater depth still during the extreme event (1 in 1000). However the turbine itself is not vulnerable to flooding and the elements of the scheme which are, the sub-station and switchgear can be raised above the anticipated flood level so as to be dry during the 1 in 200 year flood. CNC/NRW note that the impact of the extreme event cannot be understood since it has not been modelled but it seems reasonable to assume it will go beyond tolerable levels since this would be the most robust stance in the face of the lack of information. As such there is a risk to the electrical components of the scheme in the extreme event but this would occur within the tolerable levels as well since 600mm of water is also likely to be sufficient depth to inundate the sub-station even if it is raised as proposed. The risk to personnel is considered to be very low since the site will be visited so infrequently. Overall the on-site elements of the scheme which are vulnerable to flooding can be adequately raised. The full impact of the 1 in 1000 year event is not known but it is likely to have the same impact if it is within the tolerable levels as it would if the tolerable levels were exceeded and as such the lack of information is not harmful to the submission.

7.13.11 In terms of access and egress it is clear the routes would be inoperable in the event of a breach scenario for the 1 in 200 year flood during the operational life of the scheme, but given the very low likelihood that personnel would be present on the site or need to get to it, this risk is considered to be very low and acceptable.

7.13.12 In conclusion notwithstanding the concerns of CNC/NRW in relation to the lack of information in the extreme flood event within the 30 year lifetime of the development the proposal is considered to be acceptable in flood terms subject to conditions over the finished levels of the electrical equipment.

7.14 Agricultural Land Grading

7.14.1 The application will require the construction of a new track across the field and crane hardstanding. The crane hardstanding could be removed following completion of the turbine if considered necessary. However if these features are retained for the life of the development then approximately 0.18Ha of agricultural land would be lost for that period. Higher grades of land (Grade 3a and above) are protected under national policy. In this case it is very likely that the land is at Grade 3b or lower, although it has been improved, since most land on the Levels is of lower grades. The Welsh Government's Predicative Agricultural Land Classification Map also identifies the site as being at Grade 3b. As such the loss of this small area of agricultural land for a period of 30 years is not considered harmful to overall sustainability objectives. In the event the land is within a protected grade, appeal decisions have concluded the temporary loss of better land is acceptable subject to a demonstration of reversibility and the application of appropriate restoration conditions. Subject to an appropriate CEMP and restoration conditions it is considered that the site can be restored to its previous agricultural potential.

7.15 Minor issues

7.16 Archaeology

7.16.1 The site lies within an Archaeological Sensitive Area, the Gwent Levels. The Levels are known to be capable of preserving archaeological remains in a high state of preservation. The Gwent & Glamorgan Archaeological Trust (GGAT) have no objection to the proposal subject to the application of the following planning condition:

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.

- 7.16.2 Subject to the application of the relevant condition the proposal is considered acceptable notwithstanding the requirements of Policy CE6 to complete an Archaeological Impact Assessment prior to determination.

7.17 Other Heritage Assets

- 7.17.1 Beyond archaeology and the historic landscape the other relevant assets are Scheduled Ancient Monuments, Historic Parks & Gardens, Conservation Areas and Listed Buildings. The relevant assets for consideration in this application are:

- Wilcrick Hill Camp (MM127)
- Redwick Conservation Area
- Brick House (Grade II listed)

- 7.17.2 The application site in its current condition is considered to make a neutral contribution to all three of these assets.

- 7.17.3 The Heritage Assessment notes the turbine will not have a significant effect on Wilcrick Hill due to the separation (1.5Km) and the fact the hill is taller than the turbine and the setting of the hill when viewed from the Levels is already impacted by intervening turbines and the pylons.

- 7.17.4 Redwick Conservation Area is approximately 2Km to the south. The Heritage Assessment identifies the Church of Saint Thomas as the key element within the Conservation Area and concludes the key views within the Conservation Area would not be adversely impacted by the turbine. Views out of the conservation area to the north would take in the turbine, especially from the edge of the conservation area. Overall the character or appearance of the conservation area would be preserved.

- 7.17.5 Brick House is approximately 1.5Km from the application site and is prominent when viewed from North Row but is substantially screened from the application site by a large conifer hedge. The Heritage Assessment concludes there would be no impact on Brick House in terms of its setting.

- 7.17.6 Officers agree with this assessment in relation to the impact on key heritage assets affected by the proposed turbine.

7.18 Planning Balance

- 7.18.1 Planning Policy Wales (Edition 10) (PPW10) advises that sustainable development will bring social, economic, environmental and cultural benefits by adhering to the 'Key Planning Principles', these being:

- Growing our Economy in a Sustainable Manner
- Making Best Use of Resources
- Facilitating Accessible and Healthy Environments
- Creating & Sustaining Communities
- Maximising Environmental Protection and limiting Environmental Impact

- 7.18.2 PPW10 acknowledges that competing objectives must still be balanced:

Planning authorities should ensure that social, economic, environmental and cultural benefits are considered in the decision-making process and assessed in accordance with the five ways of working to ensure a balanced assessment is carried out to implement the Well-being of Future Generations Act and the Sustainable Development Principle. There may be occasions when one benefit of a development proposal or site allocation outweighs

others, and in such cases robust evidence should be presented to support these decisions, whilst seeking to maximise contributions against all the well-being goals.³

Which is to say situations will arise when a scheme will not adhere to all 5 of these key planning principles and compromises must be made. However the advice is that such decisions must be robustly justified and based in evidence with the implication that any harms must be minimised to an acceptable extent. In short an evidenced, well-reasoned and justified planning decision must be made.

- 7.18.3 The key benefit of the scheme is the delivery of 8,931,998 kW hours per year of low carbon electricity which would typically power 2,390 houses. This is a very significant benefit.
- 7.18.4 In terms of other aspects of the scheme the applicant assesses that the turbine will have a moderate adverse impact on landscape character areas and on landscape designations and a moderate adverse impact upon some visual amenity receptors (people who can see the development). As noted in the assessment above Officers have some concerns that the LVIA may have underestimated the scale of the effect of the development in relation to some key views and its landscape impact and relies heavily on the existence of pylons and other turbines as mitigation for this harm. Nevertheless the landscape and visual impact of the proposal is indisputably negative within a protected and valued landscape. It should be noted at the time the NLDP was adopted (January 2015) the pylons and all the other turbines were in place. As such the existence of these features in or near the Caldicot Levels was not considered a sufficient reason for the Caldicot Levels to not be designated as a Special Landscape Area. The Inspector reported as follows on the SLA Policy:

*Paragraph 9.7 - Policy SP8 Special Landscape Areas (SLAs) identifies areas of special local landscape value, where particular design considerations will apply to development proposals. The SLAs have been designated on the basis of the LANDMAP assessment process and a further study by consultants TACP, followed by final boundary determination by the Council. In the main, the designations are based on sound methodology and reliable evidence. However, in the case of SLA vii) Tredegar Park it is evident that the principal special landscape interest on which the designation relies is already safeguarded by the ICOMOS Tredegar House and Park Historic Park and Garden designation (including its essential setting), and designation of the wider area as an SLA is not supported by robust evidence. In the light of this the Council has put forward **MAC 2.8** and **MAC 15.7**, removing the Tredegar Park SLA designation from policy SP8 and the Proposals Map.*

- 7.18.5 The Inspector was entirely satisfied that the SLA Policy and the boundaries of the identified areas were robustly justified (other than Tredegar Park which was otherwise protected). This is to say that the presence of the existing turbines and pylons was not considered to detract so much from this part of the Gwent Levels that it should be excluded from the Special Landscape Area. The proposal does not contribute positively to the Special Landscape Area and is therefore contrary to Policy and harmful to the interests of the SLA. However it is agreed that this harm is mitigated to some extent by existing tall structures within the vicinity of the site. Nevertheless the adverse impact on landscape and visual amenity weighs substantially against the development.
- 7.18.6 In terms of Historic Landscape CADW have confirmed they agree with the applicant's assessment that the turbine will have a slight impact on the registered historic landscape. Policy CE4 requires that the historic landscape should be protected, conserved or enhanced. The turbine does not achieve this and is contrary to Policy but given the slight harm this should only attract slight weight in the balancing exercise. Other heritage assets would not be adversely affected in a meaningful way and are not relevant to the determination.
- 7.18.7 In terms of bio-diversity the key interest lies within the reens. In so far as the identified site area is concerned there would be no impact on the reen network given an existing bridging point would be used and then a length of new track and the crane pad all at significant distance from any reens. Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW)

³ Set out in the Well-Being of Future Generations (Wales) Act 2015 [Prosperous, Resilient, Healthier, More Equal, Cohesive, Culturally Vibrant with a strong Welsh Language, Globally Responsible]

have raised concerns over bat interest but Officers accept this can be dealt with by a condition limiting operation of the turbine during the spring without having an unacceptable impact on power generation.

7.18.8 Gwent Wildlife Trust and CNC/NRW have raised concerns over the use of the existing trackway from Bareland Street to the application site due to the potential effect on nature conservation interests. The track is not included as part of the application site but it must be presumed the applicant has obtained a right to cross this land and has some level of control over it even though this land is not 'blue lined'. Although heavily grassed the track appears to consist of compacted hard-core and remained dry and passable even during recent heavy rain which saw the fields saturated. The applicant notes the track may be up-graded as required to achieve access. This can be done under permitted development rights and where temporary plates or mats are required this again would not need permission since these would be temporary works. It should be stressed the applicant is not seeking permission for any works to the track under this application and should unauthorised works be undertaken then it will fall to Monmouthshire County Council to enforce against those works since the track lies entirely in Monmouthshire. Given that the works the applicant has identified would not require planning permission very limited or no weight can be given to these concerns.

7.18.9 In the event it becomes clear to the applicant that works requiring planning permission are required then he will need to seek that permission and all relevant considerations can be taken into account at that time. It should also be noted that all non-planning protections for the Redwick & Llandeenny SSSI will remain in place. Additionally it seems very probable that in the event works that require further planning permission should be proposed there is no reason to think suitable access cannot be achieved as it was for the Longlands Lane turbine which lies in the same SSSI and which faced the same issues in terms of damage to reens and wider ecological issues. As such there seems little risk the developer would be left with a permission he cannot implement and if that were to happen it would be a consequence of his own failure to properly consider his access requirements. There is no reason to think the wider road network is incapable of achieving the delivery of the turbine. In any event the delivery route can be conditioned.

7.18.10 Similar concerns were raised in relation to the grid connection. Again this can be achieved under permitted development rights and in the event it isn't, appropriate controls can be exerted at the time any application comes forward. Again there is no reason to think there is no mechanism available to protect ecological interests under a conditional regime. On the balance of probabilities the turbine can be connected to the grid in an acceptable way.

Overall there are no ecological reasons to withhold permission.

7.18.11 In terms of flooding the site would be dry over its 30 year lifetime assuming no failure of the flood defences but in the event of a breach of those defences the site will flood beyond tolerable levels. Likewise the access and egress routes will be unavailable. The applicant notes that vulnerable elements of the scheme can be raised without unacceptable landscape impact and that it is very unlikely personnel would ever be on site or need to get there in the event of a flood. Overall the applicant has not robustly justified the location of the proposal on the flood plain and nor have they shown that the advisory standards of TAN15 can be met, that is that the site would not flood beyond tolerable levels. However the harm to Policy is slight given the low vulnerability of the scheme and the lack of personnel on the site. As such this failure weighs slightly against the proposal.

7.18.12 Clearly the key consideration is whether the identified benefits of the scheme (low carbon electricity) are outweighed by the identified harms. PPW10 offers the following advice:

The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount⁴ importance.

7.18.13 It additionally requires the planning system to 'maximise renewable and low carbon energy generation' and to 'facilitate delivery... of Welsh, U.K. and European targets on renewable

⁴ Chief in importance

energy'. For Wales the relevant target is 70% of its electricity requirements to be renewably generated by 2030. PPW10 also identifies that local need is not a material consideration issue since energy generation is of national importance. Planning Authorities are advised that they

'should give significant weight to the Welsh Government's targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling climate change and increasing energy security. In circumstances where protected landscape, biodiversity and historical designations and buildings are considered in the decision making process, only the direct irreversible impacts on statutorily protected sites and buildings and their settings (where appropriate) should be considered. In all cases, considerable weight should be attached to the need to produce more energy from renewable and low carbon sources, in order for Wales to meet its carbon and renewable targets'.

7.18.14 It should be noted that no part of the Levels landscape enjoys any statutory protection and it has been demonstrated that the statutorily protected elements (SSSI, Listed Building, Conservation Areas & Scheduled Ancient Monuments) would not suffer any unacceptable levels of harm.

7.18.15 The previously mentioned Llandegley appeal decision confirms the very significant weight the Welsh Ministers will give to renewable generation. In this instance harm to landscape and heritage assets led an Inspector to conclude permission should be refused for a wind farm only for the Minister to recover the appeal and grant permission. There can be little doubt that very significant weight should be given to the benefits of renewable generation and in the Llandegley case they were deemed capable of outweighing the identified harms to landscape and heritage assets.

7.18.16 In this case harm to the Special Landscape Area is identified and considered capable of bearing substantial weight. However this is not a statutory designation and the effects are not irreversible and under the advice of PPW10 this can only attract limited weight in the decision making process. There are clear concerns relating to the spread of turbine development on the Levels and a move towards producing a view influenced or even potentially dominated by wind turbines within this part of what is a locally protected landscape. Nevertheless the thrust of national policy is towards renewable energy developments even in areas such as this.

7.18.17 Overall it is concluded that the benefits of the scheme narrowly outweigh the identified harms primarily because the enhanced emphasis within national policy on the overall acceptability of renewable energy schemes. Officers recommend that on narrow balance permission should be granted subject to planning 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 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 Planning permission should be granted subject the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

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

Drawing PR3522-PA-SH-01 – Control Cabinet & Transformer Housing (other than as amended by information submitted to discharge condition 04)

Drawing 21.06.1718 - General View Vensys 2.5MW-100-steel tower-HH75m-UK (other than as amended by information submitted to discharge condition 04)

Drawing PR3522-BP-02 – Block Plan

Drawing PR3522-LP-01 – Location Plan

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

Pre- commencement conditions

02 MOD Safeguarding: Prior to the commencement of development, the Ministry of Defence shall be notified of the following in writing:

- the date construction is scheduled to start and end;
- the maximum height of construction equipment; and
- the precise location of the turbine

Should any of this information change during the construction phase, the applicant shall provide the MOD with the updated information within 1 week of it becoming available.

Reason: A formal request by the Defence Estates Safeguarding of the MOD.

03 Construction Environment Management Plan (CEMP): Development shall not be begun until a CEMP has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out details of all on-site construction works; post-

construction reinstatement; drainage; Mitigation; and other restoration, together with details of their timetabling. It shall include details of, and measures to secure:-

- (a) the phasing of construction works;
- (b) the formation of the temporary construction compound;
- (c) dust management and suppression;
- (d) cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- (e) pollution control, including the protection of water courses and ground water; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and disposal; and emergency procedures and pollution response plans;
- (f) temporary site illumination during the construction period;
- (g) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- (h) storage of materials and disposal of surplus materials;
- (i) the construction of the access into the site, the erection of any entrance gates and the creation and maintenance of associated visibility splays;
- (j) access tracks and other areas of hardstanding;
- (k) the construction of the crane pad;
- (l) the carrying out of foundation works;
- (m) method of working cable trenches;
- (n) watercourse crossings;
- (o) soils storage and handling;
- (p) post-construction restoration/reinstatement of the working areas;
- (q) the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway;
- (r) any works to the public highway including temporary widening and/or replacement of street furniture;
- (s) details of the route to be used to access the site.

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

Reason: to protect the interests of the Redwick & Llandeenny SSSI, highway safety and residential amenity.

04 Appearance: The turbine shall have a semi matt finish and be a pale grey colour the same or similar to RAL 7035 (light grey). Prior to the erection of the turbine, its exact specification including its finish and colour along with details of its dimensions and the dimensions and finish and colour of any Electrical kiosks shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbine or any Electrical Kiosks other than those required to meet statutory requirements. The details provided shall include information as to how the kiosks will be raised to have a finished floor level of 6.03m Above Ordnance Datum.

Reason: to confirm the details of the approved development and to protect the character and appearance of the area.

05 Archaeology: 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 Pre-commencement works to the highway: no work shall commence on the construction of the scheme hereby approved until the access route to the site has been confirmed in writing to the Council. A survey of the access route to the site shall be provided and a written programme of necessary works; including any works to culverts, works of road widening, works to overhead lines, telegraph poles & street furniture and any tree / hedge removal or trimming, use of road mats or re-enforcing plates and any other necessary works (including a timetable for any works of restitution) to allow the agreed route to be used for deliveries to the site has been submitted to and agreed in writing by the Council. Thereafter the agreed scheme of access works shall be completed fully as agreed prior to

any other works commencing on the site (other than in relation to works of restitution that cannot be completed until a later stage).

Reason: to ensure the delivery route is fit for purpose and to protect ecological interests.

Pre –operation conditions

07 Bat Mitigation – Spring: Prior to the first operation of the turbine hereby approved, a bat curtailment plan shall be submitted to and approved in writing by the Local Planning Authority. The curtailment plan shall consider and include the following: The times of the day, the times of the year and the weather conditions (temperature, wind speed and precipitation) when curtailment will restrict operations. The technical specifications of equipment to ensure suitability for curtailment purposes shall be provided and mechanisms that will be undertaken to evidence and audit the implementation of the curtailment plan. The turbine shall only operate in strict accordance with the agreed curtailment plan. The turbine shall not operate until the curtailment plan is agreed in writing by the Local Planning Authority.

Reason: to prevent risk to bats during the spring when it has not been evidenced the operation of the turbine will not cause an unacceptable risk to bat populations.

Other Conditions Requiring the Submission of information

08 Decommissioning and restoration: Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbine and the associated equipment and foundations. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats;
- identification of access routes;
- location of material laydown areas;
- a programme of implementation.

The approved scheme shall be fully implemented within 24 months of the expiry of this permission.

Reason: to ensure the character and appearance of the site is restored.

09 Repair, replacement and removal of the turbine: If the turbine hereby permitted fails to produce electricity for supply to the grid for a continuous period of 6 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the turbine. Where repairs or replacements are required the scheme shall include a proposed programme of remedial works. Where removal of the turbine is required the scheme shall include the same details required under condition 08 of this permission. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: to ensure the turbine beneficially generates electricity or is otherwise removed to the benefit of the character and appearance of the area.

General conditions

10 Lifetime of the Proposal: the permission hereby granted shall expire 30 years from the date when electrical power is first exported ('First Export Date') from the wind turbine to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: the proposed scheme has a 30 year lifespan.

11 Turbine dimensions: the overall height of the wind turbine shall not exceed 130 metres to the tip of the blades when the turbine blade is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

Reason: to ensure the turbine is within the parameters approved under this application.

12 Permanent lighting: There shall be no permanent illumination on the site other than a passive infra-red-operated external door light for the substation/transformer kiosk doors to allow safe access or any lighting as required for the purposes of aviation safety.

Reason: to protect the rural character of the site.

13 Cabling: All cabling between the turbine and the Electrical Kiosks and on the wider site shall be laid underground.

Reason: to protect the character and appearance of the area.

14 Buffer Strip: A buffer strip of at least 7m width shall be maintained around any ree in or adjacent to the site. No vehicles shall be trafficked, materials stored or any operations of any sort carried out within the buffer strip unless they relate specifically to works approved as part of this scheme that fall within 7m of any ree.

Reason: to protect the interests of the Redwick and Llandeenny SSSI.

15 Aviation Lighting: Prior to the 'First Export Date' aviation lighting shall be fitted to the turbine and shall be retained in a working condition so long as the turbine is on site.

Reason: to reduce the risk of collision.

16 Noise: Within 28 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at the wind turbine operators expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbines at the complainant's property. The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint and any mitigation required, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority. Following the Council's written agreement any proposed mitigation shall be enacted within the timescales proposed as part of the noise assessment. If no mitigation scheme has been agreed within 6 months of the receipt of any complaint assessed to be valid by the Council the turbine shall cease to operate until such a time as a scheme has been agreed and implemented.

Reason: To safeguard residential amenities.

17 Shadow Flicker: Within 28 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority about shadow flicker from any occupant of the Tesco Distribution Centre or Oxford House, the wind turbine operator shall, at the wind turbine operator's expense, employ an independent consultant approved by the Local Planning Authority to assess the level of shadow flicker from the wind turbine at the complainant's property.

The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said shadow flicker complaint, including all calculations, video recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority.

In the event the complaint is held to be valid a scheme to mitigate the impacts of the shadow flicker shall be provided including a timescale for implementation and following the Council's written agreement the scheme shall be implemented as agreed. In the event no scheme had been agreed within 6 months of the initial complaint the turbine shall cease to operate during the hours and times of the year identified as the times when shadow flicker might affect the complainant's property

Reason: to protect residential amenity

NOTE TO APPLICANT

01 This decision relates to the following non-conditioned plans and documents:

- Drawing PR3522-CT-01 – Cable Trench, Land off Rushwall Lane
- Drawing PR3522-CT-02 – Cable Trench and Upgrading the existing track, Land off Rushwall Lane
- Drawing P0300 – Location Plan
- Drawing PR3522-LP-01 – Location Plan
- Ecological Impact Assessment (November 2018)
- Bat Activity & Remote Monitoring (Summer & Autumn 2018)
- Bat Activity Surveys (June/July 2018)
- Breeding Bird and Summer Bird Vantage Point Surveys & Collision Risk Modelling
- Preliminary Ecological Appraisal (March 2018)
- Environmental Statement & Appendices (May 2018)
- Non-technical Summary (May 2018)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP8, SP9, GP1, GP2, GP3, GP5, GP6, GP7, CE5 & CE10 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 This application was accompanied by an Environmental Statement.

APPLICATION DETAILS

No: 18/0408 **Ward:** LLANWERN

Type: FULL+ENV STATEMENT

Expiry Date: 30-AUG-2018

Applicant: JENNA FOLKARD, CLEANEARTH

Site: LAND ADJACENT TO AND SOUTH OF, RUSH WALL, REDWICK, NEWPORT

Proposal: **INSTALLATION OF SINGLE WIND TURBINE OF MAXIMUM TIP HEIGHT 130M AND ASSOCIATED SWITCH GEAR HOUSING UNITS, TEMPORARY ACCESS TRACK, UNDERGROUND CABLING AND TEMPORARY CRANE HARD-STANDING**

1. LATE REPRESENTATIONS

1.1 Gwent Wildlife Trust has submitted a final representation, making the following points:

- *There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decisions* (Paragraph 6.4.17 of Planning Policy Wales 10);
- Local Planning Authorities must *'take reasonable steps, consistent with the proper exercise of these functions, to further the conservation and enhancement of the features for which the site is of special interest'*. (Paragraph 5.4.2 of Technical Advice Note 5 – Nature Conservation & Planning).
- Local planning Authorities are required to *'apply strict tests when carrying out functions within or affecting SSSIs, to ensure that they avoid, or at least minimise, adverse effects'*. (Paragraph 5.4.4 of TAN5).

- Policy CE10 of the adopted Newport Local Development Plan (2011-2026) notes in its supporting text that:
 - *Wind turbines can fulfil an important role in the creation of energy, but they can also have a visual, noise and ecology impact over a wide area that can be unacceptably damaging to the environment and amenity.*
 - *The positive contribution renewable energy schemes can make to sustainability and climate change must be balanced with the need to protect the environment and amenity.*
- The report does not consider the recommendations of the Renewable & Low Carbon Energy Assessment (May 2013) which informed the NLDP process, the following points being especially pertinent:
 - *There is no need for the development proposal in order for the local planning authority to attain its target, which is in any event very low for wind energy.*
 - *The application site and vicinity are not in any zone identified by the local planning authority as being suitable for wind-related renewable energy.*
 - *Even this study is itself a maximal estimation of Newport renewable energy city, because:*
 - *It explicitly excludes consideration of cumulative impacts.*
 - *It is based on "higher" of the two targets set out at the UK level (p 9)*
 - *The study explicitly identifies the Gwent Levels SSSI as a "constraint"*

2. OFFICER RESPONSE

- 2.1 The location of the development within the Redwick & Llandeenny SSSI is acknowledged and ecological impacts of the proposal have been considered in detail at Paragraph 7.6 of the Officer Report. Key ecological impacts have been considered and found to be acceptable and it is not clear from the Trust's further objection what unacceptable impacts to the SSSI interest they expect to accrue if the development proceeds.
- 2.2 In terms of Policy CE10 the Headline Policy (i.e. the Policy) reads as follows:
RENEWABLE ENERGY SCHEMES WILL BE CONSIDERED FAVOURABLY, SUBJECT TO THERE BEING NO OVER-RIDING ENVIRONMENTAL AND AMENITY CONSIDERATIONS. SMALL SCALE MICRO-GENERATION WILL BE ENCOURAGED WITHIN THE SETTLEMENT BOUNDARY. LARGE SCALE PROPOSALS MAY BE MORE APPROPRIATELY LOCATED OUTSIDE OF THE DEFINED SETTLEMENT BOUNDARY IF NO APPROPRIATE BROWNFIELD SITES EXIST. THE CUMULATIVE IMPACTS OF RENEWABLE ENERGY SCHEMES WILL BE AN IMPORTANT CONSIDERATION.
- The Policy invites a balanced approach to the consideration of renewable energy applications and this has been undertaken within the Officer Report, see Paragraph 7.18. There is no reason to think the Policy has been misunderstood or misapplied.
- 2.3 In terms of the Renewable & Low Carbon Energy Assessment background paper, this is not an adopted plan document although it was used to inform the development of NLDP Policy. As such the document has very limited weight unto itself and conformity with the development plan should be the test of any proposal. Adopted Policy does not designate acceptable and unacceptable areas for renewable energy generation and nor is any local target set for renewable generation in Newport. National Policy is clear in any event that lack of local 'need' would not be a reason to refuse permission for renewable energy which is national priority.

2. OFFICER RECOMMENDATION

- 2.1 That the application should be granted subject to conditions as per the Officer Report.

APPLICATION DETAILS

No: 2 **18/0842** **Ward: CAERLEON**

Type: **FULL**

Expiry Date: **09-JAN-2018**

Applicant: **MR & MRS BARNES**

Site: **CROMWELL COTTAGE, ISCA ROAD, CAERLEON, NEWPORT, NP18 1QG**

Proposal: **PROPOSED SINGLE STOREY REAR EXTENSION WITH ROOF TERRACE ABOVE, REAR ROOF EXTENSION WITH JULIET BALCONY AND INCREASE IN SIZE OF FRONT DORMER**

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 The application site sits within the Caerleon Conservation Area in the Ultra Pontem (Latin for 'over the bridge' area. This area is characterised by its rural setting and village like characteristics. Cromwell Cottage is the end terrace of a row of red brick cottages that face onto the River Usk with its rear elevation set within a large open area of greenspace edged by trees forming a boundary with New Road. The application seeks consent for the erection of a single storey rear extension with a roof terrace above, a rear roof extension with a juliet balcony and the increase of the front dormer.

2. RELEVANT SITE HISTORY

96/0393	DEMOLITION OF REAR SINGLE STOREY EXTENSION SIDE AND FRONT BOUNDARY WALLS	GRANTED WITH CONDITIONS
96/0593	ERECTION OF TWO STOREY REAR EXTENSION INTERNAL ALTERATIONS AND PROVISION OF DORMER WINDOW TO FRONT ELEVATION	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

- 3.1 Policies GP2 (General Amenity), GP6 (Quality of Design) and CE7 (Conservation Areas) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: development will be permitted where, as applicable:
- i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
 - ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
 - iii) The proposal seeks to design out the opportunity for crime and anti-social behaviour;
 - iv) The proposal promotes inclusive design both for the built development and access within and around the development;
 - v) Adequate amenity for future occupiers.
- 3.3 Policy GP4 (Highways and Accessibility) states that development proposals should:
- i) provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
 - ii) be accessible by a choice of means of transport;
 - iii) be designed to avoid or reduce transport severance, noise and air pollution;
 - iv) make adequate provision for car parking and cycle storage;
 - v) provide suitable and safe access arrangements;

- vi) design and build new roads within private development in accordance with the highway authority's design guide and relevant national guidance;
- vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

- 3.4 Policy GP6 (Quality of Design) states: good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:
- i) Context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
 - ii) Access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
 - iii) Preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
 - iv) Scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
 - v) Materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
 - vi) Sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.
- 3.5 Policy CE7 (Conservation Areas) states: development within or adjacent to conservation areas will be required to:
- i) be designed to preserve or enhance the character or appearance of the conservation area, having regard to the conservation area appraisal where appropriate.
 - ii) avoid the removal of existing historic features, including traditional shopfronts and joinery.
 - iii) use materials which are traditional, or appropriate to their context.
 - iv) complement or reflect the architectural qualities of nearby buildings which make a positive contribution to the character of the area.
 - v) pay special attention to the settings of buildings, and avoid the loss of any existing domestic gardens and open spaces which contribute to the character of the area.
 - vi) avoid adverse impact on any significant views, within, towards and outwards from the conservation area.
- 3.6 Policy T4 (Parking) states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards.

4. CONSULTATIONS

- 4.1 WELSH WATER (DWR CYMRU): No response received.
- 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST (GGAT): The application site is located within an Archaeologically Sensitive Area and it is recommended that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): Following an assessment of the Sustainability Test, the total points available are 7 points allowing for a 1 space reduction. The parking demand for the proposed property is 3 spaces however this can be reduced to 2. The same reduction must however also be applied to the existing property which, with the reduction, requires 1 space. The parking demand will therefore still be increasing by 1 space. No off street parking is available and therefore the increased demand would have to

be accommodated on street. Parking demand in the area appears to be high and therefore availability is limited. The applicant has not demonstrated that the additional demand can be accommodated and I must therefore object to the application.

5.2 HEAD OF CITY SERVICES (ECOLOGY): No comments on the proposal.

5.3 HEAD OF REGENERATION AND REGULATORY SERVICES (CONSERVATION): Does not support the application.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All neighbours with a common boundary were consulted (4no properties) and a site notice was displayed at the site from 4th October. Comments were raised from 2no neighbours stating the following;

Marrows Cottage;

- I wish to object in the strongest terms to the scale and size of this application and particularly the proposed first floor balcony - roof terrace- which will overlook all neighbouring gardens and patios. This is a very intrusive proposal and should surely be rejected by your Planning Committee.
- We believe that any extension to Cromwell Cottage should be in keeping with the existing properties in this Victorian terrace of cottages and should not dominate the skyline or overlook our property.

Usk Cottage

- We wish to strongly object for the following reasons; The application states it is for a 'proposed single storey rear extension with roof terrace...' but when you look at the plans, the single storey extension is to go on top of an existing two storey extension thus making the extension a three storey extension. This will come out from the top of the roof. This will completely block all sunlight to our rear single storey extension.
- At the moment the sunlight just manages to skim the roof of their two storey extension but building another storey on top of this will mean we will have no sunlight whatsoever over our courtyard. The courtyard is an original feature of this row of 5 Victorian terraced cottages and has lots of fauna surrounding it which is home to a population of sparrows. Without any sunlight these plants will die. Our rear extension will be completely in the shadow of this three storey extension and it will be like looking out to see the Berlin Wall in front of us. As a conservation area we all have to have our aerials, satellite dishes etc. at the rear of our property and with a chimney height third floor extension I am not sure if we will still be able to get any reception which is pretty poor as it is.
- In addition to applying to build a third floor to their rear extension. Mr and Mrs Barnes are applying to build a roof terrace outside their bedroom. As a row of terraced cottages, all in a straight line this large terrace will overlook all our gardens and we will lose all privacy, not only whilst we are in our garden but there is nothing to stop anyone looking back into our house and seeing straight into our bedrooms and family bathroom as this terrace is on the roof of their kitchen. As typical Victorian cottages each of our gardens are long but narrow. All of us have our patios next to our house so the proposed roof terrace will look down on us 24/7.
- We have a shared sewerage system whereby Mr and Mrs Barnes' sewerage leave their property by a pipe that crosses over May Cottage garden and enters our property, Usk Cottage, runs alongside our extension and goes through a sort of junction box, a narrower pipe that runs under our house to connect to the mains sewerage outside the front of our house. There are frequent problems with this as the pipe gets blocked and on average requires a call out from Welsh water 4 to 5 times a year. Raw sewerage spills out of the drain all over my patio and my neighbours at Marrows Cottage on the other side. The pipes are Victorian, over 120 years old and only about 5 inches down. The pipes have to routinely have to be cleared and flushed out. Welsh water come and does it but because we are a row of terraced cottages none of us have access to their back gardens from the front so all sewerage workmen have to come through my living room to clear the blockage. I am not prepared to have more sewerage enter the system as the system cannot cope as it is. No consideration has been given to this in the planning application.

- Mr and Mrs Barnes have only lived in the property for a year, if they develop the property and move on the fact that they are almost doubling the number of bedrooms will attract larger families to live there. The pipes are decaying as it is and I for one am fed up of clearing up other people's sewerage. If the planning goes ahead on this large building project then consideration must be given to look at having a septic tank installed at Cromwell Cottage like many of the properties have along this road. I know that planning are not fussed on having septic tanks however if such a large extension is built you have to now consider what on earth is going to happen to all the waste as the infrastructure here is not designed for huge houses. This problem is not going to go away and as the pipes continue to decay it will only get worse.
- Finally I would like to point out this area is supposed to be a conservation area. Any previous planning applications have had to be in keeping with the area. This planning application would result in a cottage that would look more in place in Trinity View than Ultra Pontem.

7. ASSESSMENT

- 7.1 There is an existing two storey rear extension on the property which is visible from New Road. This extension was granted consent in 1996 under ref no. 96/0593. The proposal seeks to remove the pitched roof from the existing two storey extension and slightly increase its height in order to facilitate a flat roofed third storey addition above. The proposed roof extension will measure a height of 2.6m, a width of 4.5m, a depth of 8m from roof ridge and 4.5m from the rear elevation of the host dwelling. Fenestration will consist of patio doors in the rear elevation opening out on to a juliet balcony and 1no rooflight. The properties have traditional two storey terraced cottages. Whilst the majority of properties consist of single storey rear extensions, the application property already benefits from a two storey rear extension. It is considered that removing the pitched roof of this extension and inserting a roof extension above would essentially produce a three storey extension to the property and will remove the pitched roofline which is considered an appropriate style found throughout the Conservation Area. The roof extension would be set down 0.45m from the roof ridge of the existing property and would protrude from the rear elevation approx 4.5m, the same depth as the first floor extension. It is considered that due to the scale and elevation of this extension, it would appear as a bulky addition that would result in an overbearing impact detrimental to the amenity of the occupiers of the adjoining property. Due to the siting of the properties, and the roof form, the extension would appear as a prominent unneighbourly addition that would be highly visible from neighbouring properties. It is proposed to finish the roof extension in vertical cedar cladding which is not in keeping with the character of the property or surrounding area and fails to present the character and appearance of the Conservation Area. The Conservation Officer has commented with the main concern being the bulk created by the third storey addition which is considered to be highly visible particularly with the timber cladding of the structure which is a material that is not in keeping with the character of the conservation area. The removal of the pitched roofline, which is considered an appropriate style found throughout the conservation area is a great concern, particularly with the replacement of a flat roofed structure that obscures the pitched roof of the principal building.
- 7.3 Due to the scale of the proposed development, it is considered necessary to assess any potential loss of light that may be caused to the neighbouring property. In accordance with the SPG, tests have been carried out in order to assess the potential loss of light to the habitable rooms in the neighbour's property. A protected window is a window that serves a habitable room. A habitable room is any room intended to be used for sleeping, living or eating purposes. From the first floor window of the adjoining property on the boundary closest to Cromwell Cottage the proposed roof extension fails the 45° vertical and horizontal tests. The SPG states that both tests would need to fail in relation to a single protected window for any impact in terms of loss of light to be considered harmful. Whilst it is noted that the existing situation would fail the horizontal test, it would pass the vertical test which is in accordance with the SPG. Therefore as the proposed roof extension would result in both tests failing in relation to the adjoining property's first floor window, it is considered that there would be a demonstrable loss of light detrimental to the amenity of the neighbouring occupiers, contrary to the SPG. A sun path diagram has been provided

but does not mitigate this objection. The proposal is located south of the adjoining dwelling known as May Cottage. The impact in terms of potential overshadowing is significant.

- 7.4 The proposal also seeks consent to provide a flat roofed single storey extension to the rear of the current extension with a roof terrace above. The extension measures a height of 2.85m, a depth of 3.2m and a width of 4.7m. Fenestration consists of bi-folding doors in the rear elevation. The roof terrace extends over the entirety of the roof of the proposed single storey extension and consists of a 1.75m high stainless line obscured glass privacy screen on the side of the roof terrace shared with May Cottage. It is also proposed to erect a 1.1m high stainless line glass balustrade on the rear elevation of the roof terrace. The adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance states 'in common with any other extension, a raised amenity space should relate sympathetically to the existing building and the streetscape by virtue of its size, design and materials. A raised amenity space that substantially reduces natural light, perceived space or privacy in neighbouring habitable rooms or back gardens will not be acceptable. In some cases, privacy screens can reduce the degree of overlooking that neighbours experience in their homes and gardens. They should be large enough to prevent a material loss of privacy yet small enough not to render a structure obtrusive or unsightly. In general, translucent screens and trellis panels are preferable to opaque screens and solid fencing. Ill-designed proposals, no matter how well they protect neighbours' privacy levels, will not be acceptable.' It is considered that the 1.75m high privacy screen, whilst is of adequate height and materials, does not protect the privacy of neighbours and results in an increase in perceived overlooking. It is considered that in order to provide adequate privacy for neighbouring properties, the privacy screen would need to run the depth of the roof terrace and have a slight return to provide more privacy to the rear gardens and habitable rooms of neighbouring properties. The conservation officer has expressed concern for the materials of the balustrade and whilst it is of contemporary style it appears as a relatively lightweight feature to the rear elevation that by itself does not appear unduly dominant or harmful in its setting. The adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance states that where ever possible extensions should be built on the rear or least important elevations of properties and the size and form should be appropriate to the main building and the space around it. It is considered that the size of the extension is proportionate to the host dwelling and there is an appropriate amount of amenity space left undeveloped to the rear of the property. Due to the scale and location of the extension it is considered that there would not be a harmful impact on the amenity of neighbouring occupiers in terms of loss of light, loss of privacy or an overbearing effect. With regard to design, it is considered that there is no harm to the character of the dwelling or surrounding area. Therefore, the single storey rear extension in terms of its location, scale and design accords with policies GP2 and GP6, however, the proposed roof terrace is considered unacceptable contrary to policy GP2.
- 7.5 The proposal seeks consent for the increase in size of the dormer extension in the front elevation of the property. The existing dormer measures a height of 1.5m, a width of 1.5m, extends 2.3m from the roof of the existing property and is set back 2m from the eaves. The proposed dormer extension measures a height of 1.7m, a width of 1.5m extends 2.7m from the roof of the existing property and is setback 1.7m from the eaves. The Council's Conservation Officer considers that the proposed alteration to the existing dormer is appropriate. The result is a slight increase in height and slate finish which are considered to have limited impact utilising a material that is characteristic of the Conservation Area as well as complimenting the style of the neighbouring dormer and is in accordance with policies GP2 and GP6.
- 7.6 The Council's Conservation Officer was consulted on the proposal and raised the following points 'The application site sits within the Caerleon Conservation Area in the Ultra Pontem (Latin for 'over the bridge' area. This area is characterised by its rural setting and village like characteristics with a dominant polite style of architecture. Cromwell Cottage is the end terrace of a row of red brick cottages that face onto the River Usk with its rear elevation set within a large open area of greenspace edged by trees forming a boundary with New Road. The site is visible both from Isca Road but also from New Road where not only can you catch glimpses of the property through the trees but there is a gap within the hedgerow that provides a clear view of the row of red brick properties on Isca Road. On this basis my comments will concern the proposed alterations to the front and rear of the property and

their impact on the Conservation Area. The proposed alteration to the existing dormer is considered appropriate. The result is a slight increase in height and slate finish which are considered to have limited impact utilising a material that is characteristic of the Conservation Area as well as complimenting the style of the neighbouring dormer. The current two storey rear extension is visible from New Road and the proposal is to provide a flat roofed third storey addition that is set just below the roofline of the principal property. The proposal is also to provide a flat roofed single storey extension to the rear of the current extension with a roof terrace on top. The main points of concern is the bulk created by the third storey addition, which is considered to be highly visible particularly with the timber cladding of the structure which is a material that is not in keeping with the character of the conservation area. The removal of the pitched roofline, which is considered an appropriate style found throughout the Conservation Area, is a great concern. Particularly with the replacement to a flat roofed structure that obscures the pitched roof of the principal building, which is a strong characteristic of the Conservation Area. The proposed roof terrace above the single storey extension has a glazed balustrade that has presumably been designed to reduce the impact on the boundary. However the introduction of this, in addition to the Juliet balcony and the large window/door openings on each level will result in a prominent feature that will provide a glint/shiny finish which will I believe draw attention to the extension. The aim of such proposals is for the extension to be subservient to the principal property reflecting the characteristics of the Conservation Area, for the reasons set out above I cannot support this application.' In response to the Conservation Officer's comments on the proposed development, the agent has amended the plans to show a cherry blossom tree to provide further screening as well as a mixed deciduous hedgerow to the south-westerly boundary to also provide further screening from public vantage points. The proposed material of the roof extension is not in keeping with the conservation area and will fail to preserve its character and appearance.

- 7.7 The Council's Highways Officer was consulted on the application and following an assessment of the Sustainability Test that was submitted disagrees that 11 points can be awarded resulting in a reduction of 2no parking spaces. The Sustainability Test awards points for the doctors and school being within 800m of the property, however this was not found when the Council carried out their own assessment. Additional points cannot be scored for the post office and chemist and so the only points that can be scored for local facilities is 2. This results in a total score of 7, allowing a parking reduction of 1no space. The parking demand for the proposed property is 3no spaces, however, following the sustainability assessment this can be reduced to 2no spaces. However, the same reduction must also be applied to the existing property which, with the reduction, requires 1no spaces. Therefore, the parking demand will be increasing by 1no space. There is no off street parking available and therefore the increased demand would have to be accommodated on street. Parking demand in the area appears to be high resulting in limited availability. The applicant has not demonstrated that the additional demand can be accommodate and so the Council's Highways Officer objects to the application.
- 7.8 When assessing the merits of the proposal, the local planning authority have considered the design, the impact on the amenity of neighbouring occupiers and the impact of the proposal on the conservation area, all of which is outlined above. However, 2no neighbours have raised specific concerns with the proposed development. When taking into consideration concerns that have been raised by neighbours, only material planning considerations can be given weight. Concerns have been raised regarding the balcony and its potential to overlook the neighbour's gardens. This issue has been addressed above and it is considered that the proposed privacy screen is inadequate in preserving privacy thus resulting in perceived overlooking and a loss of privacy and contrary to policy GP2. Issues concerning loss of light have also been addressed above and it is considered that the roof extension will result in a material loss of light as it fails both the 45° vertical and horizontal tests when taken from the first floor window of the adjoining property. With regard to the comments concerning the effect on sparrows and plants, the ecology officer did not object to the application or raise any concerns. Concerns have been raised with regard to sewerage, whilst there would be an additional bedroom added to the property, they are not adding any more bathrooms. Notwithstanding this, this is a matter for Welsh Water.

- 7.9 The agent has submitted details of two applications that have previously been granted for balconies in the Newport area, one in Allt-yr-yn and one in Caerleon. Whilst it is appreciated that consistency is sought, each application is considered on its own merits and it is not considered that these are directly comparable.
- 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 ***Newport's Well-Being Plan 2018-23***
The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.
- 9. CONCLUSION**
- 9.1 The proposed roof extension by reasons of its scale, location and design would result in an unacceptable loss of light and overbearing impact on the amenity of the first floor rear window and rear outdoor space in the adjoining property, thus contrary to policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the adopted Householder Extensions and Domestic Outbuildings Supplementary Planning Guidance.

- 9.2 The proposed roof terrace by reason of its design and location results in an unacceptable increase in perceived overlooking and loss of privacy to the detriment of neighbouring privacy thus contrary to policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the adopted Householder Extensions and Domestic Outbuildings Supplementary Planning Guidance.
- 9.3 The proposed roof extension by reason of its scale, location and design would result in development that would fail to preserve the character and appearance of the conservation area thus contrary to policy CE7 of the Newport Local Development Plan 2011-2026 (adopted January 2015).
- 9.4 The creation of an additional bedroom at the property would result in a shortfall in parking which cannot be accommodated off street within the curtilage of the application site. The development would result in an increased demand for on-street parking to the detriment of residential amenity and highway and pedestrian safety, contrary to policies GP4 and T4 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the adopted Parking Standards SPG.

10. RECOMMENDATION

REFUSED

01 The proposed roof extension by reasons of its scale, location and design would result in an unacceptable loss of light and overbearing impact on the amenity of the first floor rear window and rear outdoor space in the adjoining property, thus contrary to policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the adopted Householder Extensions and Domestic Outbuildings Supplementary Planning Guidance.

02 The proposed roof terrace by reason of its design and location results in an unacceptable increase in perceived overlooking and loss of privacy to the detriment of neighbouring privacy thus contrary to policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the adopted Householder Extensions and Domestic Outbuildings Supplementary Planning Guidance.

03 The proposed roof extension by reason of its scale, location and design would result in development that would fail to preserve the character and appearance of the conservation area thus contrary to policy CE7 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

04 The creation of an additional bedroom at the property would result in a shortfall in parking which cannot be accommodated off street within the curtilage of the application site. The development would result in an increased demand for on-street parking to the detriment of residential amenity and highway and pedestrian safety, contrary to policies GP4 and T4 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as the adopted Parking Standards SPG

NOTE TO APPLICANT

01 This decision relates to plan Nos: Location and Block Plan 3102/01, Existing Floor Plans 3102/02, Existing Elevations and Section A-A 3102/03, Existing and Proposed Side Elevation – South East, Proposed Floor Plans 3102/04A, Proposed Elevations and Section A-A 3102/05A and Detailed Section A-A 3102/06.

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

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

04 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.

APPLICATION DETAILS

No: 18/0842 Ward: **CAERLEON**

Type: Full

Expiry Date: 09 JAN 2019

Applicant: MR & MRS BARNES

Site: CROMWELL COTTAGE, ISCA ROAD

Proposal: **PROPOSED SINGLE STOREY REAR EXTENSION WITH ROOF TERRACE ABOVE, REAR ROOF EXTENSION WITH JULIET BALCONY AND INCREASE IN SIZE OF FRONT DORMER**

1. LATE REPRESENTATIONS

- 1.2 A neighbouring objector has submitted additional comment as is unable to attend Committee to speak due to work commitments. The objector has raised a number of issues in relation to the application and other matters. Material matters relating to the Committee's consideration of the planning application are reproduced below.
- 1.2 "We live in Usk Cottage, Isca Road, Caerleon and we are one of the five red brick Victorian terraced cottages on Isca Road. Cromwell Cottage is also one of these terraced cottages. Being terraced we are all joined together and characteristically we all have narrow long gardens. It is also in the middle of a conservation area. It is lovely here with views along this stretch of road highlighted as being of important vista (page 19 of Newport City Council Conservation Appraisal consultation document). This conservation area appraisal seeks to 'record and analyse the character of an area, recognise the heritage assets, identifying the risks that can also be important and threaten an area's special character'. Our row of cottages is identified as a positive contributor/ locally important buildings on page 33 of this same document.
- 1.3 The applicants moved into Cromwell Cottage in August 2017. We were notified by the planning department in October 2018 of their planning application number 18/0842. Cromwell Cottage already has a two storey, full width of building rear extension. They have applied to build a single storey rear extension. To build another story onto their two-storey extension will result in their rear extension being three storeys high. The resulting building will be as high as the chimney and will completely dominate the skyline. It will impede any light to neighbouring properties and create an overbearing impact. This is because the neighbouring properties only have partial width, single storey extensions. As ours are only partial width extensions we all have small patio areas between the main building and the single storey extension to allow light into our extensions and importantly the main building.
- 1.4 In addition, the applicants want to build a sun terrace on the 2nd floor outside their bedroom. This terrace will look down into all neighbouring gardens and look back directly into our bedrooms and family bathroom. My husband and I and our four children will lose all privacy both in our home and in our garden. I feel this is totally unreasonable for my teenage children.

- 1.5 The applicants have provided a sun diagram however this only takes into account the sun in our garden. It does not deal with the loss of sunlight to the main building of our house or the courtyard patio between the main building and the extension. Our courtyard is an original feature of our house and is 120 years old. All the surrounding plants and fauna will die and all the efforts over the years to preserve this courtyard will have been for nothing. We won't have an outlook from our extension at all.
- 1.6 I am concerned that the planning department have recommended that this application be refused and now the applicants have sought support from councillor Watkins. The Planning Officer Lydia Burrows has taken the time to visit my house and see the impact this proposal will have on neighbours. The conservation officer has refused the application as has the Highways officer too, as parking outside on the road is already extremely congested.
- 1.7 The shared Victorian sewerage system for our cottages already can't cope, so how will it cope if Cromwell cottage doubles in size? If the professionals employed by Newport City Council are recommending refusal what professional planning knowledge/ experience is councillor Watkins bringing that challenges this?
- 1.8 Currently Newport City Council are consulting in how best to preserve these special conservation areas. Their document on their website regarding the consultation area appraisal that took place in the Autumn 2018 , it states in paragraph 1.2.3 , 'the extent to which a building or group of buildings/structures shape the character of a conservation area is founded not just from their street facing elevations, but also from the integrity of the historic fabric, overall scale and massing, detailing and materials. Rear and side elevations can also be important.'
- 1.9 I think you have to decide. Either Isca Road is a conservation area or it isn't. Houses on this road have stood for over 400 years virtually unchanged. The scale of this proposal turning a terraced cottage into a house with potentially four double bedrooms is completely incompatible with its surroundings. Not only that but the lack of sunlight, total loss of privacy to neighbouring properties and having a brick wall dominate your skyline ask yourself if you would want to live here?"

2. OFFICER RECOMMENDATION

2.1 The objectors remarks are noted and do not alter the officer assessment and recommendation that the application is refused. The impact of the balcony, the design of the proposal and its impact upon the conservation area and residential amenity are all reasons for refusal. Welsh Water has not commented with objection regarding sewerage matters and this does not therefore form a reason for refusal

APPLICATION DETAILS

No: 3 **18/1109** **Ward: LLANWERN**

Type: **FULL (MAJOR)**

Expiry Date: **10-JAN-2019**

Applicant: **KARL GILMORE, TRANSPORT FOR WALES**

Site: **LAND ADJACENT AND NORTH OF BRANCH RAILWAY LINE, SEVEN STILES AVENUE, NEWPORT**

Proposal: **CONSTRUCTION OF 1.6KM OF RAIL FORMATION IN CONNECTION WITH THE STABLING OF TRAINS INCLUDING ASSOCIATED ENGINEERING AND LANDSCAPE WORKS**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 The scheme involves the construction of a single 1.6km length of track to allow for the stabling of trains during major events in South Wales. It will be located within an area of existing rail infrastructure between the South Wales Mainline and the Tata Steel Service Lines. The Major Event Stabling Line (MESL) will enable flexibility for future train requirements through the provision of additional network capacity on the mainline railway for stabling of trains to be used to transport people to major events in Cardiff for instance the Six Nations Rugby and other events at the Principality Stadium.

2. RELEVANT SITE HISTORY

None.

3. POLICY CONTEXT

Policy	Description
SP1 Sustainability	Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary.
SP3 Flood Risk	Newport's coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.
SP9 Conservation of the Natural, Historic & Built Environment	The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.
SP11 Eastern Expansion Area	The eastern expansion area consists of the former Llanwern steelworks regeneration site known as Glan Llyn and housing sites at Llanwern village, Hartridge High School and jigsaw site. This eastern expansion area is identified as a residential led mixed use, sustainable urban expansion area which will provide a range and

	choice of housing, employment land and community uses.
SP14 Transport Proposals	<p>Transport proposals will be supported where they:</p> <ul style="list-style-type: none"> i) provide for traffic-free walking and cycling facilities and expansion of the network; ii) encourage the use of public transport and other modes which reduce energy consumption and pollution; iii) improve road safety; iv) improve the quality of life of residents; v) assist the local economy; vi) assist urban regeneration; vii) provide access to new development areas which incorporate sustainable transport modes; viii) relieve traffic congestion in the long term; ix) result in other environmental improvements, including air quality, noise reduction, sustainable drainage and enhanced biodiversity.
GP1 Climate Change	<p>Development proposals should:</p> <ul style="list-style-type: none"> i) be designed to withstand the predicted changes in the local climate and to reduce the risk of flooding on site and elsewhere by demonstrating where appropriate that the risks and consequences of flooding can be acceptably managed, including avoiding the use of non-permeable hard surfaces; ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on site energy provision where practicable; iii) be designed to reuse or recycle existing construction materials present on the site; iv) meet the relevant BREEAM or code for sustainable homes level.
GP2 General Amenity	<p>Development will be permitted where, as applicable:</p> <ul style="list-style-type: none"> i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality; ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area; iii) the proposal seeks to design out the opportunity for crime and anti-social behaviour; iv) the proposal promotes inclusive design both for the built development and access within and around the development; v) adequate amenity for future occupiers.
GP5 Natural environment	<p>Development will be permitted where, as applicable:</p> <ul style="list-style-type: none"> i) the proposals are designed and managed to protect and encourage biodiversity and ecological connectivity, including through the incorporation of new features on or off site to further the U.K., Welsh and/or Newport biodiversity action plans; ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national, welsh section 4232 and local protected habitats and species, and protecting features of importance for ecology; iii) the proposal will not result in an unacceptable impact on water quality; iv) the proposal should not result in the loss or reduction in quality

	<p>of high quality agricultural land (grades 1, 2 and 3a);</p> <p>v) there would be no unacceptable impact on landscape quality;</p> <p>vi) the proposal includes an appropriate landscape scheme, which enhances the site and the wider context including green infrastructure and biodiversity networks;</p> <p>vii) 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.</p>
GP7 Environmental Protection & Public Health	Development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.
CE3 Environmental Spaces & Corridors	<p>In and adjoining the urban and village areas, and in areas identified for comprehensive development, sites having existing importance for their visual qualities, as wildlife habitats or for recreational or amenity purposes, will be safeguarded as "environmental spaces and corridors". development in these spaces will be permitted only where:</p> <p>i) the existing or potential environmental qualities of the site will be improved or complemented;</p> <p>ii) there is no adverse impact on international, european, national, regional or local nature conservation interest;</p> <p>iii) there is not a loss, without appropriate replacement, of a recreational, open space, or amenity resource for the immediate locality unless it can be demonstrated that there is an excess of provision or facilities can be enhanced through development of a small part of the site.</p> <p>Proposals to enhance or improve existing environmental space provision will be encouraged where practicable. Additional provision will be sought in areas where a deficit has been identified.</p>
CE4 Historic Landscapes, Parks, Gardens & Battlefields	Sites included in the register of landscapes, parks and gardens of special historic interest and identified historic battlefields should be protected, conserved, enhanced and where appropriate, restored. Attention will also be given to their setting.
CE6 Archaeology	<p>Development proposals will normally be required to undertake an archaeological impact assessment before the proposal is determined:</p> <p>i) where groundworks and/or the installation of services are proposed within the archaeologically sensitive areas of Caerleon, the levels, lower Machen and the city centre , or;</p> <p>ii) within other areas of recognised archaeological interest.</p>
CE9 Coastal Zone	<p>Development will not be permitted in the coastal area or adjoining the tidal river unless:</p> <p>i) in the undeveloped coastal area such development is required to be on the coast to meet an exceptional need which cannot reasonably be accommodated elsewhere;</p> <p>ii) the area is not itself at risk nor will the proposed development exacerbate risks from erosion, flooding or land instability</p> <p>Development which requires a coastal location should be sited within the developed coastal zone.</p>
T1	the council will support proposals for the railway system, including:

Railways	i) new stations at: a) Llanwern; b) Caerleon; c) Coedkernew. ii) the promotion of early implementation of train services on the Ebbw valley line into Newport; iii) the promotion of early implementation of electrification of the London – south wales mainline; iv) the protection of disused lines from development; v) protecting and encouraging rail access to industrial development, especially on the lines to Newport docks and Uskmouth; vi) supporting applications for government grant for new rail facilities; vii) supporting and progressing schemes for park and ride.
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4. CONSULTATIONS

4.1 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT):

The outlined area is located within the Gwent Levels Archaeologically Sensitive Area. We recommended that an archaeological desk-based assessment should be undertaken either by a ClfA Registered Organisation or by a MCIfA level Member, and to the appropriate Standard and Guidance issued by the Chartered Institute for Archaeologists (ClfA).

We note that the supporting documentation includes an archaeological desk-based assessment which was not written by a MCIfA and does not meet the current professional standards and therefore cannot be accepted.

The reasons for this are:

- no consultation took place to agree a Written Scheme with GGAT Archaeological Planning as your archaeological advisors; and is therefore contrary to the ClfA Standard and Guidance for historic environment desk-based assessment;
- therefore no study area was agreed;
- the information has been collected from sources that include Coflein, which is contrary to Coflein' s Terms and Conditions as it is cannot be used in matters relating to development;
- this has led to inaccurate statements as to the nature of the nearby archaeological resource;
- no appropriate historic mapping study has been undertaken; no maps are reproduced to demonstrate research or assessment;
- no search of aerial photographs from the Central Register of Aerial Photographs for Wales has been made;
- no HER search reference was included, neither was the gazetteer;

There is no reference to the HER *Guidance for the Submission of Data to Welsh Historic Environment Records*; or to the NPAA *National Standard and Guidance to Best Practice for Collecting and Depositing Archaeological Archives in Wales*.

The assessment is therefore flawed as it does not contain appropriate sources, and as it is based on incomplete data does not provide sufficient material to allow an informed decision for the planning process, and does not meet the ClfA Standard.

We also recommended that Cadw should be consulted as to whether an Assessment of the Impact of a Development on a Historic Landscape (ASIDOHL) should be undertaken to inform the level of impact on the nearby Registered Landscape. We cannot see any response from Cadw within the supporting documentation.

We therefore recommend that an appropriate revision of the assessment is prepared to accompany the current proposal, and upon receipt of this, as the archaeological advisors to the Local Planning Authority, we will be in a position to make an informed comment.

4.2 WALES & WEST UTILITIES:

Wales & West Utilities apparatus may be directly affected by these proposals and the Information you have provided has been forwarded to Asset Management for their comments. If Wales and West are affected an Engineer will then contact you direct.

Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

You must not build over any of our plant or enclose our apparatus.

4.3 HEALTH & SAFETY EXECUTIVE (HSE):

Do not advise against.

4.4 WESTERN POWER DISTRIBUTION:

Advise of equipment in the area and safe working practices.

4.5 DWR CYMRU / WELSH WATER (DCWW):

No objection in terms of sewerage infrastructure but note the presence of a trunk / distribution water main within the vicinity of the application site and advise the developer contacts DCWW for further advice and note the need for the necessary easements to be maintained.

4.6 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW):

No response received.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE & CITY SERVICES (TREES): No objection.

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

The proposed development involves the introduction of 1.6km of railway line to be used for the stabling of trains during major events in south Wales and forms part of the wider South Wales Metro Scheme. Policies SP14 – Transport Proposals, SP15 – Integrated Transport and T1 – Railways are supportive of rail related schemes with specific reference made to those that enhance capacity and services along the London – South Wales mainline.

Nature Conservation

The proposed line runs within and along an area of land currently made up of scrubland and woodland. The views of the Ecologist and Landscape Officers should be sought with regards to the acceptability of the proposal in relation to nature conservation issues and mitigation measures necessary.

Flood Risk

The site is within Flood Risk Zone C1. The applicant is therefore required to prepare a Flood Risk Assessment and demonstrate that the tests of TAN 15 can be satisfied. The views of NRW should be sought.

Conclusion

There is substantial policy support for proposals that enhance rail facilities and capacity, particularly along this mainline. There are no policy objections to the application, subject to satisfactory comments from the relevant consultees.

5.3 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): No objections.

5.4 PUBLIC PROTECTION MANAGER: No objection subject to a Construction Environmental Management Plan condition.

6. REPRESENTATIONS

6.1 NEIGHBOURS: A site notice was displayed and a press notice was published in the South Wales Argus on the 24 November 2018. No houses were consulted since none lie within 100m of the edge of the site.

6.2 COUNCILLORS: No comments received.

6.3 LLANWERN COMMUNITY COUNCIL: No comments received.

7. ASSESSMENT

7.1 The Site

7.1.1 The site lies within the Eastern Expansion Area on land immediately to the north of the Glan Llyn Regeneration Site. The land lies beyond the new reën built along the northern edge of the regeneration site within an area fenced off from the main regeneration area. The application site is within a corridor between the regeneration site and the main South Wales railway line. This corridor contains:

- Two railway lines serving the retained steelworks (Tata Service Lines) & a parallel vehicle track for general maintenance and access,
- HT lines,
- Extensive areas of woodland which appear to have established since the steelworks was established in the early 1960s,
- Various reëns which appear to have been retained from the historic field pattern.

The site is level and falls within Zone C1 (defended flood plain) of the Welsh Government's Development Advice Maps. The site is also within the Gwent Levels Archaeologically Sensitive Area. The site is within the urban boundary and forms part of the Eastern Expansion Area. The site area is approximately 30m wide and 1.6Km long.

7.2 The Proposal

7.2.1 The proposal is to provide 1.6Km of single track railway line, and associated track bed, drainage and fencing on land to the north of the Tata service lines (Glan Llyn). The track will provide 'Major Event Stabling' (MES); effectively sidings for trains during times of high travel demand, such as the 6 Nations or other big events in South Wales.

7.2.2 The proposal includes extensive amounts of ecological mitigation including low density wet woodland planting covering approximately 1.1Ha on the site and extensive offsite planting including:

- Native woodland - 30,200 square metres

- Woodland Edge Planting – 21,690 square metres
- Enhancement to existing wet grassland - 3,700 square metres

7.3 The Key Issues

7.3.1 The key issues are:

- Principle of Development
- Loss of Woodland
- Impact on Species
 - Dormice
 - Bats
 - Great Crested Newts
 - Reptiles
 - Badgers
 - Birds
- Noise & Vibration
- Lighting
- Archaeology

Other issues are:

- Flooding
- Drainage

7.4 Principle of Development

- 7.4.1 The site lies within an existing infrastructure corridor and contains existing railway lines and HT lines. Policy T1 supports the provision of new railway infrastructure at Llanwern (Glan Llyn) and it has always been envisaged that this would be developed within this corridor. There is strong policy support for the proposal.

7.5 Loss of Woodland - Landscape & Visual Amenity

- 7.5.1 Policy GP5vii (woodland) requires woodland retention, and no unacceptable loss of woodland that has wildlife or amenity value. This scheme will require the loss of woodland / scrubland within the corridor that has developed over the last 60 years or so. This proposal will result in the loss of approximately 2.9Ha of woodland. Under the proposal the loss was to be compensated for by the provision of 5.8Ha of new woodland with some of that provided on site and the rest off-site adjacent to the Tata Reservoir on Llanwern Hill. A replacement ratio of 2:1 new habitat to old habitat was agreed on consultation with Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW). None of the woodland to be removed is subject to statutory protection.

- 7.5.2 In terms of the amenity value of the woodland, the closest views are from the houses being built on the Glan Llyn site. Currently development is still some way to the south, approximately 250m away, but further stages will bring housing closer to the northern infrastructure corridor. In terms of the currently extant Western Sub-Area Masterplan for Glan Llyn the boundary areas between the housing and the infrastructure corridor are described as being:

Ecology Park & Northern Woods (the area of the infrastructure corridor) - These edges border dense woodland areas with limited public access. As a result dwellings will generally back onto these areas with rear fences forming the boundaries. Where pedestrian and cycle routes provide access into the woodland areas dwellings should be designed to provide some overlooking.

As such it can be expected that the proposed houses will back onto the transport corridor rather than directly engaging with it.

7.5.3 As such the woodlands will offer limited visual amenity, being viewed from the private realm rather than from public vantage points. As it stands the view would be across the new reën and then through fencing to the Tata Service Lines. The current arrangement has views of railway track and associated development with the wooded area set back beyond the existing railway lines. Under this proposal the new track will be to the north of the existing lines and not nearer the proposed houses than the tracks which are already in place. Although woodland will be removed, the available view will not greatly change. Future residents will see railway lines with a back drop of woodland although the railway corridor will be widened. As such the harm to the visual amenity of future occupiers will be slight and Policy GP2 (visual amenity & landscape character) is complied with since harm to visual amenity is very limited harm. In terms of Policy CE1 (Routeways, Corridors & Gateways) the impact on views from the South Wales Mainline Railway will be nil or negligible so the requirements of the Policy are met.

7.5.4 The Tree Officer has not objected to the proposal and subject to conditions securing the necessary re-planting, the overall harm to landscape character and visual amenity resulting from the loss of the woodland can be compensated for and is acceptable.

7.6 Impact on Species

7.6.1 The infrastructure corridor contains a long stretch of self-seeded woodland, standing water habitats in the reens and running water in the Monk's Ditch. Some of the ground is noticeably wet. The applicant concludes that the site is of local importance in habitat terms but offers potential habitat to a variety of species including protected species. A variety of surveys were undertaken and the site was concluded as being of County value for certain protected species. The Ecological Impact Assessment considered the following to be of ecological importance within (or near) the site:

- Ecological Designations
- Certain habitats: wet woodland, open mosaic habitat and reedbed
- Protected and Notable species: breeding birds, bats, badgers, dormice, otter, water vole, Great Crested Newts, Reptiles, Invertebrates
- Invasive plants

7.6.2 In terms of avoidance the scheme has been located close to the existing Tata Service Lines and minimises the woodland loss whilst retaining a large and coherent woodland block. Reens have been avoided or will be re-routed to accommodate the scheme. The following mitigation is proposed:

Table 02 – Proposed Mitigation

Feature	Mitigation
Wet Woodland	Replacement Planting at a ratio of 2:1
Open Mosaic	Habitat Management – planting of suitable food plants
Reedbed	Protection via CEMP, colonisation of new habitat
Breeding Birds	No clearance in breeding season, replacement habitat
Bats	Bat boxes to replace lost roosting opportunities, woodland management to increase foraging opportunities
Dormice	Control over clearance, compensatory habitat, improved management of retained habitat. CNC/NRW licence required.
Otter & Water Vole	Protection via CEMP
Badgers	Protection via CEMP. CNC/NRW licence may be required.
Reptiles	Careful clearance, creation of refugia. New offsite habitat – woodland and glades
Invertebrates	Habitat Management – planting of suitable food plants

Invasive Species	Use of CEMP to prevent spread, introduce management programme to eradicate in the future.
Mitigation Summary	<ul style="list-style-type: none"> ● Large-scale Off-Site Habitat Creation: The creation of a large area of woodland planting is proposed to the north of the Site. Whilst this is proposed as mitigation for dormice and woodland loss, it will provide a net enhancement to the landscape in terms of habitat and connectivity for species such as bats and birds; ● New Landscape Planting On-Site: New landscape planting will incorporate native species or species of wildlife value (i.e. fruit bearing shrubs). New and retained habitats will be subject to ecologically sensitive management (i.e. timing of cutting to ensure flowers or fruits are available to wildlife). Detailed landscape plans have been provided; ● Habitat Management: Sensitive timing of on-going management will be incorporated into a management plan which will enhance the remaining habitat on-Site and the replacement habitat off-Site in the long-term. Details of habitat management have been submitted; ● Bat Boxes: New bat boxes will be installed on trees to provide replacement and enhanced roosting opportunities within the Site; ● Bird Boxes: New bird boxes could be installed on trees to provide enhanced nesting opportunities for birds within the Site; ● Artificial Refugia: Cut vegetation and trees will be retained to create refugia and log piles within retained woodland and along edge habitats to provide opportunities for reptiles, amphibians and invertebrates; ● Retention of Deadwood: Within the woodland, where possible, standing and fallen deadwood should be retained to provide opportunities for saproxylic⁵ invertebrates; and ● Insect Boxes: Insect boxes can be installed in retained areas of woodland at Site boundaries to provide enhanced nesting opportunities for invertebrates.

7.6.3 Policy GP5 of the adopted LDP requires proposals to be designed and managed to protect and encourage bio-diversity and ecological connectivity. In this case the proposal requires the loss of woodland which has been shown to have significant ecological potential in terms of habitat for protected species. The scheme cannot avoid harm to the relevant habitat and the tree clearance works are an inescapable necessity of the scheme. However the scheme includes extensive on-site and off-site mitigation as described in Table 02 (above) which can be conditioned and is judged to be acceptable in off-setting the identified harms. In terms of construction, conditioning the Construction and Environmental Management Plan (CEMP) can control vegetation removal and other construction methodologies which will protect species interests and wider habitat interests. The Council's adopted Supplementary Planning Guidance (Wildlife & Development, August 2015) requires replacement of lost habitat at a ratio of 1 to 1.5 (ie that replacement habitat is at least 50% larger than what is lost to compensate for any qualitative loss of habitat). In this instance the compensatory habitat is sufficient in quantitative terms and provides a range of habitat types and it is considered sufficient to offset the harm caused by the proposed woodland clearance. Additionally other mitigatory measures via enhancements within the retained habitat and improved management in ecological interests offer further opportunities to offset any identified harm. Officers conclude that GP54 is complied with since no significant

⁵ Saproxylic invertebrates are those invertebrates that are dependent on dead or decaying wood

adverse impacts to ecological interests will occur subject to an appropriate conditioning regime being applied.

7.7 Noise & Vibration

- 7.7.1 The applicant has provided the document 'Noise & Vibration Assessment' (September 2018). This document considers construction noise and operational noise and concludes that subject to the application of suitable construction hours (achieved via the CEMP) then construction activities will not have any adverse impact on amenity.
- 7.7.2 In terms of operational noise the assessment concludes that the new line will not have any significant noise and vibration impact over and above the existing freight movements on the Tata Service Lines which will be closer to the proposed housing on Glan Llyn than the new line would be. As such the development is acceptable in terms of its impact on noise and vibration. Policy GP2 (general amenity) and GP7 (Environmental Protection) are complied with since there will be no unacceptable increase in noise or vibration.

7.8 Lighting

- 7.8.1 No lighting is proposed for the new line. However railway undertakers have significant permitted development rights on their operational land and so it is proposed to apply a condition controlling lighting in the interests of residential amenity given the future proximity of housing to the site and the potential for light spill.

7.9 Archaeology & Historic Landscape

- 7.9.1 The site lies within an Archaeologically Sensitive Area, the Gwent Levels. The applicant has submitted a 'Desk Based Archaeological Assessment' (September 2018). This advises on the potential for the site to contain archaeological remains and concludes that minimally a watching brief should be maintained on all works of ground disturbance.
- 7.9.2 The Glamorgan & Gwent Archaeological Trust (GGAT) have commented on the application and conclude that the submitted Assessment *'is flawed as it does not contain appropriate sources, and as it is based on incomplete data does not provide sufficient material to allow an informed decision for the planning process, and does not meet the ClfA Standard'*. However the submission of a suitable scheme of archaeological investigation can be conditioned and as such the objection from GGAT is not considered a reason to withhold planning permission.
- 7.9.3 GGAT suggests that CADW should be consulted in relation to the impact on the Gwent Levels Historic Landscape. However Officers consider that the development is sufficiently far from the Historic Landscape and given its characteristics (slight ground raising and low to the ground) and the nature of the application site (railway corridor), then the proposal will not have any significant impact on the historic landscape and no further assessment is required.

7.10 Flooding

- 7.10.1 The site lies within Zone C1 of the Welsh Government's Development Advice Maps. Zone C1 is categorised as a floodplain served by significant infrastructure. National Policy requires that development is directed away from the floodplains and any development within the floodplain must be shown to be necessary in that location and sufficiently flood resilient to be acceptable in overall planning terms. The justification tests are contained in Technical Advice Note 15 (TAN15). The development must be part of a strategy to sustain an existing settlement or be part of

meeting key employment objectives, be on previously developed land and the inevitable flood event shown to be manageable.

7.10.2 In this case the site lies within the urban boundary and can be seen as part of a strategy to support an existing settlement and support local employment. The site is not brownfield having the character of a naturalistic environment despite being within an established infrastructure corridor. In terms of flood risk the development is of very low vulnerability being inherently robust and with the capacity for vulnerable elements (rolling stock and low numbers of personnel) to be removed from the site. Overall although failing the brownfield element of the justification test in strict terms, the site is within an existing infrastructure corridor and provision of additional railway infrastructure in this location is entirely rational and is therefore considered to be justified in this location. As an inherently robust form of development with a low vulnerability to flooding the future risks to the development are considered slight and therefore acceptable and the identified departures from TAN15 recommendations are slight and not harmful overall. The proposal complies with Policy GP1ii (Climate Change & Flood Risk).

7.11 Drainage

7.11.1 The proposal shows the new line being served by a bespoke drainage system. A series of surface water drains will collect water and channel it to existing reens. The system will incorporate catch pits and oil separators to prevent sediment and hydrocarbons entering the reen system. Subject to the incorporation of these measures water quality and wider ecological interests can be protected. This can be achieved under condition.

7.12 Ground Contamination

7.12.1 The applicant has provided a 'Ground Conditions and Contamination Report'. This concludes that contamination risks arise from made ground within the site that may contain materials derived from steel manufacture (slag etc.) or materials derived from the adjacent Tata Service Lines (hydrocarbons etc.). The report concludes that risks are low other than in relation to foundation structures which may be vulnerable to attack by sulphur compounds derived from underground peat deposits. This can be addressed by using appropriate concrete types in foundation works. The report recommends detailed testing for ground contamination. This and any necessary mitigation can be achieved under condition.

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 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 The proposal is policy compliant and planning permission should be granted subject to conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

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

- Drawing 367590-MMD-48-XX-DR-C-0006 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 Cross Sections
- Drawing 367590-MMD-48-XX-DR-C-0002 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 General Arrangement Plan Sheet 1 of 4
- Drawing 367590-MMD-48-XX-DR-C-0003 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 General Arrangement Plan Sheet 2 of 4
- Drawing 367590-MMD-48-XX-DR-C-0004 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 General Arrangement Plan Sheet 3 of 4
- Drawing 367590-MMD-48-XX-DR-C-0005 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 General Arrangement Plan Sheet 4 of 4
- Drawing 367590-MMD-48-XX-DR-C-0200 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 Landscape Mitigation Plan Sheet 1 of 3
- Drawing 367590-MMD-48-XX-DR-C-0201 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 Landscape Mitigation Plan Sheet 2 of 3

- Drawing 367590-MMD-48-XX-DR-C-0300 P3 - South Wales Metro - Task Order 048
Llanwern Rail Facilities - Phase 1 Proposed Track Drainage Sheet 1 of 2
- Drawing 367590-MMD-48-XX-DR-C-0301 P2 - South Wales Metro - Task Order 048
Llanwern Rail Facilities - Phase 1 Proposed Track Drainage Sheet 2 of 2

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 Tree Protection: Tree Protection fencing shall be installed to British Standard 5837:2012 (Trees in relation to design, demolition and construction) as shown in Drawing 365790-MMD-26-XX-DR-C-0534 P1 – South Wales Metro, Task Order 26 Species Mitigation Plan before any works of tree felling start on the site. The fencing shall be retained as installed until construction works are complete. No vehicles shall be trafficked or parked, materials or waste stored, fires lit, liquids disposed of or trees lopped, topped, felled or otherwise altered or destroyed in the area protected by the fencing.

Reason: to protect retained trees on the site in the interests of ecology, landscape and visual amenity.

Other conditions requiring the submission of information

03 Ecological Monitoring and Contingency Plan: Within 12 months of any tree clearance on the site an Ecological Monitoring and Contingency Plan shall be submitted to the Council in writing. The plan shall set out:

- Short term ecological objectives, 1-5 years,
- Mid term ecological objectives, 6-10 years
- Long-term ecological objectives, 11-20 years
- A monitoring regime to assess whether the ecological objectives set out are being achieved. The monitoring reports shall be provided in writing to the Council in accordance with a timetable contained within the plan.

In the event monitoring shows the ecological objectives are not being achieved, an ecological contingency plan shall be provided to the Council in writing. Following the Council's written agreement the contingency plan shall be implemented as agreed going forward. For clarity the plan shall end after 20 years.

Reason: to ensure ecological mitigation / compensation is effective in the interests of bio-diversity and wider sustainability and to ensure the development causes no unacceptable ecological harm long-term.

04 Contamination condition:

General conditions

05 CEMP: All works shall be carried out in accordance with the submitted Construction Environment Management Plan (September 2018).

Reason: to protect ecological interests, highway safety and the amenity of nearby residents.

06 Planting: Replacement planting shall be completed and maintained as described in Appendix C (Planting Schedule for On and Off-site Mitigation) and Appendix D (Long Term Woodland Management Plan) of the On-site and Off-site Mitigation and Monitoring Plan (November 2018). All planting shall be completed in the first full planting season following the removal of any trees within the application site or in accordance with any phased planting programme as may be submitted to and agreed in writing by the Local Planning Authority.

Reason: to secure compensatory planting in the interests of maintaining ecological diversity.

07 Clearance: All vegetation clearance works on the site shall strictly accord with the methodologies described in:

- Reptile Method Statement

- Dormouse Mitigation & Monitoring Strategy
- Badger Method Statement
- Breeding Birds Method Statement
- Tree Removal Method Statement

Reason: to protect species and habitats from unnecessary harm.

08 Ecological Mitigation: All bird, bat and dormouse boxes and brash piles shall be provided as described within the On-site and Off-site Mitigation and Monitoring Plan (November 2018) within 12 months of the date of any tree clearance on the site or in accordance with any other timetable as may be submitted to and agreed in writing by the Council.

Reason: to replace lost roosting and nesting places for these species and to create suitable habitat for reptiles and amphibians in the interests of ecological mitigation / compensation.

09 Lighting: no permanent lighting shall be installed along the new track unless prior agreement has been provided in writing by the Council.

Reason: to protect ecological interests and residential amenity.

10 Archaeology: 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 application 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 protect the archaeological resource.

11 Run off: The proposed surface water drainage system shall be provided in full at or prior to the completion of the railway line or as necessary to serve any partial completion of the line. Prior to the installation of any 'separator' details shall be provided in writing to the Council showing that the separator is capable of removing hydrocarbons from the run-off to a sufficient capacity to protect local water bodies and ground waters from pollution. Following the Council's written agreement the separators shall be installed as agreed and thereafter retained.

Reason: to protect water quality and wider ecological interests.

NOTE TO APPLICANT

01 This decision relates to the following non-conditioned plans & documents:

- Design and Access Statement (November 2018),
- Drawing 367590-MMD-48-XX-DR-C-0001 P3 - South Wales Metro - Task Order 048 Llanwern Rail Facilities - Phase 1 Site Location Plan
- Arboricultural Assessment (September 2018)
- Desk Based Archaeological Assessment (September 2018)
- Habitats Regulations Assessment (HRA) Stage 1 Screening (September 2018)
- Planning Statement (November 2018)
- Terrestrial & Aquatic Invertebrate Survey at land north of Tata Steel, Llanwern, Newport
- Tree Removal Method Statement (13/11/2018)
- Water Quality Assessment Report (September 2018)
- Arboricultural Assessment (September 2018)
- Bat Survey Report (September 2018)
- Breeding Bird Survey Report (September 2018)
- Construction Environmental Management Plan (CEMP) (September 2018)
- Dormouse Mitigation and Monitoring Strategy (November 2018)
- Dormouse Survey Report (November 2018)
- Ecological Impact Assessment (November 2018)
- Flooding Consequences Assessment (November 2018)

- Hydraulic Modelling Report (November 2018)
- Great Crested Newt Survey Report (September 2018)
- Ground Conditions and Contamination Report (September 2018)
- Habitats Regulations Assessment (HRA) Stage 1 Screening (September 2018)
- Noise and Vibration Assessment (September 2018)
- On-Site and Off-Site Mitigation and Monitoring Plan (November 2018)
- Phase 1 Planning - Otter and Water Vole Survey Report (November 2018)
- Pre-Application Consultation Report (November 2018)
- Preliminary Ecological Appraisal Report (November 2018)
- Reptile Survey Report (September 2018)
- Water Quality Assessment Report (September 2018)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP9, SP11, SP14, GP1, GP2, GP5, GP7, CE3, CE4, CE6, CE9 & T1 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 Vegetation clearance is not development for the purposes of S55 of the Town & Country Planning Act 1990

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

APPLICATION DETAILS

No: 4 **18/0985** **Ward: LLISWERRY**

Type: FULL

Expiry Date: 15-JAN-2019

Applicant: NIAMH MONK, NEWPORT NORSE

Site: TRADING STANDARDS, STEPHENSON STREET, NEWPORT, NP19 0RB

Proposal: INSTALLATION OF ROLLER SHUTTER TO ENTRANCE DOOR

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks consent for the installation of a roller shutter to the entrance door at The Bridge Achievement Centre, Stephenson Street, Newport.

2. RELEVANT SITE HISTORY

91/1447	ENCLOSURE OF EXISTING COURTYARD AND CANOPY AREA	NO OBJECTION SUBJECT TO CONDITIONS
13/0654	CHANGE OF USE OF EXISTING BUILDING FROM OFFICE TO EDUCATION USE (PUPIL REFERRAL UNIT) INCLUDING THE PROVISION OF NEW WINDOWS AND REPLACEMENT WINDOWS AND NEW PERIMETER FENCING	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

- 3.1 Policy GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) is relevant to the determination of this planning application as is the adopted "Security Measures for Shop Fronts and Commercial Premises" Supplementary Planning Guidance (adopted August 2015).
- 3.2 Policy GP6 (Quality of Design) states: good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:
- i) Context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
 - ii) Access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
 - iii) Preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
 - iv) Scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
 - v) Materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
 - vi) Sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing

buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 None.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All neighbours with a common boundary were consulted on the application (8no properties) and no responses were received.

6.2 COMMUNITY COUNCIL (NASH): No response received.

7. ASSESSMENT

7.1 The proposed roller shutter will be installed to the external entrance in the front elevation of the property and will measure a height of 2.72m and a width of 3.35m. The proposed roller shutter is a solid polyester powder coated shutter.

7.2 The property is located along Stephenson Street within the Felnex Industrial Site. The building is currently being run as The Bridge Achievement Centre, a Pupil Referral Unit that provides education and support for learners who are not accessing mainstream school. Planning permission was granted in 2013 for the change of use from office use to education use (pupil referral unit).

7.3 The Newport City Council Security Measures for Shop Fronts and Commercial Premises SPG states that 'shutters, their housing and guiderails should be designed to have the minimum possible adverse impact on the appearance of the premises, the whole building and the street in general.' The SPG states that solid shutters are only acceptable in industrial areas. The site is located within an area with a high concentration of industrial uses. Due to the layout of the property, the proposed roller shutter would not be visible from either side elevation. The roller shutter will be setback 4.3m from the front elevation to the west, and 1.9m from the east elevation. It is considered that the proposed roller shutter, by virtue of the unit's location within an industrial area, would not have an unacceptable impact on the character or appearance of the area.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

- 8.3 Having due regard to advancing equality involves:
- removing or minimising disadvantages suffered by people due to their protected characteristics;
 - taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
 - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.
- 8.6 ***Planning (Wales) Act 2015 (Welsh language)***
Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.
- 8.7 ***Newport's Well-Being Plan 2018-23***
The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

- 9.1 The proposed solid roller shutter by reasons of its location, scale and design would preserve visual amenities and would preserve the character and appearance of the property and the street scene in accordance with the Newport Local Development Plan 2011-2026 (adopted January 2015).

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Proposed Roller Shutter Received 21/11/2018.

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

NOTE TO APPLICANT

01 This decision relates to plan Nos: Proposed Roller Shutter Location Plan Received 20/11/2018 and Proposed Roller Shutter Received 21/11/2018.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policy GP6 was 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.



Report

Planning Committee

Part 1

Date: 9 January 2019

Item No: 6

Subject **Appeal Decisions**

Purpose To inform Members of the outcome of recent appeals

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

Wards Malpas, Graig

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

Planning Application Appeal	
Reference	18/0353
Address	Garth Farm House, Wentworth Close, Bassaleg, Newport NP10 8PZ
Development	FELLING OF CEDAR TREE PROTECTED BY TPO 18/MON T15
Appellant	L Byfield-Moore
Delegated Decision	Refused
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Application Appeal	
Reference	18/0709
Address	56 Hollybush Avenue, Newport NP20 6ET
Development	PROPOSED FIRST FLOOR EXTENSION TO EXISTING BUNGALOW, SINGLE STOREY SIDE EXTENSION AND ADDITION OF A PORCH
Appellant	Mr Rafal Struszczak
Delegated Decision	Refused
Committee Decision	N/A
Appeal Decision	Dismissed

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