

Agenda



Planning Committee

Date: Wednesday, 1 July 2020

Item	Wards Affected
1. <u>Development Management: Planning Application Schedule</u> (Pages 3 - 92)	
2. <u>Appeal Decisions</u> (Pages 93 - 98)	

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Date of Issue: Wednesday, 24 June 2020

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Report

Delegated



Head of Regeneration and Housing Decision taken under delegated powers during lockdown in consultation with the Chair of Planning – no public meeting has taken place

Part 1

Date: 1st July 2020

Subject Planning Decision Schedule

Purpose To record decisions made on Planning Applications

Author The Acting Head of Regeneration, Investment and Housing

Ward As indicated on the schedule

Summary In consultation with the Chair or Deputy Chair of Planning Committee, the Acting Head of Regeneration, Investment and Housing has delegated powers to determine planning applications previously determined by Planning Committee. The schedule attached details decisions made on 1st July 2020.

This report details planning decisions already taken and is provided for information purposes. 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.

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 To note Decisions as shown on the attached schedule

Action by Development and Regeneration Manager

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

The decisions 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

This report details planning decisions already taken in consultation with the Chair or Deputy Chair of Planning Committee in relation to applications ordinarily decided by Planning Committee and is provided for information purposes only. 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.

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 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.

Risks

Three main risks are identified in relating to the determination of planning applications: 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. Some applications, for example those which require a Section 106 agreement, are unlikely to be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

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

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

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal. Ensure planning conditions imposed meet	Development and Regeneration Manager

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?
			<p>the tests set out in Circular 016/2014.</p> <p>Provide training to Officers regarding relevant material planning considerations, conditions and reasons for refusal.</p>	
			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.	Development and Regeneration Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	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 well-being objectives, which contribute to the achievement of the objectives contained in the Well-being plan. The Corporate Plan also links to other strategies and plans, the main ones being:

- Newport's Well-Being Plan 2018-2023;
- 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

Not applicable. This report details decisions already made under delegated powers.

Preferred Option and Why

Not applicable. This report details decisions already made under delegated powers.

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 a risk of decisions being challenged at appeal. The costs of defending decisions and any award of costs must be met by existing budgets.

Comments of Monitoring Officer

There are no legal implications as the Reports are for information only and the decisions have already been taken under delegated powers.

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 Chair of Planning Committee

The Chair or Deputy Chair of Planning Committee has been consulted on the decisions made and recorded in this 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 balance 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 are 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 Well-being objectives published in the Newport Well-Being Plan in May 2018. Specifically, Objective 4 (Newport has healthy, safe and resilient environments) which aligns with the adopted Newport Local Development Plan (2011-2026) and seeks 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

Welsh National Marine Plan November 2019

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) (updated January 2020)
House Extensions and Domestic Outbuildings (adopted August 2015) (updated January 2020)
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)
New dwellings (adopted August 2015) (updated January 2020)
Parking Standards (adopted August 2015)
Planning Obligations (adopted August 2015) (updated January 2020)
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)
Waste Storage and Collection (adopted January 2020)

OTHER

“Newport City Council Retail Study by Nexus Planning (September 2019) “ is not adopted policy but is a material consideration in making planning decisions.

The Economic Growth Strategy (and associated Economic Growth Strategy Recovery Addendum) 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

1.

APPLICATION DETAILS

No: 19/1294 **Ward:** Marshfield
Type: Full Application
Expiry Date: 1st July 2020
Applicant: R Edwards
Site: Cefn Mably Farm Park Began Road Cardiff CF3 6XL
Proposal: **RETENTION OF MINIATURE RAILWAY, BRIDGES,
PLATFORM, ENGINE SHED AND ASSOCIATED WORKS**

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the retention of a miniature railway, bridges, platform, engine shed and associated works at Cefn Mably Farm Park, near Michaelston-y-Fedw. The railway runs around the outdoor paddocks and is approximately 800m in length. The entire Farm Park is 4 hectares.
- 1.2 The application is brought before Planning Committee at the request of Councillor Tom Suller to consider the impact on the surrounding roads and noise generation.

2. RELEVANT SITE HISTORY

94/1044	RETENTION OF USE OF LAND FOR THE KEEPING OF FARM ANIMALS AND ANIMALS OF RARE BREEDS FOR VIEWING BY PAYING VISITORS	Granted with conditions
97/0728	REMOVAL OF CONDITION 01 (RESTRICTING IMPLEMENTATION OF USE TO APPLICANT) RELATING TO PLANNING PERMISSION 94/1044/F	Granted
05/0678	ERECTION OF BARN AND EXTENSION TO EXISTING BARN	Granted
08/0045	PROPOSED EXTENSION TO EXISTING BARN AND VARIATION OF CONDITION 05 OF PLANNING PERMISSION 10/0040 TO ALLOW FOR THE PROVISION OF A FARM SHOP AFFECTING PUBLIC RIGHT OF WAY 400/54	Granted with conditions
10/0040	REGULARISATION OF USE OF LAND AND BUILDINGS FOR RURAL VISITOR EDUCATION AND INTERPRETATION CENTRE AND NEW VEHICULAR	Granted with conditions

	ACCESS (AFFECTING PUBLIC RIGHT OF WAY 400/54)		
10/0128	SITING OF A TEMPORARY ON SITE RESIDENCE FOR A PERIOD OF THREE YEARS (RETROSPECTIVE) AFFECTING PUBLIC RIGHT OF WAY 400/54	Granted conditions	with
10/1181	SITING OF A TEMPORARY ON SITE RESIDENCE FOR A PERIOD OF THREE YEARS (RETROSPECTIVE) AFFECTING PUBLIC RIGHT OF WAY 400/54	Granted conditions	with
11/0180	CONSTRUCTION OF PART TWO STOREY, PART SINGLE STOREY FRONT EXTENSIONS TO PROVIDE A FARM SHOP, BUTCHERY, KITCHENS, OFFICES, STORE ROOM, EXTERNAL SEATING AREA FOR COFFEE SHOP AND PROVISION OF FIRST FLOOR WINDOWS TO FUNCTION ROOMS AFFECTING PUBLIC RIGHT OF WAY 400/54	Granted conditions	with
11/0612	VARIATION OF CONDITION 5 (RESTRICTION OF USE) RELATING TO PLANNING PERMISSION 08/0045 TO ALLOW FOR AN ENLARGED FARM SHOP	Granted conditions	with
13/0933	CONSTRUCTION OF NEW RURAL ENTERPRISE DWELLING AFFECTING PUBLIC RIGHT OF WAY 400/54	Granted conditions	with
16/0525	ERECTION OF BUILDING FOR THE PURPOSE OF HOUSING LIVESTOCK AND PIG BREEDING	Granted conditions	with

3. POLICY CONTEXT

3.1 *Newport Local Development Plan (adopted January 2015)*

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

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

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

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

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

Policy **SP12 Community Facilities** promotes development of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas, concert halls, allotments, leisure use etc. Development that affects existing community facilities should be designed to retain or enhance essential facilities.

Policy **SP21 Minerals** safeguards potential areas for hardrock and sand and gravel resource; protects existing and potential wharves and rail infrastructure at Newport Docks to ensure the continued transportation of aggregate; encourages the use of secondary and recycled aggregates; and considers proposals for the winning and working of minerals.

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

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

Policy **CF11 Outdoor Leisure Developments** promotes outdoor leisure developments providing existing buildings are reused wherever possible and when a countryside location is essential, ancillary buildings are directly related to the primary leisure use.

Policy **M1 Safeguarding of Mineral Resource** states the Proposals Maps identifies areas safeguarded for minerals. The areas will be safeguarded unless the developer can demonstrate that working the resource is impractical; the minerals will be extracted prior to development; the development is temporary; there is an overriding need for the developments; or the development is limited householder development or would constitute limited infilling.

3.2 The following Supplementary Planning Guidance is also relevant:

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

4. CONSULTATIONS

- 4.1 NATURAL RESOURCES WALES: We have reviewed the Cefn Mably Farm Park Miniature Railway Retrospective FCA. It fails to demonstrate that the risks and consequences of flooding can be managed in line with the criteria in Appendix 1 of TAN15. However, given the existing leisure use of the wider site, and that the proposed development is an extension of that existing use, in this instance we have no objection to the proposed development as submitted.
- 4.2 CAERPHILLY COUNTY BOROUGH COUNCIL: No comments.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF PEOPLE & TRANSFORMATION (TOURISM): No response.
- 5.2 HEAD OF LAW AND REGULATION (ENV.HEALTH): No objection.
- 5.3 HEAD OF CITY SERVICES (LANDSCAPE): The following information is required to meet national and local policy requirements for landscape:
- 5.3.1 Applicant to provide a marked up plan to show locations for new native mixed hedgerow planting.
- 5.3.2 Of particular concern is replacement planting at the road junction with Began Road where timber sleepers used to retain levels are visible and the hedge has been largely lost [Google Earth imaging from 2015 shows a hedgerow with dense row of trees] and there are now open views into the site and railway.
- 5.3.3 A range of native species based on those already on site is recommended – mixes are available from nurseries and are usually dominated by hawthorn which makes a dense and easier to manage hedge.
- 5.3.4 Proposals should identify: locations; provide the total length of new planting; the species mix and percentage of each; the size at planting eg. 600-900mm bare root 1+2 stock; the planting density (usually in a staggered row of 5 plants per linear meter).
- 5.3.5 Confirm future maintenance of the site boundary hedge.
- 5.3.6 Existing and proposed hedges should provide a food resource for wildlife through winter, this can be achieved by cutting sections on rotation every 2-3 years in February before bird nesting season begins; by removal of bramble by hand; by gapping up with above species mix; and by relocating recently planted lawson cypress away from the hedge.
- 5.3.7 Confirm future storage of topsoil and material arising from pond desilting is not deposited with the root protection area of semi mature boundary trees.
- 5.3.8 Confirm that timber edging to tracks will be topsoiled and seeded.
- 5.4 HEAD OF CITY SERVICES (ECOLOGY): No objection subject to a condition requiring compliance with the submitted Ecology Technical Note.

- 5.5 HEAD OF CITY SERVICES (TREE OFFICER): Full details of tree root damage and remedial works are to be submitted.
- 5.6 HEAD OF CITY SERVICES (HIGHWAYS): The proposal is considered ancillary to the existing farm park and therefore I would offer no objection to the application.
- 5.7 HEAD OF CITY SERVICES (DRAINAGE): No response.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties sharing a common boundary and opposite the application site were consulted (4 properties) and a site notice was displayed. 3 representations received raising the following:

- The "built structures" are complete or as good as. We consider this to be an attempt at a fait accompli.
- Keep Us Rural consider this development to fall into the category of "over development". When the development of this site is viewed over a period of time it becomes apparent that the built-up landscape has changed significantly.
- We note with some alarm that the FCA dispenses with the requirement for Hydraulic Modelling (as recommended by NRW) on the grounds that the site is deemed to be "less vulnerable". The site is situated on an undefended area with a known history of significant flooding and is bordered by the Rhymney river. The overall risk (1:100 & 1:1000 year event) seems to have been significantly downplayed.
- There are two Rhymney Valley main trunk sewers on the site, this has been completely ignored. More so when it appears that Dwr Cymru Welsh Water has not been consulted and that there are structures that have been built over the sewerage system. It is hard for us to believe that this would have been permitted if known about, surely that is what the planning process is supposed to be about is it not?
- Access to the site is via narrow unmarked country lanes that have become increasingly congested with traffic. Visitors to the farm park increase the burden upon traffic flow and in countless instances cause complete gridlock, this then leads to the likelihood of road traffic accidents where vehicles run the risk of passing on the outside, elongated stretches of static vehicles and then meeting another vehicle coming the other way. The farm park is deemed to be a "visitor attraction" and it would seem entirely unnecessary to construct a railway that would inevitably entice more visitors to an already oversubscribed attraction.
- Bulk delivery of visitors via coaches exacerbates the rural congestion to the detriment of other countryside amenity users such as walkers, cyclists and horse riders.
- The Flood Consequences Assessment states that the site receives over 175,000 visitors per year. This is the reason why traffic is such an issue.
- The car park has increased in size over the years and we estimate that there are now approximately 250 spaces although a number of these are reserved for customers of The Moody Sow. The Moody Sow is a separate business operating from the site and so around 230 spaces are available for exclusive use
- 175,000 visitors per year is likely to result in over 45,000 car visits per year. In addition, we suspect there are around 2,000 bus or coach journeys per year.

- The above figures by themselves are not the issue but we estimate that Saturdays and Sundays account for around 70% of the visits with summer being around 50% busier than winter. This results in gridlock around the area on certain days when around 600 or more vehicles are fighting for around 230 car park spaces over the course of the day.
- We are aware that the management do try and manage the traffic at peaktimes but turning vehicles away takes time and you end up with traffic queuing in both directions on the surrounding lanes. Adding this new attraction to the farm park will undoubtedly increase visitor numbers and therefore exacerbate the pre-existing problem.
- The local roads have few passing places and are unsuitable for coaches, fuel supply lorries, refuse collecting trucks and other suppliers to the farm park shop. There is gridlock on the lanes when such vehicles meet. Already there are many large farm vehicles using these country lanes which is to be expected in this farming community. In the event of an emergency either at the farm park or in a local residence, necessary emergency vehicles could be delayed in the congested local roads.
- Currently Began Road is used frequently by cyclists and fishermen, also families pushing prams walking to the farm park are often seen in fine weather. Horse riders use these lanes and the horses could be distracted as the railway track runs in part along the side of Began Road. The horses may bolt at the sounds of excited children, or sounds from the train.
- The FCA report states that the farm park Interpretation centre is on the Newport and Cardiff Primary Schools' curricular. This explains why full size coaches from companies including Edwards and Mainline bring visiting schoolchildren, yet again another way to congest the local roads.
- By allowing construction to continue we had to put up with noise from anywhere between 7am and 8pm 7 days a week – planning could have curtailed these hours by putting conditions on the project if it had been submitted.
- You must take into consideration that certain Farm Park customers already come on foot from St Mellons with young children and prams.
- From humble beginnings as a Farm Park paying agricultural rates it has gradually expanded to its current situation as a Theme Park. Does this now attract business rates?
- The latest development of the railway, plus pond enlargement to a small lake, has cost a significant sum of money which probably runs into several hundred thousand pounds. Getting a return on this investment will require additional visitors, inevitably adding further congestion to surrounding lanes. This application cannot be treated in isolation. The railway is an additional feature on an already well patronised site.

6.2 COUNCILLOR TOM SULLER: Please could you send this application to full Planning committee if you have a mind to grant it. Reason due to heavy traffic on small country roads and noise.

6.3 MICHAELSTON Y FEDW COMMUNITY COUNCIL: Objection:

- The development is bound to attract additional visitors. The local country lanes are already unsuitable for the volume of traffic visiting the site, including large buses that have been observed to cause obstruction to local traffic.

- The site car park already fills to capacity during busy periods, leading to queuing on the road and obstruction of local traffic.
- The railway runs very close to the road, and the train could cause distraction to car drivers on a narrow stretch of road with limited visibility.
- The road is extensively used by horse riders, and horses are likely to become spooked by the train and its passengers.
- This is another retrospective application from an applicant with a history of carrying out developments before applying for planning permission, which suggests contempt for the planning process.

7. ASSESSMENT

- 7.1 Cefn Mably Farm Park occupies around 4 hectares. It has a long planning history beginning in 1994 when planning permission was granted for the keeping of farm animals and rare breeds for viewing by paying visitors. In 2010 permission was granted for an extension to a barn to allow for a farm shop and a further permission was granted in 2010 to allow the use of the site as a visitor education and interpretation centre. In 2011 further extensions were granted to allow for a farm shop, butchery, kitchens, offices, store room and external seating area for a coffee shop. Since those permissions the site has operated as a farm park and now attracts around 175,000 visitors a year; and employs 40 members of staff.
- 7.2 The farm park is located on the western edge of the Michaelstone Ward (near to the city's boundary with Caerphilly). The western edge of the farm park is bordered by the River Rhymney. The three nearest residential properties (Waggoners, Nant Y Deri and Pentreporth Cottage) are located to the south of the Farm Park and are separated by Began Road. Whilst these properties are only 10m away from the farm park site, the main barns and café are located on the north-western edge of the park some 85m away. The site is accessed to the north via Began Road (just before the Rudry Bridge). The access leads to a large, hard-surfaced public car park and an overflow car park with around 125 spaces.

Location of Cefn Mably Farm Park

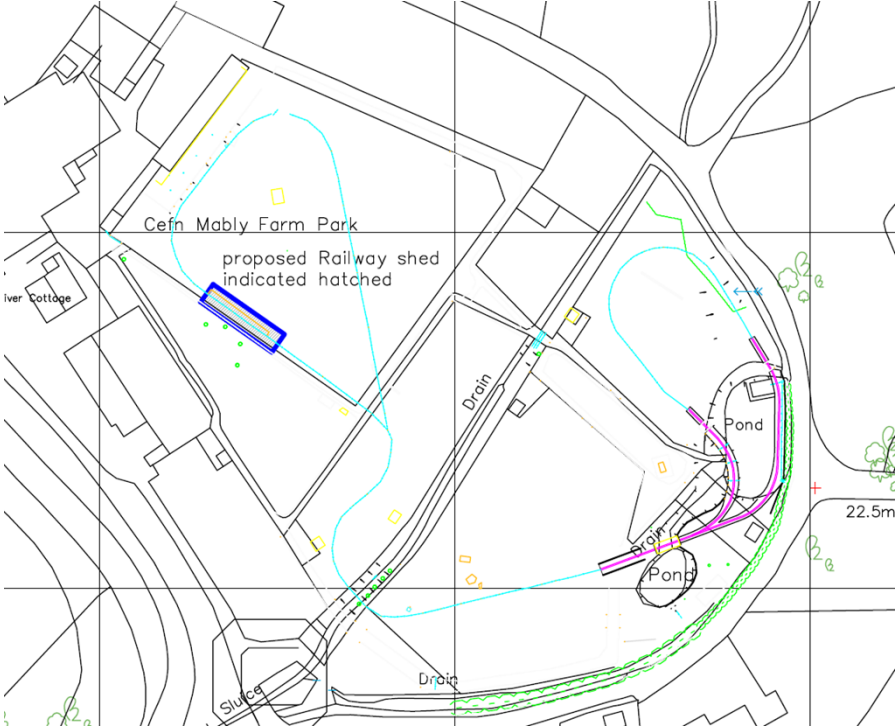


7.3 The proposals

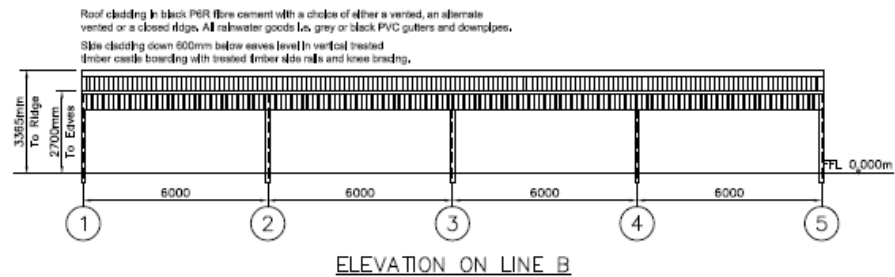
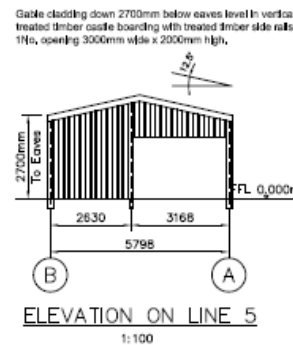
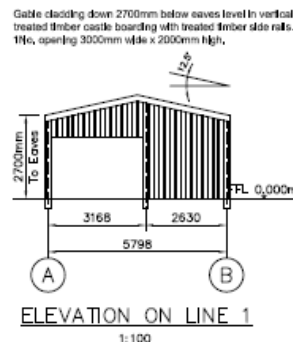
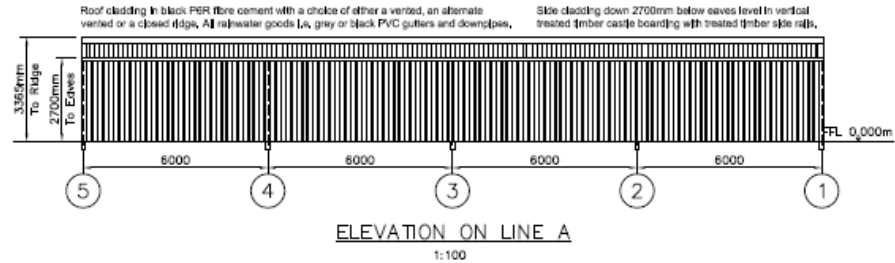
7.3.1 This application is made in retrospect. A narrow-gauge railway track has been constructed, which runs around the paddocks south of the main barn complex. The track has two loops connected by a shared line linking the two loops. It is proposed to run a battery operated engine during the park opening hours (10am to 5pm). Bridges which cross the existing field drain have been constructed, along with cattle grids between the animal paddock areas. It is also proposed to construct a platform and engine shed, adjacent to the combine harvester feature. These elements had not been completed when site visits were undertaken.

7.3.2 The most significant structure would be the engine shed, housing the platform. It would measure 24m in length, 5.8m wide, 2.7m high to the eaves and 3.4m to the ridge, with a pitched roof. It would be timber clad with partly open sides and along the front elevation.

Layout of track, bridges, engine shed and cattle grids

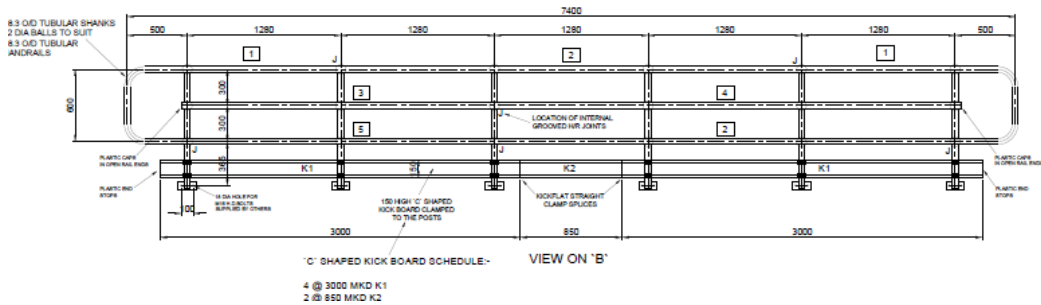


Engine shed elevations



- 7.3.3 There is one more substantial bridge to the south of the site, which crosses a pond area and has metal, tubular railings measuring 816mm high either side of the track.

Bridge and railings



7.4 Principle of development

7.4.1 Policy CF8 (Tourism) states that “new and improved tourism related developments, including hotel and other visitor accommodation, conference and exhibition facilities, heritage interpretation facilities, rural tourism and activity tourism in the countryside will be permitted, particularly where regeneration objectives will be complemented”. There is a general presumption in favour of improving the tourism offer associated with the farm park however, the supporting text to the policy states that “care will be needed to ensure that any development complements and does not detract from the characteristics of the area concerned”.

7.4.2 Furthermore it states that “in accordance with national planning policy rural enterprise in the countryside will be encouraged where proposals do not impact unacceptably on the local amenity and environment. In developing countryside

related development, it will be important to ensure that it is sustainable, resulting in a low impact on the environment and local culture, while helping to generate income, employment and conservation”.

- 7.4.3 The farm park is already an established tourism related development. The applicants state that the farm is at full visitor capacity and so the objective of the miniature railway line is not to increase the visitors but ensure visitors do not overcrowd the existing attractions. It is considered that the principle of improving the existing tourism offer is acceptable subject to the protection of its rural character, residential amenity, highway safety, flood risk and the surrounding environment. Those matters are covered within the proceeding paragraphs.

7.5 **Residential amenity**

- 7.5.1 There are three residential properties south of the application site. They are located on the opposite side of Began Road. The railway would use a battery operated engine and it is considered that the use of such an engine and the activity associated with the railway would not generate a significant amount of noise and disturbance over and above that generated by the existing farm park activity. The applicant's acknowledge that the farm park currently operates at full capacity during busy periods and the railway is intended to disperse patrons around the site and away from busier attractions. The Council's Environmental Health Officer has not raised any concerns in relation to noise and disturbance.

7.6 **Highways**

- 7.6.1 Concerns have been raised that the provision of the railway would attract further visitors to the farm park and this would exacerbate congestion problems, which are experienced during periods of high demand. Of particular concern is that the surrounding road network are country lanes where there are limited places for larger vehicles such as local farming vehicles, delivery vehicles and coaches to pass each other. This can result in situations of gridlock which causes a highway and pedestrian safety impact, along with inconvenience to road users and the local community.
- 7.6.2 As set out in paragraph 7.4.3 the applicants do not anticipate increased visitor numbers and they acknowledge that the farm park is already at full capacity during busy periods. The Councils Highways Officer considers the development to be ancillary to the existing farm park and does not raise an objection. On this basis it is considered that the development is acceptable in terms of its impact on highway safety. The existing problems experienced on the surrounding roads cannot be remedied by this application.

7.7 **Landscape impact and ecology**

- 7.7.1 The application site is located within the Countryside but it does not have any other landscape designations. It is a predominantly rural area, although it is recognised that the expansion of the farm park has altered its immediate rural character. The site has a boundary with Began Road which has a mix of taller, mature trees and hedgerow, with varying density. For example, there are stretches along the boundary where the hedgerow is more sparse and there are views into the site.
- 7.7.2 The Councils Landcape Officer has requested that the applicant provides some ecological and landscape enhancement, which would not only help to provide

some screening of the farm park but would also provide biodiversity net gain across the site.

7.7.3 The Landscape Officer has requested that following information to be shown on a plan:

- locations for new native mixed hedgerow planting.
- proposals to identify: locations; provide the total length of new planting; the species mix and percentage of each; the size at planting eg. 600-900mm bare root 1+2 stock; the planting density (usually in a staggered row of 5 plants per linear meter).
- Confirmation of future maintenance of the site boundary hedge.
- Confirmation that future storage of top soil and material arising from pond desilting is not deposited within the root protection area of semi mature boundary trees.
- Confirmation that timber edging to tracks will be topsoiled and seeded.

7.7.4 The applicant has provided a plan which shows stretches along the farm park boundary where planting would be undertaken. The total linear meterage is 95m. The applicant has confirmed that the planting will comprise a mix of native hedgerow (hawthorn, bird cherry, field maple, dog rose, hazel and blackthorn). It would have 600mm-900mm bare root with a density of 5 plants per linear meter. The applicant has also confirmed that they will maintain the boundary, but has not provided any further detail. The applicant has confirmed that they will not store any topsoil or any other material on the root protection areas of any boundary trees and they will landscape, topsoil and grass seed all timber edging surrounding the railway.

7.7.5 In order to secure the delivery and maintenance of these landscaping proposals the following conditions are recommended:

- Compliance with the landscaping plan and written scheme provided by the applicant setting out the mix, size and density of native hedgerow. Timing for the compliance, i.e. within the first planting season following the granting of planning permission and ongoing maintenance for at least 5 years.
- No storage of any topsoil or any other material on the root protection areas of any boundary trees, in accordance with their statement.
- Topsoiling, grass seeding all timber edging surrounding the railway in accordance with their statement, prior to the operation of the railway.

7.7.6 The Council's Tree Officer has requested full details of tree root damage and remedial works are to be submitted. The railway track has been constructed in proximity to semi-mature trees along the farm park boundary. There is potential that this may have caused root damage. A condition is recommended requiring these details to be submitted prior to the operation of the railway.

7.7.8 The Councils Ecologist has requested that ecological enhancement be provided. The proposed hedgerow planting is considered to provide some net gain in biodiversity. The applicant also proposes to provide 3 bird boxes within existing mature trees and 2 bat boxes, also within existing mature trees. A plan has been submitted which shows the location of the trees along the south western boundary. The Councils Ecologist is satisfied with the ecological enhancement proposed.

Compliance with the submitted ecological technical note is recommended through a condition.

7.7.9 In terms of the visual and wider landscape impact, the largest proposed structure would be the engine shed, which measures 24m in length and 5.8m in width. Whilst the track would have a minimal visual and landscape impact, the engine shed is a much larger structure. However, it would be viewed in the context of the farm park complex which consists of a number of similar structures. The proposals to improve the boundary hedgerow planting would also help to provide additional screening from public vantage points. Overall, given the already developed nature of the farm park and the screening proposals, it is considered that the development would not have a significantly harmful visual impact on the surrounding area and landscape. The Councils Landscape Officer has no objection in this respect.

7.8 **Flood risk**

7.8.1 The application site lies entirely within flood risk Zone C2 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Rhymney. The site flooded during the recent February 2020 flood event, this caused significant damage to the barn buildings.

7.8.2 Technical Advice Note 15 (Development and Flood Risk) states that only less vulnerable development should be considered in zone C2, subject to application of the justification test, including acceptability of consequences. Commercial development is categorised as less vulnerable development. TAN 15 states that, all new development, other than highly vulnerable development, should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development will only be justified if it can be demonstrated that:

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

ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and,

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

and,

iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 of TAN 15 are found to be acceptable.

7.8.3 The proposed development is considered to meet the tests i to iii, as policy CF8 provides support for improved rural tourism in the countryside, it would contribute to the ongoing economic success and generation of employment of the farm park; and the site is previously development land.

- 7.8.4 Section 7 of TAN 15 states that whether a development should proceed or not will then depend upon whether the consequences of flooding of that development can be managed down to a level which is acceptable for the nature/type of development being proposed, including its effects on existing development. This will require an assessment examining the likely mechanisms that cause the flooding in the locality, and the consequences on the development of those floods.
- 7.8.5 The applicant has submitted a Flood Consequences Assessment (FCA) which has been reviewed by Natural Resources Wales (NRW). NRW conclude that the FCA fails to demonstrate that the risks and consequences of flooding can be managed in line with the criteria in Appendix 1 of TAN 15. However, NRW advise that given the existing leisure use of the wider site, and that the proposed development is an extension of that existing use, they have no objection to the proposed development.
- 7.8.6 The FCA concludes that the development would flood to depths and velocities which exceed the tolerable limits set out TAN 15. However, the predicted speed of inundation of the site is 8 hours during a 0.1% (1 in 1000 year) event and this is well within the tolerable limit set out in TAN 15. NRW confirm that the site is within a Flood Alert and Flood Warning Area. NRW are satisfied that the proposed development is an extension of the existing used despite the flood depths and velocities predicted. It is important to note that staff or any visitors to the site would have sufficient time to leave the site (up to 8 hours) and that flood alerts and warnings are available to the attraction. An informative is added to advise the applicant to sign-up to these alerts and warnings, if they have not already.
- 7.8.7 The FCA also concludes that flood water conveyance through the site would remain unchanged as a result of the proposed development. It also concludes that the maximum loss of 404.25m³ flood storage would have an unmeasurable impact due to the extent of flood plain at this location, and the proposed loss would be located along the edge of the 0.1% (1 in 100 year) annual probability fluvial flood event flood boundary. NRW are satisfied with these conclusions. Based on the findings of the FCA it is considered acceptable that the proposed development would not increase the flood risks associated with the site, nor would it cause additional flooding in the surrounding area.
- 7.9 **Minerals**
- 7.9.1 The application site is located in an area which is safeguarded for potential mineral extraction. Policy M1 states that “development that would be incompatible with safeguarding hardrock or sand and gravel resources within the mineral resource areas will not be permitted unless:
- i) the developer can demonstrate that working the resource is economically or physically impractical or would be environmentally unacceptable; or
 - ii) the mineral resource will be extracted satisfactorily before the development is undertaken; or
 - iii) the development is of a temporary nature and can be completed and the site returned to a state that does not inhibit extraction within the timescale that the mineral is likely to be needed; or
 - iv) there is an overriding need for the proposed development; or
 - v) the development constitutes householder development or would constitute limited infilling within an existing built up area.

7.9.2 In this case the development is an extension of an existing commercial/leisure use and it is considered that the ability to work the potential resource is already physically impractical; and the proposed development does not contribute further to this impracticability.

7.10 **Other matters**

7.10.1 Concern has been raised that the site is crossed by two trunk sewers and no consultation has been undertaken with Welsh Water. Welsh Water are not a statutory consultee in respect of development of this nature and as such there is no requirement to consult with them.

7.10.2 Notwithstanding this, the applicant may be required to obtain further consents from Welsh Water in order to regularise works on or close to a sewer. An informative is added to alert the applicant of this.

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 development is considered to be acceptable and in accordance with policies SP1, SP2, SP3, SP5, SP9, SP12, SP21, GP2, GP4, GP5, GP6, GP7, T4, CF8, CF11 and M1 of the Newport Local Development Plan. It is considered that the proposals would not cause harm to residential amenity, highway safety, flood risk, ecology or visual/landscape amenity. 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:

- 2797-3 – Topographical Survey
- SO-004545-01 – Arrangement of handrails and flooring to railway bridge
- 1902-1-1-02 rev C – Site Plan
- 1902-1-1-04 rev C – Railway Levels
- 1902-1-4 rev B – Cattle Grid General Arrangement
- 1902-2-2 rev D – Track Sections
- D13214/GP01 rev A – Railway Station, foundations and elevation details
- 2010.11.01 – Proposed Railway Shed
- Ecological Technical Note (BE Ecological, March 2020)
- Flood Consequences Assessment version 1.1 (Wallingford Hydro Solutions Ltd, May 2020)

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

Prior to operation

02 Prior to the operation of the railway hereby approved details of any tree root damage and remedial works to that damage shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable to undertaken the remedial works and the works shall be carried out in accordance with that timetable.

Reason: To protect the existing trees on site, in the interest of visual and landscape amenity, in accordance with policy GP5.

03 Prior to the operation of the railway hereby approved there shall be top-soiling and grass seeding of all timber edging surrounding the railway, in accordance with a written scheme contained with an email from Rhys Edwards dated 23 April 2020. Reason: In the interests of visual and landscape amenity, in accordance with policy GP5.

04 Prior to the operation of the railway hereby approved the ecological enhancements set out in the Ecological Technical Note (BE Ecological, 21 March 2020) shall be fully implemented and retained thereafter. Reason: In order to provide ecological enhancement, in accordance with policy GP5.

General conditions

05 The scheme of hedgerow planting shall be carried out in accordance with the OS Sitemap received 23 April 2020 and a written scheme contained within an email from Rhys Edwards dated 23 April 2020. The planting shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the granting of this planning permission. Thereafter the hedgerow shall be maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purpose of this condition, a full planting season shall mean the period from October to April.

Reason: In the interests of visual and landscape amenity; and to provide biodiversity net gain, in accordance with policy GP5.

06 There shall be no storage of any topsoil or any other material on the root protection areas of any boundary trees, in accordance with a written scheme contained within an email from Rhys Edwards dated 23 April 2020.

Reason: To protect the existing trees of site, in the interests of visual and landscape amenity, 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, SP2, SP3, SP5, SP9, SP12, SP21, GP2, GP4, GP5, GP6, GP7, T4, CF8, CF11 and M1 were relevant to the determination of this application.

02 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.

03 If the applicant hasn't already done so, they are advised to sign up to the Flood Alerts and Flood Warning system.

04 The applicant should contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of any apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.



2.

APPLICATION DETAILS

No: 20/0321 **Ward:** Tredegar Park

Type: Full (Major)

Expiry Date: 20th May 2020

Applicant: G Draper

Site: Ysgol Gyfun Gwent Is Coed Duffryn Way Duffryn Newport South Wales

Proposal: **DEMOLITION OF TEACHING BLOCK ONE AND CARE TAKERS ACCOMMODATION, CONSTRUCTION OF TEACHING BLOCK SIX AND SPORTS HALL, ACCESS, SPORTS PITCHES AND ASSOCIATED WORKS**

Recommendation: **SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES AND THE COUNCIL ECOLOGIST CONFIRM THAT MEASURES TO MITGATE THE IMPACT UPON PROTECTED SPECIES ARE ACCEPTABLE.**

1. INTRODUCTION

- 1.1 This application seeks consent to demolish teaching block 1 and the care takers accommodation and construct a replacement teaching block 6 and a sports hall; a new re-en access; and provision of sports pitches and associated works. The Sports Fields would be located on the other side of Lighthouse Road and would be positioned on an adjacent field to the existing school site. The proposed buildings would be located in the grounds of Ysgol Gyfun Gwent Is Coed School.
- 1.2 Ysgol Gyfun Gwent Is Coed is a new Welsh Medium Secondary School which was granted permission on 29 May 2016 involving the subdivision of Duffryn High School and the construction of new school blocks and associated education facilities (16/0222). The site is within the urban area, an archaeological sensitive area but lies within Zone C1 flood risk area and adjacent to Gwent Levels SSSI. The playing fields are considered to be part of the SSSI.
- 1.3 The application is being determined by Planning Committee as the land is owned by Newport City Council.

2. RELEVANT SITE HISTORY

04/0342	Sports Hall	Granted with conditions
04/0943	Boundary Fence	Granted with conditions
06/1676	Erection of climbing wall and frame	Granted

15/1103	Subdivision of existing Duffryn high school site to facilitate the provision of a welsh medium secondary school. Construction of 1no. 3 storey teaching block to serve Duffryn high school and 1no. 3 storey teaching block to serve welsh medium school. Creation of new vehicular and pedestrian access points, amended parking/drop off areas, new sports pitches, playing fields and floodlighting of 3g pitches. minor alterations and new access ramp to building 2	Refused
15/1104	New sports hall, associated access and parking provision (outline)	Withdrawn
16/0222	Construction of 2no. 3 storey new teaching blocks on the current Duffryn high school site. Subdivision of the site to facilitate the provision of a welsh medium school in blocks 1 and 5 and English medium school in block 2, 3 and 4. new internal security fencing and gates and some replacement external security fencing, new sports pitches, muga's and playing field on the existing site. floodlighting of 3g all weather pitch. new vehicle and pedestrian crossing on Duffryn way and controlled pedestrian crossing on lighthouse road. minor internal alterations and new entrance with canopy and glazed screen and access ramp to block 2. (resubmission following refusal of planning application 15/1103)	Granted with conditions
16/1177	Non material amendment to planning permission 16/0222 for changes to phase 2 car park	Approved with conditions
17/0659	Non material amendment to planning permission 16/0222 (provision of a welsh medium school and other alterations) to replace/relocate refuse storage area, new footpaths, reconfiguration of entrance to block 05, changes to external finishes/colours, alterations to windows of blocks 04 and 05 and omission of entrance canopy to block 04	Approved with conditions
18/0489	Temporary siting of a two storey demountable classroom (august 2018 to april 2021)	Granted with Conditions
20/0277	Temporary ancillary accommodation and associated works	Granted with Conditions

3. POLICY CONTEXT

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

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

Policy **SP2 Health** favours proposals which make a positive contribution to health and well being and by being in sustainable locations.

Policy **SP4 Water Resources** favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.

Policy **SP12 Community Facilities** – Development that affects existing Community Facilities should be designed to retain or enhance essential facilities.

Policy **GP1 Climate Change** states that development should be designed to withstand predicted climate change and reduce the risks and consequences of flooding, minimise energy requirements, reuse/recycle construction material and meet the relevant BREEAM or Code for Sustainable Homes Level.

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

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

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

Policy **GP5 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 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 Environmental Protection and Public Health** states that development will not be permitted which would cause or result in unacceptable harm to health.

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

Policy **CE3- Environmental Spaces and Corridors** states that these spaces would be protected for visual and environmental, wildlife qualities as well as for leisure and amenity purposes.

Policy **CE6- Archaeology** states that development will be expected to carry out an impact assessment before any works

Policy **CF1 Protection of Playing Fields, Land and Buildings Used for Leisure, Sport, Recreation and Play** states application for the redevelopment of all playing fields and areas used for recreational play will only be permitted where, alternative provision of the same benefit is available or the land/building is surplus to requirement.

3.2 **Supplementary Planning Guidance (Adopted)**

- Parking Standards
- Archaeology & Archaeologically Sensitive Areas
- Wildlife and Development SPG
- Trees, Woodland, Hedgerows and Development Sites

3.3 **Planning Policy Wales**

3.3.1 National planning policy in the form of Planning Policy Wales (Edition 10, 2018)

(PPW) is of relevance to the determination of this application. The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

3.3.2 The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places
- Sustainable Management of Natural Resources
- Accessibility
- Supporting Infrastructure

Chapter 4 - Active and Social Places

- Transport
- Living in a Place (housing, affordable housing)

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic environment, Green Infrastructure, Landscape, Biodiversity and Ecological networks)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

3.4 Technical Advice Notes:

3.4.1 The Welsh Government has provided additional guidance in the form of Technical

Advice Notes. The following are of relevance:

- Technical Advice Note 5 – Nature Conservation and Planning
- Technical Advice Note 11- Noise
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 15 – Flooding and Development

3.5 Other relevant evidence or policy guidance:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

4. CONSULTATIONS

4.1 DWR CYMRU - WELSH WATER- No objection, subject to a condition provided that no operational development is carried out within 3 metres of an identified public sewer and that an adequate grease trap that must be submitted and approved by the LPA.

4.2 NATURAL RESOURCES WALES- maintain significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met and you attach the following conditions to the permission. Otherwise, we would object to this planning application.

- Requirement 1 – Further information is required to demonstrate that the proposal will not be detrimental to the maintenance of the favourable conservation status of bats (European Protected Species).
- Condition 1: Secure implementation of mitigation within the submitted Flood Consequences Assessment.
- Condition 2: Submission and approval of a Construction Environmental Management Plan (CEMP) prior to commencement of development.

4.3 NEWPORT ACCESS GROUP- No response has been received to date.

4.4 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST (GGAT)- No objection, subject to a condition requiring a written scheme of historic environment mitigation.

4.5 SOUTH WALES FIRE AND RESCUE SERVICE- No objection but the developer should consider the need for the provision of:-
a. adequate water supplies on the site for firefighting purposes; and

b. access for emergency firefighting appliances.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS) - It was indicated that the proposal is acceptable in highway terms, subject to conditions on Construction Environmental Management Plan and that the development accords with transport statement documents and travel plan that informed the initial application for the school in 2016.
- 5.2 HEAD OF CITY SERVICES (LANDSCAPE OFFICER)- The landscape officer raised concerns over the quality of proposed outdoor space as it is represented predominantly by hard tarmac surface. The outdoor classroom was welcomed, but the series of outdoor courtyard spaces mentioned as part of Paragraph 4.9 of the DAS for originally approved application 16/0222 have not been provided. Also clarification was sought on the construction of the diverted path and what has been done to protect existing trees as the route goes through Root Protection Areas. It was also noted that there were some inconsistencies in the tree survey/arboricultural report as well as the Ecology and Landscape Management Plan.
- 5.3 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION) - No objections to the above planning application however the following conditions requiring a further noise assessment for any plant and machinery and a Construction Environmental Management Plan.
- 5.4 HEAD OF CITY SERVICES (DRAINAGE MANAGER)- No response
- 5.5 HEAD OF CITY SERVICES (ECOLOGY OFFICER)- Holding Objection- Insufficient information has been provided for the Local Planning Authority to consider the 'Three Tests' under the Conservation of Habitats and Species Regulations 2017 and appropriately fulfil our wider duties under that same legislation and the Wildlife and Countryside Act 1981 & Environment (Wales) Act 2016.

6. REPRESENTATIONS

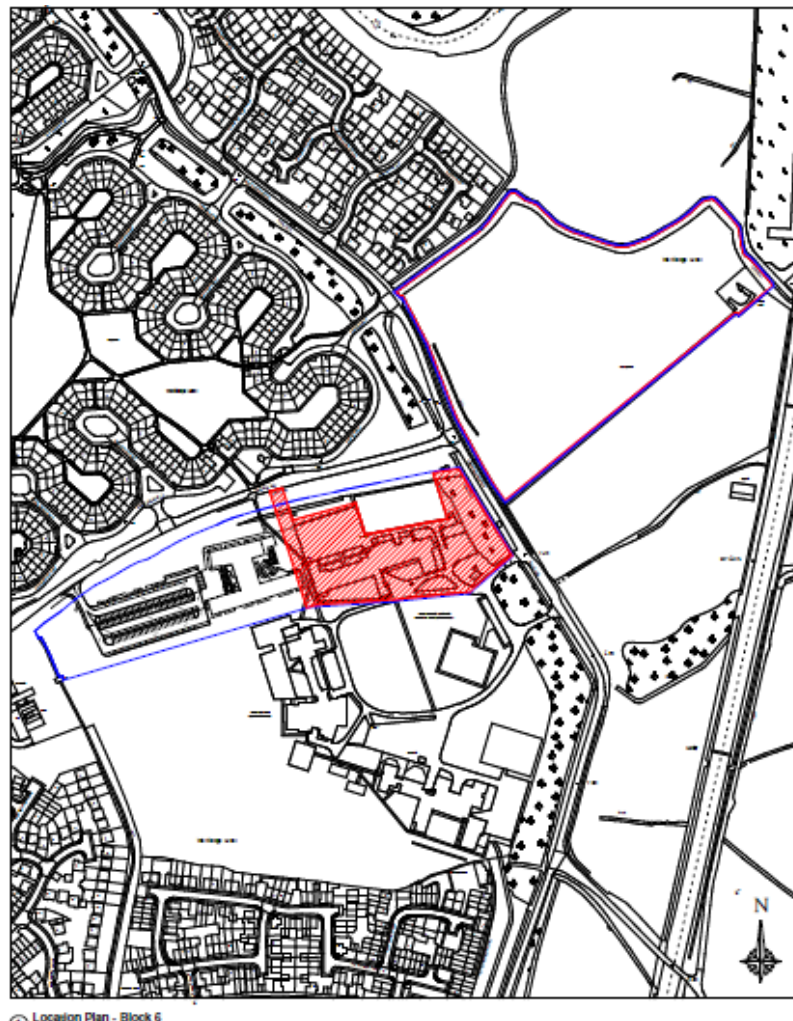
- 6.1 NEIGHBOURS: A site notice displayed on 17th April and a press advert was displayed on 18th April. The neighbouring properties of John Frost School, the School House and Duffryn Community Sports Centre. No representations have been received to date.
- 6.2 COMMUNITY COUNCIL and COUNCILLORS: no comments received.

7. ASSESSMENT

7.1 Site Description

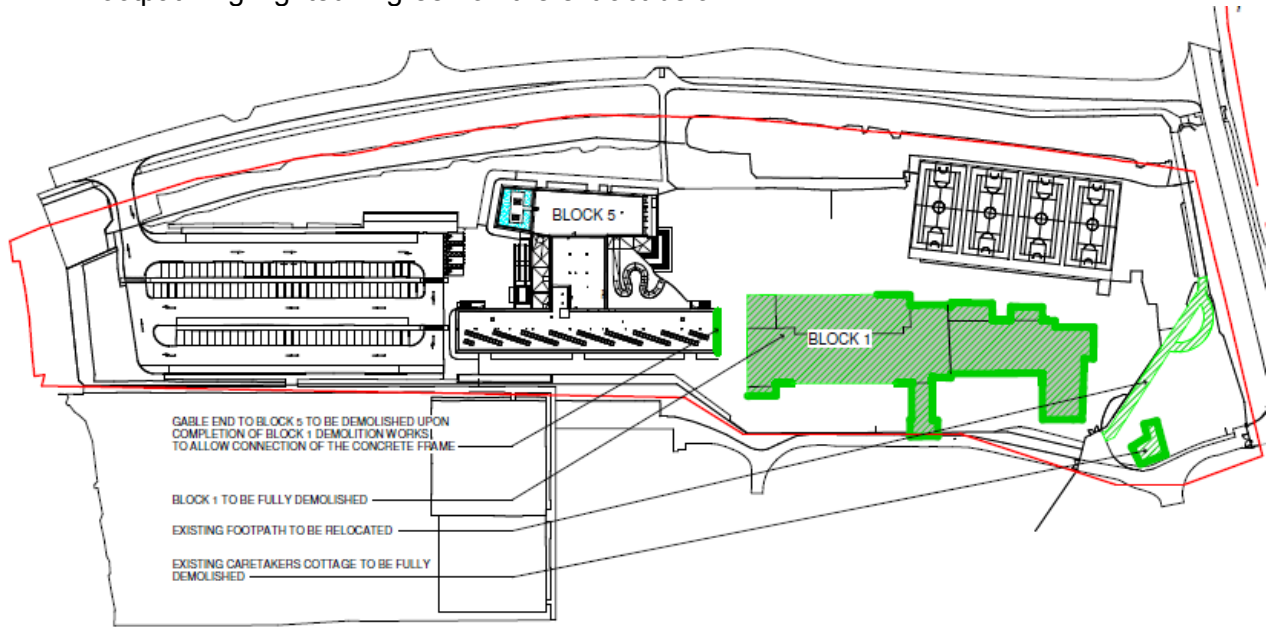
- 7.1.1 The application site is an existing school, Ysgol Gyfun Gwent Is Coed, which is a new Welsh Medium Secondary School located along Duffryn Way, Newport. The application site lies some 2.1 miles to the south west of Newport City Centre but still within the Urban Boundary. The site is also located within an Archaeological Sensitive Area and a C1 flood zone.

- 7.1.2 The application relates to two land parcels located within the Dyffryn area of Newport. The parcel which is proposed to accommodate the sport pitches lies adjacent to the school along Lighthouse Road. The land is known as Lighthouse Playing Fields, which is within the urban boundary and part of the Gwent Levels Site of Special Scientific Interest (SSSI). A Seal Wall Reen adjoins to the north whilst the railway line adjoins to the east. To the north west, lie the existing residential developments of Edney View and Lancers Way.
- 7.1.3 The school site itself lies along Dyffryn Way within the wider compound of Ysgol Gyfun Gwent Is Coed and is adjoined to the west by the existing car parking area. John Frost School and its associated structures lies to the south with Lighthouse Road to the immediate east.
- 7.1.3 The wider context is largely residential in character but within close proximity to some light employment sites and good transport routes to major roads. There is an existing vehicular and pedestrian access route into the site to the north west of the application site from Duffryn Way.



7.2 Description of Development

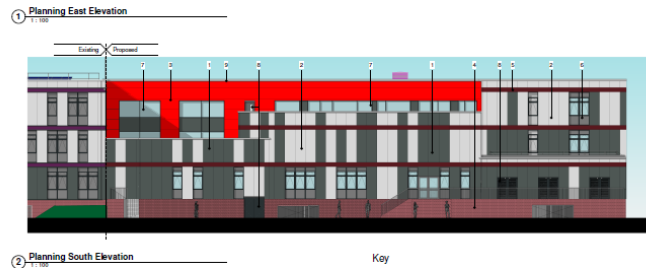
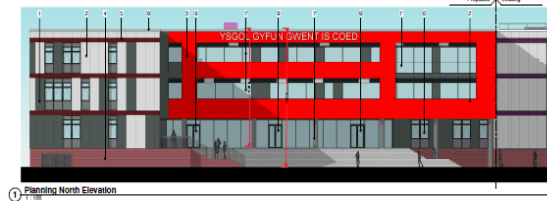
7.2.1 The proposal is for the demolition of teaching block 1 and the care takers accommodation; construction of teaching block 6 and a sports hall; a new emergency vehicle access across the reën; and provision of sports pitches and associated works. Below is a plan that indicate the existing structures that are proposed for demolition, namely Block 1, the caretaker's accommodation and footpath highlighted in green on the extract below: -



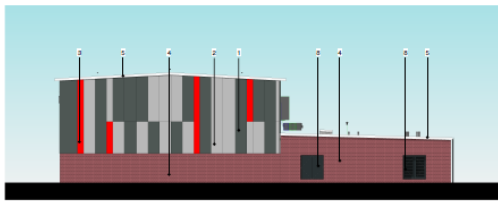
7.2.2 The school block (block 1) will be replaced by a linked school extension identified as block 6 (extract below) and a detached Sports Hall. The proposed sports pitches and retention of the ecology area in the field opposite. An extract of site plan is detailed below: -



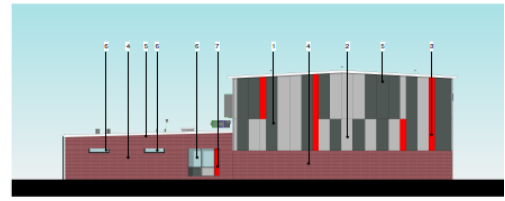
7.2.3 The extension to the existing school block will extend the building by approximately 50m in width and 13m in height. The end elevation (east) would face an internal yard area and measure approximately 54m from front to back (ground floor) reducing to 50m at first and second floor. The extension would be finished in metal composite panel materials, coloured in a mix of greys, silver and red. The new block will replace the existing and accommodate a main hall, dining hall, classrooms, staff rooms, offices, toilets, kitchens, science laboratories and art rooms. An extract of the new block elevations are detailed below: -



7.2.4 The sports hall would have a footprint of approximately 34m wide (max) narrowing to 19.2m and 34m length (max) shortening to 26m and measure approximately 10m high. The sports hall would be situated on the opposite side and front the internal yard area and east elevation of the new block 1. The building is proposed in a similar mix of materials and finishes proposed on the extension to the existing block and would accommodate a sports hall, changing rooms, gym/fitness suite, toilets, store and plant rooms. An extract of the elevations is shown below: -



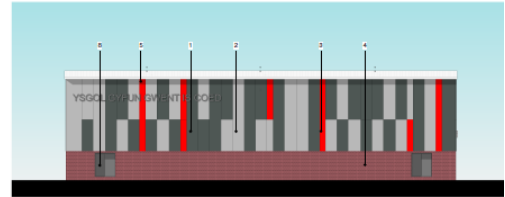
① North Sports Hall



① South - Sports Hall



② West - Sports Hall



② East - Sports Hall

7.3 Principle of the Development

7.3.1 This application seeks consent to install buildings in the grounds of Ysgol Gyfun Gwent Is Coed to replace existing and an unfit for purpose Building 1 and caretakers building. The new block will replace the old, providing updated dining/kitchen facilities, a sports hall and classroom as well as art science labortory accommodation.

7.3.2 Since this proposal would be in connection with an existing school which is located within the urban boundary, the provision of replacement facilities to support this use is, in principle, acceptable, satisfying the requirements of SP1, SP2 and SP12 of the Adopted LDP 2011-2026, which seek to provide sustainable development and enhance existing school facilities subject to the proposal satisfying a number of general planning policies and material considerations, including visual impact, trees and landscaping, ecology, impact upon neighbouring amenity, flooding, drainage, parking and highway safety, archaeology, other issues. These matters will be assessed in turn.

7.4 Visual Impact

7.4.1 Block 6 would be a linked extension to the recently constructed block (building 5) that already serves the school. The extension looks to replicate the simple form of the main building, linking to the building at the rear and forming a T shape extending to the east of the existing building. The building would match the three-storey height and although a substantial extension to existing buildings, the scale and height would match the existing building and responds positively to the adjacent buildings. Further to this, the building has setbacks or recesses and build outs that break up the monotony of the substantial width as well as the use of a composite metal panels of varying shades which break up the scale and massing of the building.

7.4.2 Similarly, the proposed Sports Hall is a large building but within the context of the School grounds it will be smaller and more subservient to the existing buildings on the site. It is a simple functional shape and design and the use of composite metal

- panel materials above the proposed red facing brick adds interest to the elevations and ensures it complements the existing and proposed buildings.
- 7.4.3 The demolition of the existing school building and erection of the replacement building, along with the provision of the vehicle re-en crossing to the front of the site would result in a visual change to the front of the site from Duffryn Way and to a lesser extent on Lighthouse Road to the side. The majority of the trees and vegetation that enclose the grounds would be retained, which guarantees that any views of the buildings are limited to small gaps where the accesses are situated. Any views of the site from Duffryn Way and Lighthouse Road would be concealed within 60m of the accesses in either direction, especially during the spring to summer periods when the trees and vegetation are in season. During the winter periods, the visual impact of the buildings would be more appreciable, however, it is considered that the notable set back of the buildings from the road as well as the appropriate scale and design would be seen as acceptable in the context of the existing school grounds.
- 7.4.4 There are also proposals to develop the playing fields on the opposite side of Lighthouse Road. The playing field is included within the Gwent Levels SSSI but has the appearance of a well maintained open space with the road and railway line forming natural borders at either end. For instance, the grass appears to be maintained to a lower level as well as a rugby pitch and posts being formally laid out. The works would look to formalise this play area further, with the introduction of a new rugby pitch (grass) and the development of a 3G all weather type surface. The most notable change would be the proposed floodlighting and fencing around the 3G pitch. The fence would be an open mesh design 5m high, extending to 8m at either end. An indicative lighting plan submitted indicates there would be 8 floodlights proposed around the pitch of approximately 10m high but no elevation design has been provided.
- 7.4.6 Although the formation of the sports pitches would alter the appearance of the playing field to a degree, it would not significantly or unacceptably alter its character and appearance. The defined pitches would not be visible other than from close proximity and there are no proposals for changing rooms/buildings in this area. The proposed fence would be a conventional scale and practical design whereas the number and height of floodlights is not considered excessive. However, a condition will be required for further details of the enclosure and lighting to be submitted before being implemented.
- 7.4.7 The playing fields are concealed from Lighthouse Road due to the position of the ditch and vegetation bordering the site. There are clear views of the site from a public footpath (PROW) bordering the site to the north with a route along the entire length of the playing fields. Although the site would be visible from the PROW it is considered that the changes to the sports facilities have been designed in a manner that would not be harmful to the appearance of the site or the wider visual amenities of the area.
- 7.4.8 Accordingly, it is considered that the existing school grounds around the periphery are extensively landscaped, which screen a lot of the scheme from vantage points to the north and east. The new accommodation blocks would be acceptable in terms of siting, scale, form and massing along with appropriate external materials,

which ensures the proposal respects the scale of adjacent buildings and would not be harmful to the visual amenity of the site or the surrounding area.

7.5 Trees and Landscaping

- 7.5.1 A Tree Survey has been submitted, which includes an extensive number of specimens within and on the perimeter of the school site. The survey indicates that 6 trees and three groups of trees would be removed as part of the development. These include T1, T2, T3, T5, T7, T8, G1, G8 & G11, which include the removal of 2 Category A trees (T1 and T2); 1 Category B (T3) a Category C (T7) and a Group value C (G1-Group of Ash Trees). The work would also result in pruning works to three trees and 7 groups surrounding the site. The landscape officer did note some inconsistencies in the tree survey. i.e. that the chart indicating works to trees and the final list of trees to be removed were slightly different. This has now been corrected by the Arboriculturalist and an amended tree survey submitted.
- 7.5.2 The loss of the high quality trees (Category A and B) is regrettable but the position of these trees is such that they would need to be removed in order to demolish the existing dilapidated building and to accommodate the replacement. According to the tree survey, the two trees are good quality specimens of a Cypress Lawson, a Norway Maple and Malus.
- 7.5.3 A site visit has been carried out and the proposal was assessed in terms of whether the trees are specimens that contribute to the visual amenity sufficiently to warrant further protection by tree preservation orders. The trees are not notably visible from the adjoining roads or PROW and this is due to the ample vegetation, trees and greenery that encloses the school site. As such, the removal of the trees, albeit regrettable, would not result in a significant impact upon the visual amenities of the street scene. Moreover, it is indicated that the proposed landscaping would compensate the loss of these trees by the planting of a number of other replacement trees within the site. Therefore, on balance, it is considered that due to lack of contribution to the wider visual amenity, the trees do not warrant further protection and the accommodation of the school extension building would be acceptable in this instance.
- 7.5.4 A landscaping scheme has been submitted with the application, which indicates how it would look to address the loss of trees and vegetation from the development and how to provide good outdoor space for the educational use of the site. In order to mitigate against the loss trees within the site and some small areas of grass around the buildings, the landscaping scheme has proposed to plant 19 trees, including 12 common Hornbeam, 7 Rowan, 2 Willow and 2, Alder Buckthorn along with 12 rain garden planters around the sports hall and block 6. In addition, an outdoor classroom is proposed to the east of the sports hall.
- 7.5.5 On consultation with the Landscape Officer, there were concerns over the quality of proposed outdoor space as the space between the two buildings is predominantly hard surface and could further landscaping be provided to the entrance of block 6. The outdoor classroom proposal was welcomed but further clarification was sought on the diverted path and how is it proposed to be constructed and what would be been done to protect existing trees near to the diverted path. In addition, the officer was concerned that a series of outdoor courtyard spaces mentioned as part of Paragraph 4.9 of the DAS for 16/0222

(initial scheme) had not been provided as well as the small proportion of the rain planters.

- 7.5.6 In response to the Landscape Officer's concerns, the agents have indicated that the masterplan and overall strategy for the school site as a whole was set out in the planning application for Block 5. During the development of this masterplan, the areas for hard and soft social spaces required to support the new school in relation to building bulletin 98 guidelines- Guidance for the design and maintenance of school buildings and land were outlined, and formed the basis of the drawings and documents submitted as part of the Block 5 planning application by Boyes Rees Architects.
- 7.5.7 Although Block 6 is a separate planning application, it conforms to the overall requirements of the masterplan set out as part of the Block 5 planning application. As part of the overall site masterplan, the required areas of soft play, hard play, habitat and hard / soft sport pitch provision were established and subsequently constructed. It was the intention that construction of block 6 would work within these existing constraints and that the requirements for habitat, sports pitches and hard / soft play areas in particular are maintained. The courtyards mentioned by the Landscape Officer have been provided by mirroring the steps that lead down from the Eastern Façade of Block 5 with the steps that lead down from the Dining area of Block 6. These mirrored steps unite Block 6 and Block 5 externally around a vibrant social hard play space that can be used flexibly throughout the year. It was agreed that further planting could soften the front entrance and an additional 3 trees are proposed in this area and it is indicated that the rain planters are sized in accordance with the SuDS Manual to take a particular area of runoff from the roof to improve water quality and enhance biodiversity. They cannot be made larger or relocated as this would impact on the wider drainage scheme and require a full redesign of the SAB application.
- 7.5.7 In respect of the design of the proposed footpath near the outdoor classroom, the fence line alterations are part of the new school boundaries. The Arboriculture Impact Assessment discusses this element of the proposal and confirms that *"A woodland path is to wind through G7. In order for this to be constructed, it needs to be a no dig path using a 50-75mm layer of CellWeb cellular confinement system as shown on page 13 of this document. The path needs laying on top of the existing ground. All work to be pedestrian based – no plant equipment. The fill in the CellWeb should be clean stone only"*. As such, the formation of the path should not have any significant impacts upon the root protection areas of the nearby trees
- 7.5.8 The Landscape Officer has not be able to comment on the agents response or the amendments made to enhance the landscaping scheme, however, it is considered that the retention of the groups of trees and vegetation along the perimeter of the site as well as the landscaping proposals to enhance the biodiversity of the site are acceptable in this instance. While the area between the two proposed buildings is largely hard surfaced, there are proposals to soften this area with rain planters and replacement trees as well as it being integrated into the entire school development. In addition, the hard landscaped area to the middle of the site is concealed from public viewpoint and contrasts with the remainder of the school site, which is heavily landscaped with the natural vegetation and reens that feed

into the Gwent Levels. From the public viewpoints outside the site the area would remain semi-rural in character while the pupils will benefit from outside spaces that are rich with ecology and biodiversity.

- 7.5.9 As such, despite the loss of a number of trees from the site, it is considered that the tree survey and arboriculture report, along with the proposed landscaping scheme is acceptable, complying with the requirements of GP5 of the Adopted LDP 2011-2026.

7.6 Ecology and Biodiversity

- 7.6.1 Policies SP9, CE3, GP5 and GP7 of the Newport local development plan 2011-2026 (adopted January 2015) as well as supplementary planning guidance: wildlife and development (SPG: WD) indicates the development will be permitted where the proposals are designed to encourage biodiversity and ecological connectivity and demonstrate how they avoid, mitigate or compensate any negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national and local protected habitats and species, and protecting features of importance for ecology and water quality.
- 7.6.2 The proposed works would result in the loss of a number of trees and the demolition of older and underused buildings. Moreover, the playing fields element of the site is part of the Gwent Levels SSSI. The SSSI is notified for its range of aquatic plants and invertebrates associated with the reens and ditches of the drainage system. The special interests of the SSSI are dependent on the water quality, water quantity, the existence of the drainage system and its continued management. The proposed works are adjacent to the watercourse 'Tredegar Cutting' that links to the SSSI watercourse named Pontycwaw Reen.
- 7.6.3 The application was supported by a Preliminary Ecology Appraisal (PEA), which was a walk over assessment of the site. Consideration of a number of protected species as well as the protected habitat were considered, including the type of grass, scrub and vegetation to be removed as well as evidence of Bats, Doormouse, Otter and Watervole, nesting birds, reptiles and amphibians. The appraisal indicated that it would be necessary to carry out further survey work to identify whether any bats are present on site and would be affected by the proposals.
- 7.6.3 In an initial consultation with NRW and the Council Ecologist it was requested that the bat survey was carried out and until that time a holding objection would be raised against the scheme. The Council's ecologist also requested a Landscape and Ecology Management Plan and a lighting scheme for the proposed 3G pitch located on the playing fields.
- 7.6.4 The Bat Survey as well as the Landscape and Ecology Management Plan and lighting plan were submitted in an attempt to address the concerns but the agent has indicated that the lighting work for the sports field has not been finalised yet and could change in detailed design stage. The bat survey indicated no roosting bats were identified but that there was potential for bats on the site and in the buildings and has proposed a number of mitigations recommendations to mitigate

any impact upon the protected species. The mitigations also include proposals to reduce the impact of the floodlighting on the protected species.

- 7.6.5 Consequently, further consultations with NRW and the Council ecologist have been carried out but at the time of writing this report, no response has been received to indicate whether the bat mitigations for the scheme are satisfactory. As such, officers cannot confirm that the proposals would be sufficient to ensure that the development would not detrimentally impact upon the protected species.
- 7.6.6 As such, at this stage it is unclear whether the proposals are acceptable in respect to ecology and there is insufficient information to confirm that the development would comply with the necessary policy requirements. Accordingly, officers would like to seek delegated powers for the Head of Planning to determine the application if a no objection response is received by National Resource Wales and the Council Ecologist based on the recently submitted mitigation schemes submitted.

7.7 Impact upon Neighbouring amenity

- 7.7.1 The nearest residential properties to the proposed buildings would be those at Cormorant Way. These properties would be approximately 100m away from the proposed buildings. Due to the separation distance and the presence of mature trees, hedgerow and public roads, it is considered that the proposed buildings would not have any significant adverse effect on residential amenity of the neighbouring properties, particularly with regards to privacy, overbearing.
- 7.7.2 With respect to plant noise, it is proposed the rating noise limits 5 db lower than the background noise level at nearby residential receptors, i.e. LA,r 40 db. Plant selections have not been made at this stage of the design, however it is considered that the above limits can be met with provision of standard attenuation and screening measures. Therefore no significant impacts are predicted. The Environmental Health Officer has considered the noise assessment and has indicated that subject to a condition requiring a further noise assessment once the plant selections have been decided but before any implementation. This condition can be included as part of any consent.
- 7.7.3 There is no detailed lighting scheme with the application but it is considered that given the distance from residential properties together with its use during daytime to afternoon periods it is unlikely to result in external lighting at unreasonable times of the day that would harmfully impact upon neighbouring amenity.
- 7.7.4 The Head of Law and Regulatory Services (Public Protection) has no objections to the proposal. Having regard to the above and the EHO comments, it is considered, subject to these conditions, the proposal satisfies Policies SP2 and GP7 of the Adopted LDP 2011-2026.

7.8 Flooding

- 7.8.1 Policies SP3- Flood Risk, GP1- Climate Change and GP7- Environmental protection and Public Health of the Council's Adopted Local Development Plan 2011-2026 are of relevance insofar as it relates to ensuring vulnerable development is directed away from flood zones and development will only be permitted in flood zones where the flooding risk is mitigated to an acceptable level.

- 7.8.2 The site lies within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN 15). NRW's flood map information, which is updated on a quarterly basis confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Ebbw and within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) tidal flood outlines.
- 7.8.3 Planning permission was issued on 19 May 2016 for the new school Ysgol Gyfun Gwent Is Coed. The school is partially completed and occupied but the remainder of the school will be completed over the next few years in line with the proposed replacement buildings. This proposal involves the provision of these buildings to be used in conjunction with the school.
- 7.8.4 TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas.
- 7.8.5 As the school site benefits from planning permission and based on the rationale for the proposed development, this new facility can only be provided within the grounds of the school and, as such, its location within Zone C is necessary and justified. Officers consider that the proposal comprises a regeneration initiative since it is a proposal associated with the delivery of education services and aims to meet the needs of the community and provide the best learning provision for the area. The establishment of the school itself formed part of the 21st Century Schools and Education Programme and subject to major, long term and strategic capital investment.
- 7.8.6 Accordingly, the development would occur within the grounds of a school and on a site that is within the urban boundary. Apart from flood and climate change considerations, it is considered that the proposal is consistent with Planning Policy Wales and constitutes previously developed land. The justification for the proposed development is therefore supported in principle, complying with the requirements of (i) to (iii) of section 6 of TAN15.
- 7.8.7 A Flood Consequences Assessment and an additional letter setting out further tolerance information was submitted to the Council to demonstrate to the risks and consequences of flooding at the site can be managed. The main recommendations that are listed in the FCA are as follows:-
- In order to mitigate against residual flood risk the proposed development should include raised thresholds as minimum, with other mitigative measures to exclude flood water and reduce the impact of water ingress considered for incorporation into the design.
 - Block 6 is to be constructed with a FFL of 8.3m AOD to provide dry safe refuge in the 100yCC and 1000y fluvial events.
 - The proposed sports hall to be constructed with FFL of 7.30m AOD as per the existing facility and to incorporate flood resilience into the fabric of the building.

- Future consideration is given to the provision and installation of property level flood protection to the sports hall.
- The development should be designed such that the structures can withstand the predicted effect of a failure in the defences.
- The surface water drainage design should ensure no increase in surface water runoff and comply with SAB requirements.
- Warning notices should be displayed in buildings or otherwise communicated describing the flood risk and, evacuation and closure plans implemented and practised.
- Those responsible for the running of the school should sign up to the EA's FloodLine Service.
- Due to the potential for groundwater flooding and flooding from other sources, this report would provisionally advise against basements in any proposals.
- Access and egress, if required under all considered flood conditions may be unachievable without raising access roads in the vicinity of the school. If this is undertaken the impacts resulting should be satisfactorily investigated.
- Whilst access and egress should be ensured to the satisfaction of the Local Authority, safe refuge should be provided within each building as a last resort / fail safe; this level should be higher than 7.95 m AOD plus a freeboard allowance.
- Further flood defence works are undertaken for the frontage so that the defence levels meet the standard explicit in the Hold the Line Policy in the Shoreline Management Plan.
- Further flood defence works are considered for the Ebbw such that water does not route unmanaged through the M4 underpass and through Duffryn. This, if feasible, could include delaying water upstream or routing waters through more and larger reens into more and larger storage areas which can be pumped into the Usk/Severn.

7.8.8 The submitted FCA has been considered by Natural Resources Wales (NRW) and they have indicated that they are satisfied that the FCA shows that the risks and consequences of flooding could be managed to an acceptable level. NRW have indicated that the CES model at face value, represents a worst-case estimation of flood risk at the site. The FCA model is likely overestimating flood risk at the site and there are significant differences in flood levels compared to recent NRW modelling (Ebbw Integrated Catchment model) undertaken in 2019. In addition, the fluvial flood risk from the River Ebbw is greater than the tidal risk at the site and NRW assessment of the FCA against TAN15 criteria is based on fluvial flooding only.

7.8.9 National Resources Wales have outlined that based on the above recommendations, noting the existing sports hall level and NRW modelling, they consider the proposal is acceptable in terms of A1.14 criteria. The mitigation indicated in the submitted FCA should be secured through a condition requiring compliance with FCA if permission is granted.

7.8.10 Paragraph A1.15 of TAN15 also sets out that as the site would be expected to flood, it would not be sensible for developments to be built in areas where the velocity and depth of floodwaters was such that structural damage was possible or

that people could be swept away by the flood. TAN 15 provides indicative guidance on what are considered tolerable conditions for different types of developments. In this instance, it would be 600mm flood depth, maximum rate of rise would be 0.1, speed of inundation 2hrs and 0.15-0.3 maximum velocity of water rate.

- 7.8.11 Based on the FCA and the additional letter submitted by the agent from Civil Engineering Solutions (CES) Ltd, it was outlined that the flood modelling concluded that the rate of rise would be 0.13m/hr and have a maximum velocity of 0.106m/s. The rate of rise quoted does exceed the guidance level of 0.1m/hr given in A1.15 of TAN15, but when taking into account the significant lead in time before flood water reaches the site (55 hours), the rate of rise is considered to be within the TAN15 guidance level. The velocity is also within the guidance level in TAN15 (0.15m/s). The peak external flood velocities may exceed the 0.3m/s guidance in A1.15, however, these areas are already part of the school site, as such, there is no change to the existing situation.
- 7.8.12 The scheme will also form part of the wider 'John Frost School & Ysgol Gyfun Gwent Is Coed - Flood Emergency Management Plan'. Although Officers do not have the in-house expertise to judge the effectiveness of the emergency plan, this was the position when the original proposal for the school was granted planning permission. As such, it is considered that the proposal does not increase the risk to life over and above the existing situation and, on balance, the replacement buildings would be considered acceptable in flooding.
- 7.8.13 Accordingly, it is considered that the proposal complies with the requirements of policies SP3- Flood Risk, GP1- Climate Change and GP7- Environmental protection and Public Health of the Council's Adopted Local Development Plan 2011-2026 and TAN15, subject to the applicant complying with the requirements of the FCA recommendations and considering the inclusion of flood resilience measures in the design and construction at the Sports Hall requested by NRW.

7.9 Drainage

- 7.9.1 The application includes a Drainage Technical Note and Drainage Strategy Plan that sets out that the foul and surface water scheme for the proposed new blocks
- 7.9.2 Foul water from existing Building 1 and the caretaker's lodge is drained positively through a series of private sewers into an existing foul water pumping station located to the east of the MUGA. The ground radar survey identified that the route of the rising main from the pumping station heads in a north-easterly direction across Lighthouse Road and through the sports fields to the east. From here it continues to run alongside a macadam pathway until it reaches the site boundary. It is envisaged that loading on the existing foul pumping station will not be any greater than that proposed. The proposed replacement to Building 1 does not represent an increase in pupil numbers and is also likely that with the introduction of more efficient appliances and new drainage connections it may even reduce the load on the pumping station slightly. Foul water for the site is drained positively through a series of private sewers into a wet well at the north east corner of the site.
- 7.9.3 Welsh Water were consulted and have not objected to the proposed method of discharging the foul drainage from the site and indicated there is capacity in the sewer. They have requested that a grease trap condition is applied to the consent

- and that the applicant is made aware that no works can be carried out 3m from a public sewer that crosses the playing fields.
- 7.9.4 The surface water runoff from Building 1 and the surrounding impermeable surface areas are currently drained positively through a system of private sewers to a surface water headwall in the north east corner of the site and then outfalls into the reën just beyond the northern site boundary. The existing sports pitch to the east has a system of pipes laid out in a large herringbone arrangement beneath it. This drainage connects in to a manhole with a pipe discharging to the south.
- 7.9.5 Principles conforming to Sustainable Drainage Systems (SuDS) shall be implemented on this development. It is intended that these shall consist of green roofs, rain gardens, permeable surfacing and raised planters however this list is not exhaustive and is likely to be modified and refined during detailed design. As the drainage of the site would also be caught by SAB approval and the principles which underpin the design of surface water management schemes. This would be formally agreed by the Council's drainage section under separate powers.
- 7.9.7 As such, subject to detailed design for the foul being connected to the mains sewer and appropriate SAB approval being agreed prior to works commencing, there are no concerns regarding the foul and surface water drainage proposals for the site. It is therefore considered that the proposal satisfies Policies SP4 and GP3 of the Adopted LDP 2011-2026.

7.10 Parking and Highway Safety

- 7.10.1 The proposals are not expected to result in any additional traffic movement on the local highway network; teachers and pupils currently utilising block 1 will simply relocate into the approved temporary structures during construction of the block and subsequently Block 6 following its construction.
- 7.10.2 In view of the above, this proposal will conclude the development of the school, giving it an ability to accommodate the 900 pupils. The findings of the original 2016 TS are considered sufficiently relevant to the determination of this application. The planning statement also sets out that the existing car park has been constructed in accordance with the approved 2016 application for the completed school, future proofing the school for its capacity of 900 pupils.
- 7.10.3 The main highway route to the site is Duffryn Way. The main vehicle entrance to the school is at the western end of the northern boundary. The proposal seeks consent for the construction of a new, secondary vehicle access into the site. This will serve as an emergency and servicing access and will be gated to prevent regular use by non-operatives.
- 7.10.4 The Highways Authority were consulted and have indicated that they have no objection to the proposed emergency vehicle crossing and with the information provided with the previous transport statement for the school. In addition, the car park existing on site was constructed to accommodate the school at full capacity and provided the temporary accommodation is removed prior to occupation of the proposed blocks, the school would be adequately served by car, bus and cycle parking provision.

7.10.5 Accordingly, it is considered that the proposal would be acceptable in respect of parking and highway safety, complying with the requirements of policies GP4 and T4 of the Adopted LDP 2011-2026.

7.11 Archaeology

7.11.1 The site is outside of, but in close proximity to, an Archaeologically Sensitive Area. Glamorgan Gwent Archeological Trust were consulted and indicated that the proposal would require mitigation.

7.11.2 While the site is not designated, it does border both the Newport Archaeological Sensitive Area and the Gwent Levels Registered Historic Landscape (HLW (Gt) 2), specifically the Eastern St Brides Character Area (HLCA0015), as defined within the Register of Landscapes of Outstanding Historic Interest in Wales.

7.11.3 Glamorgan Gwent Archaeological Trust (GGAT) were consulted and indicated that there remains the possibility of encountering archaeologically significant features or structures and requested a condition for written scheme of historic environment to be included with any consent.

7.12 Other Issues

7.11.1 MACH Acoustics have undertaken an environmental noise assessment at the proposed site of John Frost School in Newport. A noise survey has been undertaken such to establish the existing noise levels across the site. The predicted internal noise level is below the typical internal noise limit of 40dB LAeq, hence this building can be naturally ventilated through simple open able windows. Rooms design for students with hearing and communication difficulties or some music rooms, are likely to require local mechanical ventilation or attenuated natural vents. As such, the school buildings can be fit for purpose with a simple open window system.

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.

Technical Advice Note 20: Planning and the Welsh Language identifies that in some areas of Wales the number of Welsh speakers is increasing, but declining in other areas. The future of the language across Wales is dependent on a wide range of factors that includes education. The planning system is recognised as having an important role to play in contributing to the future wellbeing of the Welsh language by establishing the conditions to allow sustainable communities to thrive.

It is considered that there would be a positive effect upon the use of the Welsh language in Newport as a result of the proposed decision. The provision of improved facilities of Newport's first Welsh Medium Secondary School at Duffryn would contribute positively to the future wellbeing of the Welsh language, and the proposal therefore complies with TAN 20.

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 Having regard to policies SP1, SP2, SP12, GP1, GP2, GP4 GP5, GP6, GP7, CE6 and T7 of the Newport Local Development Plan 2011-2026 (Adopted January 2015), it is considered that the scheme and associated works would be acceptable in terms of its size, design and impact on the character of the site and wider street scene. There would not be any detrimental impact on neighbours amenity or highway and pedestrian safety as well as flooding, drainage, ecology and archaeology.

10. RECOMMENDATION

10.1 SEEK DELEGATED POWERS FOR THE HEAD OF PLANNING TO DETERMINE THE APPLICATION PROVIDED A NO OBJECTION RESPONSE IS RECEIVED BY NATURAL RESOURCES WALES WITH RESPECT TO THE MITGATION FOR PROTECTED SPEICIES ON THE SITE

1. The development shall be implemented in accordance with the following plans and documents Plans and Documents

YGGIC-SDL-00-XX-DR-C-SK110 Proposed drainage layout
Tree Protection Plan (submitted 8th June 2020)
450-03 Outdoor Classroom 110620
450-02 Rain Garden Planters 110620
YGGIC-HP-SP-XX-DR-E-750-S2-P01- Part_Site_Plan_3G_Pitch_LUX_Plots
450-01 Issue 1 Overall Layout with landscaping 240620
Block 6 Location Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 100 Rev P02
Tree Felling Proposal – Site Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 102 Rev P02
Existing Site Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 105 Rev P02
Proposed Site Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 106 Rev P02
Parking Allocation Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 107 Rev P02
Demolition Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 109 Rev P02
Vehicle Reen Crossing Layout (prepared by Shear Design)
YGGIC-SDL-00-XX-DR-CSK100 Rev P01
School – Ground Floor Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 201 Rev P02
School – First Floor Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 202 Rev P02
School – Second Floor Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 203 Rev P02
School – Roof Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 204 Rev P02
Sports Hall – Ground Floor Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 205 Rev P02
Sports Hall – First Floor Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 206 Rev P02
Sports Hall – Roof Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 207 Rev P02
School – Proposed Elevations (1 of 2) YGGIC-PDA-ZZ-ZZ-DR-A-05 210 Rev P02
School – Proposed Elevations (2 of 2) YGGIC-PDA-ZZ-ZZ-DR-A-05 211 Rev P02
Sports Hall – Proposed Elevations (1 of 2) YGGIC-PDA-ZZ-ZZ-DR-A-05 212 Rev P02
Sports Hall (Proposed Elevations (2 of 2) YGGIC-PDA-ZZ-ZZ-DR-A-05 213 Rev P02
School – Proposed Sections (1 of 2) YGGIC-PDA-B6-ZZ-DR-A-05- 220 Rev P02
School – Proposed Sections (2 of 2) YGGIC-PDA-B6-ZZ-DR-A-05- 221 Rev P02
Sports Hall – Proposed Sections YGGIC-PDA-ZZ-ZZ-DR-A-05 225 Rev P02

Design and Access Statement Powell Dobson Architects
Planning Statement Asbri Planning Ltd
Pre-Application Report Asbri Planning Ltd
Flood Consequence Assessment Civil Engineering Solutions Ltd
Noise Assessment Mach Acoustics
Proposed Drainage Layout Shear Design
Amended Tree Survey Treecare Consulting
Drainage Technical Note Shear Design
Preliminary Ecology Appraisal BSG Ecology
CEMP BAM
Flood Evacuation Plan Newport Council
PAC Report
Bat Survey

Wildlife Protection Plan
Construction Management Plan Revision 4
YGGIC Landscape Strategy
Green Infrastructure Assets Plan
CES (LTD) Letter dated 22nd May 2020

2. Prior to use on site, samples of external panel materials and finishes set out in the application shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.
Reason: To ensure that the development is completed in a manner compatible with its surroundings, complying with policies GP2, GP6 and GP7 of the Adopted LDP 2011-2026
3. All means of enclosure associated with the development hereby approved, other than those already agreed as part of this scheme, shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the beneficial occupation of the development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.
Reason: To safeguard local visual amenities, and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP
4. The approved scheme shall be carried out in accordance with the measures set out in Construction Management Plan Revision 4 produced by BAM construction and submitted on 22nd June 2020.
Reason: To ensure the development provides ecological net benefit as required in Planning Policy Wales Edition 10. Reason and Safeguarding of protected habitats and protected and priority species during construction works in accordance with Conservation of Species and Habitats Regulations 2017 and Environment (Wales) Act 2016
5. The approved scheme shall be carried out in accordance with the conclusions and recommendations set out in Civil Engineering Solutions Flood Consequences Assessment dated 22nd March 2020.
Reason: To reduce the risk of flooding and to comply with policies GP1 and GP6 of the Adopted LDP 2011-2026
6. The finished floor levels of the development hereby approved shall be set no lower than 8.3m AOD for block 6 and 7.30 AOD for the approved Sports Hall. Consideration should also be taken to incorporate flood resilience features into the fabric of the buildings.
Reason: To reduce the risk of flooding and to comply with policies GP1 and GP6 of the Adopted LDP 2011-2026.
7. The hard and soft landscaping scheme shall be carried out in accordance with Tree Protection Plan (submitted 8th June 2020), Tree Felling Proposal – Site Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 102 Rev P02, 450-01 Issue 1 Overall Layout with landscaping 240620, 450-03 Outdoor Classroom 110620, 450-02 Rain Garden Planters 110620 and the Landscape and Ecological Management Plan 250620
Reason: To safeguard local visual amenities, and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: To safeguard local visual amenities, and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP.
9. The approved scheme shall be carried out in accordance with the proposed measures set out in the submitted Landscape Ecological Management Plan (produced by BSG Ecology, dated June 2020) and the methods described in the Wildlife Protection Plan (Produced by BSG Ecology, dated June 2020).
Reason: To ensure the development provides ecological net benefit as required in Planning Policy Wales Edition 10. Reason and Safeguarding of protected habitats and protected and priority species during construction works in accordance with Conservation of Species and Habitats Regulations 2017 and Environment (Wales) Act 2016
10. The floodlighting scheme for the proposed 3G pitch shall be carried out in accordance with the lighting strategy set out on drawing YGGIC-HP-SP-XX-DR-E-750-S2-P01- Part_Site_Plan_3G_Pitch_LUX_Plots or an alternative lighting scheme, details of which shall be submitted to and approved in writing to the Local Planning Authority prior to their installation on site. Any alternative scheme proposed shall ensure that there would be minimal light spill on to the reens. The alternative lighting scheme shall be carried out in accordance with the approved details.
Reason: To ensure protected species using the reens as a habitat are not impacted by the proposal Conservation of Species and Habitats Regulations 2017 and Environment (Wales) Act 2016
11. No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource and to ensure compliance with policy CE6 Archaeology of the Adopted LDP 2011-2026.
12. Prior to the occupation of the approved scheme, the foul and surface drainage scheme shall be carried out in accordance with the approved drainage scheme set out Drainage Technical Note Shear Design and YGGIC-SDL-00-XX-DR-C-SK110 Proposed drainage layout
Reason: To ensure adequate drainage is provided and to protect the Ecological features and complying with policy GP3 of the Adopted LDP 2011-2026

13. Foul and surface water must be discharged separately from the site. No surface water or land drainage run off shall be allowed to connect to the public sewerage system.
Reason: to ensure the public sewer capacity is not overloaded and to comply with policy GP3 of the Adopted LDP 2011-2026.
14. The proposed development site is crossed by a public sewer. The position of the public sewer on the playing fields shall be accurately located and marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.
Reason: To protect the integrity of the public sewage system and ensure the free flow of sewage
15. The approved block 6 and sports hall building shall not be used until an adequate grease trap has been fitted in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter, the grease trap shall be maintained so as to prevent grease entering the public sewerage system.
Reason: To protect the integrity of the public sewage system and ensure the free flow of sewage
16. No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas shown on the Parking Allocation Plan YGGIC-PDA-ZZ-ZZ-DR-A-05 107 Rev P02 are available for use and all temporary structures have been removed from the site. The parking provision shall thereafter be so retained at all times to serve the development hereby approved.
Reason
To ensure the provision on site of parking to serve the development in the interests of highway safety and complying with the requirements of policy GP4 of the Adopted LDP2011-2026
17. Prior to any new plant equipment being installed, a noise assessment will be need to be submitted to and agreed in writing by the Local Planning Authority. The rating level of the noise emitted from fixed plant and equipment (mechanical and electrical) located at the site shall not exceed the existing background level at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2014. The plant equipment shall be implemented in accordance with the approved details and maintained in this manner thereafter.
Reason: To safeguard residential amenity and in compliance with GP2 of the Adopted LDP 2011-2026.

NOTE TO APPLICANT

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP12, GP1, GP2, GP4 GP5, GP6, GP7, CE6 and T7 were relevant to the determination of this application.

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

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

(05) The applicant must also note that any works which will take place within the adopted highway will require the applicant to contact City Services to facilitate any necessary highways agreement. No works are to take place within the adopted highway until such a time that any agreement is in place and final approval has been granted by the highways authority.

(06) We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to National Resource Wales (NRW) for further details.

3.

APPLICATION DETAILS

No: 20/0059 **Ward:** LLISWERRY

Type: FULL

Expiry Date: 17-JUL-2020

Applicant: L STACEY, NEWPORT CITY COUNCIL

Site: LAND TO SOUTH OF MONKEY ISLAND, REDSHANK WALK, NEWPORT

Proposal: ERECTION OF RAISED RAMP STRUCTURE AND HANDRAIL AND ASSOCIATED WORKS FOR FORMALISATION OF CYCLE/PEDESTRIAN PATHWAYS. AFFECTING PUBLIC RIGHT OF WAY 386/4/1

Recommendation: Granted with Conditions

1. INTRODUCTION

- 1.1 The land known as Monkey Island was formerly industrial in nature and used as a landfill for the Orb Steelworks. The land has recently been adopted by Newport City Council as public open space. The site is located directly to the north of the Southern Distributor Road (SDR) which is raised above ground level to aid its connection with the bridge. The River Usk Special Area of Conservation (SAC) is located to the west of the site and Spytty Pill tidal inlet Site of Scientific Interest (SSSI) is to the east. The land at Monkey Island is a designated Site of Importance for Nature Conservation (SINC) site due to its mosaic post-industrial grassland habitat. A recently built residential settlement lies to the south of the Southern Distributor Road.
- 1.2 The main aspect of the proposals is the erection of a ramp structure which will form part of the proposed Active Travel route link that is to connect the north footway of the SDR with the Monkey Island Open Space Area and the new housing estate to the south. The short ramp will descend from the footway, northwards, until reaching a flat landing. At this point, the orientation of the cycle way will turn perpendicular and continue westwards, descending for approximately 61m at 1 in 20 gradient from the landing area to meet the prevailing ground level of the Monkey Island Open Space Area. The ramp will have a width of 3.5m which will ensure that there is sufficient space for two-way travel. The foot of the ramp will be met by a concrete abutment which is proposed to stretch for approximately 7.5m and then continued by an approach to ground level for a further 11m. The ramp is proposed to be supported by reinforced concrete piled foundations and SHS column supports.
- 1.3 Pedestrian guard rails will be fixed to the ramp approximately 1.4m in height and finished in a moss green colour to match the rest of the structure. In addition, a new vehicular restraint barrier is proposed to be installed opposite the entrance to the ramp on the north footway of the A48. It is also proposed to connect the

ramp with existing footways within the Monkey Island Open Space Area and also to formalise a route underneath the SDR viaduct such that it connects into the footway/cycleway provision developed as part of the new residential development to the south of the A48. This formalised route will have a black bitumen macadam surfacing and is bounded by a 4-rail timber fence.

- 1.4 The application is being reported to Planning Committee as the proposals have been submitted by Newport City Council Countryside section.

2. RELEVANT SITE HISTORY

None.

3. POLICY CONTEXT

- 3.1 *The following policies of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the application:*

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

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

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 GP1 General Development Principles – Climate Change states that development should be designed to withstand predicted climate change and reduce the risks and consequences of flooding, minimise energy requirements, reuse/recycle construction material and meet the relevant BREEAM or Code for Sustainable Homes Level.

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

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

Adopted Supplementary Planning Guidance

Wildlife and Development SPG

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals. The following chapters and sections are of particular relevance in the assessment of this planning application:

- Achieving a sustainable marine economy –
 - Contribute to a thriving Welsh economy by encouraging economically productive activities and profitable and sustainable businesses that create long term employment at all skill levels.
 - Support the opportunity to sustainably develop marine renewable energy resources with the right development in the right place, helping to achieve the UK's energy security and carbon reduction objectives, whilst fully considering other's interests, and ecosystem resilience.
 - Provide space to support existing and future economic activity through managing multiple uses, encouraging the coexistence of compatible activities, the mitigation of conflicts between users and, where possible, by reducing the displacement of existing activities.
 - Recognise the significant value of coastal tourism and recreation to the Welsh economy and well-being and ensure such activity and potential for future growth are appropriately safeguarded.
- Ensuring a strong, healthy and just society
 - Contribute to supporting the development of vibrant, more equitable, culturally and linguistically distinct, cohesive and resilient coastal communities.
 - Support enjoyment and stewardship of our coasts and seas and their resources by encouraging equitable and safe access to a resilient marine environment, whilst protecting and promoting valuable landscapes, seascapes and historic assets.
 - Improve understanding and enable action supporting climate change adaptation and mitigation.
- Living within environmental limits
 - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
 - Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected

- Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
- Promoting Good Governance
 - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led, precautionary, risk-based and adaptive approach to managing Welsh seas.
- Using Sound Science Responsibly
 - Develop a shared, accessible marine evidence base to support use of sound evidence and provide a mechanism for the unique characteristics and opportunities of the Welsh Marine Area to be better understood.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES: (Comments received prior to submission of Appropriate Assessment): We continue to have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met and condition attached. Otherwise, we would object to this planning application. Requirement: Protected Sites. River Usk Special Area of Conservation (SAC). The information provided with the application is insufficient to demonstrate that risks to designated features of the SAC will be adequately controlled to avoid significant or adverse effect to the integrity of the SAC. Further consideration of the risks in relation a likely increase in recreation pressure and any appropriate control measures, is required to consider if adverse effect to SAC integrity will be avoided. We recommend planning permission should only be granted if a condition is imposed in respect of unsuspected land contamination. We have reviewed the following information submitted in support of this application:

- Monkey Island Footpath and Cycleway, Technical Report to Inform Habitats Regulation Assessment, prepared by Wardell-Armstrong, dated March 2020.
- Monkey Island Footpath and Cycleway, Ecological Impact Assessment, prepared by Wardell-Armstrong, dated March 2020.

The technical report provides enough information for the Local Authority Ecologist to undertake a Habitats Regulations Assessment (HRA), with the exception of an assessment of the likely increased visitors/recreation to Monkey Island once works are completed. The LPA may have access to information about recreational use at this location that can be provided to the Ecologist undertaking the HRA.

River Usk Habitats

We note the proposed works encroach into the SAC boundary, as shown in the Technical Report Appendix 1 Site Location Plan – Drawing MIR-CAP-61-XX-DR-S-0001-PO2 and under the Appendices Drawings titled ‘Habitats within, and adjacent to the application site’ dated 3/2/20. However, we welcome clarification in the Technical Report that despite the appendices showing encroachment into mudflats and dense saltmarsh, the footings of the bridge are outside of the SAC and the section within the boundary is ‘an elevated section of the A48 SDR.’ We note the report states the ‘Square Hollow Section (SHS) steel columns for the pedestrian ramp and cycleway (refer to ‘Elevation A’ on the Planning General Arrangement provided in Appendix 2) will be located in bare ground’ which NRW

understand from the report is within the SAC boundary but outside of the intertidal saltmarsh/mudflat habitats.

A map with detailed works (Appendix 2) overlaying the habitat types, Drawings titled 'Habitats within, and adjacent to the application site' and 'location of SAC boundary' would have made it clearer to see the locations of proposed works in relation to the SAC but we welcome the detailed explanation provided in 4.1.2. We welcome Section 2 Appropriate Assessment and the recommended conditions for any planning permission granted. We recommend the LA's HRA includes the conditions specified in the Technical Report in order to avoid adverse effect on the River Usk SAC.

Piling and fish

We note 6.2.3 states 'The nearest piled foundation for the steel column will be located adjacent to the intertidal mudflat of the River Usk SAC and approximately 11.5m from the Mean High Tide level of the watercourse.' Therefore to safeguard the rare Allis and Twaite Shad features of the River Usk SAC, the condition for piling specified in 6.2.5 should be appended to any planning permission.

Pollution prevention measures

We welcome that details for construction and pollution prevention would be provide in a CEMP. We request to be consulted on any CEMP produced.

Otters

We note the lighting scheme for construction will be incorporated into the CEMP. For operation we note there will be a condition for no light spill on the SAC. We continue to seek information and consideration within the HRA on the likelihood of otter disturbance from the likely increased visitors/recreation to Monkey Island once works are completed/operational. Despite our letter of the 22nd February 2020 recommending that 'recreational disturbance from walkers, cyclists and dogs should be assessed in the appropriate assessment', there is no information about this in the Technical report. You may have access to information about recreational use at this location that can be provided to the Ecologist undertaking the HRA. We understand that the access improvement works would likely increase the number of people using Monkey Island. We recommend this is clarified, and that if increased recreational use is likely, an assessment of the disturbance impacts from an increased numbers of walkers, cyclists and dog walkers is provided.

We recommend that a working methodology to safeguard otters is provided within a CEMP, to address risks such as the potential for entrapment during works. In summary we continue to have significant concerns with the application as submitted and recommended that additional information relating to the above concerns is submitted to the local authority for consideration before any decision on planning permission is considered.

Unsuspected Contamination

Our comment and requested condition remain as provided in our letter of 20 February 2020 (Our Ref: CAS-107837-L0K9). We note and welcome that the applicant has indicated they will accept the condition requested.

- 4.2 DWR CYMRU - WELSH WATER: Request advisories are included if planning permission is granted.
- 4.3 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No response.

- 4.4 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST LTD: (Comments received prior to the submission of a written scheme of historic environment mitigation): We have reviewed the detailed information contained on your website including the desk based assessment prepared by Wardell Armstrong (report dated January 2020). The desk based assessment has been produced in accordance with current professional standards and considers the potential impact of the proposed development on the buried archaeological resource. In the assessment it is noted that the proposed ramp will be constructed on a piled foundation, and has the potential to encounter archaeological deposits of a palaeoenvironmental nature as well as maritime remains. The assessment includes a recommendation for mitigation taking the form of a targeted watching brief on the excavation of pile caps and other areas of ground disturbance which may encounter alluvial deposits. A recommendation with which we concur, the proposal will require archaeological mitigation.
- As such, it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE (HIGHWAYS): Raises no objections.
- 5.2 HEAD OF STREETSCENE (ECOLOGY OFFICER): The lighting details provided are acceptable to ensure there will be no increase in light levels at the SAC. If you are minded to grant this permission the Lighting Strategy produced by Capita, drawing number MIR-CAP-79-XX-DR-E-301, should be included on the approved plans list. As per my previous comments dated 07/04/20, potential negative impacts as a result of construction should be controlled with a CEMP.
- 5.3 HEAD OF STREETSCENE (LANDSCAPE OFFICER): No response.
- 5.4 HEAD OF STREETSCENE (PUBLIC RIGHTS OF WAY): No response.
- 5.5 HEAD OF STREETSCENE (TREE OFFICER: TPOs AND PRIVATE LAND): No objection.
- 5.6 PUBLIC PROTECTION MANAGER (NOISE) or (POLLUTION): No objection.
- 5.7 HEAD OF STREETSCENE (HIGHWAYS DRAINAGE): No response.
- 5.8 HEAD OF STREETSCENE (ACTIVE TRAVEL CO-ORDINATOR): No response.

6. REPRESENTATIONS

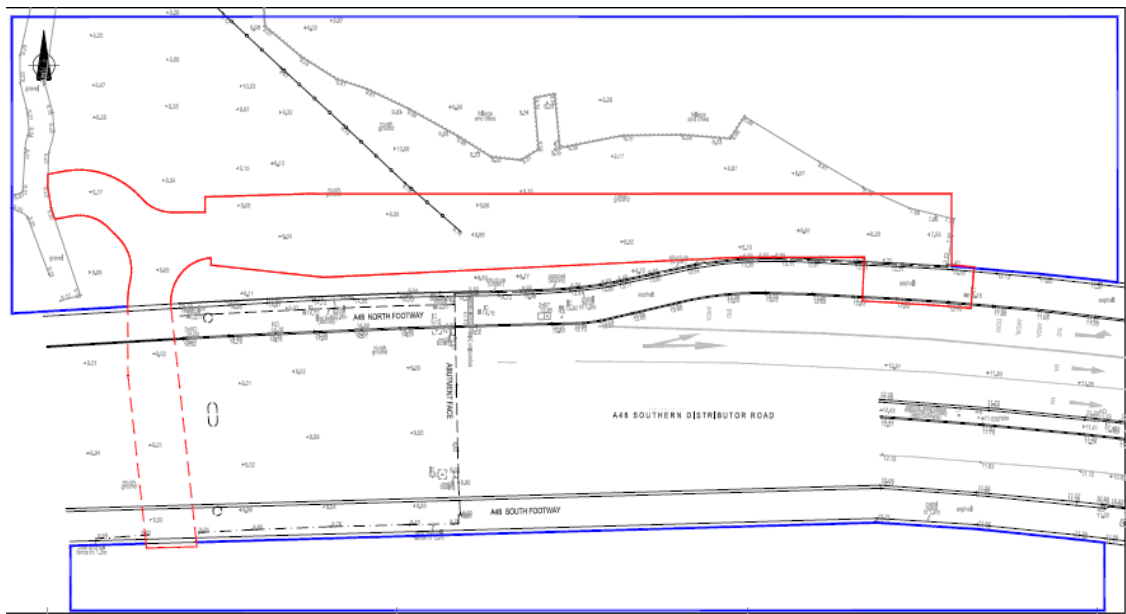
- 6.1 NEIGHBOURS: All properties within 50m were consulted (42no properties), 2no site notices were displayed and a press notice published in South Wales Argus. No response received.
- 6.2 COUNCILLORS CRITCHLEY, JEAVONS, MORRIS AND RICHARDS: No response.

7. ASSESSMENT

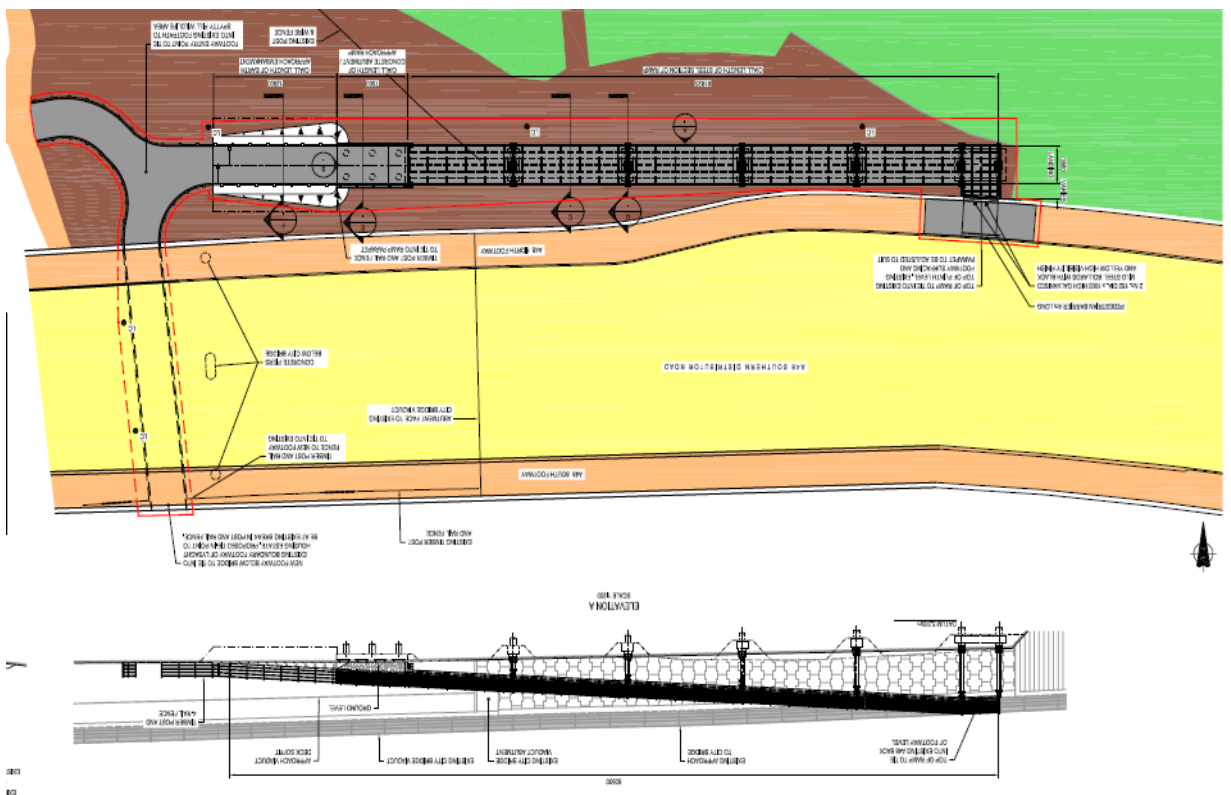
- 7.1 Current permeability from the SDR in a north to south direction is limited for pedestrians and cyclists and the road acts as a significant barrier to active travel in the local area. The residents of the new residential development to the south of Southern Distributor Road have limited pedestrian/ cyclist access to the north of the A48. Currently, it is only possible for a pedestrian to cross the busy trunk road via a series of six controlled pedestrian crossing points. The ramp will significantly improve pedestrian and cyclist permeability and will enhance active travel and connectivity between the north and south of the A48. The active travel ramp and its associated development will provide pedestrians and cyclists with a safer, traffic-free crossing whilst promoting walking and cycling to nearby destinations which has potential to have a positive impact on their health and well-being.
- 7.2 The ramp will also provide direct access to the Spytty Pill Wildlife Area, which is currently accessed by an underpass beneath the viaduct. The current appearance of the underpass is uninviting to members of the public which may deter people from visiting the site. Improving and formalisation of the route to the Spytty Pill Wildlife Centre would be considered to make a positive contribution to local communities. An aerial view of the site and surrounding area can be seen below. The area to the south of the red line is the former Orb site which has been developed for housing:



- 7.3 Site location plan:



7.4 General arrangement plan shown below:



7.5 Planning Policy Wales establishes a transport hierarchy and places walking and cycling at the top of this above motor vehicles. The proposals are to improve pedestrian and cyclist permeability and accord with the transport hierarchy in PPW

and have significant merit. As noted above, the increased connectivity and improved accessibility to the Wildlife area can be seen as an improvement to health and well-being.

7.6 **Design**

The proposed ramp would have a functional, utilitarian design that would be in keeping with the bridge. The scale of the proposed structure and associated works would be viewed against the backdrop of the bridge which is a dominant and significant structure. The proposed ramp would be entirely in keeping and it is not considered that the proposals would result in a detrimental impact to the visual amenity of the area.

7.7 As noted above the ramp will also provide much improved direct access to the Spytty Pill Wildlife Area, which is currently accessed by an underpass beneath the viaduct, the appearance of which is uninviting.

7.8 **Amenity**

Given the distances between the ramp and the nearest residential properties which is approximately 35m, it is not considered that the structure itself would result in an adverse impact to neighbouring amenity. However, the proposals are likely to result in increased activity along the route within close proximity to properties near to the SDR bridge. There are existing footpaths along either side of the bridge and so residents will be used to the comings and goings of pedestrians and cyclists. There is also a pathway alongside properties near to the SDR that are set at a lower level. This permits access between Corporation Road and Monkey Island and other parts of the estate.

7.9 As noted above, it is currently only possible for a pedestrian to cross the busy trunk road via a series of six controlled pedestrian crossing points. The ramp will significantly improve pedestrian and cyclist permeability and will enhance active travel and connectivity between the north and south of the A48 and this can be viewed as a significant merit of the proposals and weigh heavily in its favour. Whilst there will inevitably be increased activity along the routes, given that these are existing routes it is not considered that the proposals would have a demonstrably greater impact to neighbouring privacy or amenity. The proposals would not result in increased motor vehicular traffic. To the contrary, there is potential for vehicle traffic to be reduced given the improved pedestrian and cyclist connectivity which the proposals will ensure, which can also be seen as a merit of the development. The proposals would provide significant benefits to the amenity of residents providing improved access to areas for recreation. Potential disturbance to residents arising from the construction phase can be controlled by way of a construction management plan.

7.10 **Highways**

In response to the proposals the Head of Streetscene initially commented as follows:

I would not be opposed in principle to the cycle/footway connection however it should be demonstrated that adequate visibility has been provided for

pedestrians and cyclists to merge onto the existing cycle/footway in order to minimise the risk of being struck by a moving cyclist already traversing the A48 cycleway.

A new vehicular restraint barrier is proposed to be installed opposite the entrance to the ramp on the north footway of the A48 but details haven't been submitted. The applicant will need to clarify the extent to which this reduces the existing cycle/footpath width and the height of these restraints. The applicant has not clarified the purpose of this restraint system, I assume it is to prevent cycle traffic merging off the proposed ramp in to the carriageway.

It should be conditioned for a CEMP to be submitted and approved prior to construction.

7.11 Following the submission of further information to address the above comments, the Head of Streetscene subsequently confirmed that the proposals are acceptable subject to the pedestrian guard rails being extended for a suitable length beyond that proposed to prevent cyclists from overshooting in to the carriageway that might egress on to the road bridge at an angle. The scheme has been amended to reflect the comments and the Head of Streetscene confirms he offers no further objections.

7.12 As noted above, the proposals seek to improve pedestrian and cyclist permeability and this can be viewed as a significant merit. It is not considered that the proposals would result in an adverse impact to highway safety.

7.13 **Ecology**

An Ecological Impact Assessment (EclA) has been submitted with the application. The assessment considers the potential effect of the proposal on statutory and non-statutory designated sites, priority habitats, protected and priority species (including bird, bats, reptiles and invertebrates) and badgers.

7.14 Statutory designated sites – River Severn SPA, SAC and Ramsar; and River Usk SAC

The site is located in close proximity to a number of international, national and local designations. The EclA has identified that the proposal would result in Significant adverse effect to qualifying features of the designations from indirect effects. Given the proximity of the proposed development to the designated sites and the potential for Likely Significant Effects (LSE), an assessment of the proposal as required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, is required in order to ensure no adverse effects on the sites' integrity. This is called an Appropriate Assessment, which is included in this report.

The Appropriate Assessment concludes that with the imposition of appropriate conditions and their implementation the proposed development would not adversely affect the integrity of the Severn Estuary SPA, SAC, Ramsar and the River Usk SAC. The Appropriate Assessment has been sent to Natural Resources Wales and at the time of writing this report NRW response is yet to be received.

- 7.15 The Council's Ecology Officer has confirmed no objections are offered subject to suitable conditions to ensure there will be no increase in light levels at the SAC and that potential negative impacts as a result of construction should be controlled with a CEMP.
- 7.16 Natural Resources Wales has raised concerns about the likelihood of otter disturbance from the potential increased visitor/recreation to Monkey Island once the works are completed/operational. NRW advise that recreational disturbance from walkers, cyclists and dogs should be assessed in the appropriate assessment and advise that they understand that the access improvement works would likely increase the number of people using Monkey Island. NRW recommend this is clarified and that if increased recreational use is likely, an assessment of the disturbance impacts from an increased numbers of walkers, cyclists and dog walkers is provided.
- 7.17 The Council's Public Rights of Way officer advises that there is no existing data on visitor numbers, nor is there forecasting for increased numbers. However, it is the PROW officer's opinion that recreational visitor numbers are currently low and that this is unlikely to change drastically following project completion. The proposals stand to serve an important role of connectivity between the A48 SDR and residential properties found to the south (including employers in this general area). This connection will be the main focus of the route with a less formal connection to the Monkey Island nature reserve, which is akin to a cul-de-sac and with limited space for dog exercising and the like. As requested by NRW the CEMP includes a requirement for measures to safeguard otters.
- 7.18 NRW has recommended that a contaminated land condition, to control piling and a Construction Environmental Management Plan condition should be included should planning permission be forthcoming, as recommended in the ecology reports.
- 7.19 ***Appropriate Assessment***
- 7.15.1 The following aspects of a proposed development which may affect a Natura 2000 site should be included in the scope of assessment:
- All works within the designated site boundary; and
 - Construction and operational phases of the development outside of the designated site boundary but linked through a known 'pathway' (discussed below).
- 7.15.2 Briefly, 'pathways' are routes by which a change in activity associated with a development can lead to an effect upon a Natura 2000 site which is not directly connected with or necessary to the management of the Natura 2000 site. The River Usk SAC is screened into the AA because the LSE Screening Test concludes that the construction and operation of the proposed development could result in LSE from disturbance effects (noise, vibration, dust, water pollution and lighting) on the designation. The severity of these affects, and proposed mitigation is discussed below.
- 7.15.3 **Assessing the Effects**

The HRA LSE Screening test considered whether the impacts arising from the construction and operation of the proposed development are likely to significantly affect the qualifying features of the River Usk SAC. The following sections detail the further analysis undertaken against the conservation objectives for the River Usk SAC to determine whether the likely significant effects identified will “*actually result in an adverse effect upon the integrity of any European site, without mitigation*”, either alone or in combination with the other plans or projects summarised in Table 1.

7.15.4 ***Disturbance to Qualifying Species from Noise and Vibration***

Migratory Fish and Otter

Underwater noise and vibration caused by construction activities has the potential to disturb fish species which could adversely affect their migration.

7.15.5 The nearest piled foundation for the steel column will be located adjacent to the intertidal mudflat of the River Usk SAC and approximately 11.5m from the Mean High Tide level of the watercourse. Therefore, there is potential for LSE on migratory fish and otter in terms of disturbance from noise and vibration in the absence of mitigation.

7.15.6 There is also potential for in-combination effects if construction activities generating noise at cumulative development sites along the River Usk are undertaken at the same time.

7.15.7 Avoidance and mitigation measures

In accordance with the consultation responses provided by Natural Resources Wales (NRW) in respect of the planning application, the following measures will be implemented as necessary during construction to minimise noise and vibration effects on migratory fish species and otter:

- Any construction works in the river, on or adjacent to the riverbank (within 30m of the mean high tide level) that result in vibration e.g. drilling, boring, piling or demolition works will be timed to avoid the migration period between 1st March and 30th June.

- If piling cannot be avoided during the shad migration period (March to June inclusive) **and** is within 30m of the mean high tide level non-percussive piling methods will be used and will only take place on a falling tide from 1 hour after high tide to 1 hour before low tide.

7.15.8 Significance of effects after mitigation

Adverse effects during construction on migratory fish and otter arising from the project and in-combination with other projects will be mitigated with the implementation of best practice noise control measures and avoiding sensitive migratory periods of fish. Therefore, no LSE from noise and vibration on the qualifying features and ecological integrity River Usk SAC from the development are predicted.

7.15.9 ***Disturbance to Qualifying Features from Dust***

Dust arising from construction activities could temporarily affect saltmarsh vegetation along the River Usk which could provide suitable habitat for otter which is a qualifying feature of the River Usk SAC. There is also potential for in-combination effects if construction activities generating dust at cumulative development sites along the River Usk are undertaken at the same time.

7.15.10 Avoidance and mitigation measures

A best practice dust mitigation plan will be written and implemented for the project via a Construction and Environmental Management Plan (CEMP). This will set out the practical measures that will be incorporated as part of a best practice scheme and this will take into account the recommendations included within the Institute of Air Quality Management guidance (2014) '*Guidance on the Assessment of Dust from Demolition and Construction*' which will include some or all of the following measures:

- Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place;
- Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overflowing during delivery;
- Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the site. This may require the sweeper being continuously in use;
- Avoid dry sweeping of large areas;
- Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable); and
- Ensure vehicles entering and leaving the site are covered to prevent escape of materials during transport.

7.15.11 The detailed construction design will be developed with the input of the Contractor to maximise construction efficiencies, ensure the use of modern construction techniques and sustainable materials, and will incorporate the particular skills and experience offered by the appointed contractor.

7.15.12 As CEMPs will also be implemented during construction at the cumulative sites identified in Table 1 to manage potential adverse effects from dust generating activities, no in-combination effects are anticipated.

7.15.13 Significance of effect after mitigation

Adverse effects of dust on the qualifying features of the River Usk SAC arising from the project and in-combination with other projects will be successfully mitigated with the implementation of best practice dust control measures with

reference to current industry standard guidance. There will therefore not be any adverse effects from dust on the qualifying features and ecological integrity of the River Usk SAC.

7.15.14 ***Disturbance to Qualifying Features from Lighting***

Increased light levels have the potential to temporarily disturb otters, whilst foraging, and migratory fish if the construction works are undertaken during the hours of darkness. There is also potential for in-combination effects if lighting is used during construction at other cumulative impact sites at the same time.

7.15.15 There is also potential for in combination effects if lighting is used at other cumulative development sites at the same time which could result in adverse effects on otters.

7.15.16 Avoidance and mitigation measures

The lighting scheme for the construction and operational phases of the development will ensure lighting is directed away from the River Usk SAC boundaries to ensure existing lux levels within the River Usk SAC around the Monkey Island land parcel are not exceeded.

7.15.17 The condition of no night-time working will be implemented via the Construction and Environmental Management Plan (CEMP) which can be secured via planning condition.

7.15.18 The lighting scheme for the operational phase of the development will be detailed and approved by the LPA via a planning condition for the proposed development. From a review of the cumulative sites considered in Table 1, no in-combination effects from operational lighting were identified.

7.15.19 Significance of effect after mitigation

Following implementation of mitigation, there will be no adverse effects arising from the proposed development alone or in combination with other cumulative impact sites on the qualifying features of the River Usk SAC.

7.15.20 ***Disturbance from the potential increased visitors/recreation to Monkey Island***

Natural Resources Wales has raised concerns about the likelihood of otter disturbance from the potential increased visitor/recreation to Monkey Island once the works are completed/operational. NRW advise that recreational disturbance from walkers, cyclists and dogs should be assessed in the appropriate assessment and advise that they understand that the access improvement works would likely increase the number of people using Monkey Island. NRW recommend this is clarified and that if increased recreational use is likely, an assessment of the disturbance impacts from an increased numbers of walkers, cyclists and dog walkers is provided.

7.15.21 The Council's Public Rights of Way officer advises that there is no existing data on visitor numbers, nor is there forecasting for increased numbers. However, it is the PROW officer's opinion that recreational visitor numbers are currently low and that this is unlikely to change drastically following project completion. The proposals stand to serve an important role of connectivity between the A48 SDR and residential properties found to the south (including employers in this general area). This connection will be the main focus of the route with a less formal connection to the Monkey Island nature reserve, which is akin to a cul-de-sac and with limited space for dog exercising and the like. As requested by NRW the CEMP includes a requirement for measures to safeguard otters.

7.15.22 **Water quality**

The proposed development site lies outside of the boundary of the SAC, however given its proximity, there is the potential for water quality to be reduced through contamination during construction. There is also potential for in-combination effects from construction activities at cumulative impact sites if undertaken at the same time.

Water pollution/reduced water quality could adversely affect:

- Structure and function of habitats of qualifying species (i.e. increasing turbidity of water column, contaminating habitat and food sources, or affecting populations that may act as food sources of qualifying features);
- Supporting processes on which qualifying natural habitats and habitats of qualifying species rely (i.e. smothering habitat/vegetation which could be used by qualifying species);
- Populations of qualifying species (i.e. altering habitats and food sources affecting breeding/survival rates qualifying features); and
- Distribution of qualifying species within the designation (i.e. avoidance of breeding/foraging/laying up habitat).

7.15.23 Avoidance and mitigation measures

Water pollution will be minimised and controlled through construction activity method statements and risk assessments which will follow construction industry best practice guidance such as those described in '*Guidance for Pollution Prevention: Works and Maintenance in or near Water*' (GPP54)'.

7.15.24 All plant will be well maintained to limit leakage from engines or hydraulic systems. Spill kits will be carried to contain any accidental releases. Refuelling will be undertaken in designated areas where any spills can be contained. Pumps and other similar equipment will be placed on drip trays with refuelling undertaken following strict procedures for spill control.

7.15.25 Chemicals and other construction materials will be stored and contained in areas where they will not be easily mobilised to reach the water. Procedures for the use of specific materials will be developed to reduce the risk of accidental release and ensure that water quality is appropriately protected.

7.15.26 Construction staff will remain within the works area and vehicles will be parked away from the River Usk SAC.

7.15.27 All the above measures will be specified in a CEMP for the construction works.

7.15.28 In addition, the planning permission will have the following planning condition attached as required by NRW:

“Condition: If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks’.

As requested by NRW the following will also be undertaken:

“Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed-on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays”.

7.15.29 As CEMPs are to be implemented to mitigate construction effects upon the designation for cumulative developments, no significant adverse in-combination effects are predicted.

7.15.30 Significance of effect after mitigation

Adverse effects from potential water pollution on the qualifying features of River Usk SAC will be successfully mitigated with the implementation of best practice pollution control measures with reference to current industry standard guidance. In addition, as best practice pollution control measures for the construction phase of development would need to be implemented for any cumulative sites, there will be no adverse effects from water quality on the ecological integrity of the River Usk SAC from the development alone or in combination with other cumulative impacts sites.

7.15.31 ***Identification and Consideration of Other Plans and Projects that May Act ‘In Combination’.***

In-combination effects of the proposed works will be dealt with by consideration of both the construction and operation of the proposed development and the cumulative impact sites.

7.15.31 In summary, 8 schemes have been identified from a review of information held on the planning portal². Details of cumulative impact sites and their potential significant effects on the River Usk SAC designation are listed in Table 1 below.

Table 1: Cumulative Impact Sites			
Planning Reference Application	Approximate Distance and Direction from Application Site	Brief Project Description	Summary of Potential Cumulative Impacts
16/0647	0.9km to south-west	Demolition of existing industrial building and construction of new commercial vehicle workshop, showroom and administrative offices with associated external parking and manoeuvring areas and perimeter fencing.	Construction and Environmental Management Plan (CEMP) required, to detail noise and dust mitigation measures, details of temporary lighting and details of enclosure of working areas to be employed during development, to protect the amenities of nearby residents. Project identified potential flooding effects, but risk predicted to be lowered after mitigation (via raising of finish floor level to 8.25m).
17/1058	1.0km north-west	Change of use to containerised self-storage depot	Construction and Environmental Management Plan (CEMP) required, to minimise the creation and impact of noise, air quality, vibration, dust, and waste disposal. Project identified potential flooding effects, but risk predicted to be lowered after mitigation (via containers being set above 7.36m). Full details of hard landscaping scheme and planting scheme including tree planting required.
10/1117	1.0km to south-west	Erection of building for mixed use purposes, comprising B1 (office and B8 (storage) use	Project identified potential contamination, but none predicted after mitigation. Countryside Council for Wales (CCW) (now NRW) was of the opinion that the proposed development would not likely have a significant effect on the River Usk SAC as foul sewage would be disposed of to the mains sewer and surface water would be disposed of to a soakaway. Project identified potential flooding effects. Details of an emergency plan showing how the consequences of a flood event will be managed was required.

Table 1: Cumulative Impact Sites			
Planning Reference Application	Approximate Distance and Direction from Application Site	Brief Project Description	Summary of Potential Cumulative Impacts
18/0016	1.0km to south-west	Enclosure of area of park and erection of fencing for provision of a dog exercise/play area to serve existing kennels.	Project identified potential ground contamination, but none predicted after mitigation (watching brief during ground works associated with the proposed works).
11/0530	1.2km south	Demolition of Dutch barn and tegula plant and erection of production unit with offices, amenities block, ticket office / gate house and additional covered aggregate storage bays	Construction and Environmental Management Plan (CEMP) required, to detail noise and dust mitigation measures, details of temporary lighting and details of enclosure of working areas to be employed during development, as well as a drainage strategy, pollution prevention and contingency measures in the interests of ecology including European protected species, Severn Estuary European sites and SSSI and the River Usk SAC and SSSI.
13/0030	1.6km south-east	Proposed erection of all-weather ship handling terminal	Construction and Environmental Management Plan (CEMP) required, to detail noise and dust mitigation measures, contamination, pollution prevention and contingency measures. Details of temporary lighting and enclosure of working areas, to be employed during development, to protect ecological features including European protected species, Severn Estuary European sites and SSSI and the River Usk SAC and SSSI. No work of excavation, land raising or external construction works shall take place within 20 metres of the top of the riverbank between sunset and sunrise respectively unless otherwise agreed in writing by the Local Planning Authority. To ensure no disturbance is caused to Eurasian otters migrating up or down the river at periods of darkness.

Table 1: Cumulative Impact Sites			
Planning Reference Application	Approximate Distance and Direction from Application Site	Brief Project Description	Summary of Potential Cumulative Impacts
18/1016	1.6km south-east	EIA screening opinion for proposed development of fuel storage silos, conveyor systems and access together with conversion of replacement of equipment within existing building envelopes to enable combustion or pelletised waste derived fuel and other biomass fuel at Uskmouth B power station	No significant environmental impacts are considered likely, subject to certain further environmental surveys and where appropriate any resulting mitigation recommendations.
18/1088	1.7km south-east	Partial demolition of existing rail freight depot and construction of replacement extension and repositioning of access ramp.	Potential impact on reptiles, but mitigation proposed (Reptile method statement implemented).

7.15.32 HRA Summary and Conclusions

The AA has concluded that the identified disturbance effects from noise, vibration, water pollution, dust and lighting can be mitigated by the implementation of construction industry best practice measures and through design and operational procedures. Details of these measures would be provided within a CEMP which would require approval by the Local Planning Authority prior to commencement of the works.

7.15.33 A lighting scheme for the proposed development will be approved via a planning condition and will be designed to ensure there will be no light spill to the River Usk SAC during the operational phase of the proposed development.

7.15.34 As a result, there will be no adverse disturbance effects arising from the proposed development alone or in combination with other development sites on the ecological integrity of the River Usk SAC.

7.15.35 Table 3 provides a summary of the LSE, proposed mitigation and residual effects on the ecological integrity of the River Usk SAC.

Table 3: AA - Summary of Likely Significant Effects, Mitigation and Residual Effects				
Designated Site		Likely Significant Effect either alone or in-combination with other development	Mitigation	Residual Effect
River Usk SAC	SAC qualifying features: Water courses of plain to montane levels with the <i>Ranuncion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation Sea lamprey Brook lamprey River lamprey Twaite shad Atlantic salmon Bullhead Otter Allis shad	Noise and Vibration Effects LSE on all qualifying species (fish and otter) from disturbance from construction noise and vibration and particularly during fish migratory periods.	If for any reason piling cannot be avoided during the shad migration period of March to June inclusive and is within 30m of the mean high tide level, non-percussive piling methods (CFA piling) will be used and will only take place on a falling tide from 1 hour after high tide to 1 hour before low tide. Best practice noise control measures will be implemented via a CEMP for following guidance in industry standard, British Standard BS5228-1 2009 + A1:2014 – ‘Code of Practice for Noise and Vibration Control on Construction and Open Sites. Noise’ and the guidance in Building Research Establishment (BRE) ‘Controlling particles, vapour and noise pollution from construction sites.	No significant adverse disturbance effects arising from the project and in-combination with other cumulative impact sites on the qualifying features SAC.
		Dust Effects LSE on foraging/shelter habitat which could be used by otter, a qualifying feature of the SAC	Regulatory standards and best practice construction dust pollution control measures will be detailed in and delivered via a CEMP.	
		Lighting Effects LSE on SAC migratory fish and otter as increased light levels have the potential to disturb foraging, breeding and laying up areas of qualifying species during	A lighting strategy during construction will be detailed in a CEMP. No night-time working will be undertaken. Lighting during construction will be directed away from SAC.	

Table 3: AA - Summary of Likely Significant Effects, Mitigation and Residual Effects				
Designated Site		Likely Significant Effect either alone or in-combination with other development	Mitigation	Residual Effect
River Usk SAC	SAC qualifying features: Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation Sea lamprey Brook lamprey River lamprey Twaite shad Atlantic salmon Bullhead Otter Allis shad	Noise and Vibration Effects LSE on all qualifying species (fish and otter) from disturbance from construction noise and vibration and particularly during fish migratory periods.	If for any reason piling cannot be avoided during the shad migration period of March to June inclusive and is within 30m of the mean high tide level, non-percussive piling methods (CFA piling) will be used and will only take place on a falling tide from 1 hour after high tide to 1 hour before low tide. Best practice noise control measures will be implemented via a CEMP for following guidance in industry standard, British Standard BS5228-1 2009 + A1:2014 – ‘Code of Practice for Noise and Vibration Control on Construction and Open Sites. Noise’ and the guidance in Building Research Establishment (BRE) ‘Controlling particles, vapour and noise pollution from construction sites.	No significant adverse disturbance effects arising from the project and in-combination with other cumulative impact sites on the qualifying features SAC.
		Dust Effects LSE on foraging/shelter habitat which could be used by otter, a qualifying feature of the SAC	Regulatory standards and best practice construction dust pollution control measures will be detailed in and delivered via a CEMP.	
		Lighting Effects LSE on SAC migratory fish and otter as increased light levels have the potential to disturb foraging, breeding and laying up areas of qualifying species during	A lighting strategy during construction will be detailed in a CEMP. No night-time working will be undertaken. Lighting during construction will be directed away from SAC.	

Conditions

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of “biodiversity protection zones”;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs and
- i) Methodology to safeguard otters.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

NOTE: See BS 42020:2013, Clause 10, for a comprehensive list of issues and activities that may be considered and included within a CEMP.

Reason: To safeguard habitats and species protected under the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), and Environment (Wales) Act 2016.

If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Reason: To ensure risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks'.

The development hereby approved shall be carried out fully in accordance with the Lighting Strategy produced by Capita, drawing number MIR-CAP-79-XX-DR-E-301.

Reason: To allow the Local Planning Authority to control the level of light spill from the development in the interest of safeguarding the features of the Severn Estuary SPA, SAC and the River Usk SAC.

Any construction works in the river, on or adjacent to the riverbank (within 30m of the mean high tide level) that result in vibration e.g. drilling, boring, piling or demolition works shall be timed to avoid the migration period between 1st March and 30th June. If piling cannot be avoided during the shad migration period (March to June inclusive) and is within 30m of the mean high tide level non-percussive piling methods shall be used and shall only take place on a falling tide from 1 hour after high tide to 1 hour before low tide.

Reason: in the interest of safeguarding the features of the Severn Estuary SPA, SAC and the River Usk SAC.

Prior to the construction of the development hereby permitted a drainage management plan shall be submitted and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved plan prior to the beneficial use of the development.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the Severn Estuary SPA, SAC and the River Usk SAC.

7.20 ***Flood Risk***

Natural Resources Wales (NRW) Development Advice Maps indicate that the site falls within Flood Zone B. Moreover, the Detailed Maps on NRW's website indicate that the area within the application site is not at risk of flooding from rivers and sea flooding, reservoir flooding or surface water flooding. There are no objections to the proposals in terms of flood risk.

7.21 ***Archaeology***

The site is archaeologically sensitive. The application is accompanied by a scheme of historic environment mitigation. Glamorgan Gwent Archaeology Trust has been consulted and advise that mitigation is required and the applicant has since submitted a wriitten scheme of historic environment mitigation. At the time

of writing further comments are yet to be received from GGAT in response to this information. Depending on the Trust's response a condition requiring the submission of further information may or may not be required.

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 Having regard to policies SP1, SP2, SP3, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7 and CE6 of the Newport Local Development Plan 2011-2026 and the adopted SPGs, Planning Policy Wales (10th Edition) and The Wales Marine Plan (November 2019), it is considered that the proposed development would result in significant permeability improvements for pedestrians and cyclists and is beneficial to health and wellbeing. The proposals would not be detrimental to the visual amenities of the surrounding area, neighbouring amenity or highway safety.

9.2 Through the submission of appropriate survey work and assessment of the impacts of the proposed development on environmental effects, including the statutory and non-statutory designated sites, priority habitats, protected and priority species, and archaeology it is considered that the proposal has demonstrated that there would be no likely significant environmental impacts subject to suitable conditions. At time of writing NRW had been further consulted on the completed appropriate assessment and its response was awaited.

9.3 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: MIR-CAP-61-XX-DR-S-0002 Revision P06, MIR-CAP-79-XX-DR-E-301 Lighting Strategy.

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 shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning

authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource in accordance with Policy SP9 of the NLDP.

03 No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

- j) Risk assessment of potentially damaging construction activities;
- k) Identification of “biodiversity protection zones”;
- l) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- m) The location and timing of sensitive works to avoid harm to biodiversity features;
- n) The times during construction when specialist ecologists need to be present on site to oversee works;
- o) Responsible persons and lines of communication;
- p) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- q) Use of protective fences, exclusion barriers and warning signs and
- r) Methodology to safeguard otters.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

NOTE: See BS 42020:2013, Clause 10, for a comprehensive list of issues and activities that may be considered and included within a CEMP.

Reason: To safeguard habitats and species protected under the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), and Environment (Wales) Act 2016 in accordance with Policies GP2 and GP5 of the NLDP.

04 Prior to the construction of the development hereby permitted a drainage management plan shall be submitted and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved plan prior to the beneficial use of the development.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the Severn Estuary SPA, SAC and the River Usk SAC in accordance with Policy GP5 of the NLDP.

04 Prior to the construction of the development hereby permitted, full details of the vehicle restraint barrier to prevent vehicular access to the SDR shall be submitted to the Local Planning Authority and written approval received. The development shall be carried out fully in accordance with the approved details and the barrier shall be retained therein in perpetuity.

Reason: In the interests of highway and pedestrian safety and visual amenities in accordance with Policies GP4 and GP6 of the NLDP.

General conditions

06 If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Reason: To ensure risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks' in accordance with Policies GP5 and GP7 of the NLDP.

07 The development hereby approved shall be carried out fully in accordance with the Lighting Strategy produced by Capita, drawing number MIR-CAP-79-XX-DR-E-301.

Reason: To allow the Local Planning Authority to control the level of light spill from the development in the interest of safeguarding the features of the Severn Estuary SPA, SAC and the River Usk SAC in accordance with Policy GP5 of the NLDP.

08 Any construction works in the river, on or adjacent to the riverbank (within 30m of the mean high tide level) that result in vibration e.g. drilling, boring, piling or demolition works shall be timed to avoid the migration period between 1st March and 30th June. If piling cannot be avoided during the shad migration period (March to June inclusive) and is within 30m of the mean high tide level non-percussive piling methods shall be used and shall only take place on a falling tide from 1 hour after high tide to 1 hour before low tide.

Reason: In the interest of safeguarding the features of the Severn Estuary SPA, SAC and the River Usk SAC in accordance with Policy GP5 of the NLDP.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP3, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7 and CE6 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. On behalf of Dwr Cymru – Welsh Water the applicant is advised that they may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers

Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com The applicant is also advised that some public sewers and water mains may not be recorded on our maps of public assets, the presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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

04 It is considered that the decision has been made in conformity with the Marine Policy Statement (2011) and in accordance with marine national planning policy contained within the Welsh National Marine Plan (2019) as demonstrated in the assessment of this proposal.

05 The applicant is advised to contact the councils Structural Engineer if proposing to retain the raised ramp structure as a public asset in the ownership of the Council. In addition the applicant must note that this section of highway is operated and maintained under a long-term PFI contract. Therefore the applicant will need seek permission from the contracted PFI organisation to make the connection to the existing river bridge and undertake any associated works on the PFI managed asset.

APPENDIX A

4.2 CONSERVATION OBJECTIVES FOR SPA EUROPEAN MARINE SITE INTEREST FEATURES

The protection and management of the SPA in accordance with Article 6 of the Habitats Directive, including in particular the consideration of plans and projects under Article 6(3) and 6(4), should be carried out in view of the conservation objectives in this section.

4.2.2 SPA interest feature 2: Internationally important population of regularly occurring migratory species: wintering European white-fronted goose

The conservation objective is to maintain the European white-fronted goose population and its supporting habitats¹ in **favourable condition**, as defined below.

The interest feature European white-fronted goose will be considered to be in favourable condition² when, subject to natural processes², each of the following conditions are met:

- (i) the 5 year peak mean population size for the wintering European white fronted goose population is no less than 3,002 individuals (ie the 5 year peak mean between 1988/9-1992/3);
- (ii) the extent of saltmarsh at the Dumbles is maintained;
- (iii) the extent of intertidal mudflats and sandflats at Frampton Sands, Waveridge Sands and the Noose is maintained;
- (iv) greater than 25% cover of suitable soft-leaved herbs and grasses³ is maintained during the winter on saltmarsh areas;
- (v) unrestricted bird sightlines of >200m at feeding and roosting sites are maintained;
- (vi) aggregations of European white-fronted goose at feeding or roosting sites are not subject to significant disturbance.

4.2.2.1 Explanatory information for the wintering European white-fronted goose objective

¹Key supporting habitats for the migratory bird species

- Intertidal mudflats and sandflats
- Saltmarsh

²Natural processes in respect of the SPA

The meaning of 'natural processes' is explained in **section 4.2.1.1**.

³Key food plants of European white-fronted goose

eg *Alopecurus bulbosus*, *Festuca rubra*, *Hordeum marinum*, *Lolium perenne*; *Puccinellia maritima*.
(This list contains examples and is not exhaustive)

4.2.3 SPA interest feature 3: Internationally important population of regularly occurring migratory species: wintering dunlin

The conservation objective is to maintain the dunlin population and its supporting habitats¹ in **favourable condition**, as defined below:

The interest feature dunlin will be considered to be in favourable condition when, subject to natural processes², each of the following conditions are met:

- (i) the 5 year peak mean population size for the wintering dunlin population is no less than 41,683 individuals (ie the 5 year peak mean between 1988/9 - 1992/3);
- (ii) the extent of saltmarsh and associated strandlines is maintained;
- (iii) the extent of intertidal mudflats and sandflats is maintained;
- (iv) the extent of hard substrate habitats is maintained;
- (v) the extent of vegetation with a sward height of <10cm is maintained throughout the saltmarsh;
- (vi) the abundance and macro-distribution of suitable invertebrates³ in intertidal mudflats and sandflats is maintained;
- (vii) the abundance and macro-distribution of suitable invertebrates³ in hard substrate habitats is maintained;
- (viii) unrestricted bird sightlines of >200m at feeding and roosting sites are maintained;
- (ix) aggregations of dunlin at feeding or roosting sites are not subject to significant disturbance.

4.2.3.1 Explanatory information for the wintering dunlin objective

¹Key supporting habitats for the migratory bird species

- **Intertidal mudflats and sandflats**
- **Saltmarsh**
- **Hard substrate habitats (rocky shores)**

²Natural processes in respect of the SPA

The meaning of ‘natural processes’ is explained in **section 4.2.1.1**.

³Key intertidal invertebrate prey species of dunlin

eg *Carcinus*, *Crangon*, *Hydrobia*, *Macoma*, *Hediste*, and *Talitrus* spp. (This list contains examples and is not exhaustive)

4.2.4 SPA interest feature 4: Internationally important population of regularly occurring migratory species: wintering redshank

The conservation objective is to maintain the redshank population and its supporting habitats¹ in **favourable condition**, as defined below

The interest feature redshank will be considered to be in favourable condition when, subject to natural processes² each of the following conditions are met:

- (i) the 5 year peak mean population size for the wintering redshank population is no less than 2,013 individuals (ie the 5 year peak mean between 1988/9 - 1992/3);
- (ii) the extent of saltmarsh and associated strandlines is maintained;
- (iii) the extent of intertidal mudflats and sandflats is maintained;
- (iv) the extent of hard substrate habitats is maintained;
- (v) the extent of vegetation with a sward height of <10cm throughout the saltmarsh is maintained;

- (vi) the abundance and macro-distribution of suitable invertebrates³ in intertidal mudflats and sandflats is maintained;
- (vii) the abundance and macro-distribution of suitable invertebrates³ in hard substrate habitats is maintained;
- (viii) unrestricted bird sightlines of >200m at feeding and roosting sites are maintained;
- (ix) aggregations of redshank at feeding or roosting sites are not subject to significant disturbance.

4.2.4.1 Explanatory information for the wintering redshank objective

¹Key supporting habitats for the migratory bird species

- Intertidal mudflats and sandflats
- Saltmarsh
- Hard substrate habitats (rocky shores)

²Natural processes in respect of the SPA

The meaning of ‘natural processes’ is explained in **section 4.2.1.1**.

³Key intertidal invertebrate prey species of redshank

eg *Carcinus*, *Crangon*, *Hydrobia*, *Macoma*, *Hediste*, and *Talitrus* spp. (This list contains examples and is not exhaustive)

4.2.5 SPA interest feature 5: Internationally important population of regularly occurring migratory species: wintering shelduck

The conservation objective is to maintain the shelduck population and its supporting habitats¹ in **favourable condition**, as defined below:

The interest feature shelduck will be considered to be in favourable condition when, subject to natural processes², each of the following conditions are met:

- (i) the 5 year peak mean population size for the wintering shelduck population is no less than 2,892 individuals (ie the 5 year peak mean between 1988/9 - 1992/3);
- (ii) the extent of saltmarsh is maintained;
- (iii) the extent of intertidal mudflats and sandflats is maintained;
- (iv) the extent of hard substrate habitats is maintained;
- (v) the abundance and macro-distribution of suitable invertebrates³ in intertidal mudflats and sandflats is maintained;
- (vi) unrestricted bird sightlines of >200m at feeding and roosting sites are maintained;
- (vii) aggregations of shelduck at feeding or roosting sites are not subject to significant disturbance.

4.2.5.1 Explanatory information for the wintering shelduck objective

¹Key supporting habitats for the migratory bird species

- Intertidal mudflats and sandflats
- Saltmarsh
- Hard substrate habitats (rocky shores)

²Natural processes in respect of the SPA

The meaning of ‘natural processes’ is explained in **section 4.2.1.1**.

³Key intertidal invertebrate prey species of shelduck

eg *Carcinus*, *Corophium*, *Hydrobia*, *Macoma*, *Mytilus*, and *Hediste* spp (This list contains examples and is not exhaustive)

4.2.7 SPA interest feature 7: Internationally important assemblage of waterfowl

The conservation objective is to maintain the waterfowl assemblage and its supporting habitats¹ in **favourable condition**, as defined below:

The interest feature waterfowl assemblage will be considered to be in favourable condition when, subject to natural processes², each of the following conditions are met:

- (i) the 5 year peak mean population size for the waterfowl assemblage is no less than 68,026 individuals (ie the 5 year peak mean between 1988/9 - 1992/3);
- (ii) the extent of saltmarsh and their associated strandlines is maintained;
- (iii) the extent of intertidal mudflats and sandflats is maintained;
- (iv) the extent of hard substrate habitats is maintained;
- (v) extent of vegetation of <10cm throughout the saltmarsh is maintained;
- (vi) the abundance and macroscale distribution of suitable invertebrates³ in intertidal mudflats and sandflats is maintained;
- (vii) the abundance and macroscale distribution of suitable invertebrates³ in hard substrate habitats is maintained;
- (viii) greater than 25% cover of suitable soft leaved herbs and grasses⁴ during the winter on saltmarsh areas is maintained;
- (ix) unrestricted bird sightlines of >500m at feeding and roosting sites are maintained;
- (x) waterfowl aggregations at feeding or roosting sites are not subject to significant disturbance.

4.2.7.1 Explanatory information for the internationally important assemblage of waterfowl

¹Key supporting habitats for the waterfowl assemblage

- Intertidal mudflats and sandflats
- Saltmarsh
- Hard substrate habitats (rocky shores)

²Natural processes in respect of the SPA

The meaning of 'natural processes' is explained in **section 4.1.1**.

³Key intertidal invertebrate prey species of the waterfowl assemblage

eg *Arenicola*, *Carcinus*, *Corophium*, *Crangon*, *Gammarus*, *Hydrobia*, *Macoma*, *Hediste*, *Notomastus* and *Talitrus* spp. - these lists are examples and are not exhaustive

⁴Key saltmarsh food plants

eg *Puccinellia maritima*, *Salicornia* spp., *Agrostis stolonifera*, *Atriplex* spp., *Hordeum marinum*, *Festuca rubra*, *Alopecurus bulbosus*, *Lolium perenne* - these lists are examples and are not exhaustive.

4. CONSERVATION OBJECTIVES OF THE RIVER USK SAC

Background to Conservation Objectives:

(a) Outline of the legal context and purpose of conservation objectives.

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

(b) Format of the conservation objectives

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

Each conservation objective consists of the following two elements:

1 Vision for the feature

2 Performance indicators

As a result of the general practice developed and agreed within the UK Conservation Agencies, conservation objectives include performance indicators, the selection of which should be informed by JNCC guidance on Common Standards Monitoring¹.

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

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

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

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

4.1 Conservation Objective for the water course

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.2 Conservation Objective for Features 1-5:

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

Vision for features 1-5

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

FCS component	Supporting information/current knowledge
<p>The conservation objective for the water course as defined in 4.1 above must be met</p> <p>The population of the feature in the SAC is stable or increasing over the long term.</p>	<p>Refer to Sections 5.1 to 5.5 for current assessments of feature populations</p> <p>Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates.</p> <p>Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of disease.</p> <p>Some reaches of the Usk SAC are more suitable for some features than others eg the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in Section 3.2. Further details of feature habitat suitability are given in Section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.</p> <p>The characteristic channel morphology provides the diversity of water depths, current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches eg through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.</p> <p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p> <p>Shad and salmon migration can be affected by acoustic surveys and by high sediment loads, which can originate from a number of sources including construction works.</p>
<p>The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms eg. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions eg. food supply (as described in Sections 2.2 and 5). Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4</p>	

FCS component	Supporting information/current knowledge
There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.	Allis and Twait shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.

Performance indicators for features 1-5

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
Sea lamprey <i>Petromyzon marinus</i> :			
Performance indicators for feature condition			
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> .	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered over time. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable.	1 - 5
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites each not less than 5km apart. Overall catchment mean >0.1m ⁻² (Harvey & Cowx 2003) ¹	This standard CSM attribute establishes a minimum occupied spawning range, within any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute. Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes m ⁻² in suitable habitat ² , therefore 0.1 m ⁻² is a conservative threshold value for unfavourable condition.	2 - 5
Brook lamprey <i>Lampetra planeri</i> and River lamprey <i>Lampetra fluviatilis</i> :			
Performance indicators for feature condition			
(a) Age/size structure of ammocoete population	Samples < 50 ammocoetes ~ 2 size classes Samples > 50 ammocoetes ~ at least 3 size classes	This gives an indication of recruitment to the population over the several years preceding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment.	2 - 10
(b) Distribution of ammocoetes within catchment	Present at not less than 2/3 of sites surveyed within natural range No reduction in distribution of ammocoetes	The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit ie all except unit 1. Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment. Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment.	2 - 10
(c) Ammocoete density	Optimal habitat: >10m ⁻² Overall catchment mean: >5m ⁻²	Optimal habitat comprises beds of stable fine sediment or sand ≥15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2 - 10

Twaite shad *Alosa fallax* and Allis shad *Alosa alosa* :

Performance indicators for feature condition

(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from	1 - 5
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Attribute	Specified Limits	Comments	Relevant Unit[s]
		any site in 2 consecutive surveys will result in an unfavourable condition assessment.	
Performance indicators for factors affecting the feature			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period.	1 - 5
<hr/>			
Atlantic salmon <i>Salmo salar</i> :			
Performance indicators for feature condition			
(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-sea-winter component.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan. CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality. Assessed using electro fishing data.	6 – 10
Performance indicators for factors affecting the feature			
Water quality			
(a) Biological quality	Biological GQA class A	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6 - 10
(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3].	All
Hydromorphology			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
<hr/>			
Bullhead <i>Cottus gobio</i> :			
Performance indicators for feature condition			
(a) Adult densities	No less than 0.2 m ⁻² in sampled reaches	CSM guidance states that densities should be no less than 0.2 m ⁻² in upland rivers (source altitude >100m) and 0.5 m ⁻² in lowland rivers (source altitude \bar{y} m). A significant reduction in densities may also lead to an unfavourable condition assessment.	2 – 10
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by on-going monitoring will result in an unfavourable condition assessment.	2 - 10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment.	2 - 10

4.3 Conservation Objective for Feature 6:

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

Vision for feature 6

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

FCS component	Supporting information/current knowledge
<p>The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour.</p> <p>The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole area of the Usk SAC is considered to form potentially suitable breeding habitat for otters. The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.</p> <p>The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc at road bridges and other artificial barriers.</p>	<p>Refer to Section 5.9 for current assessment of feature population</p> <p>Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance.</p> <p>The decline in eel populations may be having an adverse effect on the population of otters in the Usk.</p> <p>Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.</p>

Performance indicators for feature 6

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
<i>Performance indicators for feature condition</i>			
(a) Distribution	Otter signs present at 90% of Otter Survey of Wales sites	Ref: CCW Environmental Monitoring Report No 19 (2005) ³	All
(b) Breeding activity	2 reports of cub/family sightings at least 1 year in 6	Ref: CCW Environmental Monitoring Report No 19 (2005) ³	All
(c) Actual and potential breeding sites	No decline in number and quality of mapped breeding sites in sub-catchments (see Ref)	Ref: CCW Environmental Monitoring Report No 19 (2005) ³ In the Usk catchment, 77 actual or potential breeding sites have been identified, distributed throughout the catchment on the main river and tributaries.	All

Report

Appeal Decisions

Part 1

Date: 1st July 2020

Item No: Insert item number here

Subject **Appeal Decisions**

Purpose To record the outcome of recent planning appeals

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

Wards Beechwood, Caerleon, Llanwern

Summary In consultation with the Chair or Deputy Chair of Planning Committee, the Acting Head of Regeneration, Investment and Housing has delegated powers to determine planning applications previously determined by Planning Committee. The following planning appeal decisions are reported to help inform future decisions.

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

Action by Development and Regeneration Manager

Timetable Not applicable

This report was prepared without consultation because it is a record of recent planning appeals to help inform future decisions.

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 an application is refused against Officer advice, during this interim arrangement, the Acting Head of Regeneration, Investment and Housing, along with the Chair/Deputy Chair of Planning Committee 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 major developments, which often require 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 Head of RIH/Chair/Deputy of Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p> <p>Ensure appeal timetables are adhered to.</p>	<p>Head of RIH with Chair/Deputy of Planning Committee</p> <p>Head of RIH with Chair/Deputy of 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 a record 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.

Preferred Option and Why

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

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. The costs of defending decisions and any award of costs must be met by existing budgets.

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 a record 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 a record of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Consultation

Not applicable. This report is a record of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Background Papers

Not applicable

Dated: 1st July 2020

Planning Application Appeal	
Reference	19/1064
Address	Land adjacent to 5 Clevedon Road, Newport, NP19 8LZ

Development	Erection of 2No. dwellings and associated works and off-street parking
Appellant	Hub Enterprises Newport Ltd
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Application Appeal

Reference	19/1022
Address	The Haven, South Row, Redwick, Newport, NP26 3DU
Development	Erection of detached single storey garage as a replacement for temporary garden sheds
Appellant	Mr Selwyn Monk
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Application Appeal

Reference	19/1280
Address	Hillside Lodge, Lodge Road, Caerleon, Newport, MP18 3QY
Development	Demolition of existing porch and replacement with proposed two storey front extension
Appellant	Mr Terence Glossop
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

