

# Agenda



## Planning Committee

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Date: Wednesday, 7 August 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, J Jordan, C Townsend, R White and M Linton

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### **Part 1**

<b>Item</b>	<b>Wards Affected</b>
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 03/07/2019 (Pages 3 - 8)</u>	
4. <u>Development Management: Planning Application Schedule (Pages 9 - 50)</u>	
5. <u>Appeal Decisions (Pages 51 - 58)</u>	

Contact: Lisa Davies, Governance Officer :

Tel: 01633 656656

E-mail: [democratic.services@newport.gov.uk](mailto:democratic.services@newport.gov.uk)

Date of Issue: Wednesday, 31 July 2019

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# Minutes



## Planning Committee

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Date: 3 July 2019

Time: 10.00 am

Present: Councillors J Richards (Chair), J Guy (Deputy Chair), G Berry, J Clarke, D Fouweather, 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) and Joanne Davidson (East Area Development Manager)

Apologies: Councillors M Al-Nuaimi, V Dudley and T Holyoake

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### 1. **Declarations of Interest**

Cllr Richard White - Governor of Bassaleg School, left the Chambers

### 2. **Minutes of the previous meeting**

The minutes of the meeting held on 05 June 2019 were submitted

#### **Resolved**

That the minutes of the meeting held on 05 June 2019 be taken as read and confirmed, subject to the above.

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

It was noted that Councillor Richard White left the Committee once application 19/0350 was determined

#### **Resolved**

- (1) That decisions be recorded as shown on the Planning Applications Schedule 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.

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**Appendix A**

**PLANNING COMMITTEE – 03/07/2019**

**DECISION SCHEDULE**

No	Site/Proposal	Ward	Additional Comments	Decision
<p align="center">Page 5</p>	<p><b>19/0040</b></p> <p><b>Site:</b> Former Penrhos Quarry, Usk Road</p> <p><b>Proposal:</b> Change of use of part of disused quarry to holiday park, including the sitings of holiday lodges and pods with improved access, parking facilities and maintenance building</p>	<p><b>Caerleon</b></p>	<p>Public Speaker Nicola Lovell spoke objecting to the application.</p> <p>Public Speaker leaun Williams – Agent, spoke in favour of the application.</p> <p>Ward Member Cllr Gail Giles spoke against the application, with the main concerns being the impact of traffic in vicinity of the site. Commented that the lane should not have been installed in the first place, as also agreed by Wales Planning Inspectorate. Changeover of visitors could result in double the amount of traffic. None of the plans fit in Travel Plan.</p> <p>Ward Member Cllr Jason Hughes spoke against the application, with concerns of too many variables with the application. At the very least applications in this area should have an environmental assessment carried out. Inspectorate already noted concerns for the environment.</p> <p>Cllr Hughes then recommended that in order to support local residents a comprehensive assessment of the environment site is needed.</p> <p>Ward Member Cllr Joan Watkins spoke against the application. Could see advantages for tourism, however the difficulties are the issues around traffic and air pollution. Extremely high levels through one way system.</p>	<p><b>The Committee requested a site visit to consider:-</b></p> <p><b>Access arrangements, the impact on the footpath and to understand how the proposed use will fit within the locality</b></p> <p><b>Site visit arranged for Thursday 11<sup>th</sup> July 2019.</b></p>

No	Site/Proposal	Ward	Additional Comments	Decision
18/0802	<p><b>Site:</b> Crown Buildings, Clarence Place</p> <p><b>Proposal:</b> Conversion of office building to 56no. flats, provision of roof top garden and use of ground floor for ancillary gymnasium and storage area</p>	Victoria	<p>Key benefit, reuse of currently unused site. Securing alternative use is a benefit.</p> <p>Public Speaker Lloyd Jones – Agent, spoke in favour of the application.</p>	Granted with Conditions
18/0566	<p><b>Site:</b> Land to the east of Caerleon House, Cleppa Park, Coedkernew</p> <p><b>Proposal:</b> Proposed construction of a 3 storey commercial unit with ground floor retail and offices above, on site car parking and refuse storage facility</p>	Marshfield	<p>Error on paragraph 7.2, maximum height should read 18.5m not 11.2m.</p> <p>After extensive searching and contact with partner agencies unable to find out owner of drain.</p>	Granted with Conditions
19/0009	<p><b>Site:</b> Hillside Resource Centre, Gaer Road</p> <p><b>Proposal:</b> Demolition of existing care home and the construction of 14 house and associated works</p>	Gaer	<p>Public Speaker Kathryn Williams – Agent, spoke in favour of the application.</p> <p>Committee commented that this was a well needed development as the premise had ben derelict for a while.</p>	Granted with Conditions
19/0350	<p><b>Site:</b> Bassaleg School, Forge Road</p> <p><b>Proposal:</b> Erection of demountable classroom unit on existing hard standing</p>	Graig	<p><b>Cllr Richard White declared an interest, as he is a Chair of Governors for Bassaleg School.</b></p> <p>Concerns had been raised from residents regarding additional parking issues and decline in air quality.</p>	Granted with Conditions

No	Site/Proposal	Ward	Additional Comments	Decision
<p style="text-align: center;">Page 7</p>	<p><b>Site:</b> 372 Chepstow Road</p> <p><b>Proposal:</b> Removal of condition 04 (restriction of opening hours) of planning permission 17/0606 for use of property for retail (a1) or a gym (d2)</p>	<p><b>Alway</b></p>	<p><b>Cllr John Guy left the room due to pre-determination issue.</b></p> <p><b>Cllr Richard White returned to the room.</b></p> <p>Officer noted that during consideration of previous application there were no objections but officers had concerns about 24 hour opening hours, so conditions imposed restriction of hours.</p> <p>Ward Member Cllr Deb Harvey spoke against the application, advising failing to see the need in having a 24/7 gym open in a residential area. Light pollution would also be an issue even if blinds were installed.</p> <p>Ward Member Cllr Ray Truman spoke against the application, advising parking in the area is already an issue, and with the lighting and noise problem these opening hours shouldn't be mixed with a residential area.</p>	<p><b>Refused due to increased noise and disturbance from customers coming and going in the early hours of the morning will adversely affect neighbouring residents.</b></p>
<p><b>19/0496</b></p>	<p><b>Site:</b> 108 Cae Perllan Road</p> <p><b>Proposal:</b> Proposed single storey extension to rear of property</p>	<p><b>Gaer</b></p>	<p>Committee commented that even though no neighbours have made any responses, the extension seems to have effect on neighbours bay window. Committee were advised that no objections to the plan had been received.</p>	<p><b>Granted with Conditions</b></p>

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# Report

## Planning Committee

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### Part 1

Date: 7<sup>th</sup> August 2019

### **Subject** Planning Application Schedule

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

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

**Ward** As indicated on the schedule

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

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

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

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

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

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

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

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

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

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

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

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

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

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

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, 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.

<b>Risk</b>	<b>Impact of risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b>	<b>Who is responsible for dealing with the risk?</b>
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development 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:** 18/1198      **Ward:** *PILGWENLLY*

**Type:** FULL (MAJOR)

**Expiry Date:** 07-AUG-2019

**Applicant:** *ALWYN JENKINS, OAKLEIGH HOUSE DEVELOPMENTS LTD*

**Site:** *LAND AND BUILDINGS ENCOMPASSING 104 AND 105, LOWER DOCK STREET, NEWPORT*

**Proposal:** *CHANGE OF USE FROM OFFICE (B1 USE) TO 15NO. FLATS (C3 USE) INCLUDING THE CREATION OF REAR DORMER, INSERTION OF 4NO. CONSERVATION VELUX ROOFLIGHTS AND ASSOCIATED WORKS*

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

**1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the conversion of former offices to residential use. The buildings are three storey's, located on the corner of Lower Dock Street and John Street. They are within the Lower Dock Street Conservation Area.
- 1.2 It is proposed to provide 15 no. flats in total. It is also proposed to create a rear dormer extension, insert 4 no. roof lights and create amenity space and a bin store within the space to the rear of the buildings.

**2. RELEVANT SITE HISTORY**

02/1620	EXTERNAL ALTERATIONS INCLUDING INSTALLATION OF REPLACEMENT WINDOWS	Granted with conditions
04/0745	ERECTION OF A THREE STOREY REAR EXTENSION, ALTERATIONS TO SITE ACCESS AND PROVISION OF PARKING	Granted with conditions
04/0765	CONSERVATION AREA CONSENT FOR REMOVAL OF METAL SHED AND PART OF THE REAR OF THE BUILDING	Granted
17/0802	DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF 1NO. SINGLE STOREY UNIT (USE CLASS A1/A2/A3), TOGETHER WITH ASSOCIATED PEDESTRIAN ACCESS, DELIVERY BAY, WALLS, GATES AND RAILINGS (1-2 East Market Street)	Granted with conditions
19/0466	CHANGE OF USE OF GROUND FLOOR FROM DANCE STUDIO TO MIXED USE OF B1, A1 & A2 CONVERSION OF UPPER FLOORS TO CREATE 5NO. FLATS, INSTALLATION OF NEW WINDOWS TO FRONT ELEVATION AND SECOND FLOOR REAR EXTENSION (106-107 Lower Dock Street)	Under consideration

**3. POLICY CONTEXT****3.1 Newport Local Development Plan 2011-2016 (adopted January 2015)**

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

Policy **SP9 Conservation of the Natural, Historic and Built Environment** protects habitats and species as well as Newport's listed buildings, conservation areas, historic parks and

gardens, scheduled ancient monuments, archaeologically sensitive areas and landscape designated as being of outstanding historic interest.

Policy **SP13 Planning Obligations** enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.

Policy **SP18 Urban Regeneration** supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.

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

Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

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

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

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

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

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

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

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

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

Policy **W3 Provision for Waste Management Facilities in Development** states that where appropriate, facilities for waste management will be sought on all new development.

#### 4. CONSULTATIONS

4.1 WALES AND WEST UTILITIES: Advise of apparatus in the area.

4.2 SOUTH WALES FIRE AND RESCUE: No response.

- 4.3 HEDDLU – GWENT POLICE (ARCHITECTURAL LIAISON): No response.
- 4.4 NEWPORT CIVIC SOCIETY: No response.
- 4.5 DWR CYMRU – WELSH WATER: No objection however, we advise that the public sewers mapped on our records within the vicinity of the site are large diameter brick egg sewers and therefore are a strategic asset of which we would not permit a new direct connection onto. If a new connection to a public sewer is required then we recommend you undertake a sewer trace to establish appropriate sewers that could facilitate a new connection. We recommend that any drainage layout or strategy submitted as part of your application takes this into account.
- 4.5.1 We note it is proposed to install a 'Waste Compound' and associated retaining wall within the easement of the onsite public sewer. The applicant is advised to establish if a Build Over Sewer Agreement will be required and permitted for this proposal.
- 4.6 NEWPORT ACCESS GROUP: No response.
- 4.7 REGIONAL AMBULANCE OFFICER: No response.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF CITY SERVICES (WASTE): No objections or issues arising from this one, collection will be made in John Street rather than Lower Dock Street and calculating 15 apartments by 120l equates to 1800l so 1 x 1100 euro with a 660l bin for residual fortnightly collections.
- 5.2 HEAD OF LAW AND REGULATION (ENV.HEALTH): No objection. However, until the proposed noise mitigation scheme submitted in Acoustics and Noise Report has been implemented and confirmed in writing prior to the initial occupation of each individual flat we wouldn't be able to recommend the full discharge of the internal and external noise condition.
- 5.2.1 Where alternative wall, window and ventilation specifications are chosen to be used in the proposed development, such alternatives must be supported by written information and provided to the Local Planning Authority for agreement in writing; with the provided information also confirming the specification of the alternative wall, window, ventilation to be used and supported by test data stating such alternatives will ensure the internal noise levels for habitable rooms stated in the proposed internal and external noise condition will be achieved.
- 5.3 PLANNING CONTRIBUTIONS MANAGER: An 'open book' viability appraisal was undertaken utilising the Council's Three Dragons Toolkit, which concluded that the scheme was unable to provide the suggested planning obligations and retain a sustainable profit margin.
- 5.4 HEAD OF CITY SERVICES (LEISURE): No response.
- 5.5 HEAD OF REGENERATION, INVESTMENT AND HOUSING (AFFORDABLE HOUSING): The building has been empty for some time and therefore its reuse is to be welcomed and will provide residential accommodation in a very sustainable location, within easy reach of all facilities.
- 5.6 HEAD OF CITY SERVICES (HIGHWAYS): No objection. The site is located within Zone 1 City Centre in close proximity to a number of facilities, services and public transport links. When taking into consideration the sustainable location in accordance with the Newport City Council Parking Standards, parking is not required.
- 5.7 HEAD OF CITY SERVICES (ACTIVE TRAVEL): No response.
- 5.8 HEAD OF EDUCATION: No response.
- 5.9 HEAD OF CITY SERVICES (ECOLOGICAL): Due to the nature of the site activity surveys were not considered to be practical as there would be too much of the roof that the ecologists

wouldn't be able to see. I have agreed that it would be appropriate for the works to be undertaken under a non-licenced method statement and under the supervision of an ecologist. Therefore, if you are minded to grant this application, please include a condition specifying that works must be undertaken in accordance with Section 6 of the submitted report (issue 1, version b).

5.10 HEAD OF CITY SERVICES (DRAINAGE): Objection. The following information should be submitted:

- Confirmation of the proposed surface water drainage strategy, showing appropriately sized Sustainable Drainage Systems (SuDS) features where appropriate, indicative levels and a suitable outfall location/discharge point if necessary reusing an existing private connection to the public sewer.
- Evidence that due consideration has been given to the ongoing operation & maintenance of the surface water drainage strategy for the life time of the development.
- The development is located within flood zone B. A flood statement confirming whether the flood risk, impact and consequences from all sources are acceptable over the lifetime of the development, including details of any change in impermeable surfacing or runoff.

5.11 HISTORIC BUILDINGS AND CONSERVATION OFFICER: I welcome the proposals to bring this long vacant building back into use in principle.

5.11.1 Whilst the rear elevation has limited public visibility, I feel the proposed dormer is excessively bulky. Inspiration might be drawn from historic early 19<sup>th</sup> century dormers which often have a monopitch roof. The arrangement of rooflights is also rather untidy and would benefit from rationalisation.

5.11.2 Given the age of the building, the existing blind window openings may have considerable evidential value as representations of the alterations made to buildings to avoid window tax. Unless it can be demonstrated that these have been blocked in more recent times, they should remain as blind openings.

## 6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (24 properties), a site notice displayed and a press notice published in South Wales Argus.

6.2 A letter of objection from Asda was received. They have undertaken their own noise assessment relating to the movement of their HGV delivery vehicles in proximity to habitable windows. Their noise assessment identifies points of disagreement between their assessment and the applicants' assessment. The Asda assessment calculates noise of pass-by HGV's to be higher than that calculated by the applicants assessment.

6.2.1 The principle concerns they raise are as follows:

- The proposed dwellings would be adversely affected by noise from the Asda delivery vehicles. Deliveries are permitted between 06.30 hrs and midnight, 7 days a week, and access the Asda warehouse along John Street. This would result in refrigerated articulated HGVs passing extremely close to the proposed dwellings in the noise sensitive night-time period.
- The introduction of residential properties in John Street could lead to a conflict of uses, with potential sleep disturbance, noise complaints and noise abatement action. The existing permitted delivery times must be protected as these are an essential requirement to the ongoing operation of the existing Asda store.

6.2.2 They draw the following conclusions:

- It is essential that sound insulation, cooling and ventilation are considered as a whole, with a robust design that fully protects residents from sleep disturbance caused by Asda HGV pass-by activity on John Street at night.
- Their evaluation confirms the proposed façade construction would not reduce the Asda refrigerated HGV pass-by noise level sufficiently to achieve the WHO guideline values for sleep disturbance at night. Their calculations (with windows closed) indicate a 6dB excess, with the actual on-site exceedance likely to be greater if the existing sash windows form part of the overall glazing specification.

- It should be clearly understood that the provision of attenuated background ventilation (such as provided by trickle vents) will not be sufficient to remove the need for residents to open windows to prevent overheating in warm weather. Providing just the minimum background ventilation will therefore force residents to choose between unacceptable thermal conditions in warm weather, or a significant adverse noise impact if they open windows.
- They consider that the only solution that would ensure residents never need to open windows would include a whole house ventilation scheme (suitably attenuated to maintain façade acoustic integrity) coupled with air conditioning to provide cooling when required.

## **7. ASSESSMENT**

7.1 The application site comprises a vacant office building known as 104 to 105 Lower Dock Street that is located within the Lower Dock Street Conservation Area. The property is three storey fronting Lower Dock Street and turns the corner with John Street. Due to the difference in levels at the site the rear of the property is four storey. The surrounding area is characterised by a mix of uses and more modern development. On the southern side are modern commercial premises, while to the north and north east is an Asda supermarket and a petrol filling station.

7.1.1 To the very rear of the site (no. 1-3 John Street) planning permission has been granted for the demolition of the existing buildings and the construction of 1no. single storey unit (Use Class A1/A2/A3). The demolition has been undertaken but works to the new building have not commenced.

### **The proposals**

7.2 The application building has a lower ground, ground, first, second floor and roof space; and it is proposed to utilise all of these floors to create 15 no. flats. It is proposed to use the rear portion of the building to create a studio flat and a one bedroom flat at the lower ground floor level. Both flats would have windows facing towards the rear courtyard area. The remainder of the lower ground floor would be used for cycle storage and other general storage. On the ground floor it is proposed to create 4 no. one bedroom flats. Over the first and second floor it is proposed to create 4 no. one bedroom flats, 2 no. two bedroom flats and two studio flats. In the roof space it is proposed to create a one bedroom flat. It is also proposed to insert 4 no. roof lights and to construct a rear dormer extension which would allow for an adequate staircase into the roof space.

7.2.1 Externally it is proposed to open up existing blind openings on the ground floor and to the roof space in the side elevation facing towards John Street. It is proposed to open up boarded windows on the ground floor of the front elevation, reinstate windows and doors where there are blocked up openings in the rear elevation and also insert new sash windows in existing openings. It is also proposed to open up existing boarded up openings to create two doors and a windows on the lower ground floor of the side elevation which faces towards the rear courtyard.

7.2.2 The rear courtyard is currently overgrown and there are some Leylandii trees within this space. It is proposed to remove those trees and vegetation; and provide areas of soft landscaping, paths and hard paved areas to provide a shared amenity area for future occupiers. It is also proposed to increase the width of an entrance in the side boundary wall which faces towards John Street. A new hardwood door would be inserted into the opening and brick quoins used around the widened entrance. This entrance would serve a bin storage area which would be enclosed by a timber fence.

### **Principle of development**

7.3 The site is previously developed land within the settlement boundary. The building has been vacant for some time and some degree of deterioration is evident, particularly to the rear elevation which is overgrown with ivy. Policy SP18 supports the reuse of vacant land for residential purposes in the urban area. As the proposal would be consistent with this policy and the general brownfield strategy within the Local Development Plan.

- 7.4 As the building was formerly used as offices there would be a loss of employment floor space. Policy EM3 requires an assessment of the loss of any B1, B2 and B8 uses. It requires marketing of those uses to be demonstrated; and a sufficient range and choice of employment land/premises to meet the Local Development Plan requirement following the loss of the use. It also requires there to be no adverse impact on existing or allocated employment sites, amenity or the environment. The applicant states that the building has been marketed previously although there is no evidence of this marketing. Nevertheless it is recognised that the building has been vacant since at least 2008. Furthermore, it is noted that the Employment Land Review which was undertaken to inform the preparation of the Local Development Plan, states that there is between 7.5 and 9 years worth of supply of available office accommodation within Newport. There is currently an over-supply of second hand accommodation relative to demand, with a significant proportion located within the city centre. As such the loss of this office use is considered to be acceptable.

### **Residential amenity**

- 7.5 In terms of residential amenity Policy GP2 requires development to not have a significant adverse effect on local amenity, not be detrimental to visual amenities of nearby occupiers or the character or appearance of the surrounding area and provide adequate amenity for future occupiers. Policy H8 states that self-contained accommodation will only be permitted if the scale and intensity of the use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on street parking problems; and adequate noise insulation is provided.
- 7.5.1 The Flat Conversions Supplementary Planning Guidance (SPG) seeks to ensure that flats provide reasonable living conditions and it recommends a minimum internal floor space standard of 35 sq.m for studios, 45 sq.m for 1 bed flats and 60 sq.m for 2 bed flats. Except for flat 13 all of the flats meet or exceed this standard. Flat 13 is a one bedroom flat which is short of the 45 sq.m standard by 3.5 sq.m. It is recognised that the SPG provides guidance and not prescriptive standards and as such the individual merits of the proposal need to be considered. In this case it is considered that the proposed flat would make good use of the available floor space by combining the kitchen and the living room, this room is also served by three large windows which are considered to contribute to a light and airy feel to the flat. The flat would have a separate bedroom which is served by a window with a reasonable outlook into the rear courtyard. Overall it is considered that the proposed flat would offer a reasonable standard of living to future occupiers.
- 7.5.2 The proposal would offer occupiers access to a communal courtyard, which measures around 13 x 15m. There is also a bin storage facility and areas for clothes drying or general sitting out. Overall it is considered that the proposed flats would provide a satisfactory living standard for future occupiers. Noise considerations are discussed in paragraphs 7.6 to 7.6.8.
- 7.5.3 In terms of neighbouring uses, to the rear at no. 1-3 John Street planning permission for a commercial use of the site, within a single storey building has been granted but has not been implemented in terms of the constructional elements of the permission (17/0802 refers). This permission has a condition for the opening hours of the new building to be agreed. Also adjoining the rear boundary is a single storey building which contains a tyre fitting unit. To the north west of the application site is a three storey building (3A East Market Street) which also has a tyre fitting unit on the ground floor and vacant offices on the upper floors. There is an extant planning permission for the conversion of the upper floors to residential use (18/0055 refers). Immediately adjacent to the building, to the north, there is a vacant building (106-107 Lower Dock Street) which was formerly used as a dance studio on the ground floor and a sui generis use on the upper floors. A planning application to convert this building to a residential use is currently being considered by the Council. To the south of the site is the car park of Asda and it's petrol filling station. It is not considered that the proposed use would have a harmful impact on those surrounding uses. As the neighbouring properties are in commercial use it not considered that there would be any instances of overlooking from any neighbouring windows. The applicant has submitted a noise assessment in respect of these neighbouring uses and road traffic noise. This is discussed in paragraphs 7.6 to 7.6.8.

### **Noise**

- 7.6 The Councils Environmental Health Officer required the applicant to undertake a noise assessment of noise from road traffic, noise from the nearby petrol filling station activities,

any commercial plant/equipment in the area and from the adjoining building. The applicant has undertaken the required assessment.

- 7.6.2 In terms of noise from the adjoining building it is recognised that it is currently vacant but its lawful use is a dance studio on the ground floor and a sui generis use on the upper floors. The dance studio is considered to be the noisier activity. As the building is currently vacant it was agreed with the Environmental Health Officer that a desktop assessment could be undertaken. Measurements were used from an existing bar elsewhere to determine the typical noise levels, this bar was occupied by around 200-220 people and as such it represents a worse case prediction. The assessment concludes that due to the construction of the dividing wall between the application building and the neighbouring property the required internal noise levels would be achieved. The Environmental Health Officer is satisfied with this part of the assessment.
- 7.6.3 The noise assessment also considers external noise within the rear courtyard. The assessment identifies that road traffic noise is the primary noise source in the external areas. It concludes that because the courtyard would be shielded by the application buildings and structures, the noise levels within the proposed amenity space would be within the World Health Organisation recommendations. The Council's Environmental Health Officer is satisfied with this part of the assessment. It is also acknowledged that there is a condition to agree the opening times of the new building which is yet to be constructed on the adjacent site at no. 1-3 John Street, should that come forward for development in the future.
- 7.6.4 In terms of internal noise within the proposed flats the assessment identifies road traffic noise as the primary noise source and the assessment calculates that the noise levels during the daytime and night time fall into Noise Exposure Category C (NEC C) as set out in TAN 11 (Noise). TAN 11 states that where development falls within NEC C "planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise".
- 7.6.5 It is recognised that there may be quieter locations within the Authority however, those sites are not being considered as part of this application. The application is supported by policy SP18 by bringing a long standing vacant building, which is in a prominent location; and within the Lower Dock Street Conservation Area, back into use. As such it is considered that the benefits of the residential conversion of this building have significant weight. The assessment identifies that with noise mitigation measures, which include the installation of secondary glazing, sealing of windows so they are airtight and the use of trickle vents the noise levels set by BS 8233:2014 would be achieved. The Council's Environmental Health Officer is satisfied with these conclusions.
- 7.6.6 An objection has been received from Asda who are concerned that noise from their HGV delivery vehicles which travel along John Street and then turn right onto Lower Dock Street would cause noise complaints and result in abatement action upon themselves. They have undertaken their own noise assessment and they have critiqued the applicant's noise assessment. In particular they disagree with the effectiveness of the proposed mitigation measures and they consider that the noise levels of HGV's passing-by habitable windows in the proposed development should be higher than those stated in the applicant's assessment.
- 7.6.7 The Council's Environmental Health Officer has reviewed the acoustic report produced by Asda and they acknowledge that there is a likelihood of a negative noise impact to the proposed flats during the night time period of 2300 to 0700 hours. The Asda store have restricted delivery hours of only between 0630 and midnight (applications 09/0067 and 09/0070 refers); and as such whilst there will be some delivery during the night time period this would only be for 30 minutes in the morning and 1 hour in the evening. The Environmental Health Officer does not consider this to be significantly harmful, particularly as mitigation measures are proposed. The petrol filling station within the grounds of the Asda store has its own separate planning permission (14/0492 refers). Its hours of operation and deliveries are restricted to 0700 – 2230 (Monday – Friday), 0800 – 2230 Saturday and 1000 – 1630 (Sunday, Bank and Public Holidays). These times are within the delivery times of the main store. In terms of the critique of the proposed mitigation measures, the Environmental Health

Officer recommends taking the professional opinion of the applicant's acoustic consultant in good faith but nevertheless requires that conditions are imposed which require a detailed scheme of sound insulation and ventilation measures which meet the British Standard (BS) noise levels during the daytime and night-time; and also a condition requiring pre-completion testing. Whilst it is recommended that the first condition is imposed it is not considered necessary to impose the pre-completion testing condition as the first condition already requires the proposed mitigation to meet the BS noise levels.

- 7.6.8 Overall it is considered that with the already restricted Asda delivery hours, the weight attached to the re-use of this vacant building; and the imposition of a condition which requires sound insulation and ventilation measures to meet the British Standard noise levels, the proposal would satisfy policies GP2 and GP7 of the Newport Local Development Plan; and TAN 11.

### **Design and Historic Environment**

- 7.7 The applicant has made some amendments to the design of the proposed dormer extension and has re-aligned the proposed roof lights following initial comments from the Councils Historic Buildings and Conservation Officer. The applicant has also agreed to keep one of the blind openings on the side elevation which faces towards John Street as surviving historic evidence of possible avoidance of window tax. Following these amendments the Historic Buildings and Conservation Officer has verbally reported that there are no objections to the proposals and supports the re-use of this long standing vacant building. Conditions are recommended to secure details of all external works, to include joinery details of new windows and doors; and joinery details of the proposed roof lights. Overall it is considered that the proposed development would preserve and enhance the character and appearance of the conservation area, in accordance with policies SP9 and CE7 of the Newport Local Development Plan.

### **Protected Species**

- 7.8 The applicant has submitted a bat survey which identifies that the building is not a bat roost. There is no evidence of bat activity in the parts of the building which are accessible. There are some parts of the building which were not accessible to the applicants ecologist and as such full survey and inspection works were not possible. Nevertheless the Councils Ecologist recognises the difficulty in obtaining suitable access to undertake further survey work and is satisfied that works would be undertaken under a non-licenced method statement and under the supervision of an ecologist. It is recommended that a condition is imposed which requires works to be undertaken in accordance with Section 6 (Method Statement) of the submitted bat survey.

### **Highways**

- 7.9 The application site is located within parking zone 1 and as such no off-site parking provision is required in accordance with the Parking Standards SPG. This is because the site is in close proximity to the city centre and its range of facilities, services and public transport links. The Head of City Services (Highways) has no objection on this basis.

### **Drainage**

- 7.10 The applicant intends to dispose foul water to the existing mains sewer. Whilst Welsh Water has no objection to this they advise that the public sewers in the vicinity of the application site are large diameter brick egg sewers and they would not permit a new direct connection to them. They advise that the applicant undertakes a sewer trace to establish appropriate sewers which could facilitate a new connection. Given this, it is considered necessary to impose a condition which requires details of foul drainage; and to ensure an appropriate foul drainage connection can be provided.
- 7.10.1 In terms of surface water the Councils Drainage Officer objects to the proposed development and they require a surface water drainage strategy and a flood statement to be submitted. They also require evidence to be submitted to demonstrate that consideration has been given to the ongoing operation and maintenance of the surface water drainage strategy for the life time of the development.
- 7.10.2 The comments of the Drainage Officer are noted however, the proposal is for a change of use of an existing building where there would be no increase in the footprint of the building.



Works are proposed to the rear courtyard to create a bin storage area, a clothes drying area on a hardstanding and footpaths. However, this area is currently taken up by concrete, rubble, a metal shed and a small area of overgrown vegetation and Leylandii trees. The proposals also include the creation of larger areas of soft landscaping than those which currently exist and as such the existing impermeable area would be greatly reduced as a result of the proposals. Furthermore, flats do not benefit from permitted development rights and future occupiers would not be able to create any additional hardstanding without prior permission. It is therefore not considered reasonable to require the applicant to dispose of surface water drainage any differently to that which currently exists.

### Waste

- 7.11 The Council's Waste and Recycling Officer has no objection to the proposed development. Collections would be made from John Street and it is calculated that 15 no. apartments would require 1 x 1110 euro bin for recycling and a 660l bin for residual collections. The applicant has submitted a plan which shows a bin storage area large enough to accommodate at least the required bins, manoeuvrability and adequate access onto John Street.

### Section 106 Planning Obligation matters

- 7.12 In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, section 106 planning obligations are required to mitigate the impact of the development in accordance with the table below.

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
Regeneration, Investment and Housing	To provide an on-site provision of affordable housing or a commuted sum	30% of on-site affordable housing units at 50% ACG, in accordance with policy H4 of the LDP or in accordance with formulae set out in the adopted Affordable Housing SPG a commuted sum of £51,480	£0	Yes
Leisure	To contribute towards the deficit of "equipped" and "formal" play in the Pillgwenlly ward.	£32,312 to upgrade and maintain "equipped" and "formal" play at Ruperra Street and/or the Riverside Park.	£0	Yes

- 7.12.1 S106 planning obligations are normally required to either carry out works or contribute financially towards measures that mitigate the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability is an important material planning consideration on the potential scope and scale of planning obligations, especially when considering wider regeneration benefits and whether these issues outweigh the harm caused by the loss of S106 planning obligations.

- 7.12.2 Developer profit on open market housing will normally be a range between 15% and 20%, depending on risk and market conditions. An 'open book' viability appraisal was undertaken utilising the Council's Three Dragons Toolkit, which concluded that the scheme was unable to provide the suggested planning obligations and retain a sustainable profit margin. A separate viability assessment has been undertaken by Newport Norse who have reached

the same conclusion, stating that *“The developers profit would need to be reduced significantly to allow a contribution to s106 payments. This reduction would make the scheme unviable for the developer”*.

7.12.3 Taking into account both viability appraisals, it is concluded that the contribution should be waived.

## **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 development is considered to be acceptable and in accordance with policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, GP7, CE7, H4, H8, EM3, T4 and W3 of the Newport Local Development Plan 2011-2026. It is considered that the proposed development would not be harmful to residential and visual amenity, highway safety, drainage, protected species, nor would it adversely affect the supply of employment land within the Authority. It is considered that the conservation area would be preserved and enhanced; and with the imposition of conditions future occupiers would be protected from noise. It is recommended that planning permission is granted with conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 1365 P01, 1365 P02, 1365 P03, 1365 P04, 1365 P05, 1365 P06, 1365 P07, 1365 P08, 1365 P09, 1365 P11 rev A, 1365 P12, 1365 P13 rev B, 1365 P14 rev A, 1365 P15 rev B, 1365 P16 rev B, 1365 P17 rev B, 1365 P18 rev F, Environmental Noise Assessment (Acoustic Consultants Ltd, March 2019), an email from Blake Lucas (dated 6 June 2019). Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

#### *Pre- commencement conditions*

02 No development, to include demolition, shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to:

i) minimise the impact of the construction and conversion works upon the occupiers of neighbouring premises and the health and safety of the public.

The development shall take place in accordance with the approved Plan.

Reason: In the interests of amenities, in accordance with policies GP2 and GP7.

03 No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that **all** such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies GP2 and GP7.

04 No development, other than demolition, shall commence until details of all external works, including 1:5 scale details of joinery and moulding of all new windows, roof lights and the new opening in the side boundary facing on to John Street, shall be submitted to and approved in writing by the Local Planning Authority. This shall include vertical / horizontal section(s) through proposed windows and doors. The development shall be implemented in accordance with the approved details and retained thereafter in perpetuity.

Reason: In the interest of safeguarding the character and appearance of the Conservation Area and the special character of the Listed Building, in accordance with policies SP9 and CE7.

05 No development, other than demolition, shall commence until details of the proposed foul drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details and implemented prior to the beneficial occupation of any flat.

Reason: To ensure adequate drainage is provided, in accordance with policy GP3.

#### *Pre –occupation conditions*

06 Prior to the occupation of the flats hereby approved the bin store shall be provided in accordance with drawing 1365 P11 rev A and shall be retained as such thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies GP2 and GP7.

**General conditions**

07 Development shall take place in accordance with Section 6 [Method Statement (Non-Licensed)] of the Bat Survey Issue 1, Version B (BE Ecological Ltd).

Reason: In the interests of protected species, in accordance with policy GP5.

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, GP7, CE7, H4, H8, EM3, T4 and W3 were relevant to the determination of this application.

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

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

**APPLICATION DETAILS**

**No:** 19/0303      **Ward:** *BEECHWOOD*

**Type:** FULL

**Expiry Date:** 04-AUG-2019

**Applicant:** C MUNRO

**Site:** 13, BEAUFORT ROAD, NEWPORT, NP19 7ND

**Proposal:** RETENTION OF FRONT AND SIDE BOUNDARY WALLS

**Recommendation:** REFUSED

**1. INTRODUCTION**

1.1 This application seeks consent for the retention of part of the front and side boundary walls that have been erected at no.13 Beaufort Road. The property is a detached property located on the corner of Beaufort Road and Gainsborough Drive.

**2. RELEVANT SITE HISTORY**

No relevant site history.

**3. POLICY CONTEXT**

3.1 Policies GP2 (General Amenity), GP4 (Highways and Accessibility) and GP6 (Quality of Design) 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.

#### **4. CONSULTATIONS**

4.1 None.

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

5.1 HEAD OF CITY SERVICES (HIGHWAYS): Based upon the photos it is clear that there was an established mature hedgerow which would've impacted the available visibility. That being said it would appear that visibility has been adversely affected following erection of the wall. In particular, pedestrian visibility, which has effectively being removed. Given that the application seeks retention of the boundary wall, I cannot definitively determine the pre-existing level of visibility and therefore the full impact that the wall has had. However, it would appear that visibility has been reduced and therefore I must object to the application due to the detrimental impact on highway safety.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary and opposite the application site were consulted (7no properties) and comments were received from 1no neighbour in support of the development.

6.2 COUNCILLOR (DAVIES): I would like to support the planning application;

- The boundary was protected by a number of trees. The trees did then become overgrown and an enforcement notice was served by NCC demanding that they were cut back as they were obstructing the pavement and the view when driving off Gainsborough Drive. Ms Munroe failed to follow instruction and will acknowledge her failure but will explain that she was still coming to terms with her recent bereavement. NCC took it upon themselves to cut back the trees and whoever undertook the work decimated them.
- Consequently Ms Munroe was put into a position where she needed to replace them and had the retaining wall built. Concern has now been expressed that it is not in keeping with the area and it obstructs the vision of the road from the drive.
- I have spoken to other residents and looked at the wall myself and cannot see that there is a problem. It is lower than the trees that were previously there and is painted the same colour as the house. It has been built to a high standard and is rendered.
- I have looked at car movement on and off the drive and it is possible to see clearly other cars coming off Gainsborough Drive.
- Finally if the wall was to be lowered Ms Munroe would lose her privacy and Importantly she would have concerns that her children's safety would be compromised as they can presently play without her worrying that they could out onto the street.

#### **7. ASSESSMENT**

7.1 The applicants are seeking consent for the retention of part of the boundary wall that runs down alongside the driveway and around to the side. The walls have been painted white and consist of large balls painted black situated atop the pillars. Including the balls, the wall ranges from a height of 2.3m to 3.1m. A complaint was received in relation to the wall as it had been erected without obtaining planning permission. An enforcement case was subsequently opened and an application submitted. Whilst the application does not seek

retrospective consent for the entire wall, prior to the application being submitted, expediency was considered and it was determined that the section of wall towards the rear of the site is likely to be seen as acceptable as it is less prominent in the street scene and does not impact on pedestrian safety. This section of the garden previously benefitted from a boundary treatment of a similar height. As such, the application has been made by the applicant in order to address the part of the wall which has the most adverse effect. Attempts have been made to negotiate amendments to the height and finish of the wall but these have been discounted by the applicant. Following refusal of the application the applicant is entitled to appeal the decision but the Council will need to pursue the issue of an enforcement notice to address the harm arising from the development. In the event that permission is refused, authorisation is requested to proceed with the issuing of an enforcement notice for the unauthorised development.

- 7.2 The front of the site previously consisted of a grassed area that gently sloped towards the road. A small stone wall bordered the front and partial side of the property, with a higher fence at the back side of the site. There were tall mature conifer trees that followed behind the stone wall. All of the previous boundary treatments have been removed, the land has been raised, and the retaining walls erected.
- 7.3 Policy GP2 states that development must not result in a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality. Whilst it is considered that the development does not have a harmful impact on local residential amenity, the policy also states that the proposed use and form of development must not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area. It is considered that the scale, design and siting of the development is not appropriate in its location and undermines the character of the site and locality to the detriment of visual amenity.
- 7.4 With regard to design, the walls have been rendered and painted white to match the host dwelling. The property is located on the corner of Beaufort Road and Gainsborough Drive. Due to the elevated positioning of the property from the road, the property is highly visible, especially when travelling south along Beaufort Road. As such, given the scale of the retaining walls, they are visually prominent and at odds with other boundary treatments in the vicinity. The mature conifer trees and stone wall that previously acted as the boundary treatment offered a softer landscaped boundary treatment which has now been replaced with an obtrusive, stark development. Whilst the area is a built up residential area, the boundary treatments at surrounding properties mostly consist of small stone walls or vegetative boundary treatments which result in softer landscaping that are less intrusive in the streetscape. The extensive walling is unduly dominant to this suburban residential setting. Policy GP6 states that development should be sensitive to the unique qualities of the site and respond positively to the character of the area and that development should reflect the character of the locality. The policy also states that new development should appropriately reflect the scale of adjacent townscape, care should be taken to avoid over scaled-development. It is considered that the boundary treatment by virtue of its location, scale and finish would be unduly prominent, visually incongruous and out of character with the street scene to the detriment of visual amenity, contrary to policies GP2 and GP6.
- 7.5 Criterion vii of policy GP4 states that development proposals should ensure that development would not be detrimental to highway or pedestrian safety. The Council's Head of City Services was consulted on the application and stated that whilst it is evident that there was an established mature hedgerow which would have impacted on the available visibility, it would appear that visibility has been adversely affected following the erection of the wall. In particular, pedestrian visibility, which has effectively been removed. The officer states that given that the application seeks retention of the boundary wall, it cannot be definitively determined what the pre-existing level of visibility was and therefore the full impact that the current wall has had. Notwithstanding this, it would appear that visibility has been reduced and therefore the officer objects to the application due to the detrimental impact on highway safety.

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 boundary wall by reason of its scale, location and design represents an unduly prominent and visually incongruous development that is out of character with the locality to the detriment of visual amenity. The boundary wall would result in substandard visibility resulting in a detrimental impact on pedestrian safety.

## 10. **RECOMMENDATION**

### **REFUSED**

01 The boundary wall by virtue of its scale, location and design would be unduly prominent, visually incongruous and out of character with the locality to the detriment of visual amenity contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

02 The boundary wall would result in substandard pedestrian visibility resulting in a detrimental impact on pedestrian safety contrary to policy GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).



*NOTE TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan and Existing Photos Received 16/05/2019.

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

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

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

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**APPLICATION DETAILS**

**No:** 19/0095      **Ward:** STOW HILL

**Type:** FULL

**Expiry Date:** 27-NOV-2019

**Applicant:** MATHISON & BELL DEVELOPMENTS

**Site:** 75-76, LOWER DOCK STREET, NEWPORT, NP20 1EH

**Proposal:** FIRST AND SECOND FLOOR REAR EXTENSION, ALTERATIONS TO FRONT ELEVATION AND NEW ROOF TO CREATE 12NO. FLATS

**Recommendation:** GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 3 MONTHS OF A RESOLUTION TO GRANT PERMISSION.

**1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the conversion of a former warehouse building to 12 no. flats which includes a first and second floor rear extension, alterations to the front elevation and a new roof.
- 1.2 The building is known as 75-76 Lower Dock Street. It is grade II listed and listed for its group value with the adjacent listed buildings. It is also located within the Lower Dock Street Conservation Area.

**2. RELEVANT SITE HISTORY**

03/0686	CHANGE OF USE OF GROUND FLOOR TO OFFICES AND FIRST AND SECOND FLOORS TO 4NO. APARTMENTS, ERECTION OF SECOND FLOOR REAR EXTENSION, STAIRWELL AND EXTERNAL ALTERATIONS	Granted with conditions
03/0687	LISTED BUILDING CONSENT FOR CHANGE OF USE OF GROUND FLOOR TO OFFICES, FIRST AND SECOND FLOOR TO 4NO. APARTMENTS, ERECTION OF SECOND FLOOR REAR EXTENSION, LIFT, STAIRWELL AND EXTERNAL AND INTERNAL ALTERATIONS	Granted with conditions
19/0096	LISTED BUILDING CONSENT FOR FIRST AND SECOND FLOOR REAR EXTENSION, ALTERATIONS TO FRONT ELEVATION AND NEW ROOF TO CREATE 12NO. FLATS	Under Consideration

**3. POLICY CONTEXT**

- 3.1 **Newport Local Development Plan 2011-2026 (adopted January 2015).**  
Policy **SP1 Sustainability** favours proposals which make a positive contribution to sustainable development.

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

Policy **SP13 Planning Obligations** enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.

Policy **SP18 Urban Regeneration** supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.

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

Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

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

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

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

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

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

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

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

impact on existing or allocated employment sites; and the proposal has no adverse impact on amenity or the environment.

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

Policy **W3 Provision for Waste Management Facilities in Development** states that where appropriate, facilities for waste management will be sought on all new development.

#### **4. CONSULTATIONS**

- 4.1 WALES AND WEST UTILITIES: Advise of apparatus in the area.
- 4.2 SOUTH WALES FIRE AND RESCUE: No response.
- 4.3 HEDDLU – GWENT POLICE (ARCHITECTURAL LIAISON): No response.
- 4.4 NEWPORT CIVIC SOCIETY: No response.
- 4.5 DWR CYMRU – WELSH WATER: No objection.
- 4.6 REGIONAL AMBULANCE OFFICER: No response.

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

- 5.1 HEAD OF CITY SERVICES (ECOLOGY): The revised report includes details of a second survey visit carried out by a licenced ecologist. Further details of the building are provided, including justification for there being lack of access suitable for bats (despite evidence of breeding birds from previous years). I am therefore satisfied that the building has been appropriately assessed as having negligible potential to support bats. No further surveys are required.
  - 5.1.1 In accordance with national and local planning policy, and ensure we meet our duty under the Environment (Wales) Act 2016, the development must include ecological enhancements to provide biodiversity net gain. The report recommends that house sparrow boxes are incorporated in to the scheme; this is a suitable and proportionate recommendation. In order to ensure it is enforceable I recommend that the box specification and location are shown on the approved plans, if you are minded to grant this permission.
- 5.2 HEAD OF EDUCATION: No response.
- 5.3 HEAD OF CITY SERVICES (HIGHWAYS): No objection.
- 5.4 HEAD OF CITY SERVICES (ACTIVE TRAVEL): No response.
- 5.5 HEAD OF REGENERATION, INVESTMENT AND HOUSING (AFFORDABLE HOUSING): The proposed 12 units appear to be compliant with the SPG for size standards generally. There would be a requirement for on-site affordable housing due to the number of units proposed, however it is sometimes difficult to achieve this within a conversion and particularly where the building is of historic importance. I would be happy to discuss with the applicant how the affordable element can be achieved either on site, or if this is not materially possible due to the constraints of the building or the regulations on affordable housing, through the provision of a commuted sum.
- 5.6 HEAD OF CITY SERVICES (LEISURE): No response.

- 5.7 PLANNING CONTRIBUTIONS MANAGER: An 'open book' viability appraisal was undertaken utilising the Council's Three Dragons Toolkit. It concluded that the developer could achieve a profit at the lower end of the industry standard profit range and still be able to provide a leisure contribution, but not the affordable housing contribution. It is concluded that the contribution for leisure should be requested, but the affordable housing sum should be waived.
- 5.8 HEAD OF LAW AND REGULATION (ENV. HEALTH): No objection subject to conditions requiring sound insulation and ventilation measures for those habitable room exposed to a prescribed level of road traffic noise; a scheme of mitigation for outdoor living areas exposed to a prescribed level of road traffic noise; a restriction to the hours of working and a scheme of sound insulation works to the floor/ceiling or party wall between each flat.
- 5.9 HEAD OF CITY SERVICES (WASTE AND RECYCLING): We note that there appears to be a bin store with space for four bins, but no dimensions are provided. With such little floor area in the bin store, inadequate provision is made for communal recycling. For 12 apartments with an allowance of 120 litre capacity per apartment 4 x 360l bins (1440l capacity) for residual waste per fortnight would be sufficient.
- 5.10 HISTORIC BUILDINGS AND CONSERVATION OFFICER: *Comments in relation to first submission:* Residential use may be appropriate for at least some parts of the building. However, the potential of commercial or mixed use developments have not been explored fully; there are many commercial premises in the area despite limited availability of private parking. A commercial use to the ground floor would help provide an active frontage and increase the diversity and vibrancy of the area, whereas such a use to the top floor might avoid subdivision. As such, I am not in a position to support residential use of the entire building without further justification.
- 5.10.1 The proposals include a vast rear extension in a completely contrasting style and in different materials. The design of this appears to have no local precedent. The rear of the building is partially visible from public viewpoints, and it is unclear why a style more akin to the traditional pitched roof wings to the adjacent building would not be more appropriate. The scale of this extension would result in the complete concealment of the original building from the rear, to the detriment of its character and that of the wider conservation area (and arguably, the setting of the grade II\* listed George Street Bridge from where the rear of the building is particularly visible). It has been stated that this is necessary for viability, but it is unclear why this should be the case, especially with no information on the extent of work proposed or necessary to restore the listed building. It would seem conceivable that a more modest addition (either as a rear wing or a more "courtyard" type scheme) could be constructed without significant harm, but in my view such a large extension as that proposed could only be acceptable if absolutely necessary as a form of "enabling development". This would need to be assessed in line with the Historic England guidance, "Enabling Development and the Conservation of Significant Places" which is adopted for use in Wales. Additionally, there appears to be considerably more alteration to the original rear wall than necessary in order to facilitate this extension; it appears that approximately 50% of this wall would be removed at first and second floor level, which seems likely to have a knock-on impact on the roof and floor structures.
- 5.10.2 To the front elevation, new windows are proposed. These differ in design between drawings, but I am unaware of there being any evidence of the building ever having sash windows as proposed.

- 5.10.3 The loss of a traditional boarded carriageway entrance in favour of a window is particularly undesirable. This is a key part of the character of the building and it is unclear why alternative plans might not retain this, for example, as a communal entrance via a shared amenity area if a residential use proves appropriate. The loss of the existing modern entrance door does not cause concern, but the proposed asymmetrical replacement with post pigeon holes does not appear sympathetic
- 5.10.4 Whilst the existing roof covering is not of interest, it has some evidential value in reflecting the commercial use of the building; I do not consider a synthetic slate roof to be an enhancement as this would not be a traditional or durable material, though the HIA suggests that this would be mitigated by the use of natural slate; whilst I would agree, this conflicts with the drawings.
- 5.10.5 *Comments received following the submission of a revised Historic Impact Assessment and amended plans:*
- 5.10.6 The Statement of Significance within the revised HIA does not define anything other than the architectural qualities of the building, which are undoubtedly low internally, as they may always have been; there remains limited assessment of evidential value. Nevertheless, we can be fairly certain that the building was in use by a potato merchant and bonded store in the late 19<sup>th</sup> century (when it was number 38, Dock Street) and the evidential value surviving from this use does not seem to be preserved in the proposed scheme.
- 5.10.7 The HIA does not provide photographs of the second floor where this character is more intact.
- 5.10.8 Small scale historic maps have been included in the HIA, which confirm the existence of the street, but it is unclear whether larger scale or earlier maps could provide further information about the early development of the building. The local Tithe Map indicates that the site was "Garden and Building Ground" in the ownership of the Tredegar Wharf Company in the early 19<sup>th</sup> century; estate records may exist, but it seems more likely that the history of the building can be better established from site evidence. The HIA now states that the setting of the grade II\* George Street Bridge will not be affected; however, Lower Dock Street remains as a clue to the historic commercial and industrial context of the bridge and it is therefore difficult to agree that there will be no impact at all given that the historic form of the building will no longer be readable from the rear.
- 5.10.9 It seems that some sections of historic stone walling will now be retained, although the extent and nature of structures for demolition is still difficult to understand. However, it is unclear what work will be carried out to retained sections and the proximity of the proposed extension to boundary walling leaves little opportunity for future maintenance.
- 5.10.10 A Structural Engineer's report has been provided with general observations on the condition of the building; although these are not translated into firm proposals, they do not cause significant concern. However, the presence of a basement is noted within the report; this does not seem to be acknowledged within the application submission and it is unclear what might be done with it. Perhaps of some concern is the comment that the roof structure should be checked for structural capacity once the proposed roof finish has been agreed; proposals for the roof finish should be considered with proper regard for the value of the existing structure and its structural capabilities, not the other way around; I note that this is not discussed in the HIA.
- 5.10.11 There is no further information on the potential of alternative uses.

- 5.10.12 The proposed elevational treatment of the rear extension has been changed, but I do not consider that this will substantially change its impact.
- 5.10.13 Some figures have been provided suggesting the proposed development is profitable but these seem to be based on standardised figures per square metre of development rather than any costed schedule of works required to repair the listed building. There is no analysis of why any alternative development would not be viable. There is still more alteration to the rear wall of the original building than would appear to be necessary, even for a scheme with a layout similar to that before us.
- 5.10.14 Proposals for the front elevation have now been changed and the carriageway opening is now used as the main entrance. However, it receives doors which gives no testament to its former use and the main entrance to the building would now be changed to a window; this revised design does not offer an improvement to the scheme in my view.
- 5.10.15 No clear evidence has been put forward to suggest that the building once had sash windows. On the contrary, an historic image of the adjacent Custom House available on the internet suggests otherwise.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (41 properties), a site notice displayed and a press notice published in South Wales Argus. No responses.

## **7. ASSESSMENT**

- 7.1 The application site is located to the north-eastern side of Lower Dock Street, close to its junction with George Street. The application building is a three storey property, which has a commercial/manufacturing history. It is a grade II listed building, listed for its group value with the adjacent listed buildings.

- 7.1.1 The neighbouring buildings comprise a restaurant which is attached to the south east of the application building and an office building (The Customs House) to the north west of the site. To the rear there is a car repair building which also forms the rear boundary and to the front of the building there is a large retail unit known as George Street Furnitures.

### **7.2 The proposals**

The application building has a part single storey, part two storey extension to the rear, which appear to be later additions to the building. It is proposed to demolish most of these extensions and construct a three storey flat roof extension. The extension would measure 14.5m in width, 9.3m in depth and would be 10.4m high. The extension would cover a similar footprint as the existing rear extension but would be taller. It is proposed to finish the extension in facing brickwork on the ground floor and render above, with double glazed windows. It is proposed to create a studio flat and 3 no. one bedroom flats on the ground floor and 8 no. one bedroom flats across the first and second floors. It is proposed to create two outdoor amenity areas to serve the two rear ground floor flats. One of these spaces would utilise an existing open space and the other would be created through the demolition of a rear flat roof extension. To the front of the building it is proposed to utilise an existing carriageway entrance on the left hand side of the building to provide access to the flats. The existing entrance has double timber doors and it is proposed to replace these with timber doors, with post pigeon holes and a glazed fanlight above. On the right hand side of the building there is a further entrance which has more modern double doors. It is proposed to replace these with a

window to match the existing windows on the ground floor. It is also proposed to replace the existing single glazed windows in the front elevation with slim line sash windows. The existing metal roof would be replaced with a synthetic slate roof covering.

### **7.3 The principle of development**

The site is previously developed land within the settlement boundary. The application building was noted as being vacant in the 2003 application (03/0686) and it does not appear to have been occupied since that time. Some cosmetic works were undertaken to improve the external appearance of the building in 2010. Since then the buildings external appearance has declined. Policy SP18 supports the reuse of vacant land for residential purposes in the urban area. The proposal would be consistent with this policy and the general brownfield strategy within the Local Development Plan.

### **7.4 Loss of employment land**

As the building was formerly used as offices there would be a loss of employment floor space. Policy EM3 requires an assessment of the loss of any B1, B2 and B8 uses. It requires marketing of those uses to be demonstrated; and a sufficient range and choice of employment land/premises to meet the Local Development Plan requirement following the loss of the use. It also requires there to be no adverse impact on existing or allocated employment sites, amenity or the environment. The applicant has not provided any evidence of marketing however, it is recognised that the building has been vacant since at least 2003. Furthermore, it is noted that the Employment Land Review which was undertaken to inform the preparation of the Local Development Plan, states that there is between 7.5 and 9 years worth of supply of available office accommodation within Newport. There is currently an over-supply of second hand accommodation relative to demand, with a significant proportion located within the city centre. As such the loss of this office use is considered acceptable.

### **7.5 Residential amenity and noise**

The area surrounding the application site is predominantly commercial and George Street to the east of the site is a busy arterial road. Environmental Health Officers have recognised these surrounding uses and activities; and required the applicant to undertake a noise assessment to establish the suitability of residential development in this location. The applicant has undertaken an assessment which considers the impact of noise from road traffic noise, deliveries associated with George Street Furniture at the front of the site, the operations of neighbouring properties and the operation of any existing plant associated with those neighbouring uses. The assessment concludes that there was no audible noise associated with the commercial units located to the rear of the site and that existing plant noise associated with the neighbouring restaurant is a broadband noise with no discernible acoustic characteristics. The noise assessment also concludes that noise levels within the outdoor amenity areas at the rear of the building would satisfy the standard criteria recommended by Environmental Health, i.e. no more than 50 dB. The Environmental Health Officer recommends a condition which requires a scheme of mitigation for outdoor living areas. As the noise assessment concludes that the noise levels within these areas would be to an acceptable level without mitigation, it is not considered necessary to impose such a condition.

- 7.5.1 In terms of noise levels within the proposed flats the assessment concludes that habitable rooms located at the front and rear of the building, whilst using a partially open window would be exposed to noise levels which exceed the noise criteria during the day and night time (i.e. 35 dB during the day and 30 dB during the night). The assessment recommends that mitigation measures in the form of acoustic glazing and ventilation measures which do not rely on open windows, would achieve the required



noise levels during the day and night time. The assessment also concludes that the recommended mitigation measures would protect future occupiers from noise associated with the plant equipment of the neighbouring restaurant use. The Environmental Health Officer is satisfied with the findings of the noise assessment and has no objection to the residential conversion of the building, subject to conditions which require a specific scheme of sound insulation and ventilation. It is also recognised that the acoustic mitigation measures may result in a visual impact on the building and conservation area, in terms of new glazing or windows. In paragraph 7.6.5 it is discussed that a condition is required to control the final design of any new windows and this will ensure that the visual and historic interests of the building are protected and the character and appearance of the conservation area is preserved.

7.5.2 The Environmental Health Officer recommends conditions to restrict the hours of working and a scheme of sound insulation works to the floor/ceiling or party wall between each flat. As both of these matters are effectively controlled through other legislation (Environmental Protection Act 1990 and Building Regulations) it is not considered necessary to impose these conditions.

7.5.3 In terms of the living standards of future occupiers the Flat Conversions SPG makes recommendations in terms of internal floor space. It recommends that studio flats have a floor space of at least 35 sq.m and one bedroom flats have a floor space of at least 45 sq.m. All of the proposed flats meet or exceed these standards and it is considered that the proposed flats would provide a reasonable living standard for future occupiers.

7.5.4 The Flat Conversions SPG also recommends that outdoor amenity space should be made available to the occupants of converted flats wherever the opportunity exists. In this case, the only available outdoor areas are to the rear which would serve two of the flats. It is considered that these areas would provide a good standard of open space which is rare in such city centre locations. For the remaining flats it is recognised that they are in close proximity to the city centre, which offers many facilities and any future occupier would be able to outweigh the lack of outdoor private amenity space against the benefits of the proximity to those facilities. It is also recognised that the Riverside Park is also only a short walk from the application site.

7.5.5 As the surrounding area is largely commercial, there are no instances whereby neighbouring windows would result in a loss of privacy to future occupiers, nor vice versa.

## 7.6 **Design and impact on historic asset**

The application building is grade II listed and located within the Lower Dock Street Conservation Area. Policy SP9 states that conservation, enhancement and management of the historic environment will be sought in all proposals. Policy CE7 states that development within or adjacent to conservation area 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.

- 7.6.1 The Historic Building and Conservation Officer has a number of concerns relating to the proposed development and these are set out in paragraphs 5.10 to 5.10.15. A number of these concerns relate to the Heritage Impact Assessment which is a requirement of all listed building consent and conservation area consent applications. These comments are relevant to the parent listed building consent application (19/0096) which is under consideration and will be determined under delegated powers and subject to Cadw.
- 7.6.2 In terms of this planning application the relevant concerns of the Historic Buildings and Conservation Officer are set out below; and addressed under each topic of concern.
- 7.6.3 *Sole use of the building for residential purposes, with no consideration of an alternative mixed commercial/residential use.*  
The applicant has addressed some of these concerns, they state that the lack of on-site staff and visitor parking along with suitable loading or unloading space would be a deterrent to a commercial user. Whilst this argument is understood the site is within parking Zone 1 because of its highly sustainable location and there is a public car (Kingsway) a very short distance from the application site and there is short term on-street parking opposite the building for operational requirements. It is not considered that the lack of on-site parking is a sufficient justification to not consider a commercial use of the building. The applicant also states that because of the existing commercial opportunities within the city centre and the significant works required to bring the building back into beneficial use, a commercial use would not be viable. More weight is attached to this justification as it is recognised that the building, as an office use, has remained vacant for at least 16 years. It is understood that commercial premises even in the city centre are struggling to attract tenants and there is a significant supply of employment land across the Authority (see paragraph 7.4 which discusses the loss of employment land). In this peripheral city centre location it is recognised, in the current climate, that it would be difficult to attract a commercial tenant. On this basis, it is considered that the applicant has sufficiently justified a sole residential use of the building.
- 7.6.4 *The size and design of the rear extension and its impact on views to the rear of the building, including from the grade II\* listed George Street bridge.*  
The Historic Buildings and Conservation Officer is concerned that the proposed rear extension with its flat roof would be in a contrasting style with different materials to the existing building. There is concern that the scale of the extension would result in complete concealment of the original building. There are public views of the rear of the building from Granville Street and there are more distant views from George Street Bridge. It is considered that these views are limited due to the intervening low quality industrial buildings which face onto Granville Street (see figures 1 and 2). It is reasonable to state that the only parts of the building visible from the rear are the second storey where there is an outline of some lettering relating to its former use as a sock manufacturer; and its corrugated metal roof. When assessing the impact of the proposed extension on what is a historically important and interesting building, the regeneration benefits of preserving and bringing a long standing vacant building back into use needs to be weighed up in the balance. In this case it is considered that views to the rear of the building are limited; and when viewed from George Street Bridge the wider urban landscape has significant variety in roof form and building design. It is considered that the harm to the listed building would be limited and the impact on the Conservation Area would be negligible in its wider setting.
- 7.6.5 It is considered that the limited harm to the listed building is outweighed by the regeneration benefits of bringing a long standing vacant building back into use for

residential purposes, which is encouraged by policy SP18. In addition, the front façade, which has the most interest, would be largely retained as existing with conditions to control specific details, including good quality materials, which is considered to provide suitable mitigation to this limited harm identified.

Figure 1 – views from Granville Street



Figure 2 – views from George Street Bridge



**7.6.6 *The use of sash windows***

The Historic Buildings and Conservation Officer is concerned that there is no precedent for the use of sash windows in the front elevation of the building. This is understood and it is considered that the design of any future new windows needs some additional consideration by the applicant. In any case, this listed building demands high standard of design and good quality materials, therefore the specific details of the windows can be controlled and assessed via a condition, which would allow for some further consideration of the type of windows which would be appropriate to the historic interest of the building, and would ensure that the special interest of the listed building is preserved. This condition would also allow acoustic mitigation measures to be properly assess in the context of their impact on the historic interest of the building.

**7.6.7 *Proposed roof materials***

The Historic Buildings and Conservation Officer is concerned that the use of a synthetic slate would not enhance the building as it would not be a traditional or durable material. This is understood and a condition is recommended which requires details of the roofing material to be agreed. A condition is also imposed requiring details of all external materials to be agreed.

**7.6.8 *Proximity of the extension to boundary walling, with concerns over future maintenance.***

The proposed extension would not extend out any further or any wider than the existing single and two storey extensions. Whilst these concerns are understood it is not considered that the proposed extension represents a scenario which is any worse than the current one.

**7.6.9 *Design of doors to carriageway entrance***

The Historic Building and Conservation Officer is concerned about the design of the doors which would provide the main entrance to the building. The applicant has

amended the position of the entrance so that the original carriageway entrance would be utilised instead of the more modern entrance on the right hand side of the building. This was a suggestion of the Historic Buildings and Conservation Officer as a way to preserve the historical commercial character of the building. The doors proposed are not considered to be suitable by the Historic Buildings and Conservation Officer however, alternative and more appropriate designs can be secured through a condition.

7.6.10 Overall the concerns of the Historic Buildings and Conservation Officer are well understood and the recommendation is a balanced one. In this case it is recognised that there would be a degree of harm to the listed building however, it is considered that harm is limited to the rear elevation which has limited visibility from public vantage points. The most prominent and most characterful part of the building is its front elevation which would be largely retained. It is considered that with the imposition of conditions which secure good quality and appropriate fenestration and materials; and when considering the significant regeneration benefits of bringing this building back into use, the impact on the listed building and conservation area can be mitigated and are outweighed by these benefits. It is considered that whilst special regard has been given to this listed building, the mitigation measures highlighted would adequately preserve its special historical and architectural interests, along with the preservation and enhancement of the conservation area.

#### 7.7 **Highways and parking**

The application site has no off-street parking and none is proposed. The application site is located in parking Zone 1 and in accordance with the Parking Standards SPG the proposal generates a demand for 6 parking spaces. However, the SPG also recognises the sustainability credentials of Zone 1, being within close proximity to public transport and retailing facilities. In this location it is therefore considered that the absence of off-street parking is acceptable. The Highways Officer has no objection on this basis.

#### 7.8 **Waste and recycling**

The Waste and Recycling Officer initially commented that the submitted plans provided adequate residual bin storage areas but there was no recycling bin provision shown. The applicant has since amended the plans which now show a communal area for residual waste and recycling bin storage. The bin capacity and manoeuvrability within the storage areas meets with the Council's guidance and it is considered to be acceptable. A condition is recommended to ensure the bin stores are provided prior to the occupation of the flats.

#### 7.9 **Protect species**

The Ecology Officer identified that there are records of bats nearby and the site is close to the River Usk, which provides high quality foraging and commuting bat habitat. A bat survey was required and was undertaken by the applicant. The survey report reveals that the building has a negligible potential to support bats. The Ecology Officer is satisfied with this and does not require any further survey work.

7.9.1 The Ecology Officer notes that the report recommends house sparrow boxes are incorporated into the scheme in order to provide ecological enhancement. The Ecology Officer requires the location of these boxes to be shown on plan prior to the determination of this application. Given the listed status of the building it is considered that only the proposed rear extension would provide a suitable location for such boxes and the precise details and location of the boxes can be secured by a condition.

#### 7.10 **Section 106 Planning Obligation matters**

In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, section 106 planning obligations are required to mitigate the impact of the development in accordance with the table below.

<b>Service Area that requires planning obligation</b>	<b>Purpose of planning obligation</b>	<b>Planning obligation initially sought by Planning Authority</b>	<b>Summary Heads of Terms agreed by applicant(s)</b>	<b>Viability Issues?</b>
Regeneration, Investment and Housing	To provide an on-site provision of affordable housing or a commuted sum	30% of on-site affordable housing units at 50% ACG, in accordance with policy H4 of the LDP or in accordance with formulae set out in the adopted Affordable Housing SPG a commuted sum of £42,900	£0	Yes
Education	To contribute towards the deficit of "Equipped" and "Formal" play in the Stow Hill ward.	£21,867 to upgrade and maintain off-site "Equipped" and "Formal" play at Belle Vue Park and/or the Riverside Park	£21,867	No

7.10.1 S106 planning obligations are normally required to either carry out works or contribute financially towards measures that mitigate the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability is an important material planning consideration on the potential scope and scale of planning obligations, especially when considering wider regeneration benefits and whether these issues outweigh the harm caused by the loss of S106 planning obligations.

7.10.2 Developer profit on open market housing will normally be a range between 15% and 20%, depending on risk and market conditions. An 'open book' viability appraisal was undertaken utilising the Council's Three Dragons Toolkit. It concluded that the developer could achieve a profit at the lower end of this profit range and still be able to provide the leisure sum, but not the affordable housing sum. A separate viability assessment has been undertaken by Newport Norse. They have reached the same conclusion, stating that "*the developer could pay the Leisure contribution and the scheme would remain viable with a developers profit of 15.8%*".

7.10.3 Taking into account both viability appraisals, it is concluded that the contribution for leisure should be requested, but the affordable housing sum should be waived. The applicant has agreed to these terms.

## **8. OTHER CONSIDERATIONS**

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

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

## 8.2 **Equality Act 2010**

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

## 8.3 Having due regard to advancing equality involves:

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

## 8.4 The above duty has been given due consideration in the determination of this application. It is considered that 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 On balance it is considered that the proposed development is acceptable and is in accordance with policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, GP7, CE7, H4, H8, EM3, T4 and W3 of the Newport Local Development Plan. It is considered that when considering the regeneration benefits of bringing this building back into use and the use of appropriate conditions to secure good quality and appropriate fenestration and materials, the impact on the listed building and conservation area can be mitigated by these benefits. It is considered that whilst special regard has been given to this listed building the mitigation measures would adequately preserve its special historical and architectural interests, along with the preservation and enhancement of the character and appearance of the conservation area.

- 9.2 It is also considered that the proposed development would not be harmful to residential and visual amenity, highway safety, protected species, nor would it adversely affect the supply of employment land within the Authority; and with the imposition of conditions future occupiers would be protected from noise. It is recommended that planning permission is granted with conditions and subject to the signing of a legal agreement.

## 10. RECOMMENDATION

### **GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 3 MONTHS OF A RESOLUTION TO GRANT PERMISSION.**

01 The development shall be implemented in accordance with the following plans and documents: AL (90) 01, AL (00) 01 rev B, AL (00) 02 rev A, AL (00) 03 rev F, AL (00) 04 rev D, AL (00) 08 rev A, AL (00) 09 rev A, AL (00) 10 rev B, AL (00) 11, AL (00) 12 rev B, AL (00) 13, Noise Impact Assessment (Acoustics and Noise Ltd, May 2019) and a bat survey report (Ethos, June 2019).

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

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

02 No development, to include demolition, shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to:

- i) minimise the impact of the construction and conversion works upon the occupiers of neighbouring premises and the health and safety of the public.

The development shall take place in accordance with the approved Plan.

Reason: In the interests of amenities, in accordance with policies GP2 and GP7.

03 No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that **all** such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies GP2 and GP7.

04 No development, other than demolition, shall commence until details of two house sparrow terraces, including their position on the building, shall be submitted to and approved in writing by the Local Planning Authority. The house sparrow terraces shall



be installed in accordance with the approved details prior to the first occupation of the flats hereby approved and retained as such thereafter in perpetuity.

Reason: To ensure ecological enhancement is provided, in accordance with Planning Policy Wales and policy GP5.

05 Notwithstanding the approved plans, no development, other than demolition, shall commence until details of the carriageway door(s), including 1:5 scale details of joinery and moulding, have been submitted to and approved in writing by the Local Planning Authority. The doors shall be installed in accordance with the approved details and retained as such thereafter.

Reason: In the interest of safeguarding the character and appearance of the Conservation Area and the special character of the Listed Building, in accordance with policies SP9 and CE7.

06 Notwithstanding the approved plans, no development, other than demolition, shall commence until details/samples of all external materials of the development, including the infill panel beneath the new ground floor window, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.

Reason: In the interest of safeguarding the character and appearance of the Conservation Area and the special character of the Listed Building, in accordance with policies SP9 and CE7.

***Prior to occupation***

07 Prior to the occupation of any of the flats hereby approved the bin stores shall be provided in accordance with drawing AL (00) 03 rev F and shall be retained as such thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies GP2 and GP7.

***Prior to installation***

08 Notwithstanding the approved plans, prior to the installation of any new windows 1:5 scale details of joinery and moulding of all new windows shall be submitted to and approved in writing by the Local Planning Authority. This shall include vertical / horizontal section(s) through proposed windows and doors. The development shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interest of safeguarding the character and appearance of the Conservation Area and the special character of the Listed Building, in accordance with policies SP9 and CE7.

***NOTE TO APPLICANT***

01 This decision relates to: Heritage Impact Assessment (C2J Architects, June 2019), Structural Inspection Report (Steve Morgan Associates) and Pre Application Consultation (C2J Architects)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP13, SP18, GP2, GP4, GP5, GP6, GP7, CE7, H4, H8, EM3, T4 and W3 were relevant to the determination of this application.

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

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# Report

## Planning Committee

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### Part 1

Date: 7<sup>th</sup> August 2019

Item No: Insert item number here

**Subject** **Appeal Decisions**

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

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

**Wards** **Caerleon, Pillgwenlly, Marshfield, Stow Hill and Beechwood**

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

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

**Action by** Planning Committee

**Timetable** Not applicable

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

## **Background**

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

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

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

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

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

## **Financial Summary**

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

## **Risks**

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

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

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

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

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

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

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

### Options Available

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

### Preferred Option and Why

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

### Comments of Chief Financial Officer

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

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

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

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

### **Comments of Monitoring Officer**

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

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

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

### **Local issues**

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

### **Equalities Impact Assessment and the Equalities Act 2010**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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

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

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

### **Consultation**

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

### **Background Papers**

Not applicable

Dated: 7<sup>th</sup> August 2019

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**Invalidation Notice Appeal**

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Reference	19/0583
Address	24 Tan House Drive, Newport, NP18 1BS
Development	Proposed raising of ground levels
Appellant	Mr S. Ireland
Validation Decision	Invalid
Appeal Decision	Invalid notice quashed

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**High Hedge Appeal**

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Reference	18/0393
Address	Allstone Cottage, Cold Bath Road, Caerleon, NP18 1NF
Development	High Hedge
Appellant	Mr Nicholas Iannetta
Delegated Decision	Issue Notice
Committee Decision	N/A
Appeal Decision	Dismissed and the high hedge notice is upheld

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**Planning Application Appeal**

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Reference	18/1222
Address	15 Priory Close, Caerleon, Newport, NP18 3SY
Development	Three storey front balcony, two storey raised walkway to side of existing property and engineering works to create level patio area to rear of house
Appellant	Mr & Mrs Brookner
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	18/0191
Address	559 A Caerleon Road, Newport, NP19 7LY
Development	Proposed detached dwelling with detached garage
Appellant	Mr William Hatherall
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	18/1058
Address	5 Bridesvale Gardens, St Brides, Wentlooge, NP10 8SJ
Development	Alteration and retention of front dormer window
Appellant	Mr Ian Ashton
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Allowed

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**Planning Application Appeal**

Reference	19/0047
Address	218 Stow Hill, Newport, NP20 4HA
Development	Replacement of timber windows to first and second to uPVC
Appellant	Mr Rodney Collins
Delegated Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Enforcement Appeal**

Reference	E18/0378
Address	Land opposite Drenewydd Reen and south of Ty Mawr Lane, Newport.
Development	Without planning permission, the material change of use of the Land to a mixed use comprising the keeping of horses and a business use
Appellant	Mr Henry Price
Delegated Decision	Issue Enforcement Notice
Committee Decision	N/A
Appeal Decision	Enforcement Notice Upheld

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**Enforcement Prosecution**

Reference	E18/0139
Address	66 Commercial Road, Newport, NP20 2PF
Breach	Unightly condition of property
Court	Cwmbran Magistrates
Date of hearing	23/07/2019
Defendant	Elizabeth Scarpato
Fine	£591.70

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**Enforcement Prosecution**

Reference	E13/0070
Address	39 Commercial Road, Newport, NP19 2PE
Breach	Unightly condition of property
Court	Cwmbran Magistrates
Date of hearing	15/07/2019
Defendant	Ian Newman
Fine	£750.00



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**Enforcement Prosecution**

Reference	E09/0735
Address	211 Christchurch Road, Newport, NP19 7QL
Breach	Unsightly condition of property
Court	Cwmbran Magistrates
Date of hearing	24/06/2019
Defendant 1	Graham Thomas
Fine	£1,210.00

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