

# Agenda



## Planning Committee

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Date: Wednesday, 7 October 2020

Time: 10.00 am

Venue: Virtual Meeting

To: Councillors J Richards (Chair), J Guy (Deputy Chair), J Clarke, T Holyoake, G Berry, T Watkins, R White, V Dudley, J Jordan, C Townsend and C Ferris

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Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 2 September 2020 (Pages 3 - 6)</u>	
4. <u>Development Management: Planning Application Schedule (Pages 7 - 80)</u>	
5. <u>Appeal Decisions (Pages 81 - 88)</u>	

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Date of Issue: Wednesday, 30 September 2020

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# Minutes



## Planning Committee

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Date: 2 September 2020

Time: 10.00 am

Present: Councillors J Richards (Chair), J Guy (Deputy Chair), J Clarke, G Berry, T Watkins, R White, V Dudley, C Townsend and C Ferris

In Attendance: Matthew Sharp (Planning Policy Manager), Joanne Evans (Senior Solicitor - Planning and Land), Tracey Brooks (Head of Regeneration Investment and Housing), Stephen John Williams (West Area Planning Manager), Michelle Tett (Community Protection Manager), Anna Griffiths (Senior Traffic Transport and Development Officer) and Neil Barnett (Governance Officer)

Apologies: Councillors T Holyoake and J Jordan

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

None.

### 2. **Minutes of the meeting held on 4 March 2020**

The minutes of the meeting held on 4 March 2020 were submitted.

#### **Resolved**

That the minutes of the meeting held on 4 March 2020 be taken as read and confirmed.

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

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

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

### 4. **Live Event**

The meeting terminated at 11.30 am

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Appendix A  
 PLANNING COMMITTEE – 02 09 2020  
 DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
<b>20/0039</b>	<p><b>Site:</b> Land East Of Celtic Technology Centres, Celtic Way, Celtic Lakes</p> <p><b>Proposal:</b> Erection of 4no. three-storey data centre buildings comprising B8 use and ancillary B1 use, provision of emergency generators, security lodge, hard and soft landscaping, internal access roads, car parking and sustainable drainage</p> <p><b>Recommendation:</b> Granted with conditions</p>	<b>Marshfield</b>	<p>Committee item as this is a major planning application.</p> <p>Mr Ben Noutch – Agent, spoke in support of the application.</p> <p>Mr Cliff Jones – Resident, spoke in objection to the application.</p>	Granted with conditions.

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# Report

## Planning Committee – Virtual Meeting

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### Part 1

Date: 7<sup>th</sup> October 2020

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

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

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

**Ward** As indicated on the schedule

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

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

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

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

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

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

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

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## Risks

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

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

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

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

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

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

\* Taking account of proposed mitigation measures

### **Links to Council Policies and Priorities**

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

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

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling

economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

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

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

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

### **Options Available and considered**

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

### **Preferred Option and Why**

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

### **Comments of Chief Financial Officer**

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

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

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

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

### **Comments of Monitoring Officer**

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

### **Comments of Head of People and Business Change**

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

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

## Comments of Cabinet Member

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

## Local issues

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

## Scrutiny Committees

None

## Equalities Impact Assessment and the Equalities Act 2010

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

## Children and Families (Wales) Measure

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

## Wellbeing of Future Generations (Wales) Act 2015

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

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

Involvement: Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

Decisions made are in line with the Council's well-being objectives published in March 2017. Specifically, Objective 9 (Health and Well Being) of the adopted Newport Local Development Plan (2011-2026) links to this duty with its requirement to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

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

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

### **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 10 (December 2018)

Development Management Manual 2016

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

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)  
Sustainable Travel (adopted July 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

## **APPLICATION DETAILS**

**No:** 20/0489      **Ward:** Langstone

**Type:** Full Application

**Expiry Date:** 29th July 2020

**Applicant:** *Newport City Council*

**Site:** *Windmill Farm, Windmill Road, Llanvaches, Newport NP26 3AY*

**Proposal:** ***GROUND FLOOR WRAP-AROUND EXTENSION AND FIRST FLOOR GABLE EXTENSION TO EXISTING FARMHOUSE AND ITS CHANGE OF USE TO A RESIDENTIAL CARE HOME (USE CLASS C2) FOR UP TO 6 RESIDENTS INCLUDING OVER-NIGHT ACCOMMODATION FOR ONE MEMBER OF STAFF; THE CONSTRUCTION OF A DETACHED SINGLE-STOREY RESIDENTIAL ANNEXE TO BE USED IN ASSOCIATION WITH THE HOME; THE DEMOLITION OF AGRICULTURAL BUILDINGS TO PROVIDE PARKING & TURNING AREAS; THE WIDENING & RE-SURFACING OF THE EXISTING ACCESS AND ACCESS TRACK INCLUDING THE PROVISION OF A NEW GATE AND OTHER ASSOCIATED WORKS IN RELATION TO DRAINAGE***

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 This application is to extend the existing farmhouse and convert it to a C2 care home. The house will accommodate 4 residents and provide scope for overnight staff to sleep in. An annexe is proposed to be built close to the house which will provide self-contained accommodation for two other residents who are capable of a greater degree of independence than the residents in the main house.
- 1.2 Other works will see the removal of most of the existing complex of outbuildings on the farm, works to upgrade the access from Windmill Lane and to improve the access track from the lane to the farm, revised parking arrangements and works to provide new foul and surface water disposal.
- 1.3 The site is an old 'county farm' and is in the ownership of the Council. The proposed home will be run by the Council's Social Services Department.

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

None.

### **3. POLICY CONTEXT**

National Planning Policy

- 3.1 Planning Policy Wales is clear that brownfield land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. It is recognised, however, that not all previously developed land is suitable for development. This may be, for example, because of its unsustainable location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated (3.51). However, land and buildings currently in use for agricultural or forestry purposes are excluded from the definition of Previously Developed Land and the farmyard buildings and the location of the annex are considered to be within a greenfield site.

- 3.2 Paragraph 3.56 states Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

Local Policy – Adopted Newport Local Development Plan 2011-2026

- 3.3 The following Policies of the adopted Newport Local Development Plan 2011-2026 (NLDP) are relevant to the determination of this application:
- SP1 – Sustainability
  - SP2 – Health & Well-Being
  - SP5 – Countryside
  - SP8 – Special Landscape Areas
  - SP12 – Community Facilities
  - SP21 – Minerals
  - GP2 – General Amenity
  - GP3 – Service infrastructure
  - GP4 – Highways & Accessibility
  - GP5 – Natural Environment
  - GP6 – Quality of Design
  - H7 – Annexes to residential dwellings
  - H13 – Extensions to dwellings in the countryside
  - M1 & M2 – Minerals and Safeguarding of minerals
  - W3 – Waste

Adopted Supplementary Planning Guidance

- 3.4 The following adopted Supplementary Planning Guidance is also relevant:
- Wildlife & Development
  - House Extensions & Domestic Outbuildings
  - Waste Storage & Collection
  - Parking Standards
  - Mineral Safeguarding

**4. CONSULTATIONS**

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

Foul Drainage

No objection in relation to the submitted information.

European Protected Species: Bats

We have reviewed the bat report submitted in support of the above application; Windmill Farm, Windmill Road, Llanvaches, Monmouthshire, Ecological Appraisal, May 2020.

The report has documented that bats were not identified as using any of the following buildings on site; the Farmhouse, Outbuildings 1, 2 and 3, Barns 1 and 2 or the Dutch Barn. We concur with the recommended precautionary approach and advise that if bats are found during the development works, all work must stop, and NRW should be contacted for further advice. Please note that at this stage a European Protected Species Licence may need to be applied for.

We note the report recommends that further survey is undertaken of the Grain Store building on site, however we also note that the re-development of the Grain Store does not form part of this application. Therefore, we have no objection in this regard.

However, we would advise that any additional survey of the Grain Store building consists of an emergence survey undertaken prior to mid-August, as opposed to the recommended pre-dawn survey within the survey report. Please note the survey undertaken should be carried out in accordance with the 'Bat Surveys; Good Practice Guidelines 3rd Edition' published by the Bat Conservation Trust 2016.

## **5. INTERNAL COUNCIL ADVICE**

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

#### **LDP DESIGNATIONS**

- The site is located outside the settlement boundary within Countryside
- The site is located within Parking Zone 6.
- The site is located within a Special Landscape Area
- The site is located within a Mineral Safeguarding Area.
- Good quality agricultural land

The site is located outside of the settlement boundary within Countryside. The extension to the dwelling is located within the curtilage of an existing property and would therefore be classed as a brownfield site. The proposed associated unit and car park are located on Agricultural land and this part of the application site would be classified as a greenfield site.

Overall, the proposed extension and change of use of the building is supported in principle, subject to their scale and impact on the surrounding landscape and biodiversity.

The New building is on a greenfield site in the open countryside away from existing settlements which policy states must be strictly controlled.

All new development should be of a scale and design that respects the character of the surrounding area. It is suggested more consideration should be given to converting of an existing building. If this is not possible Officers should be satisfied that there is a need for the accommodation to be self-contained/ isolated from the main dwelling and that it is also best located in a rural/isolated site.

The proposal would also need to satisfy detailed policy requirements such as amenity, parking, ecology, landscape and design considerations. The comments of the relevant consultees should be sought to ensure the relevant policies can be satisfied.

### **5.2 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY):**

No objection subject to the application of conditions in relation to the following matters:

- Ecological Enhancement.
- Control over external lighting in the interest of bats.
- Replacement hedgerow planting around the proposed access.

### **5.3 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING):**

#### **Site location and settings.**

Most of the site is hidden from the north and north-east therefore the impact to this area will be very localised. At the same time the site is very exposed to views from south and south-east, however, the area to the south of the site is mainly represented by agricultural land. No PROWs are found within close proximity to the site. Considering this aspect, bright infills for the north-west elevations are acceptable, but it is not recommended to use bright infills for the south-east elevation.

It is understood that the development will be used to accommodate children. The applicant does not specify the age group. Some appropriately designed outdoor space suitable for play and recreation is required.

### **Site levels and hard landscaping.**

It should be noted that the current design approach does not allow to accommodate any wheelchair users or visitors. If this category of residents or visitors is expected the appropriate access arrangement should be made.

The site is located on the sloping ground which may cause issues with surface erosion. No proposed level plan is provided. The site surface and level plans are required.

Golpa system for the car park and a turning head for fire engines is proposed. It is required to provide a cross-section of this surface to ensure that the design is appropriate to accommodate the load from HGV, fire engine or litter collection track.

### **SUDS.**

This proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010 and may require SAB (SUDS Approval Body) consent in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. The SAB process is separate from planning, however, developers should demonstrate compliance with the specified standards in submitting planning applications<sup>1</sup>.

From recent experience, it is advised to check with NCC SAB team if the consent is required and provide a joined drainage-landscape strategy as part of the planning process to ensure the compliance of the landscape scheme with Standards S4 (Amenity) and S5 (Biodiversity).

It has also been noted that proposed drainage services are running through existing vegetation. Attention of a Tree officer and Ecologist is required to assess the impact.

### **Soft landscaping.**

No soft landscaping scheme is provided to meet relevant policies.

### **Conclusion**

For such a sensitive site, professional landscape architect input should be employed to ensure the character and visual impacts are independently analysed, appropriately mitigated, and to detail a hard and soft landscape plan (including condition and management of existing trees and hedgerows) appropriate to the conserving the strong landscape character and to ensure the wellbeing of kids.

The plan to be issued in accordance with BS EN ISO 11091:1999 (Construction drawings — Landscape drawing practice).

5.4 HEAD OF STREETSCENE & CITY SERVICES (WASTE): The development is considered a commercial property. We would be happy to assess commercial waste and recycling requirements when completed.

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

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 100m of the application site were consulted (3 properties) and a site notice was displayed. 39no. responses were received (with more than one response from some addresses) raising the following points:

- It was not clear the care home is for children.
- The location is not a working farm and the environment will be of limited benefit to the occupying children.
- The application was not well publicised.

- Hedgerows will be removed
- Traffic will be increased in a narrow lane
- Historic farm buildings will be lost (Dutch Barn)
- The farm should be retained and used to encourage new entrants to agriculture (its original purpose) in accordance with Welsh national agricultural policy.
- The Council should not determine its own application.
- Covid restrictions will prevent the application being publically aired, this is undemocratic.
- There was only one site notice, it was not prominent.
- 100m is an inadequate consultation distance.
- The Council owns other land, this could be somewhere else.
- The scheme should be on brownfield land to accord with local policy.
- The site is isolated and can only be accessed via inadequate lanes which are steep, narrow, winding and unlit.
- Increased traffic will mean conflict and unsafe reversing manoeuvres.
- There are no services in Llanfaches and the development will be entirely dependent on the private motor car (unsustainable).
- Increased traffic will pose a risk to horse riders, walkers and cyclists on the lane.
- There will be an adverse impact on visual amenity and rural character and the wider landscape.
- The water supply to the house is routed via my land and I will cut off the water if permission is granted since the increased demand will unacceptably reduce the water pressure.
- There may be external lighting.
- The site is remote from bus services that run along the A48.
- The scheme will be expensive, public money should be spent on something else.
- I would like to buy the farm.
- The site will grow in the future as other care homes in the area have.
- Llanfaches has many old and vulnerable residents who will be at risk of anti-social behaviour by the residents and their associates.
- Local lanes often flood causing access problems in the winter.
- The village has poor internet connection.
- The building work will cause disruption.
- Local sewers are inadequate and the village is at risk of flooding.
- The loss of the farm will damage agricultural productivity.
- The remote location will threaten the physical and mental health of the residents.
- Disposal of Surface and Foul water may lead to flooding.

6.2 COUNCILLORS: Councillors Routley and Mogford have responded jointly to the application and have objected for the following reasons:

1) Sustainable Farming: The sustainable farming scheme introduced into Wales by the Welsh Government is a part of farming sustainability that provides an opportunity to be used in a post-Brexit era. The policy aim is to protect rural farms to support and sustain food production, thereby helping to alleviate the climate emergency and reversing the decline of biodiversity. This application does not support sustainable farming and as such it will not support the rural communities and the people of Wales today and in the future .

2) Open Countryside: This site is clearly outside the settlement boundary within the open countryside it is located within a special landscape area protected mineral safeguarding and top quality agricultural land.

3) Water supply and foul drainage: The Farm relies upon a gentleman's agreement with regards to water supply crossing and controlled by the joining Farm, subject to cancellation at any time.

Foul Drainage lies within (S P Z ) 1 and therefore designated by National Resource Wales to identify those areas closest to drinking water sources and have the greatest risk of contamination.

This development is not served by a public sewer and there is no apparent consideration given in this application with regards to the sensitivity of the groundwater, secondary treatment with question marks raised about the final effluent as to the whether it is suitable to be discharged within the a source protection zone .

4) Sustainable Transport Links and Shopping Facilities: The site is located in the open countryside and at an extreme distance from any Sustainable Public Transport or shopping facilities.

#### Conclusion

This application is for the conversion of a farmhouse into a 6 bedroom residential unit with a standalone new development outside the LDP in the open countryside .

- It is not supported by substantial public transport links and has no facilities regarding shopping.
- It does not take into consideration the sustainable farming legislation laid down by the Welsh Government.
- Other considerations regarding foul drainage water supply does not satisfy the source protection zones as outlined in the National Resource Wales documents.
- The granting of this application would have serious consequences regarding the protection of the open countryside from further developments and the erosion of sustainable farming.
- The proposal would be contrary to the local development plan and other policy considerations normally given to green belt developments.

We object to the planning application 20/0489 Windmill Farm, Windmill Road, Lanvaches Newport NP26 3AY

### 6.3 LLANVACHES COMMUNITY COUNCIL

Llanvaches Community Council recommends **refusal** in regard to Planning Application 20/0489 Windmill Farm, Windmill Road, Llanvaches, NP26 3AY for the following reasons:

1. **Change of Use:** The proposed development is a 'change of use' in a green belt area of Llanvaches' which is not in keeping with the rural nature of the village or with Newport City Councils own Local Area Plan of preserving green belts and developing brownfield sites.
2. **Access to site / Increase volume of traffic:** The access lane to the proposed development has only one very narrow passing place and with the high volume of extra traffic i.e. low loaders and potentially 30-40 tonne lorries which will be required during the initial construction this with will be very damaging to the grass verges and hedges disrupting wildlife. The village has a weight restriction on vehicles in place and preparation and removal of the barns will no doubt require heavy construction through the village. Additionally these vehicles will be travelling along narrow roads which are used frequently by pedestrians, dog walkers, cyclists, and horse riders. There are very few passing places, it is not well lit and in the winter is very dangerous and with frequent flooding. The access onto the A48 by the Rock and Fountain is a well-known accident hotspot.

There is also concern for emergency vehicles needing to get to the property for the reasons stated above.

The suggested daily movements outlined in the application are unrealistic, given the nature of the proposed dwelling and the rural nature of the village the young residents are going to need to be transported in and out of the village on a regular occurrence.

3. **Local Amenities / Public Transport / Internet provision:** There are no local amenities suitable for the nature of the proposed dwelling, no access to shops, no community centre, limited access to public transport and very limited internet access. Residents of the property would need to walk along a very narrow dangerous lane to reach the closest

bus stop on the A48 to then be met with a bus service which is infrequent and unreliable. It is well documented that the village does not receive a very good internet reception which today, and for the well-being of young people, is vital for them to remain connected with their friends.

4. **Flooding issues:** It is well documented through the online objections that Llanvaches is prone to flooding despite what section 11 of the planning application says. It is concerning to note that in regard to foul sewage a 'package treatment' will be used to clean fluid that will be discharged into a nearby river or stream. This proposed development is not near a river or stream therefore this discharge will have nowhere to go other than onto land which is already subjected to frequent flooding.
5. **Wellbeing of Future Generations:** The Wellbeing of Future Generation Act provides for seven goals one of which is to promote and protect culture in Wales. This proposed development should be retained for a new generation of farmers with the Welsh Government having committed to putting young people into farming with many of the leading supermarkets, banks and a fast food chain supporting this initiative by having schemes.

The current Covid 19 pandemic which we find ourselves in, coupled with leaving the EU, has highlighted the unavailability of certain foods through the supply chain and therefore now more than ever we should be encouraging and supporting young people back into agriculture.

In addition, Dutch Barns located at the site are historic buildings and it would be disappointing if these were not preserved.

#### **6. General Comments / Questions:**

The Community Council echo and agree with all the comments made by many residents as seen on the Planning Portal and are concerned that this application seems to have been pushed through whilst the Country is in the middle of a pandemic. It is noted that the proposed development is owned by NCC and the community council are concerned regarding a "conflict of interest" therefore would like to have clarification as to how the City Council can approve such an application. Furthermore, we would like clarification as to who and how agreement was sought for the City Council to purchase this property using public funds.

Having looked thoroughly the planning application it seems that the pre planning document is missing and we would be grateful if a copy of this could be forwarded to the community council at the earliest opportunity in order that we can share it with the residents of the village.

Some fifty or more local residents met recently with the Ward Councillors for Llanvaches (whilst respecting social distancing measures) to discuss this application, many being surprised at the speed at which the City Council had been able to process these papers during the pandemic. It is felt that the City Council are using the restrictions surrounding the pandemic to rush through this application with little consultation. Surely the village residents, as council taxpayers, deserve a little more consideration on a planning application such as this one?

The Community Council note that all planning committee meetings are showing as cancelled on your website therefore please could you confirm who will be determining the application and how this decision has been delegated to them rather than the full committee. Legislation has been passed to allow remote meetings by Local Councils in Wales and we are concerned that Newport City Council are using the Covid Pandemic as a cover for agreeing this development.

We note from your minutes of the meeting of Cabinet on Wednesday 18th March 2020 ref (CAB 17/20) that "It is anticipated that Emergency Powers' Legislation from both Westminster and the Welsh Government will be received in the next few days, which will suspend certain statutory duties and timescales during this emergency period. .... In addition, Welsh Government will be asked to remove critical timescales for certain decisions, such as the determination of planning and other applications and school admission appeals. This will

give local authorities the power to suspend all non-essential business during this critical period”.

Latest guidance from the WLGA suggests that Members should bear in mind that meetings are only likely to be held to take decisions on urgent and business critical issues until the pandemic subsides. We would therefore like clarification around why this application is being delegated to the executive to make a non-essential, non-urgent planning decision.

We require full disclosure on the questions which have been asked in this refusal letter and request that this planning application be delayed for decision until a full meeting when all the Planning Committee members are able to be in attendance to enable a democratic decision to be made.

## **7. ASSESSMENT**

### **7.1 The Site**

7.1.1 The site is currently occupied by a house of post-war vintage which served as the farmhouse for a ‘county farm’ i.e. a farm owned by the Council. The house is a very modest two-storey dwelling that has been subject to some repair and modernisation but it remains very much a house of its era. The house lies approximately 125m from Windmill Lane down a gated stone access track and is downslope from the lane and therefore not especially visible from the road. A cluster of agricultural buildings lies east of the house. These are of varying age and condition but include two brick built sheds that are contemporaneous with the house, a Dutch barn and various other sheds consisting of timber or metal framing and metal cladding. The site is surrounded by agricultural land and the nearest dwelling is approximately 265m away with no direct line of sight.

7.1.2 Policy and Designations are as identified in Paragraph 5.1 of this Report.

### **7.1.3 The Scheme**

7.2.1 The scheme is to:

- change the use of the dwelling, its garden, the access track and some areas of ground at the eastern end of the farmyard to a care home use. The care home will cater for children up to age 18.
- The farmhouse will be extended by the addition of a wraparound single storey extension, effectively a side and rear extension that will provide an open plan area for dining, lounging and study. It will include a raised terraced area that can be accessed from the extension or via steps down to the retained garden area. The extension would be a flat roofed structure of about 40m<sup>2</sup> in size. Materials would be brick, render and timber effect cladding.
- A new gable / dormer extension is also proposed at first floor on the building’s northern elevation. This will provide a ‘staff-room’ which will allow sleep in by one member of staff.
- Overall the house will provide 4 child bedrooms, kitchen and dining area and ablutions including shower rooms and a bathroom.
- A new canopy will be provided over the main entrance / front door and solar panels will be provided on the south facing roof elevation.
- A new annexe is to be provided to the east of the house. This will be partly in the existing garden area but will extend into areas currently covered in agricultural buildings. The new building will have a footprint of approximately 16m by 5.04m with a mono-pitched roof above to an approximate height of 4.45m. A canopy structure on the NW elevation will cover a bin store and a meter room. The canopy will be extended to provide foul weather protection for the doors into the annexe. The annexe will provide two self-contained units of accommodation consisting of a bedroom, living / dining area and a shower / WC. Proposed materials are metal cladding, red brick plinths and some coloured panels. Staff at the house will have a supervisory capacity over the residents in the annexe which will provide emergency accommodation for older children who can live more independently. Solar panels will be provided on the south east roof elevation. The garden area of the site will be slightly extended to the rear of the new building.

- The proposal will require the demolition of the Dutch barn and an attached lean-to structure, a hay store building and a small dilapidated shed. Other barns are also proposed to be demolished but these are outside the application site. Permission for those demolitions is not sought under this proposal.
- The access onto Windmill Lane is proposed to be widened with improved visibility opened up to the southwest. New 'farm' gates will be provided to give access to the home and to the retained farmland and the track will be widened to provide a passing bay. Parking will be on the site of the demolished hay store with new hedge planting at various points around the site. Some tree planting is proposed.

### 7.3 Key Issues

- Sustainability & General Principle
- Effect and Character & Appearance and Landscape
- Need for the Scheme
- Amenity
- Crime & Disorder
- Access / Circulation & Parking
- Ecology & Bio-diversity Enhancements

Minor Issues are:

- Mineral Safeguarding
- Protection of aquifers
- Landscaping
- Agricultural Potential
- Drainage

### 7.4 Sustainability & General Principle

7.4.1 The site lies outside any urban boundary and is in the countryside for planning purposes. As such the site is implicitly less sustainable than urban locations. Local Policy SP1 seeks to guide development to more sustainable locations within the urban boundary and preferably on brownfield sites. Policy SP5 (countryside) requires that development should be appropriate and respect the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. National Policy in the form of Planning Policy Wales (Edition 10) generally supports the principle of appropriate and sustainable rural development. Paragraph 3.34 advises the following as a general guiding principle:

*(the countryside) must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources. The need to conserve these attributes should be balanced against the economic, social and recreational needs of local communities and visitors. Fostering adaptability and resilience will be a key aim for rural places in the face of the considerable challenge of maintaining the vibrancy of communities and availability of services as well as contributing to the Cohesive Communities well-being goal.*

7.4.2 The other well-being of future generation's goals being:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

7.4.3 Paragraph 3.35 offers further advice in terms of encouraging overall sustainability in rural areas:

*For most rural areas the opportunities for reducing car use and increasing walking, cycling and use of public transport are more limited than in urban areas. In rural areas most new*

*development should be located in settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. Development in these areas should embrace the national sustainable placemaking outcomes and, where possible, offer good active travel connections to the centres of settlements to reduce the need to travel by car for local journeys.*

7.4.4 It is quite clear that the location of the proposed care home is less sustainable in general terms and nor does Llanfaches offer higher levels of non-car dependent access as larger rural settlements might. Although there is a bus service along the A48 that is remote from this site and would be accessed via narrow lanes that lack footways and forward visibility. It is very likely that the home will be almost entirely dependent on use of the private motor car and in general terms the location is in breach of local and national policy in sustainability terms.

7.4.5 However it should be noted that the site is in an existing use of house and farm and is already a traffic generator. The current use is estimated to generate some 16 daily vehicle movements with many of these being heavy agricultural traffic. The proposal is estimated to generate 23 daily vehicle movements and is on its face worse in sustainability terms, however most of these movements will be of light vehicles and so there is some mitigatory benefit from this change in terms of highway impact. This offsets some of the policy harm, however the overall conclusion must be that the site is less sustainable and local and national policy is breached albeit in a relatively minor way due to the existence of the fallback position. Policy SP1 (Sustainability) is not complied with.

## 7.5 Effect on Character & Appearance and Landscape issues

7.5.1 The proposal will see significant changes in the form of the current farmhouse building with the ground floor wrap-around extension / deck, porch and first floor gable extension being added. The dwelling has unrestricted permitted development rights that would allow for significant extension without permission from the Council and it is not considered that the proposed changes would have a significantly greater impact than what might be achieved under permitted development or even under a replacement dwelling scheme which could add up to 30% additional volume to the existing building or potentially more in the event that no great harm could be identified. The proposed extensions are not considered to cause any significant harm to rural character and appearance or to the Wentwood Special Landscape Area. Policies SP5 (countryside character) and SP8 (Special Landscape Areas) are met in relation to the proposed extensions.

7.5.2 The proposed annexe would minorly extend the domestic curtilage of the existing house to the east by incorporating the site of a small existing agricultural shed. The building itself is substantial in scale but again permitted development rights would allow curtilage buildings on the current site and there is existing substantial built development in the form of the existing agricultural sheds. However, these despite their relatively poor condition and low visual appeal are a normal part of rural landscapes and the loss of some of these buildings from the site is not seen as a benefit of the scheme in visual and landscape character terms whatever the current appearance of the site. However the existence of an existing built envelope to the east of the farmhouse, again acts to mitigate the harm of the new building and the very modest extension of curtilage. The proposed building takes influence from agricultural styles in terms of form and materials and this further mitigates harm to rural and landscape character. Nevertheless the extension of the domestic envelope does cause some small harm to rural interest. This is considered to be slight overall.

7.5.3 In terms of the proposed access and circulation the use of appropriate materials, gating style and limited extension of the purely domestic use of the site via the proposed parking area is considered to cause minimal harm to character and landscape particularly if subjected to an appropriate landscaping scheme which can be conditioned. It should be noted that there would be some domestic use of the 'agricultural' part of the site currently since there is no parking area within the curtilage of the house and as is typical of farmsteads domestic use would have 'bled' into the agricultural area. Overall the proposed parking, access and track widening are not seen as harmful to rural character and landscape interests.

## 7.6 Need for the Scheme

7.6.1 The scheme will provide accommodation for 4-6 looked after children. These are children for which there is a public social care responsibility. Most placements are likely to be short term for youngsters facing significant difficulties meaning they cannot stay at home and need separation from the circumstances that have led to the crisis for their own wellbeing. The remote rural location will provide respite for these children and young people in a supervised environment where the pressures of their normal daily lives will be greatly reduced. Co-locating the annex facility with the home allows for a supervisory role for the staff in the main house over the annexe whilst allowing older children a degree of independence.

7.6.2 In terms of the Council's operational needs in providing this accommodation, there is nothing of this type currently available within the Council area and this has led to very significant additional costs in meeting the need of these children elsewhere with fees of £7-8000 per week being typical. In conclusion the facility is much needed, provides accommodation in the place where it is needed for sound operational reasons and would lead to significant cost savings to the public purse. These are very significant benefits that weigh heavily in favour of the proposed scheme and the overall objectives of national guidance in terms of meeting the well-being objectives and the Council's own steps to achieving its wellbeing objectives.

## 7.7 Amenity

7.7.1 The proposed accommodation would provide a good standard of amenity for future residents and is policy compliant.

7.7.2 In terms of neighbours the nearest house is almost 270m away from Windmill Farm. Given the levels of separation there is no reason to think the proposed use would have any impact on neighbours. Policy GP2 (General Amenity) is complied with.

## 7.8 Crime & Disorder

7.8.1 In terms of the above issue, PPW10 advises as follows:

*Paragraph 3.11 (Community Safety) Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take. Crime prevention and fear of crime are social considerations to which regard should be given in the preparation of development plans and taking planning decisions. The aim should be to produce safe environments that do not compromise on design quality in accordance with the cohesive communities well-being goal.*

7.8.2 Caselaw has established that fear of crime is a material planning consideration but that that fear must be based in a reasonable expectation that anti-social behaviour or crime will occur. Any fear must be objectively justified in order for it to be given any significant weight in a planning decision. In this case the number of occupants will be small, they will be minors and they will be under close supervision. The home would be at significant separation from any other dwelling which would reduce the risk of any disturbance to very low levels. Nor should it be assumed that all the children would be likely to commit crime or be anti-social, indeed many are more likely to be victims than perpetrators which is why they require the care and shelter the proposed home could provide. As such Officers conclude that fear of crime and disorder should attract little or no weight in the in relation to this application. Policy GP2 (crime and anti-social behaviour) is complied with.

## 7.9 Access / Circulation & Parking

7.9.1 The current access to the site is a typical farm gate at the end of a gravelled track with a hedgerow either side of the access in a traditional rural style. The current access offers poor visibility in either direction, approximately 30m to the northeast along the lane and 18m to the south west back towards the village. However the road is narrow, winding and steep in parts which all tend to moderate traffic speeds. The lane itself links Llanfaches to Llanfair Discoed and is only used by very limited local traffic.

7.9.2 Under the proposal the access will be widened to 5m over a 10m stretch to allow vehicles to easily pass and the visibility splay will be opened up to improve the overall safety of the

access. This would necessitate the removal of sections of hedge to the southwest of the new access and subsequent re-planting. The new visibility would be opened up to 43m which would be a large improvement over the current situation and has been found to be acceptable by the Head of Streetscene.

7.9.3 A speed survey has been completed on the lane adjacent to the access with an 85<sup>th</sup> percentile speed of 21mph being found. Under Manual for Streets guidance the proposed visibility would need to be 27m. Given the speed survey results the proposed junction upgrade would bring the access into conformity with the guidance.

7.9.4 In terms of circulation it is proposed to demolish existing buildings to provide a parking and circulation area. The area provided would be sufficient to provide adequate parking for the home and space to turn so that vehicles can exit the site in a forward gear. Parking and circulation are adequate and Policy GP4iv (Parking) is met.

## 7.10 Ecology & Bio-diversity Enhancement

7.10.1 There is no objection to the proposal from CNC/NRW or the Ecology Officer on bio-diversity grounds but the Ecology Officer has recommended conditions to require bio-diversity enhancement, protection of bat interests by limiting external lighting and appropriate working methods to further protect bat interests.

7.10.2 In terms of bio-diversity enhancement the proposed scheme is:

- Hedgerow planting (beyond what is needed for the replacement of the hedge to be removed to create the visibility splay)
- Some tree planting
- The provision of nest boxes to support various species

7.10.3 Subject to the application of conditions the scheme is acceptable in bio-diversity terms and Policy GP5 (Natural environment) is complied with.

## 8.0 Minor Issues

### 8.1 Mineral Safeguarding

8.1.1 The application site lies in an area of mineral safeguarding (Limestone). Policy M1 protects mineral resources from being sterilised. However the policy allows development where a need is over-riding or the development is householder development or is limited in-filling in an already developed area.

8.1.2 In this case the site is already developed and the proposal will not extend the 'developed' envelope of the site. In terms of mineral protection the proposal is not worse than the current position and would not lead to a greater risk of sterilisation. Policy M1 is complied with.

### 8.2 Protection of aquifers

8.2.1 The site lies within a 'Source Protection Zone' which are designated by CNC/NRW and are areas where there is risk of contamination to drinking water supplies. In this case CNC/NRW initially raised concerns in relation to risk to the aquifer from the proposed foul drainage system. This is to be a package sewage treatment plant since the farm is not on mains sewerage. The applicant provided further information in relation to the proposed treatment and CNC/NRW no longer object. Subject to the application of conditions the proposed drainage arrangements are acceptable and Policy GP3 (Service Infrastructure) is complied with.

### 8.3 Landscaping

8.3.1 The Landscaping Officer has raised a series of concerns in relation to the application. However even allowing for the sensitivities of the site, it is in the Wentwood Special Landscape Area, there is no reason to think that the site cannot be adequately landscaped

subject to the conditioning of an appropriate scheme of planting. Policy GP5vi (landscaping) is complied with.

#### 8.4 Agricultural potential

8.4.1 The site currently constitutes a farmhouse & curtilage and associated farmyard and farm buildings. The scheme will see the loss of some farm buildings however these are of varying ages and conditions and for the most part they would not be suitable for modern agricultural practices due to the scale and overall condition. The loss of these buildings will cause a very limited harm to the agricultural potential of the site. However the surrounding land will remain in agricultural use and the scheme includes access arrangements to give independent access to that land for agricultural traffic. The surrounding farm land will not be sterilised and nor is its use likely to cause unacceptable harm to the amenity of future residents within the home since in effect the more intensive use of the yard will come to an end. No agricultural land will be lost and Policy GP5iv (agricultural land) is complied with.

#### 8.5 Drainage & Flooding

8.5.1 Several responses have objected in relation to drainage and flooding issues. There is no reason to think that the proposal will increase run-off or exacerbate any existing flood risk within the area. The proposed drainage strategy shows surface water being discharged to a permeable area within the site and foul drainage being processed by a domestic sewage treatment plant with the clean water from this being discharged to adjacent land.

8.5.2 Under the current situation the house drains to a septic tank in the farmyard area and this will discharge to the surrounding land, which is to say into the protected aquifer. The proposal will allow for the installation of a modern package treatment plant which can be required under condition. As such the proposal can deliver a benefit in foul drainage terms above what is currently in place and lead to an improvement in the protection of the aquifer.

8.5.3 In terms of surface water drainage the site is served by the stone access track and roof drainage is disposed of to nearby permeable areas (the fields). Under the proposal the access track would be widened in part but would still consist of permeable materials and the proposed parking area would be on existing yard area or on the site of a demolished building. If the proposal went ahead roof drainage would be greatly reduced and the provision of a permeable surface water drainage system can be required under condition. Given these considerations there is no reason to think that there would be any increase in surface water run-off on the site and potentially there would be an improvement. The surface water drainage design has been modelled as effective over a 100 year lifetime allowing for climate change.

8.5.4 Drainage matters can be conditioned and there has been no technical objection to the proposed foul and surface water drainage from any consultee. The proposal will be subject to SUDs approval as a separate process to the planning application and so an additional layer of control exists. The proposed arrangements are considered acceptable and Policies GP1 (climate change), GP3 (Service infrastructure) and GP7 (Environmental Protection) are met.

#### 9.0 Planning Balance

9.1.1 In terms of the balancing exercise the key issues to address are the inherently low sustainability of the site set against the clear need for the proposal to provide essential facilities for looked after young people.

9.1.2 It is clear that this facility could be located more sustainably so it is necessary to consider whether the needs of the proposed client group could be met at such a location and whether such a location is reasonably available. On the latter point small care homes do operate within the urban area often in larger properties with substantial curtilages so there is no reason to think no alternative property would be available within the urban area.

9.1.3 However this site offers a degree of seclusion and significant distance from the urban area and even the nearest neighbours which in effect will offer a quiet and green environment

judged by the applicant to be of real benefit to the user group and not currently available within the Newport area. Its location is a key part of its suitability to this client group and the provision of care to suit their needs. This is based upon information provided with this application by professionals in this sector. However, occupation by other and more individuals, albeit within a “care” environment, or management by another party whose care focus differs to the information provided at this time, may well give rise to additional or different impacts and merits that could affect the planning balance. Accordingly, a condition that restricts occupancy in terms of the management of the home and the number of the occupants is considered reasonable.

9.1.4 Balanced against this is a small increase in local traffic as staff and users will need to access the site. There is no evidence that there will be any highway capacity issues, nor increased risk to other road users. The access upgrades will be beneficial and will raise the currently sub-standard access to a standard acceptable under Manual for Streets guidance. In effect against the current ‘fallback’ position of the site as a house and farmyard the sustainability disadvantage can be seen as modest. The lack of local facilities is not a great disadvantage to the user group given most of their needs will be met in the home rather than in the general community.

9.1.5 Overall Officers conclude that on balance the proposal is acceptable given that the specific needs of the users group, the number of intended occupants and the locational requirements for the proposed facility in a secluded, quiet and green location outweigh the harm to sustainability and that planning permission should be granted subject to conditions.

## **10. OTHER CONSIDERATIONS**

### **10.1 *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 at Paragraph 7.8. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **10.2 *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.

10.3 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.

10.4 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.

### **10.5 *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.

### **10.6 *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.

## 11. CONCLUSION

11.1 On balance the proposal is acceptable and planning permission should be granted subject to conditions.

## 12. RECOMMENDATION

### GRANTED WITH CONDITIONS

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

- Drawing CC1923 CAM ZZ ZZ GA C 90 0120 P07 – SUDS Design Concept General Arrangement (or any other plan as may be agreed under conditional discharge)
- Drawing AWW\_A\_DWG\_WIN 0101 – Site Location Plan 1, Land forming the Curtilage of the Proposed Care Home (Application Boundary Plan)
- Drawing AWW\_A\_DWG\_WIN 0110 A – Proposed Site Plan; Proposed Layout of Care Home Site
- Drawing AWW\_A\_DWG\_WIN 0125 – Proposed Site Sections
- Drawing AWW\_A\_DWG\_WIN 0155 – Farmhouse, Proposed plans
- Drawing AWW\_A\_DWG\_WIN 0250 – Farmhouse, Proposed elevations
- Drawing AWW\_A\_DWG\_WIN 0300 – Annex, Proposed Plan
- Drawing AWW\_A\_DWG\_WIN 0350 A – Annex – Proposed elevations

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

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

02 Works Access: No works of development including demolition shall be commenced until visibility to the south west along Windmill Lane has been opened up in accordance with Drawing CC1923 CAM XX GF GA C 0100 P02 contained in the Transport Statement.

**Reason:** to allow safe access to the site. Policy GP4.

#### ***Pre – construction conditions***

03 Materials: Prior to construction above slab level full details of the external materials of the farmhouse extensions and of the annexe shall be provided in writing to the Council. Following the Council's written agreement the scheme shall be completed using the agreed materials.

**Reason:** in the interest of good design, rural character and to protect the Wentwood Special Landscape Area. Policies GP2, GP6, SP5 and SP8.

04 Gate Details: Prior to their installation details of the proposed gates shall be provided in writing to the Council. Thereafter the approved gates shall be provided as agreed and retained thereafter. No other gates shall be provided without the written permission of the Council.

**Reason:** to protect rural character and the character of the Wentwood Special Landscape Area. Policies SP5, SP8 and GP2.

#### ***Pre –occupation conditions***

05 Foul & Surface Water Drainage: The foul and surface water drainage scheme shown in Drawing CC1923 CAM ZZ ZZ GA C 90 0120 P07 shall be provided prior to the first

beneficial occupation of the care home hereby approved. The scheme shall include a Model BB Biodisc Sewage Treatment Plant; or in accordance with details of any alternative scheme that may be submitted to and approved in writing by the Council.

**Reason:** to protect to a drinking water aquifer from sewage contamination. Policy GP3 and GP7.

**06 Access upgrades:** Prior to the first beneficial use of the care home hereby approved the access improvements (visibility splays and tarmacked area) shown in Drawing CC1923 CAM XX GF GA C 0100 P02 contained in the Transport Statement and within drawing 0110 A (Proposed Layout), that is the widened access, passing point, new agricultural gate, new care home gate, the drop-off bay, access track, bicycle parking and the proposed car parking area shall be provided fully as approved and shall be retained thereafter.

**Reason:** to ensure the site can be safely accessed in the interest of Highways safety. Policy GP4.

**07 Ecological Enhancement:** The ecological enhancements detailed in Section 4.6 of the report "Ecological Assessment, produced by First Ecology, dated August 2020" shall be implemented in full by the end of the first full planting season (October to March inclusive) following the first beneficial use of any part of the approved scheme.

**Reason:** In the interest of providing biodiversity mitigation and net benefit in accordance with Policy GP5 of the NLDP 2011-2026 (adopted January 2015), Planning Policy Wales Ed10 and the Environment (Wales) Act 2016.

**08 Landscaping:** Prior to the first beneficial use of the care home hereby approved, a scheme of planting shall be provided to the Council in writing. This scheme shall include planting specifications for:

- Trees to be planted
- Hedgerows to be planted
- Other planting features to be provided.

The scheme shall include a management plan for a 5 year period to ensure that the new planting becomes established or is replaced if it dies and shall have regard to the ecological mitigation and enhancements to be provided under other conditions of this approval. The planting shall be provided within the first full planting season (October to March inclusive) following the occupation of any part of the scheme and shall be maintained as agreed for the specified period.

**Reason:** to ensure suitable planting is provided in the interests of ecological mitigation / enhancement, rural character & appearance, visual amenity and the interests of the Wentwood Special Landscape Area. Policies GP5, GP7, GP2 and GP5.

### ***General conditions***

**09 Occupancy and Management:** The care home hereby approved shall only be operated by Newport City Council or its approved sub-contractors to accommodate looked after children up to the age of 18. No more than 6 children shall be resident at any one time.

**Reason:** the care home is justified in this location due to the particular care needs of this user group and to protect rural character. Policy SP5.

**10 Lighting:** No means of external lighting shall be installed on or within the building or within the wider application site unless an appropriate lighting scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall include lighting type, positioning and specification and shall include an isolux drawing. Any approved scheme shall be implemented as agreed and no other means of external lighting shall be provided.

**Reason:** To safeguard foraging and commuting routes in accordance with Environment (Wales) Act 2016 and Conservation of Habitats and Species Regulations 2017. Policy GP5.

**11 Working Method:** Works shall be carried out in strict accordance with the methods details in Section 4 of the report "Ecological Assessment, produced by First Ecology, dated August 2020". The mitigation shall be implemented in full and any subsequent amendments shall be submitted to and approved in writing by the Council prior to those works being carried out and then carried out as agreed.

**Reason:** To safeguard species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). Policy GP5.

*NOTE TO APPLICANT*

01 This decision relates to the following unconditioned plans and documents:

- Drawing AWW\_A\_DWG\_WIN 0102 – Site location plan 2 – Land within which demolitions are proposed.
- Drawing AWW\_A\_DWG\_WIN 0103 – Existing Site Plan; Curtilage of Care Home illustrating existing layout
- Drawing AWW\_A\_DWG\_WIN 0105 A – Existing Site Plan 2; Curtilage of Site in which Demolitions are Proposed
- Drawing AWW\_A\_DWG\_WIN 0120 – Existing Site Sections
- Drawing AWW\_A\_DWG\_WIN 0150 – Farmhouse, Existing plans
- Drawing AWW\_A\_DWG\_WIN 0205 – Farmhouse, Existing Elevations
- The Drawing AA212\_TCP – Tree Constraints Plan
- Speed Survey Results (Excel spreadsheet)
- Email from Ewa Bubnika-Gyde 21 September 2020 15:42
- Ecological Assessment (August 2020)
- Biodisc brochure
- Application Form for an environmental permit (Part B6.5)
- Calculations for treatment Works Soakaway (Cambria Consulting Limited)
- CNC/NRW document 'Environmental Permitting Charging Scheme 2020/21
- Planning and Design & Access Statement
- Ecological Appraisal (May 2020)
- Arboricultural Assessment (02 April 2020)
- Site Investigation Report, 12620/RAH/20/SI/Rev3
- Refurbishment Survey (27 February 2020)
- Transport Statement (May 2020)
- Drainage Strategy (CC1923-CAM-ZZ-XX-RP-C-0001)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP5, SP8, SP12, SP21, GP2, GP3, GP4, GP5, GP6, H7, H13, M1, M2 and W3 were relevant to the determination of this application.

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

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

## **APPLICATION DETAILS**

**No:** 20/0496      **Ward:** Malpas

**Type:** Full Application

**Expiry Date:** 9<sup>th</sup> October 2020

**Applicant:** *B Smith*

**Site:** 43 Yewberry Lane Newport NP20 6WL

**Proposal:** **WORKS OF EXCAVATION AND CONSTRUCTION OF RETAINING WALLS TO FACILITATE THE PROVISION OF A GROUND FLOOR GARAGE AND STORE WITH THE GARAGE ROOF TO BE USED AS A RAISED PATIO AREA. CONVERSION OF EXISTING GARAGE. PROVISION OF A NEW ACCESS ONTO GROVE PARK DRIVE. RETENTION OF ACCESS STEPS AND FENCING FACING ONTO GROVE PARK DRIVE**

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

1.1 This application seeks consent for excavation works to the front of the property and the construction of retaining walls to facilitate the provision of a ground floor garage. The garage roof is proposed to be used as a raised patio area. In order to access the garage, a new access off Grove Park Drive is proposed as well as a driveway linking the access to the garage. There is an existing garage at the property, it is proposed to convert this into a utility/storage area. It is also proposed to retain the access steps and fencing that have been erected to the side of the property facing Grove Park Drive. The property is a detached dwelling located within the Malpas ward.

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

No relevant site history.

### **3. POLICY CONTEXT**

3.1 Policies GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design) and T4 (Parking) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application. The House Extensions and Domestic Outbuildings Supplementary Planning Guidance (adopted January 2020) and the Parking Standards Supplementary Planning Guidance are also relevant to the determination of this application.

### **4. CONSULTATIONS**

4.1 WELSH WATER (DWR CYMRU): We would inform you that a public sewer is crossing the application site. We have attached a copy of the public sewer record indicating the location of these assets. We would therefore request that the following be included in any planning consent you are minded to grant: 'the proposed development site is crossed by a public sewer with the approximate position being marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line.' The developer must contact us if a sewer connection is required under Section 106 of the Water Industry Act 1991 or any alteration to our apparatus is proposed prior to any development being undertaken.

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

- 5.1 HEAD OF CITY SERVICES (STRUCTURES): I can confirm that I have no adverse comments relating to this application.
- 5.2 HEAD OF CITY SERVICES (HIGHWAYS): The site is located on Yewberry Lane, a narrow residential road with a 20mph speed limit. Access to the site will however be gained from Grove Park Drive which has a 30mph speed limit. Proposed Drawings have been provided to scales of 1:75 and 1:150 which are not standard and are not acceptable. The application proposes to provide additional off street parking for the above address. Vehicular visibility splays of 2.4m x 25m are shown on drawing PL12/2133/A 'Site Layout Indicating Vehicle Access Vision Splay' which are below the requirement of MfS which requires splays of 2.4m x 43m which will be acceptable due to the layout and configuration of Grove Park Drive which will limit actual vehicle speeds but will need to be verified by the submission of a drawing that can be scaled. The plan shows that the area will be hard core which is not acceptable as detritus from the site is likely to be trafficked onto the public highway. The first 6.0m should be surfaced with a bound material. The plan also shows a surface water drain with outfall which would prevent water discharging onto the public highway which would be acceptable. I would therefore offer no highway objection to this application subject to suitable conditions to secure the pedestrian visibility splays and the provision of bound surfacing, such as block paving or bituminous material, to the proposed driveway being applied to any consent.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All neighbours with a common boundary and opposite (17no properties) were consulted and comments were received from the following properties;

### 38 Grove Park Drive

- I believe there was a structure (fence) to the side of the property towards Grove Park Drive, supporting very high overgrown bramble, ivy and other weeds which were cascading over the footpath for several years. In the winter the overgrowth resulted in moss building up on the foot path which was very slippery.
- In addition, there was a very large eucalyptus tree which was causing the wall to break up. I use the road every day to access my property and felt this overgrowth was not aesthetically pleasing or in keeping with the neighbourhood.
- I was pleased when the overgrown brambles and weeds were removed. The improvements are certainly not displeasing to me a resident and it appears that a lot of effort and expense has gone into the work so far.

### 39 Grove Park Drive

- I have reviewed the application and am happy with the proposals. I have lived at 39 Grove Park Drive, NP20 6YE since July 1989 and drive past the side of 43 Yewberry Lane nearly every day. As such I am able to say that the very steep side garden has been overgrown for many years with brambles and weeds. These encroached the pavement and were very much a hazard to pedestrians. Up until 2010 whilst my wife was working, she had to walk past this eyesore twice per day to & from Brynglas Bus Stop & on numerous occasions was forced to walk on the road to get past the brambles. We were delighted when it was cleared.
- The fence now erected has replaced the previous fence, which stood there for many years & could be seen from our house.
- I think that the proposals are in keeping with the other properties in the road and will vastly improve the visual aspect of the area and the entrance to Grove Park Drive.

### 41 Yewberry Lane

- We have direct view of the whole side of 43 Yewberry Lane and over the last few years the owners have started to improve the visual aspect of their house. I must say we were very pleased to see the side garden had been cleared of weeds, brambles and the old fence taken down and replaced with a new one. I must say this was a massive improvement on our outlook and we would not want it to revert to how it was, with it overgrown and making it difficult for pedestrians. We are more than happy with the proposed plans, I had suggested some of the ideas and pleased to say they were included in the proposed planning. I look forward to its development and the brightening up of the road and improvement of our outlook over 43 Yewberry Lane and Grove Park Drive.

45 Yewberry Lane

- We object to this development in the strongest possible terms, and we urge the planning department to reject the application.
- Safety and Parking – The proximity of the new access proposed to the junction is a major safety concern. The guidance states that dropped kerbs should be at least 10m from any junction. There is an existing access and the proposal would add a second access. The dropped kerb guidance states that only one vehicle crossing is allowed per property. It would cause a hazard and reduce safety. The development proposes that the entire front garden is removed and given over to provide parking which is in direct conflict with the SPG.
- Overbearing – the proposal adds a ground floor extension to the front of the house which is unacceptable. It would set an unreasonable and undesirable precedent. The SPG states that ‘front extensions are unacceptable in principle.’ Therefore, the proposal should be rejected. The proposed development builds right up to the front boundary wall and so should not be permitted. The proposal would be totally out of character with the other properties. The addition of a raised platform at the front of the property is overbearing and should not be acceptable especially since this is at the front elevation. There is a high probability that the development will be used for car maintenance etc. causing undue noise and disturbance. Removing all the greenery in the front garden and replacing it with brick and concrete would destroy the current character of the neighbourhood.
- Loss of Amenity – The erection of a raised platform to the front is in relation to the SPG and there will be a significant adverse effect on local amenity, and therefore the proposal should be rejected. The proposal is out of character and doesn’t accord with policy GP6. The proposal is not at all sympathetic to the existing area due to scale, proportions and the fact that it builds right up to the front boundary wall. The proposal contravenes GP2. Goes against the LDP, development should be appropriate to the location and must not undermine the character of the locality. This kind of development does not contribute to place making.
- Loss of Green Space and Sustainability – The applicant has removed several trees and shrubs in contravention of SP1. All greenery to the front elevation will be replaced by brick and concrete. Contravenes policy H2, future owners will no longer have the benefit of a front garden. The proposal removes any greenery and therefore should be rejected. It contravenes policy GP5.
- Loss of Privacy – The change of use of the existing garage would open up a direct line of sight from the garage window into our bedroom window which sits below it.
- Party Wall – We have received no formal notice of excavation as required under the Party Wall Act.
- Other Considerations – There is a covenant against the property that precludes the change of use of the garage. The covenant against the property also requires a proper retaining wall. Also covered in the covenant is the protection of trees and hedges. This application goes against the covenant. There is a precedence that balconies and raised platforms have been refused planning permission for neighbouring properties and therefore for consistency and to avoid bias the raised platform should not be approved.

6.2 COUNCILLOR (MAYER): If the recommendation is to approve I would like the application referred to Planning Committee in order for the Committee to consider the relationship between the proposed design and the street scene, in the interest of residential amenity.

## 7. ASSESSMENT

7.1 The property is a detached dwelling located on the corner of Yewberry Lane and Grove Park Drive. The property currently benefits from a garage and driveway that faces Yewberry Lane. The garden wraps around from the front of the property to the side and is currently at various levels and consists of overgrown mature vegetation. To the side of the property, steps have been inserted and fencing erected prior to applying for planning permission, this application seeks to retain these.

7.2 It is proposed to convert the existing garage into a utility and store area. The existing garage door would be removed, a new window and door would be inserted and the remainder of the void would be finished in render. The window matches the scale and design of the existing first floor windows in this elevation. Page 34  
The materials would not match those of the main

dwelling, they would match the material of the proposed garage. As such, it is considered that the amendments to this elevation would not result in a harmful impact on visual amenity. With regard to the loss of the parking spaces within the garage, the driveway in front of the garage is to remain and further parking will be provided within the new garage and driveway to the side of the property.

- 7.3 The proposal also seeks consent for the excavation of the front garden and the erection of retaining walls in order to facilitate a new garage. It is proposed that the roof of the garage would be used as a raised patio area. With regard to residential amenity, the raised patio area would be located approximately 25m from the adjacent neighbouring property, 41 Yewberry Lane, with an intervening road. Therefore, it is considered that given the scale and distance of the raised area it would not result in an unacceptable loss of privacy for the neighbouring occupiers of no.41. In relation to the relationship between the proposed raised patio and the other neighbouring property, no.45 Yewberry Lane, part of the area would be screened by the existing garage. Any views that would not be screened by the garage, would be screened by the mature vegetation that currently exists. Notwithstanding this, the raised patio area would be located over 10m from the front of the neighbouring property which consists of a small amenity space and a driveway. The amenity space is not the primary amenity space. Overall, it is considered that the proposed raised patio area would not result in a loss of privacy for neighbouring occupiers. Given the scale and location of the garage and raised patio space, it is considered that it would not result in an overbearing impact or loss of light for neighbouring occupiers.
- 7.4 With regard to design, it is proposed that the garage would be finished in render. The garage would contain a pedestrian access door and an up and over garage door. The garage would protrude forward of the principal elevation of the property. The House Extensions and Domestic Outbuildings states 'front extensions, as distinct from porches, are unacceptable in principle because they tend to be very prominent in a streetscape. Only rarely will the Council consider allowing proposals of this nature. A front extension will be considered for approval only if it would restore symmetry to a pair of semi-detached houses and/or occupy a streetscape that lacks regular front building lines and architectural consistency.' Whilst the 2no neighbouring properties to the south are of the same design, the other surrounding properties consists of mixed design including scale and materials. It is therefore considered that the area lacks architectural consistency. Despite the garage projecting forward of the principal elevation of the property, given the sloped nature of the land around it, it is not considered that it would result in a prominent addition to the streetscape. Overall, when considering the context of the site and the location, scale and design of the works, it is considered that the excavation of the front garden and the erection of the garage would not result in a harmful impact on visual amenity and would not detract from the character and appearance of the host dwelling or wider streetscape. As the development requires excavation works and the erection of retaining walls, the Council's Structural Engineer was consulted on the application and offered no adverse comments.
- 7.5 In order to access the new garage, it is proposed to create a driveway and new access off Grove Park Drive. Therefore, the Council's Highways Officer was consulted on the proposal in order to assess highway safety. Initial comments that were provided requested that further information such as visibility splays and drainage were submitted. Amended plans were subsequently submitted. The Officer stated that Yewberry Lane has a speed limit of 20mph, however, Grove Park Drive has a speed limit of 30mph. The applicant disagrees and subsequently submitted visibility splays for a 20mph street (2.4m x 25m). Notwithstanding this, the Officer considers that visibility is available in excess of this distance. It is also noted that the section of Grove Park Drive directly adjacent to the access is short and connects into 90 degree bends which will likely result in lower vehicle speeds in this location. A surface water drain with outfall has been proposed which would prevent water discharging onto the public highway, this is considered acceptable. Therefore, it is considered that adequate visibility splays are achievable, suitable drainage is shown, the driveway is of an adequate length and the garage is of an acceptable size. The Officer has raised concerns over the proposed material of the driveway. It is proposed that the area would be hard core which is not acceptable as detritus from the site is likely to be trafficked onto the public highway. The first 6m of the driveway should be surfaced with a bound material. This will be conditioned should the application be granted. Therefore, overall there are no objections to the proposed works on highway safety grounds.

- 7.6 Fencing and steps have been erected to the side of the property facing Grove Park Drive. The application seeks to retain these works. The fencing ranges in height from 1.8m to 3m and runs for a length of 18.7m down the side of the property. The majority of the fencing would be set back approximately 2m from the back of the pavement with intervening steps. A gate has been inserted in the fencing at the top of the steps to provide access to the rear garden. The fencing then splays forward to the boundary for a length of 3.3m and then returns back toward the dwelling. Whilst the fencing is considered to be of a considerable height and visible from public vantage points, neighbouring properties close to the site benefit from boundary treatments of a considerable scale. This in part arises from the topography of the area and the slope of Grove Park Drive such that rear gardens are higher than the carriageway and associated means of enclosure are also higher than average. It is an existing part of the streetscene and the presence of high boundary treatments is a material consideration. Officers were initially concerned with the impact of the applicant's fencing proposals upon visual amenity but amendments have been made to mitigate these concerns. A large section of the fencing is setback from the highway and an area of planting is shown on the plans in order to soften the visual impact. Therefore, it is not considered that the fencing would detract from the character and appearance of the property and wider streetscape.
- 7.7 As the proposal consists of the excavation of works and the erection of retaining walls, the Council's Structural Engineer was consulted on the application and confirmed they had no adverse comments to make on the application. Notwithstanding this, to ensure the safety and stability of third party land, a condition will be attached to any consent requiring full and detailed structural calculations of any excavation works and construction of retaining walls to be submitted and agreed prior to the commencement of works.
- 7.8 A number of concerns have been raised by the neighbouring occupier, some of which have already been addressed above. It is worth noting that only material planning considerations can be taken into consideration when assessing the merits of the application. The comments raise concerns over the proximity of the dropped kerb to the junction and the number of vehicle crossings the property benefits from. This information is referred to as being from the dropped kerb guidance available from the Council's website. Should planning permission be approved, the applicants will need to contact City Services and apply for a dropped kerb. This is not a planning matter. The neighbour comments refer to paragraph 6.1 of the House Extensions and Domestic Outbuildings SPG which states 'the Council favours off street parking, but schemes that sacrifice entire gardens in order to provide parking spaces will not receive planning permission.' Whilst a large area of front garden is proposed to be excavated and utilised as a driveway and garage, an area of amenity space will remain to the front of the property, as will the entirety of the rear garden. Therefore, it is considered that adequate amenity space is retained including an area to the front of the property. The comments also stated that it is likely that the garage would be used for car maintenance of a commercial usage. This is not the application that is before us. This application is assessing the merits of a garage that is to be used as part of the residential property. If in the future the use changes to a commercial use, planning permission would be required. Concerns have been raised over the insertion of a window in the side elevation of the converted garage and its resultant loss of privacy. Given the first floor location of the window and its proximity to the neighbouring property, a condition will be attached to any consent requiring the window to be obscure glazed in order to prevent any loss of privacy. The Party Wall Act is not planning legislation and therefore cannot be considered or enforced. Similarly, the LPA cannot enforce against any covenants that were put upon the property that were not conditions that were attached as part of any planning consent.

## **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 Overall, it is considered that the proposed development would not result in a harmful impact on residential amenity, visual amenity and highway safety and is considered acceptable and in accordance with the aforementioned policies.

## 10. **RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Site Layout as Existing and Proposed Drawing No.PL05 Rev A, Elevations as Proposed Drawing No.PL06, Elevations as Proposed Drawing No.PL07 Rev A, Layout as Proposed First Floor Drawing No.PL08, Layout as Proposed Ground Floor Drawing No.PL09, Layout of New Vehicle Entrance Drawing No.PL11 Rev A and Site Layout Indicating Vehicle Access Vision Splay Drawing No.PL12 Rev A.

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

02 Prior to the creation of the driveway, the materials of the driveway hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The driveway shall be implemented in accordance with the approved details and be retained thereafter.

Reason: In the interest of highway safety.

03 Within 3 months of this consent, a landscaping scheme shall be submitted and approved in writing by the local planning authority. The agreed landscaping scheme shall

be implemented in the first planting season following implementation of the development and maintained thereafter.

Reason: In the interest of visual amenity, in accordance with policy GP2.

04 Prior to the first use of the garage conversion, the proposed first floor window in the side elevation hereby approved shall be fitted with obscure glazing and be retained in that state.

Reason: To protect the privacy of neighbouring amenity in accordance with policy GP2.

05 Prior to commencement of any excavation works and construction of retaining walls hereby approved, full and detailed structural calculations of such works along with a working method statement shall be submitted to and approved in writing by the Local Planning Authority and shall have regard to the safety and stability of works close to third party land. The works shall thereafter be undertaken in accordance with the details agreed.

Reason: To ensure the safety and stability of third party land in accordance with policies GP2 and GP6.

06 The visibility splays must be maintained in accordance with the approved plans 'Layout of New Vehicle Entrance Drawing No.PL11 Rev A and Site Layout Indicating Vehicle Access Vision Splay Drawing No.PL12 Rev A.' No structures or planting will be permitted above a height of 600m above carriageway level within the splays unless first agreed in writing by the local planning authority.

Reason: In the interests of road safety and traffic movement, in accordance with policy GP6.

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Layouts as Existing Drawing No.PL01, Layouts as Existing Drawing No.PL02, Elevations as Existing Drawing No.PL03, Elevations as Existing Drawing No.PL04, Site Layout as Existing and Proposed Drawing No.PL05 Rev A, Elevations as Proposed Drawing No.PL06, Elevations as Proposed Drawing No.PL07 Rev A, Layout as Proposed First Floor Drawing No.PL08, Layout as Proposed Ground Floor Drawing No.PL09, Location Plan Drawing No.PL10, Layout of New Vehicle Entrance Drawing No.PL11 Rev A and Site Layout Indicating Vehicle Access Vision Splay Drawing No.PL12 Rev A.

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

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

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

05 The proposed development site is crossed by a public sewer with the approximate position being marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line.

06 The applicant is advised to refer to the Party Wall Act.

## APPLICATION DETAILS

**No:** 20/0697      **Ward:** Caerleon  
**Type:** Lawful Development Proposed  
**Expiry Date:** 8<sup>th</sup> October 2020  
**Applicant:** D Beecham  
**Site:** Plas Newydd Usk Road Caerleon Newport NP18 1LN  
**Proposal:** **CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF DWELLING HOUSE AS A SUPPORTED RESIDENCE FOR UP TO SIX PERSONS WITH LEARNING DISABILITIES (USE CLASS C3(B))**

**Recommendation: Granted**

### 1. INTRODUCTION

- 1.1 The application seeks a Certificate of Lawfulness for the proposed use of a dwelling as a supported residence for up to six people.
- 1.2 As a residential property the existing use is C3 in accordance with the Town and Country Planning (Use Classes) Order 1987 (as amended). The C3 Useclass is formed by three parts:
- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
- C3(b) up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
- C3(c) allows for groups of people (up to six) living together as a single household to allow for those groupings that do not fall within the C4 HMO definition to be provided for, e.g. a small religious community may fall into this category as could a homeowner who is living with a lodger.
- 1.3 The applicant has submitted supported information to demonstrate that the use of the property would be C3(B).
- 1.4 The application is being reported to planning committee as the property is currently in the ownership of the parents of a Newport City Council Building Control officer.
- 1.5 A Certificate of Lawfulness is not a planning application. It is a legal certificate and the onus is on the applicant to demonstrate that the use is lawful. The Council does not carry out neighbour consultations when determining LDC's and the proposals are not assessed with regard to neighbouring impact or planning merit.

### 2. RELEVANT SITE HISTORY

05/0847	ERECTION OF DETACHED HOUSE AND TWO GARAGES	Granted with Conditions
	RETENTION OF SINGLE STOREY REAR EXTENSION	

## 7. ASSESSMENT

7.1 The property is a large, detached modern house for which planning permission was granted in 2005. It is situated within close proximity to Caerleon village centre. The accommodation is over three floors and comprises a large kitchen/diner, utility room, shower room, living room and study at ground floor, three bedrooms at first floor and two further bedrooms at second floor. The property has good sized front and rear gardens, a double garage and off-street parking.

7.2 As noted above, the applicant seeks a Certificate of Lawful use for the proposed use as Class C3(b) to confirm and formalise that their proposed use falls within the definition still within Class C3. The description of C3 b states: "C3(b): those living together as a single household and receiving care". There is no limit on the number of members of the single household under C3(a). The limit for C3(b) and (c) is no more than six people. The guidance states C3(b) continues to make provision for supported housing schemes, such as those for people with disabilities or mental health problems.

7.3 In support of the application the applicant has submitted a supporting statement with the following details:

*Consensus was established in 2005 to support individuals with learning disabilities, autism and complex needs. The Subject Property is to provide accommodation for local people with learning disabilities in a home setting. The property provides accessible accommodation to meet the service users needs. The property will be in shared occupancy but with each person having their own living space and ensembles with some additional communal space for socialisation.*

*The Property is a single self contained unit of occupation. There will be up to 6 permanent supported individuals with 3 to 4 staff members during the day and one member of staff working on waking nights, so no staff bedroom required.*

*The property provides 235 sqm of accommodation arranged over three floors. The ground floor accommodation comprises Kitchen, Dining Room, living Room, Study/Bedroom 6 and Utility Room and wet room/WC. The first floor comprises Bedrooms 1 and 2 with ensembles and Bedroom 3 along with Bathroom. The second floor comprises Bedroom 4 with ensuite and Bedroom 5 which will have an ensuite added after purchase.*

*The rear gardens are a mixture of lawned area and pavements with steps up to the rear double garage with two parking spaces adjacent and sufficient space next to these for bin storage. The Subject Property is accessed via a shared tarmacadamed access lane directly from the main road with secure electric gated entry.*

*The service is to be occupied by up to six permanent individuals with learning disabilities who are supported with their daily living difficulties. The support is with daily living difficulties but not personal care. Daily living difficulties include:*

- *helping with shopping*
- *preparing or eating food*
- *reminding about the importance of washing, bathing*
- *dressing and undressing*
- *reading and communicating*
- *managing medicines or treatments*
- *making decisions about money*
- *engaging with other people*

*The staff are there to encourage independence and provide support where necessary. There will be the distribution of medication which is one of the tasks managed by the staff. The people they support are able bodied but have learning disabilities and medication may relate to this condition.*

*In terms of people's care needs, they will be encouraged to keep their rooms tidy and clean. There will be some support with food preparation and reminders for meal times and there will be occasions where meals are taken at the same time. Other people, due to behavioural needs, may choose to eat outside normal meal times.*

*Usually there are no locks put on the doors in supported living accommodation such as this. If locks are put on the door, then a staff member will have a spare key in the case of emergency depending upon personal choice and the extent of the learning disability. The personal areas within the property are the individuals bedrooms.*

*The Staff will have a separate break out area which is the room adjacent to the kitchen currently utilized as a large utility room. Each individual will have a locked medicine cupboard in their rooms from which staff will access their medication. In line with all supported living services there is no defined office area with staff personnel files stored at our CIW Registered Domiciliary Office a short distance away in Magor. There is a bathroom on the ground floor which staff can access. Staff numbers are around 10-11 members of staff. The individuals will reside in the property as a single dwelling house.*

*There are 3-4 members of staff that work on a shift pattern during the day (2 staff per 2 daytime shifts) with 1 member of staff working on waking nights so no staff bedroom required and of course there is usually an overlap of staff members handing over from one shift to another.*

*With regards to communal areas, there is a large kitchen, large dining, large lounge and external space. Very much like most learning disability supported living homes across the UK falling within Class C3 (b).*

*The supported individuals' areas for personal space are their bedrooms with a majority having enSuites. The rooms are of a good size to have TV and chairs/small sofa so they can occupy themselves in their rooms or join in watching TV together. Activities will be prepared in the communal areas or kitchen so as to not conflict with meal times or they may be attending events or shopping outside of the Subject Property.*

*Supported individuals are unlikely to have a car, however it is possible that a tenant may have their own vehicle through Motability. The property has a double garage with 2 adjoining car spaces. There will only be a requirement for 2 staff members vehicles at any one time. These would not be at peak vehicular times such as 9am and 5pm. Sustainable modes of transport will be encouraged and it is anticipated that staff will mainly use the bus service which has a bus stop on The Common nearby. Visitors parking may be accommodated in front of the double garage or one of the spare spaces adjacent to the garage.*

- 7.4 The applicant has recently submitted an LDC relating to another property within Newport. The LDC has since been withdrawn but it was noted that in that instance the use was said to be C2. The applicant provides clarification on this and states: Montgomery Road supports people with severe learning disabilities which involves personal nursing care. Plas Newydd is a supported living environment where residents are more able to look after themselves. No personal care is given it is more about coping with daily living difficulties. So the difference is the level of care provided.
- 7.5 An appeal case concerning the occupation of a bungalow in Nottinghamshire by five adults with learning difficulties and mental health issues throws light on the distinction between C3 and C2 Use Classes (DCS Number [200-004-885](#)). The council had served an enforcement notice alleging the unauthorised change of use of the property from a dwellinghouse (C3) to a residential care home (C2). Meanwhile, the appellant sought a certificate of lawfulness, claiming that the existing use was for five residents living together as a single household and receiving care as permitted by C3(b). The inspector found that the enforcement notice had been issued without the proper authority and therefore declared it a nullity. Turning to consideration of the LDC appeal, however, he recorded that Class C3(b) is defined as the use as a dwellinghouse by not more than five residents living together as a single household

where care is provided for residents. He reasoned that the fundamental question was whether the residents of the property formed a single household.

- 7.6 The inspector referred to *North Devon District Council v First Secretary of State [2003]* in which it was held that children were not capable of forming a single household in the absence of a live-in carer on the basis that children are not generally capable of running a household themselves. In the North Devon case the judge remarked that the same would apply to adults who suffer from mental or physical disability who need care in the community. However, that judgment was considered in detail in *R (on the application of Crawley Borough Council) v FSS and Eve Helberg (Trading as the Evesleigh Group)*. In reaching his judgment on 'Eve Helberg' the judge remarked that he would be reluctant to read the comments of the judge in the North Devon case as laying down a principle that those who suffer from disability or are in need of care can never constitute a household. He concluded that the correct position is that a judgement needs to be made based upon the facts of each individual case having regard to the nature of the disability suffered and the degree of care required.
- 7.7 The inspector saw that the layout of the property was largely what one would expect of any family home, with a communal lounge, kitchen and garden area. Locks were provided on bedroom doors to provide privacy and security but he held that that, of itself, did not dictate that the residents did not form a single household, having regard to the prevailing sense of communal living. In proportion to the scale of the building as a whole he considered that the manager's office was small and not unexpected in a home where care was provided. There was nothing inherent within the layout of the property that would suggest that the use would fall outside Use Class C3(b), the inspector determined. In addition, he recorded that the residents had formed friendship bonds. The communal living arrangements and the way in which household tasks were undertaken indicated to him that they were living as a single household, and care was provided on a shift basis such that none of the care workers were resident at the property. He noted that there had been incidents of noise and antisocial behaviour but reasoned that it is inherent within the terms of the Use Classes Order that those with mental disorders may fall within Class C3(b). Whilst acknowledging that the behaviour of residents might seem unusual or intimidating to neighbours, the incidents recorded by the police did not indicate that the residents were incapable of forming a household for the purposes of Class C3(b). A certificate of lawfulness was issued on the basis that the property was in use as a dwellinghouse as defined by Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and no material change of use had taken place from the previous lawful use within Class C3(a) of that Order.
- 7.8 It is considered that based on the information provided and all other relevant considerations, the applicant has shown that the proposed use is as C3(b).

## 8. OTHER CONSIDERATIONS

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

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

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

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

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

- removing or minimising disadvantages suffered by people due to their protected characteristics;

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

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

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

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

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

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

**9. CONCLUSION**

9.1 The proposed use of the property would fall within the C3(b) use class and it is recommended that the Certificate be issued.

**10. RECOMMENDATION**

GRANTED

REASON: The applicant has shown that the proposed use is as C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and its use as a residence providing supported living for up to 6 residents with learning disabilities is lawful.

***NOTE TO APPLICANT***

01 This decision relates to: Supporting letters dated 27<sup>th</sup> July 2020 and 29<sup>th</sup> August 2020, Consensus brochure, site location plan, estate agent brochure, floor plans and block plan and email from Keri Dobson 21/8/2020.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No Policies were relevant to the determination of this application.

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## **APPLICATION DETAILS**

**No:** 20/0542      **Ward:** Gaer  
**Type:** Full Application  
**Expiry Date:** 9<sup>th</sup> October 2020  
**Applicant:** J Matuseviciute  
**Site:** 2 Park Avenue Newport NP20 3AP  
**Proposal:** TWO STOREY SIDE EXTENSION, SINGLE STOREY REAR EXTENSION ,  
SINGLE STOREY SIDE EXTENSION, FRONT CANOPY, SIDE AND REAR  
DORMERS

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 This amended scheme has been submitted following the approval of a two storey side extension in 2017, ref 17/0014. The works to carry out the scheme have commenced but the applicant proposes to vary the approved scheme and retain unauthorised works to increase the ridge height of the approved side two storey extension to match the ridge height of the house as well as include two flat roof dormers, one to the rear of the extension and another on the side roof plane of the existing house. A single storey garage is also proposed to the western side (when viewing from front). These works are partially constructed on site.
- 1.2 The site is situated in a residential area of Gaer within the urban boundary (as identified within the Adopted LDP) and there are no other constraints or designations on the land. The application is brought before Planning Committee at the request of Councillor Mark Whitcutt due to scale having an adverse impact upon the amenity of the area and neighbours. There have not been any formal representations from neighbouring properties but concerns have been raised by neighbours via Councillor Whitcutt and his representations.
- 1.3 The primary considerations in this application relate to the design and scale of the proposed extensions, its impact upon the host dwelling and street scene as well as the amenities of the nearby residential occupiers as well as parking and highway safety implications. The Officer recommendation is to grant approval with conditions.

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

- 2.1 **17/0014-** Part single storey/part two storey side extension, new front porch and canopy and new pitched roof over extension- **Granted with conditions**

### **3. POLICY CONTEXT**

- 3.1 Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Newport Local Development Plan 2011-2026 (Adopted January 2015) and within which the following policies are of relevance

#### **3.1.1 Strategic Policies**

SP1 Sustainability

#### **3.1.2 General Policies**

GP2– General Amenity  
GP6– Quality of Design  
GP7– Environmental Protection and Public Health

#### **3.1.3 Transport**

T4 Parking

### 3.2 **Supplementary Planning Guidance (Adopted)**

- Parking Standards SPG
- House Extensions and Domestic Outbuildings SPG

### 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.

### 3.4 **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 12 – Design (2016)

### 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 None.

## 5. **INTERNAL COUNCIL ADVICE**

### 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection but requested for the garage to be retained for parking by condition and raised issue with the access points (existing) not being constructed to adoptable standards.

## 6. **REPRESENTATIONS**

### 6.1 NEIGHBOURS: All properties with a common boundary with the application site were consulted (no. 2 properties). No representations have been received to date.

### 6.2 Councillor Whitcutt has requested that the application is considered by Planning Committee. Councillor Whitcutt's concerns relate to the scale of the extensions having an adverse impact upon the amenity of the area and neighbours. The extensions are looming over neighbouring properties, particularly the immediately neighbouring property in Park Drive. The scale of the development is very large and will impede the light to this property and overlook and dwarf neighbouring residences.

## 7. **ASSESSMENT**

### 7.1 Site Description

#### 7.1.1 The application building is 2 Park Avenue, which is a detached dwelling in a corner plot. The property is a small dwelling within a spacious plot fronting Park Avenue and Park Drive (side elevation). The street scene is predominately residential but unlike the application site, the neighbouring dwellings comprise of semi-detached and terraced properties with a mixture of hipped and pitched roofs.

#### 7.1.2 The site is a corner plot bound by residential properties to the north and west and fronts the highway in a southerly and easterly direction. An extract of the site location plan is set out below: -



## 7.2 Description of Development

- 7.2.1 This application seeks full planning permission for the construction of a part single storey, part two storey side and rear extension, a new front porch and canopy; and a new pitched roof over the existing rear single storey extension as well as a single storey side garage extension, a rear flat roof dormer and side flat roof dormer.
- 7.2.2 It is proposed to construct a two storey side extension measuring 6.8m in length, 4.2m in width, 5.5m in height to the eaves and a maximum height of 7.5m with a pitched roof. The extension would be set back 600mm from the front of the main dwelling but unlike the approved 2017 proposal it would match the ridge height of the existing roof and include a flat roof dormer, which will be situated in the rear roof plane measuring 3.4m wide by 3m depth by 1.9m high.
- 7.2.3 An existing single storey extension to the rear will be altered to add a pitched roof over this extension and extend it behind the two storey side extension. Overall it would measure 3.3m in length, 7.1m in width, 2.8m in height to the eaves and a maximum height of 3.2m with a lean to roof. The proposed porch would measure 2.46m in width and 1.2m in depth. It would also include a canopy roof which would extend across the front of the side extension.
- 7.2.4 The larger flat roof dormer extension is located on the west facing roof slope of the existing property. The dormer would measure approximately 5.2m wide by 2.6m depth by 1.9m high. The new garage side extension would measure approximately 4.7m depth by 3.2m wide and 3.7m high (2.5m to eaves).
- 7.2.6 Below is an extract of the proposed elevations: -



### 7.3 Visual Impact

7.3.1 Policy GP6 requires good quality design in all forms of development. The House Extensions SPG requires side extensions to be set back and set down at least 1m in order to reduce the visual impact of an extension and to help maintain the character and appearance of both the original house and the streetscape.

7.3.2 The amended side extension is only marginally different to the 2017 approved extension by raising the height of the roof by 600mm to match the main dwelling, but retaining the 600mm set back from the front elevation. Although the set back and down would be less than the 1m advised in the Council's SPG, the setback provides a visual break and along with the gable fronted design of the dwelling, it is considered that the scale and form of the original dwelling is still visible and the extension would not unacceptably impact its appearance. As a visual aide, below are extracts of the approved 17/0014 elevations to compare with the proposed drawings above: -

#### Approved 2017 elevations



- 7.3.3 Two dormers are proposed, one smaller flat roof dormer to the rear roof plane of the extension whereas the larger flat roof dormer, the most notable change to the 2017 approved scheme, is located to the side roof plane of the existing dwelling. However, both dormers would sit comfortably within the existing roof plane by being set up from the eaves and in from the side as well as not exceeding the ridge height. As such, from the side or front of the dwelling, the shape and form of the pitched roof would be retained, which is considered to be sympathetic to the scale and appearance of host property.
- 7.3.4 The garage extension to the western side of the dwelling is single storey and set back from the main property. Accordingly, the single storey extension would be considered subservient to the main dwelling and would not impact upon the scale and appearance of the original dwelling.
- 7.3.5 The street scene along Park Avenue and Park Drive is a mixture of semi-detached dwellings and terraces with hipped and pitched roofs as well as consistent bay window features. The majority of the dwellings in the street have a greater horizontal emphasis and have a fairly consistent plot size with larger private gardens. The site subject of this application is unique to this location as it is a modest sized detached dwelling that sits within a spacious corner plot. The site has a large front garden space and the length of the dwelling is greater than the width, which varies with the remainder of the street. The extensions would increase the scale of the property but the dwelling sits within a spacious plot that could accommodate the extensions without appearing cramped or contrived. The extended dwelling would not be higher or demonstrably bigger, in terms of mass and scale than the surrounding semi-detached pairs within the street.
- 7.3.6 The extensions would be visible from Park Avenue and Park Drive but they are considered to be of an appropriate scale and design and, therefore, would not be harmful to the wider street scene. The increase in the extension height would be nominal from the street whereas with the ground floor garage and the smaller rear dormer are subservient and would not impact upon the street scene to the front or side to an unacceptable degree. The side dormer would be visible from directly in front of the dwelling on the junction of the two roads and further south until the junction with the B4327. However, it would be concealed by the neighbouring dwelling (no. 4) from viewpoints along Park Avenue to the west and it would

not be visible from Park Drive to the east or north of the site. As an aide, below are views of site from wider perspective on Park Drive: -

North facing south



South Facing North



7.3.7 In conclusion, it is considered that, on balance, the proposed extensions have regard to the context of the surrounding built environment, and would not have a detrimental impact upon the host dwelling or wider street scene, in accordance with policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) of the LDP.

#### 7.4 Impact upon neighbours

7.4.1 There are residential properties to the north (68 Park Drive) and the west (4 Park Avenue) and east (47,45 and 43 Park Drive) of the application that could be effected by the proposed extensions. The impacts upon these properties will be considered in turn: -

##### 4, Park Avenue

7.4.2 It is considered that the two storey side, single storey rear extensions and rear dormer would not have a harmful impact on these neighbours in terms of light, privacy or overbearing. These proposed extensions would not extend any closer to 4 Park Avenue as it is located on the opposite side of the property.

7.4.3 The single storey side extension and dormer proposed on the west would extend closer and above the roof within close proximity of this neighbour's side elevation. The neighbour's side elevation has two ground floor windows, one serving an under stairs cupboard and the other a secondary kitchen window, both are obscure. There is a first floor side window serving the landing/staircase. The dwelling subject of the application is orientated at angle to the neighbouring dwelling meaning that there is a separation of approximately 3m at the back and 6m to the front. This neighbour is also marginally higher, approximately 0.5m, than the application site.

7.4.4 With regard to privacy, the garage does not propose any side windows and while the dormers do propose two windows to bedroom 5, the height and angle of view is such that they would not result in a harmful impact upon the windows or rear garden of this property.

7.4.5 One of the ground floor windows and the first floor window serve non habitable spaces, as such, the extensions would not be overbearing to these spaces. The back ground floor side window is a secondary window serving a kitchen, which would be considered habitable in this instance.

- 7.4.6 To consider the impact of a proposed development on a protected side window, a 45° test will be applied. For the 45° test, a notional line is drawn from the horizontal centre of an *original* protected side window at 45° to the vertical. The proposed development should not generally project beyond the 45° line. Having considered that the proposed garage is forward of the window, the test has been applied to the house approximately 3m away from the window and approximately 2.5m above ground (0.5m additional to take into account level differences). As the dormer has been set in from the back elevation, above this window, by approximately 1.5m it is considered that the 45-degree line would be passed in this instance. Moreover, as the window is the smaller of two windows providing light into the kitchen it is considered that even a minimal intersect of this line would be a negligible impact on amenity.
- 7.4.7 As a consequence, it is the Council's view that the proposed development not be an overbearing or result in an unneighbourly effect on the occupants of this neighbouring property.

#### 68, Park Drive

- 7.4.8 The proposed side extension would project slightly forward of 68 Park Drive however, this property is orientated away from the application building and has a garage closest to the shared boundary. This slight forward projection would not result in an overbearing impact or a loss of light to the front of this property. Similarly, the additional dormer would be equally distant from this property and despite the increase in accommodation above, it is sufficiently far not to be overbearing.
- 7.4.9 A first floor and second floor windows are proposed in the rear elevation of the side extension and a dormer roof extension serving bedrooms. These windows would face towards 68 Park Drive, however, it would overlook the side elevation of this property which contains a first floor landing window. As this is not a protected window, there would be no loss of privacy.

#### 47, 45 and 43, Park Drive

- 7.4.10 Despite the extension extending closer to these properties, the neighbours are separated by the adopted highway and the front garden areas, approximately 22m distant. The level of separation ensures that the extension would not be overbearing or result in any unacceptable overlooking to these neighbours.
- 7.4.11 Accordingly, it is considered that the dormer and side to rear extensions proposal is acceptable in respect to neighbouring impacts, complying with policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) of the LDP and the Council's SPG on house extensions and outbuildings.

### 7.5 Parking and Occupier Amenity

- 7.5.1 In terms of amenity for future occupiers it is noted that there is a small garden area to the side and rear of the existing property. The side area would be much reduced by the proposed extension however, it is recognised that this area is not currently utilised as a private outdoor space and there are no boundary treatments to protect privacy. As a result, it is considered that the substantial front and remaining rear amenity is sufficient to serve the dwelling.
- 7.5.2 The extensions include a garage and two spaces to the front of the property, which satisfies the parking standards SPG for a single dwelling (3 spaces). The Highways Authority have not objected and suggested a condition to retain the garage for the parking of a vehicle.
- 7.5.3 The Highways Officer has raised concerns that the proposed layout plan includes two entrance points to the application site that do not meet current highway standards. These entrances currently exist and do not require planning permission, despite the access formation not meeting highway standards. The concerns of the Highways Officer are noted, as such, an informative can be included to make the applicant aware that they must seek consent from the Highways Authority to amend the access to meet adoptable standards.

7.5.4 As such, it is considered that the proposal would retain sufficient parking and occupier amenity, complying with the GP2 and GP6 of the Adopted LDP and the Councils Parking standards and house extensions SPG.

## **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 GP2, GP6 and T4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) the Council's SPG on house extensions and outbuildings and parking standards as well as Planning Policy Wales (10<sup>th</sup> Edition) it is considered that the proposed extensions are of an acceptable scale and design that has due regard to the appearance of the host property and the wider visual amenities of the street scene, neighbouring amenity, amenity space provision of the occupier as well as parking and highway safety.

## **10. RECOMMENDATION**

## **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: PL-00- Site location OS plan, PL-04 revE- Site Layout, PL-05 rev C ground floor layout PL-06 rev C- Proposed first floor plan and PL-07 Proposed attic plan, PL08- Roof Plan PL09- Rev C proposed elevations

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

02 The external surfaces of the extension hereby permitted shall only be of materials to match those of the existing building.

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

03 The garage hereby permitted shall only be used for the parking of private motor vehicles and for no other purpose, including any other purpose incidental to the enjoyment of the dwelling house.

Reason: To ensure that adequate on-site parking is retained in the interest of highway safety and residential amenity.

04 Prior to the beneficial use of the extensions, the parking spaces shall be provided within the curtilage of the site in accordance with the details shown on Drawing PL-04 Rev E Site Layout. Thereafter, the parking spaces shall be kept available for such use at all times.

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

### *NOTE TO APPLICANT*

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

02 The House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) and Parking Standards SPG's were relevant to the determination of this application.

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

04 The applicant should contact the Highway Networks Section on 01633 656656 to arrange for the provision of a dropped kerb.

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## **APPLICATION DETAILS**

**No:** 20/0640      **Ward:** Stow Hill

**Type:** Outline

**Expiry Date:** 22nd September 2020

**Applicant:** *Newport City Council*

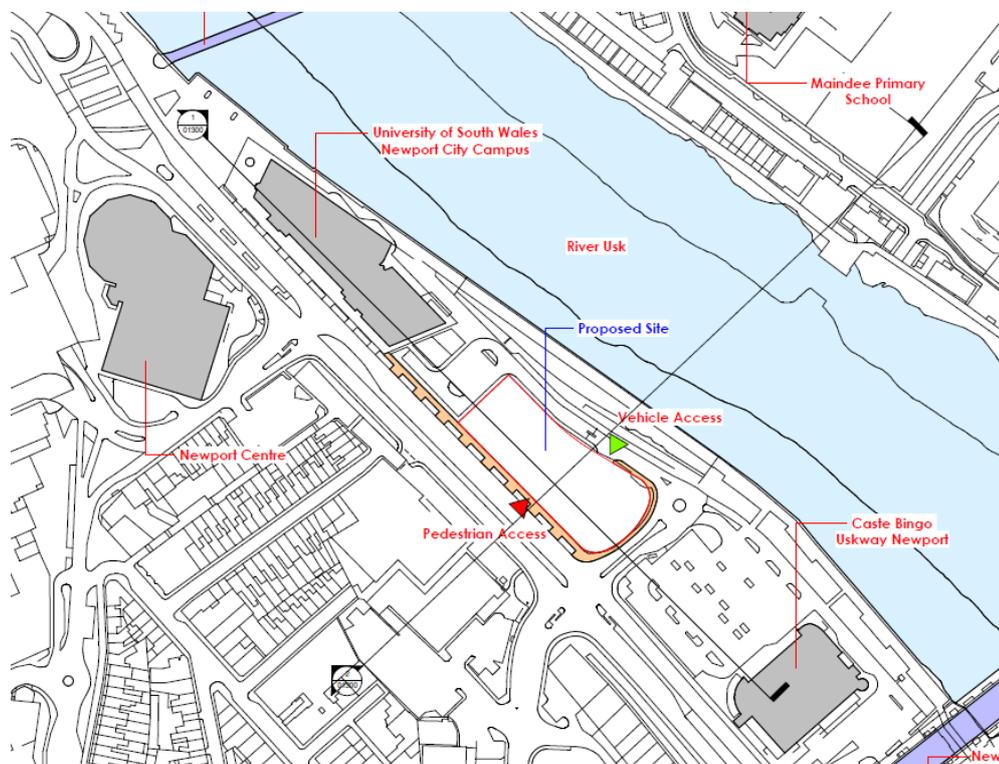
**Site:** *Land To South East Of University Of Wales Newport City Campus Usk Way Newport South Wales*

**Proposal:** *OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR CIRCA 995 SQM OF FLEXIBLE FLOORSPACE OF EITHER OFFICE (CLASS B1)/ HOTEL (CLASS C1)/ EDUCATION (CLASS D1) OR LEISURE (CLASS D2)*

**Recommendation:** **SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES CONFIRMS THAT THEY ARE SATISFIED WITH THE OUTCOMES OF THE APPROPRIATE ASSESSMENT.**

### **1. INTRODUCTION**

- 1.1 This application seeks Outline planning permission for up to 995 sq. m of flexible floorspace of either office (Class B1), hotel (Class C1), education (Class D1) or leisure (Class D2). All matters are reserved for subsequent approval.
- 1.2 The application site is vacant land which is located adjacent to the University of Wales Newport City Campus building on Usk Way. The parcel of land sits in between Usk Way and an access road which serves the university building; beyond this is the riverside walkway and the River Usk.



- 1.3 The application is accompanied with drawings which provide an indicative layout and indicative height parameters of the building. A flood risk statement, drainage strategy, environmental assessment (desk top study), transport statement, planning statement, preliminary ecological appraisal (PEA) and archaeological desk based assessment are also submitted.
- 1.4 The application is seeking delegated powers for the Head of Service to approve the application in the event that Natural Resources Wales confirms that they satisfied with the Appropriate Assessment.

## 2. RELEVANT SITE HISTORY

99/0461	ERECTION OF A LEISURE DEVELOPMENT INCORPORATING IMAX/MULTIPLEX CINEMA CAR PARK RESTAURANTS AND OTHER COMPLIMENTARY LEISURE USES (outline)	Granted with conditions
05/0731	USE OF LAND FOR PUBLIC CAR PARK AND THE PROVISION OF SECURITY FENCING AND LIGHTING	Granted with conditions
07/1164	CONSTRUCTION OF UNIVERSITY CAMPUS (PHASES 1, 2 AND 3) (OUTLINE APPLICATION)	Granted with conditions

## 3. POLICY CONTEXT

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

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

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

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

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

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

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

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

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

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

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

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

Policy **CE1 Routeways, Corridors and Gateways** lists routes/corridors (M4, London to South Wales Railway, A449, A4042, A455, A4042, A48, A48(M), Monmouthshire and Brecon Canals) (plus other principal transport routes in the area) which are important main routes in the area. Any proposals that are located on or highly visible from these routes must seek to improve the general environment and help to create attractive gateways into the City.

Policy **CE2 Waterfront** states that development in a waterside location should integrate with the waterway and not turn its back on it.

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

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

Policy **T5 Walking and Cycling** promotes the creation of a network for walking and cycling, including National Cycle Networks 47, 4 and 88.

Policy **CF4 Riverfront Access** promotes footpaths and cycle routes to and along the River Usk.

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

3.2 The following Supplementary Planning Guidance is also relevant:

- Sustainable Travel
- Archaeology and Archaeologically Sensitive Areas
- Wildlife and Development
- Trees, Woodland, Hedgerow and Development Sites

3.3 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.
  - 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.

- 4.1 HEDDLU - GWENT POLICE: No objections to the proposals for flexible floor space, suggests that the site is built to the standards as found within the SBD Commercial Guide.
- 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: Whilst it is likely that the construction of the (*former*) motor repair works will have had an adverse effect on any archaeological features, there remains the possibility that material, particularly those dating to the 19th century may be encountered during the course of the proposal. Therefore 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.
- 4.3 DWR CYMRU – WELSH WATER: We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.
- 4.3.1 The development requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with the Local Authority, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features.
- 4.3.2 No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.
- 4.4 NATURAL RESOURCES WALES: To be reported as a late representation if received.
- 4.5 SOUTH WALES FIRE AND RESCUE: No response.
- 4.6 WILDLIFE IN NEWPORT: No response.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HISTORIC BUILDINGS AND CONSERVATION OFFICER: TAN 24 states that “It is for the applicant to provide the local planning authority with sufficient information to allow the assessment of their proposals in respect of scheduled monuments, listed buildings, conservation areas, registered historic parks and gardens, World Heritage Sites, or other sites of national importance and their settings.”
- 5.1.1 Cadw’s guidance document, Setting of Historic Assets in Wales states that “Applicants for planning permission should provide the local planning authority with sufficient, but proportionate, information to allow the assessment of the likely impact of proposals for development on a historic asset and its setting” and goes on to state that “For the purpose of planning applications — especially complex cases — the definition, analysis and assessment of the setting of a historic asset should be carried out by a qualified and competent expert.”
- 5.1.2 No assessment of the likely impact on such assets has been provided. It is particularly notable that the site is situated on the riverbank in close proximity to the grade II\* listed George Street Bridge as well as being highly visible from parts of the Lower Dock Street Conservation Area. The Design Statement suggests that the development would enhance the setting of the conservation area but it is unclear why this is considered to be the case; it would seem to sever existing visual links between the riverside and the conservation area and, given the history of the area as one that developed to serve the former docks along the river this seems more likely to be detrimental. Nevertheless, it seems likely that any negative impact on heritage assets would be mitigated by the economic benefits of the proposals. I

would however suggest that a properly prepared Heritage Impact Assessment should be submitted in order to demonstrate this.

- 5.2 HEAD OF CITY SERVICES (HIGHWAYS): No objection. The Transport Statement states that vehicular access will be from the rear of the site, using the existing access point and will provide access for servicing vehicles, such as deliveries and refuse collection and includes appendices showing visibility splays and swept path diagrams which will be acceptable. The applicant states in the Planning Statement that 'It is anticipated that the internal layout of the site, which will be subject to a Reserved Matters application, will provide adequate circulation room and turning facilities to ensure that vehicles enter and leave the site in forward gear' however it should be noted on site turning will be a definite requirement for a development in this location. Any additional existing accesses to the site will need to be stopped up and returned to footway.
- 5.2.1 Although parking proposals are not included within this application the Transport Statement Table 1: Parking Requirements sets out the levels of parking that would be provided for each class of use for the proposed site and complies with Newport City Council SPG Parking Standards (August 2015) and would be acceptable if applied to a future application for reserved matters.
- 5.3 HEAD OF CITY SERVICES (PUBLIC RIGHTS OF WAY): No response.
- 5.4 HEAD OF CITY SERVICES (TREES): Objection, tree information is required in accordance with BS5837:2012. There are Council owned trees on Usk Way which form part of the Strategic Streetscene. The trees are protected by Council Policies and are currently semi mature in size. Plane trees have the potential to grow very large .
- 5.4.1 The following is quoted from BS 5837:2012 :- "Trees are also important elements of green infrastructure, contributing to urban cooling through evapo-transpiration and providing micro-climatic effects that can reduce energy demands in buildings. They therefore represent a key resource that can significantly contribute to climate change adaptation. Existing trees are an important factor on construction sites, whether on or near the working areas, and trees are a material consideration in the UK planning system (see Annex B). This British Standard is intended to assist decision-making with regard to existing and proposed trees in the context of design, demolition and construction. Root systems, stems and canopies, with allowance for future movement and growth, need to be taken into account in all projects, including those that do not require planning permission. The space required for any proposed new trees to become established is an important consideration.
- During their lifetime, trees will be vulnerable to disturbance, injury, environmental changes, pests and diseases. Construction work often exerts pressures on existing trees, as do changes in their immediate environment following the construction. A tree that has taken many decades to reach maturity can be damaged irreparably in a few minutes by actions that might be unwitting, negligent or wilful (see Annex A). The early provision of physical protection from damage is therefore critical. Where tree retention or planting is proposed in conjunction with nearby construction, the objective should be to achieve a harmonious relationship between trees and structures that can be sustained in the long term. The good practice recommended in this British Standard is intended to assist in achieving this objective."
- 5.4.2 The above will needs to be evidenced by the applicant .
- 5.5 REGENERATION MANAGER: The proposals can be fully welcomed and supported from an economic perspective.

- 5.5.1 The pandemic crisis has left the future economic landscape uncertain. In this context, Newport will need to redouble efforts to diversify its economy in order for the city to recover, build resilience to future shocks, and meet its aspirations for sustainable growth. Key to achieving this economic diversification and resilience will be the availability of flexible-use, strategically-located sites capable of supporting a range of development and investment proposals.
- 5.5.2 The challenge for the city centre to reinvent itself as an attractive, productive, and safe place is particularly acute. Towns and city centres dominated by retail uses must now be considered a thing of the past, with the pandemic accelerating the shift towards online retailing whilst simultaneously reducing the number of visitors that can be accommodated in public spaces and premises alike. Covid-19 has therefore left the city centre, where much has been achieved from a regeneration perspective over the last ten years, in a precarious position; yet it still retains a concentration of strategic sites, that can enable it to remain relevant and successful, acting as an economic anchor for the rest of the city.
- 5.5.3 The land to which this planning application is subject is one of those sites, and of huge economic potential due to its suitability to accommodate a range of productive uses. From this perspective, the planning statement submitted somewhat underplays the potential role this redeveloped site could play in driving economic adaptation and resilience over the longer term, in addition to providing the more immediate benefits around well-being, investment and job creation identified in the statement.
- 5.6 PLANNING POLICY: The proposal is supported in policy terms because of its redevelopment of a vacant, landmark site that provides appropriate uses within the City Centre. The support is provided on the basis of the proposals being able to meet technical matters raised by consultees.
- 5.7 HEAD OF LAW AND REGULATION (ENV.HEALTH): No objection subject to conditions restricting the noise emitted from any plant and equipment, details of future fume extraction and details of opening hours.
- 5.8 HEAD OF CITY SERVICES (ECOLOGY): I have assessed the site against the criteria for open mosaic priority habitat and the site does not meet the requirements to be considered as priority habitat.
- 5.8.1 The application does not include any detail on the built form or layout, and therefore at this stage there is no information on ecological enhancements to be provided in the scheme. Based on the type of application and limited detail currently available it is appropriate for ecological enhancement information to be provided at reserved matters. In order to ensure that appropriate features are included in the scheme I recommend that a condition is included if you are minded to grant this permission.
- 5.8.2 The application site is adjacent to the River Usk, which is a nationally and internationally designated site protected by SSSI and SAC designations. Although the application is outline, it is still necessary to undertake a Habitats Regulations Assessment, required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, in accordance with the EC Habitats Directive (Council Directive 92/43/EDC) before the Council as the 'Competent Authority' under the Regulations can grant permission.
- 5.8.3 Section 70 (part 3) of the Conservation of Habitats and Species Regulations states:  
*Where the assessment provisions apply, outline planning permission must not be granted unless the competent authority is satisfied (whether by reason of the conditions and*

*limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters.*

- 5.8.4 As the application provides several different options for the class of land use, the potential for impacts on the river could vary greatly. For example, peak use of an educational building or office will likely be at different times to a hotel or leisure building; lighting requirements will differ as will potential for disturbance on the river.
- 5.8.5 The potential pathways to impact the river during the construction phase are construction activities which may result in pollution, siltation, vibration or light spill on to the river. It is more difficult to predict the impacts during the operational phase due to the different potential uses that are being included in the application. The following impacts are all possible, but the degree of impact may be different for different use classes:
- Light spill
  - Noise disturbance
  - Increase recreational access
  - Pollution (littering)
  - Change in surface water flooding
- 5.8.6 Whilst standard conditions can be applied to the application to control some of these potential impacts (e.g. lighting), and reserved matters details will control the surface water detail, the impact of noise or recreational access are less easily controlled, and the outcome of the Appropriate Assessment may be that the impact of granting the permission is unknown.
- 5.8.7 If you are minded to grant this application, then conditions should be included to ensure that the Reserved Matters application has the least impact possible on the River Usk SAC. A full Appropriate Assessment is required, and NRW must be consulted on the outcome of the assessment before the planning decision can be finalised.
- 5.9 HEAD OF CITY SERVICES (LANDSCAPE): The proposal fronts onto the River Usk Special Landscape Area. Development should not detract from the character of the Special Landscape Area. No information has been submitted to assess the impact the development type and density will have on the SLA or on views in from public areas.
- 5.9.1 Development should be fronting the river rather than turning away from it. This is a strategic issue for urban planning policy and design along the River Usk frontage through the city. Tree planting should be provided to the River Usk frontage to soften views of the building elevation from the opposite river bank open space, from elevated bridging points, and closer views from adjacent housing and roads. The footprint from the proposed building covers almost the whole plot. Landscape scheme has not been submitted, however it is understood that a very limited or no space is left to accommodate planting.
- 5.9.2 The applicant has demonstrated awareness that this proposed development is the subject to Schedule 3 of the Flood and Water Management Act 2010 and requires SAB (SUDS Approval Body) consent in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. The SAB process is separate from planning, however, developers should demonstrate compliance with the specified standards in submitting planning applications.
- 5.9.3 From recent experience, it is advised to check with NCC SAB team if the consent is required and provide a joined drainage-landscape strategy as part of the planning process to ensure the compliance of the landscape scheme with Standards S4 (Amenity) and S5 (Biodiversity).

- 5.9.4 Due to the possible lack of opportunities for external planting is it not clear how the compliance with standards S4, S5 and relevant policies will be achieved.  
The following information will be required:
1. Levels information.
  2. Professional tree survey to BS5837 may be required, including clear constraints plan, impact assessment, protection plan, and potentially requiring a method statement based on the submitted proposals and to include trees outside the site that may be affected by the proposals. The impacts should review change of levels, foundation runs, hard surfaces, drainage and other service runs, visibility splay requirements.
  3. Professional landscape architect input to identify site assets and constraints, including:
    - clearly demonstrated input to the layout and density of development;
    - provision of landscape plans covering hard and soft landscape elements;
  4. Professional landscape architect input should be employed to ensure the character and visual impacts are independently analysed, appropriately mitigated, and to detail a hard and soft landscape plan (including condition and management of existing trees and hedgerows).
  5. Planting, boundary and surface treatment should be appropriate to the landscape character.
  6. Joined up landscape and drainage strategy is recommended.

5.10 HEAD OF CITY SERVICES (DRAINAGE): No response.

## **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (2 properties) and a site notice was displayed.

## **7. ASSESSMENT**

### **7.1 Application site**

7.1.1 The application site is 0.25 hectares and is a roughly rectangular plot of land which lies in between an access road serving the University of South Wales and Usk Way. To the north east is the River Usk, Castle Bingo to the south east, Usk Way and Lidl to the south west and the University of South Wales, Newport Campus to the north west. Beyond Usk Way to the north west is the existing Newport Leisure Centre and the residential streets of Emlyn Street, Cross Lane, Caroline Street and Dumfries Place. Beyond Castle Bingo to the south east is George Street Bridge and Endeavour House student accommodation.

7.1.2 Outline planning permission was granted in January 2008, which involved three phases of development relating to the University campus. The campus building as built was phase 1 of the development and this application site included phases 2 and 3. These phases were not pursued further. The land has been vacant since at least 2007 and is currently surrounded by hoarding which does not contribute positively to the overall character and appearance of the surrounding area.

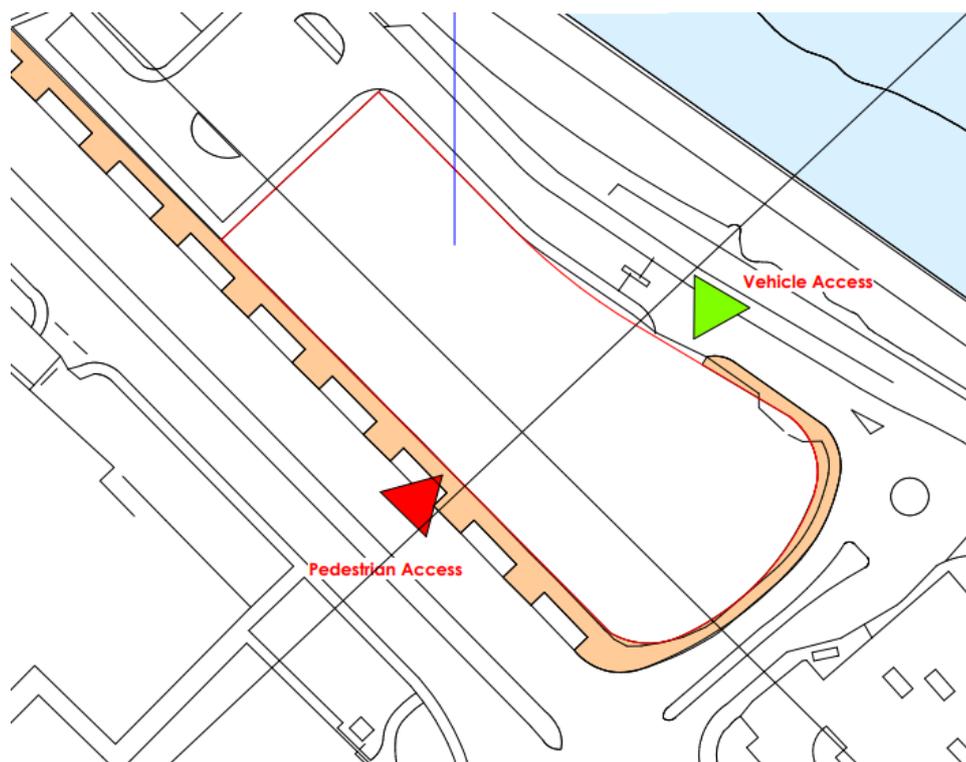
7.1.3 The application site is part of the City Centre as defined by the Newport Local Development Plan and it is within an Archaeologically Sensitive Area. It lies in close proximity to the River Usk (divided only by an access road to the University campus), which is designated as a Special Landscape Area, a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC)

### **7.2 The proposals**

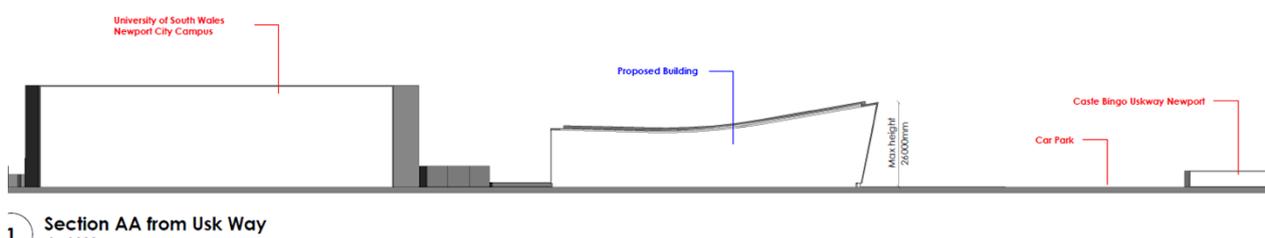
7.2.1 The application seeks outline planning permission for up to 995 sq. m of flexible floorspace of either office (Class B1), hotel (Class C1), education (Class D1) or leisure (Class D2). All matters which include detail over the access, appearance, landscaping, layout and scale are

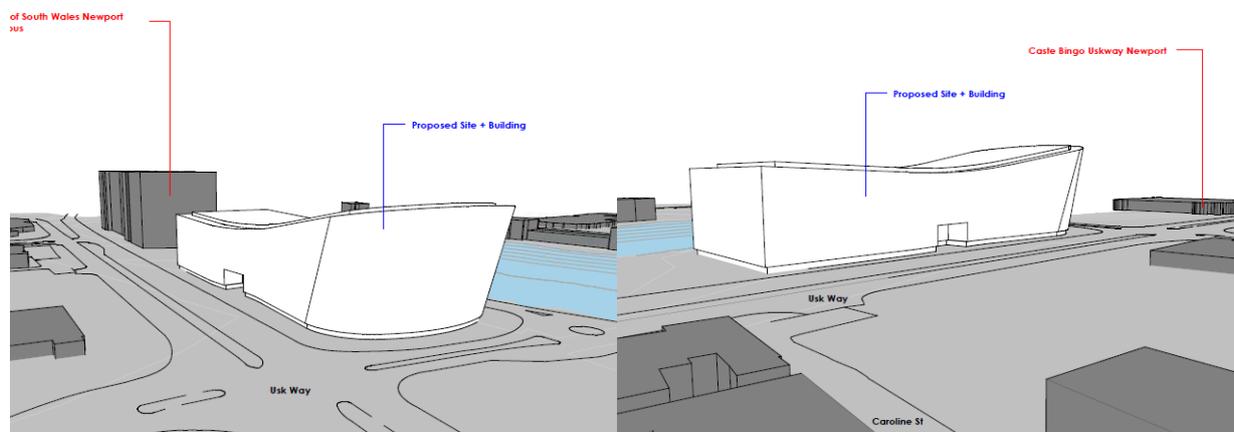
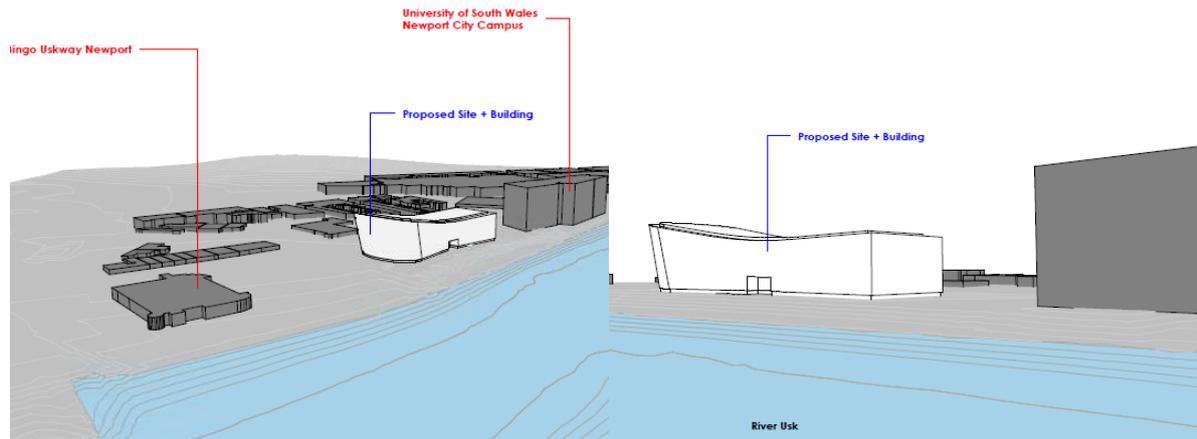
reserved for future consideration (reserved matters). Despite the application being made in outline, in accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, the applicant is required to identify the approximate location of buildings, routes and open spaces, along with the upper and lower limit for the height, width and length of the building, access points must also be identified. These parameters are provided indicatively and the reserved matters are not bound by these parameters. They are to demonstrate that the site is capable of accommodating a building within those parameters.

7.2.2 The indicative layout shows the development to occupy the entire footprint of the application site, as such it would come up to the edge of the pavement along Usk Way and the access road serving the university campus. Pedestrian access is identified from Usk Way and vehicular access is identified from the access road (see below).



7.2.3 A number of images have been provided to indicate the scale of the building, with a maximum height of 26m.





### 7.3 Principle of development, regeneration and economic impact

- 7.3.1 The application site is a brownfield site, located in the settlement boundary and it has been vacant for some time. Usk Way is a principle route through the city and as such the site, surrounded by hoardings, does not positively contribute to the surrounding area, which has seen significant regeneration. Policy SP18 favours proposals which assist the regeneration of the urban area, particularly where they contribute to the vitality, viability and quality of the environment of the city centre, where they reuse vacant land and where they encourage the development of community uses.
- 7.3.2 The proposed four uses (education, leisure, hotel and office) are all considered to be appropriate within a city centre location and they would compliment the surrounding uses. This prominent vacant site has the opportunity to provide real regeneration benefits to the city centre and the proposed uses would provide a significant contribution to the vitality, viability and quality of the environment of the city centre; and as such policy SP18 provides support for the proposal. As outlined by the Councils Regeneration Manager (paragraph 5.5) the redevelopment of this site could drive economic adaption and resilience as the city centre needs to diversify its economy resulting from changing retailing behaviour as a result of the current pandemic.
- 7.3.3 The application site is relatively small and the indicative layout shows that the whole of the site would be used for development, this is considered to be an efficient use of brownfield land. It is considered that each of the proposed uses would boost the economy by creating jobs. The proposed education and leisure uses would provide new facilities which would contribute to wellbeing in the city. Overall it is considered that the principle of the proposed

uses would be acceptable and in accordance with policies SP1, SP2, SP12, SP18, CE1 and CF8.

#### 7.4 **Ecology**

- 7.4.1 A Preliminary Ecological Appraisal Report (PEA) has been submitted with the application. It has identified that the site is of low ecological value, comprising mostly of hardstanding with some areas of ephemeral/short perennial vegetation. The site has limited potential to support protected or priority species, but the ruderal vegetation is likely to be important for invertebrates. The Councils Ecology Officer does not consider the site to be priority habitat.
- 7.4.2 The Ecology Officer also notes that as the application is for outline permission there is no detail on the built form or layout. As such there is no information on ecological enhancement. The Officer recommends that a scheme of ecological enhancement is provided at reserved matters stage and a condition to secure this is imposed.
- 7.4.3 The site is located in close proximity to the River Usk which is designated a Special Area of Conservation (SAC). 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, see paragraphs 7.5.1 to 7.5.22.
- 7.4.4 Regulation 63(3) states "The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies". This means that Natural Resources Wales must be consulted on the content and outcome of the Appropriate Assessment and regard must be given to any comments made by them.
- 7.4.5 The Appropriate Assessment concludes that with the imposition of conditions the impacts of the proposed development can be suitably controlled and would not result in an adverse impact on the integrity of the River Usk SAC. Natural Resources Wales has not provided comments on the Appropriate Assessment yet. However, it is the Officers recommendation that, if Committee are satisfied that they could approved the development in principle, they should defer authority to officer to grant planning permission following agreement from Natural Resources Wales that they are satisfied with the content and outcome of the Appropriate Assessment. In the instance that the Appropriate Assessment is not adequate and NRW raise an objection, which could result in changes to the scheme, the application would be brought back to the next committee for determination.
- 7.4.6 The Ecology Officer has raised concern that the proposed variety of uses could result in different impacts upon the river and whilst some of those impacts, such as light and drainage can be controlled at this stage, the impact such as noise or recreational access are less easily controlled. The Appropriate Assessment prepared by the planning officer concludes that subject to conditions controlling drainage, contamination, lighting, construction methods and practices and mitigation to protect otter, there would be no adverse impacts on the integrity of the River Usk.
- 7.4.7 The concerns regarding recreation access and noise are noted. However, this stretch of the river is significantly urbanised and recreational access in the form of the riverside walkway is already active and encouraged. It is designated as a Long Distance Cycle Walkway in the Newport LDP and as an Active Travel route. The walkway is already well used by cyclists, walkers and runners. The adjacent University building and Castle Bingo also already contribute to the recreational use of this area. It is not considered that the proposed uses would harmfully contribute to the recreational use of this area, to a degree which would be harmful to the special interests of the River Usk. Similarly, in terms of noise, the area already

experiences the levels of noise expected in a busy urban environment. It is considered that the proposed uses would not result in any greater harm than currently exists.

## 7.5 **Appropriate Assessment**

7.5.1 The application site lies around 14m from the River Usk SAC to the north east of the site. In accordance with the Conservation of Habitats and Species Regulations 2010, the Local Planning Authority, prior to determining the application, needs to carry out an Appropriate Assessment (AA), identifying any likely significant effects on the River Usk SAC, either alone or in combination with other projects or plans. The Authority subsequently needs to establish whether it can be demonstrated that a permission, subject to any conditions or planning controls, would avoid any adverse effect to the integrity of the River Usk SAC.

7.5.2 Information has been submitted regarding land contamination, a preliminary ecological appraisal (PEA), as a Flood Consequence Statement and Drainage Strategy. These assessments have informed this Appropriate Assessment.

7.5.3 The River Usk is designated as a Special Area of Conservation (SAC). It is designated a SAC as it supports the species of Allis Shad, Twaite Shad, Bullhead, River Lamprey, Brook Lamprey, Sea Lamprey, Atlantic Salmon and Otter. The conservation objectives of the River Usk SAC are attached in *Appendix A*

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

7.5.5 The PEA notes that the designated site would be well separated from the River Usk and as such there would be no impacts upon its designation. This is considered to be true in so far as there would be no loss of vegetation and no direct works to the river banks. However, it is considered that the proposal has the potential for indirect impacts as a result of the construction and operational phases, such as drainage and lighting.

7.5.6 It is considered that the following have the potential to impact the integrity of the SAC:

- Pollution/surface water run-off during construction and operation (potential for disturbance of contaminated land in the construction of the building).
- Long term discharge from the building into the river.
- Piling vibrations affecting fish.
- Disturbance to otter from noise and lighting.

### Surface and Ground Water

7.5.7 A potential impact from the proposed development would be contamination of the River Usk SAC from surface and ground water discharge. Specifically, concerns may relate to how surface water will be disposed of during construction and operation, how potential contamination of groundwater on the site will be addressed, what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction and operation phases of the proposals, and the location of any new discharge structures during construction and operation.

7.5.8 The submitted drainage strategy makes the following conclusions:

- The nearest Public Foul Sewer to the site runs west of Usk Way. The branch connection from the USW Campus is assumed to be at full capacity. A new connection would

potentially be required which would require trenching across or thrust boring underneath Usk Way.

- Surface Water would discharge via a new offsite outfall into the River Usk at an unrestricted rate.
- SuDS features would need to be adopted to improve water quality of surface water runoff and provide amenity and biodiversity benefits.

7.5.9 It is proposed to construct a new offsite outfall into the River Usk to discharge surface water runoff. As the application is for outline permission there are no further details regarding the outfall. It is considered necessary to require these details via a condition (condition 08). This condition would require full details of the surface water drainage scheme to ensure adequate drainage is provided with consideration of the special features of the SAC. It is also noted that a separate Flood Risk Activity Permit for these works would be required. This permit ensures that the proposed works do not interfere with flood risk management assets or adversely affect the local environment, fisheries or wildlife. It is considered that with the imposition of the condition and the permitting regime, there are suitable controls to prevent adverse effects on the integrity of the SAC.

7.5.10 It is also identified that there is potential for contaminated surface water runoff to enter the river during the construction phase. Condition 10 would require the submission of a Construction Environmental Management Plan, which would require details of surface water drainage during construction.

7.5.11 In terms of groundwater contamination a Desk Based study has been submitted. The report states that the site has been developed since at least the late 1800s and has been occupied with and surrounded by potentially contaminative land including railway/tramway land, a wharf, vehicle repair site, scrap yard, substation and compound for adjacent development works. In addition to this there is a potential for the infilling/land filling in the north east portion and off site to the east as a result of reclamation from the River Usk and to the west where a canal formerly existed.

7.5.12 At present contamination at the site is likely to be present within any Made Ground, with there also being a high potential for contaminant migration vertically and laterally into natural soils and sensitive features (including the River Usk). The study considers that the uses and features would not preclude redevelopment of the site. However, detailed consideration of the contamination potential and the requirement for potential remedial options would need to be assessed based on ground investigation information. A Ground Investigation and Geoenvironmental Assessment would be required and this is secured through condition 09.

#### Long term discharges

7.5.13 A connection with the public foul sewer is considered to not have a harmful impact upon the SAC. Thrust boring may have the potential to cause noise and vibration impacts however, this activity would be located at a distance from the River to prevent any harmful impacts.

#### Piling activities

7.5.14 It is currently not known what the methods for construction would be however, in the event that piling activity is required, this would have the potential to disturb the varieties of shad and lamprey found in the River Usk. It is considered that, provided the piling activities are restricted to avoid the March to June shad migration period; the impact of these activities would be minimal (Condition 19).

#### Disturbance to otter from noise and lighting

7.5.15 The PEA notes that Otters are known to use the River Usk, with this species being one of the reasons for its designated status. It notes that Otter are able to tolerate some levels of artificial light, however as nocturnal species, a well-lit environment is not optimal, and there are recorded impacts of light on aquatic prey items.

7.5.16 The PEA concludes that there is no suitable habitat onsite for otter to use to rest, although otter may enter urban sites on occasion, opportunistically or following disturbance. It is therefore possible that otter may enter the site during construction, and so there may be a negative impact on European otter, in the absence of mitigation.

7.5.17 The mitigation measures recommended include:

- No excavations to be left open at night – if they cannot be covered, a means of escape to be included (plank set at 30°);
- No chemicals or fuel to be left accessible for any animals to reach and to be stored in a locked container;
- No lighting of the river;
- No night-working (between sunset and sunrise).
- Appropriate secure fencing around the construction site installed to prevent access by mammals.

7.5.18 It is considered that with the imposition of a condition 18 requiring compliance with the mitigation identified in the PEA, along with a condition 04 requiring details of a lighting scheme, the disturbance to otter would be adequately mitigated.

*In-combination effects*

7.5.19 The Habitats Regulations require assessment of the in-combination effects, the following projects which are in proximity to the River and within 2km of the application have an extant planning permission:

18/0293	DEVELOPMENT OF 195NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1 - Land To South Of Glan Usk Primary School, Herbert Road.	Extant
18/0973	OUTLINE APPLICATION FOR MIXED USE DEVELOPMENT COMPRISING C2 RESIDENTIAL INSTITUTIONS AND C3 RESIDENTIAL AND DRIVE THRU COFFEE SHOP (A1/A3) ALONG WITH ASSOCIATED INFRASTRUCTURE AND FACILITIES - Land and Property Formerly Known as Robert Price Transport Yard, Corporation Road	Extant
18/1169	ERECTION OF 1NO. FIVE STOREY APARTMENT BLOCK AND 1NO. 6 STOREY APARTMENT BLOCK COMPRISING 76NO. ONE AND TWO BEDROOM DWELLINGS WITH CAR PARK AND ASSOCIATED WORK - Land To South Of Cyril Street, Coverack Road	Extant
19/1206	SECTION 73 APPLICATION TO EXTEND TIME FOR IMPLEMENTATION TO 21ST SEPTEMBER 2022 UNDER CONDITION 01 OF APPLICATION 16/0789 FOR RESIDENTIAL DEVELOPMENT OF 93NO. UNITS - Car Park Adjacent Endeavour House, Usk Way	Extant
19/1164	REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE, PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES. DESIGN WORK INCLUDING THE ANALYSIS OF THE STRUCTURE AND THE SPECIFIC ACTION OF REPAIRS TO THE STRUCTURE AND ANCILLARY COMPONENTS. AFFECTING PUBLIC RIGHT OF WAY NEWPORT COASTAL PATH 403/2/1 - Transporter Bridge, Brunel Street	Extant

7.5.20 Although the proposals could result in a cumulative impact, the above permissions have been subject to the same HRA assessment and concluded that, subject to conditions there would be no significant adverse impacts on the River Usk SAC. In this respect, it is concluded that there are no other developments, which would result in an adverse cumulative effects.

Conclusion of Appropriate Assessment

7.5.21 It is considered that the inclusion and full implementation of the identified conditions, the proposed development would not adversely affect the integrity of the River Usk SAC.

7.5.22 Regulation 63(3) requires Natural Resources Wales to be consulted on the content and outcome of the Appropriate Assessment and regard must be given to any comments made by them. Natural Resources Wales has not provided comments on the Appropriate Assessment yet. However, it is the Officers recommendation that, if Committee are satisfied that they could approved the development in principle, they should defer authority to officer to grant planning permission following agreement from Natural Resources Wales that they are satisfied with the content and outcome of the Appropriate Assessment. In the instance that the Appropriate Assessment is not adequate and NRW raise an objection, which could result in changes to the scheme, the application would be brought back to the next committee for determination

**7.6 Landscape**

7.6.1 The River Usk is designated as a Special Landscape Area (SLA). Policy SP8 states that proposals are required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features. Policy CE2 requires development in a waterside location to integrate with the waterway and not turn its back on it; and it should take account of the interests of regeneration, leisure, navigation, water quality and flow, and nature conversation.

7.6.2 The Councils Landscape Officer is concerned that no information has been submitted to assess the impact of the development and it's density on the SLA or on views in from public areas.

7.6.3 The application is submitted in Outline and the detail regarding the appearance and layout of the building is reserved for future consideration. The final design of the building would be required to satisfy policies SP8 and CE2; and will need to be an appropriate design to compliment the SLA and it should integrate itself with the river frontage. It has been indicated that the building would have a maximum height of 26m, which is a sizable structure. However, this overall height is not considered to be harmful to the character and appearance of the area, nor the SLA. This stretch of the river is characterised by taller buildings, which address the river frontage and there is no reason why this cannot be achieved for this site, nor would it be out of keeping with the surrounding area. It is considered that a larger, taller building would emphasise this as a landmark building, with its regenerative potential.

7.6.4 The Landscape Officer also notes that the footprint of the building covers almost the entire site and as such there is little room to accommodate planting. The site layout is provided indicatively only and a reserved matters submission would need to address requirements for landscaping, along with ecological enhancement. Similarly the detailed design would need to satisfy sustainable drainage standards and the applicants are aware of this going forward.

7.6.5 The Landscape Officer has recommended the submission of additional information, including levels information, a tree survey, a landscaping scheme, which is joined up with a

drainage strategy and boundary/surface treatment detail. Landscaping is a reserved matter and as such this would be provided at a later date. Conditions requiring the submission of levels information and boundary/surface treatment details are recommended. A surface water drainage scheme is also secured through a condition. Matters concerning trees are discussed in paragraphs 7.7.1 to 7.7.3

## **7.7 Trees**

- 7.7.1 There is an existing boulevard of trees along side Usk Way. They are protected as they are on Council owned land. The Councils Tree Officer notes that they are semi mature trees, which have the potential to grow very large. They also form part of the strategic street scene and they are considered to be a valuable asset, not only in visual terms but in their contribution towards climate change adaptation.
- 7.7.2 In this sense, Policy CE1 of the Local Development Plan entitled 'Routeways, Corridors and Gateways' is relevant. This states that development proposals should protect and enhance the appearance and connectivity of existing and future main route corridors and gateways into the city. The routes mentioned include Usk Way.
- 7.7.3 The indicative layout plan shows that the development would come right up to the edge of the footpath where these trees are situated. It is noted from a site inspection that these trees already overhang the hoarding which is currently positioned along the back edge of the footpath.
- 7.7.4 The Councils Tree Officer has requested that tree information is provided to ensure there is no harmful impact upon these trees. As the application is for outline permission and the plans submitted are merely indicative, it is considered reasonable to secure this information via a condition. A condition is also imposed to ensure that, notwithstanding the indicative plans, the building is sited and designed in a manner that ensures that these trees are protected and provided the necessary room to reach maturity.

## **7.8 Heritage**

- 7.8.1 The application site is not within a Conservation Area but it sits around 40m from the Lower Dock Street Conservation Area. It is also located around 180m from George Street Bridge which is listed at grade II\*, as a major civil engineering structure, the first cable-stayed cantilever bridge in Britain. The Councils Historic Buildings and Conservation Officer is concerned that there has been no assessment of the impact of the development on both the Conservation Area and the listed building. The Officer considers that the development would sever existing visual links between the riverside and the conservation area, and given the history of the area as one that developed to serve the former docks along the river, this is likely to be detrimental. However, the the Officer does acknowledge that the negative impact on heritage impacts is likely to be mitigated by the economic benefits of the proposals. Nevertheless the Officer recommends that a Heritage Impact Assessment is submitted in order to demonstrate this.
- 7.8.2 The concerns of the Historic Buildings and Conservation Officer are noted. It is considered that the existing site, with its vacant state and long term hoarding, located opposite the Lower Dock Street Conservation Area, does not contribute positively to the character and appearance of the Conservation Area. Alike the University building, this site has the opportunity to provide real enhancement and regenerative benefits not only to the Lower Dock Street Conservation Area, but the wider City Centre area, including the Town Centre Conservation Area. Whilst the link between the historic use of the site and its association with the docks; and those historic merchant uses of buildings within the Lower Dock Street Conservation Area is understood, a balance needs to be struck between the future of the site and its significant economic and regenerative benefits.

7.8.3 The Historic Buildings and Conservation Officer recommends that a Heritage Impact Assessment is submitted up front. However, this is not considered to be reasonable given that there are no requirements to do so in national or local planning policy. Given the outline nature of the application, further consideration of the impact of the appearance and layout of the building on the heritage assets identified can be given at reserved matters stage. To secure this, a condition is recommended requiring the submission of a Heritage Statement which would detail how any negative impacts upon the heritage assets would be mitigated.

## 7.9 **Archaeology**

7.9.1 The application site is located within an Archaeological Sensitive Area. The Glamorgan Gwent Archaeological Trust (GGAT) notes that the area has high archaeological potential. GGAT comment that the site was occupied by Powell's Town Wharf from at least 1883 to the 1920s, and by motor repair works between 1965 and 2001. Its location on the bank of the River Usk indicates that the associated alluvial clays could provide excellent conditions for the preservation of organic remains. An archaeological watching brief conducted in 2008 immediately to the north of the current application recorded structures dating to the 19th century, as well as the remains of the Ebbw Vale Wharf.

7.9.2 GGAT advise that whilst it is likely that the construction of the motor repair works will have had an adverse effect on any archaeological features, there remains the possibility that material, particularly those dating to the 19th century may be encountered during the course of the proposal. They recommend a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource. The condition is duly imposed.

## 7.10 **Highways**

7.10.1 A Transport Statement has been submitted with the application. Whilst access is a reserved matter the applicant is required to indicatively show access points. The indicative layout shows that vehicular access would be from the existing access road to the University building, utilising an existing access point. The Transport Statement states that the access would be for servicing vehicles such as deliveries and refuse collection. Indicative visibility splays and swept path analysis are provided. It is also stated that the internal layout of the site, which will be subject to a Reserved Matters application, will provide adequate circulation room and turning facilities to ensure that vehicles enter and leave the site in forward gear. The Councils Highways Engineer is satisfied with this but notes that any additional existing accesses to the site would need to be stopped up and returned to footway.

7.10.2 The application site lies within Parking Zone 1. Limited parking provision is required in this zone given its sustainable location and proximity to public transport links. Most of the use classes proposed would require just one commercial vehicle space. This requirement would need to be demonstrated in a reserved matters submission.

## 7.11 **General Amenity**

7.11.1 The nearest residential properties are located around 57m away from the application site. They are properties on Canal Terrace. These properties are roughly opposite the application site but separated by Usk Way, which is a busy principle route through the city centre. The area is characterised by a mix of commercial, education, leisure and residential uses. A number of these commercial, education and leisure uses are already in close proximity to these houses. It is considered that the proposed uses would not significantly contribute to a worsening of the residential amenities of these occupiers. The Councils Environmental Health Officer has no objection to the proposal. Conditions are

recommended to restrict the noise emitted from any plant and equipment and to secure details of future fume extraction and details of opening hours.

## **8. OTHER CONSIDERATIONS**

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

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

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

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

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

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

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

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

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

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

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

## **9. CONCLUSION**

### **9.1 The proposed development is considered to be acceptable and in accordance with policies SP1, SP2, SP8, SP9, SP12, SP18, GP2, GP4, GP5, GP6, GP7, CE1, CE2, CE6, CE7, CF4 and CF8 of the Newport Local Development Plan.**

- 9.2 It is considered that the proposed uses would drive economic adaption and resilience as the city centre needs to diversify its economy. It would result in economic prosperity and job creation, providing much needed regeneration of this long standing vacant site.
- 9.3 It is considered through the imposition of conditions to protect the integrity of the River Usk SAC and to secure further assessment of heritage assets it is considered that the principle of developing the site for office (B1), hotel (C1), education (D1) and leisure (D2) is acceptable. Matters concerning the detailed appearance, layout, scale and landscape would be considered further in reserved matters submission(s).
- 9.4.1 It is recommended that planning permission is granted with conditions, subject to no adverse representation from Natural Resources Wales in relation to the appropriate assessment.

## 10. RECOMMENDATION

### **SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES CONFIRMS THAT THEY ARE SATISFIED WITH THE OUTCOMES OF THE APPROPRIATE ASSESSMENT, SUBJECT TO THE FOLLOWING CONDITIONS:**

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

- 1909 - LAA - XX - XX - DR - A - 01001 P01 Location Plan
- 1909 - LAA - XX - XX - DR - A - 01021 P01 Proposed Site Plan
- 1909 - LAA - XX - XX - DR - A - 01300 P02 Proposed Sections
- 1909 - LAA - XX - XX - DR - A - 01450 P01 External View from River Usk South
- 1909 - LAA - XX - XX - DR - A - 01451 P01 External View from River Usk North
- 1909 - LAA - XX - XX - DR - A - 01452 P01 External View from Usk Way 1
- 1909 - LAA - XX - XX - DR - A - 01453 P01 External View from Caroline Street
- 1909 - LAA - XX - XX - DR - A - 01454 P01 External View from Usk Way 2

Flood Risk Statement (JBA consulting, October 2019)

Drainage Strategy Report (Cambria, October 2019)

Environmental Assessment (Desk Top Study) (Cambria, October 2019)

Transport Statement (Cambria, October 2019)

Preliminary Ecological Appraisal (Wildwood Ecology, October 2019)

Archaeological Desk Based Assessment (Archaeology Wales, October 2019).

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

02 Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.

Reason: To safeguard the rights of control of the Local Planning Authority in respect of the reserved matters and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990 and with the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

03 The landscaping scheme (which shall be accompanied by a management plan detailing future maintenance) submitted in pursuance of Condition 02 shall in relation to tree/shrub planting include inter alia grass mixtures and the number, species, heights on planting position of all trees and shrubs. The landscaping scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the associated development. Thereafter, the trees and shrubs shall be

adequately maintained for a period of 5 years (or as agreed in the management plan) from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner, in accordance with policy GP5.

04 The reserved matters referred to in condition 2 shall include a “lighting design strategy for biodiversity” for the development. The strategy shall identify those areas/features on site that are particularly sensitive, and specific measures required to reduce impacts. The strategy will include:

- a) lighting type, positioning and specification
  - b) measures to minimise light spill from glazed areas
  - c) drawings setting out light spillage in key areas based on technical specifications
- All lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

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 River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

05 The reserved matters referred to in condition 02 shall include a scheme for ecological enhancements. The development shall be carried out in accordance with the approved scheme.

Reason: In order to provide ecological enhancements in accordance with policies SP9 and GP5.

06 The reserved matters referred to in condition 02 shall include details of site levels including sections through the site to demonstrate how the site levels relate to the surrounding area. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, in accordance with policies GP2 and GP6.

07 The reserved matters referred to in condition 02 shall include a Heritage Statement which assesses the impact of the layout, scale and appearance of the building upon the surrounding heritage assets (Lower Dock Street Conservation Area and George Street Bridge) and demonstrates how the scheme has been designed to mitigate any harm to these historic assets.

Reason: To protect and preserve the historic interests of heritage assets, in accordance with policies SP9 and CE4.

08 In pursuance of condition 2 and notwithstanding the indicative plans, the development shall demonstrate how it will integrate with the River Usk and not turn its back on it, as required by Policy CE2 of the Newport Local Development Plan. The development shall be carried out in accordance with the approved plans.

Reason: In order to protect and enhance the river side setting, the Special Landscape Area and in the interests of visual amenity, in accordance with policy SP8, GP6 and CE2.

09 In pursuance of conditions 2, 15, 16 and 17, and notwithstanding the indicative plans submitted, the scheme shall be sited and designed in a manner that protects the street trees and enables these trees to reach full maturity, and information shall be included with the reserved matters, to demonstrate how these trees will be protected accordingly.

Reason: To protect the boulevard of trees along Usk Way in accordance with policy CE1.

10 The reserved matters referred to in condition 02 shall include details of parking, vehicle and pedestrian circulation and turning facilities within the site. The development be carried out and operate in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety, in accordance with policy GP4.

***Pre- commencement conditions***

11 Prior to the commencement of development details of surface water drainage shall be submitted and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details 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 River Usk SAC, in accordance with policies SP9, GP3 and GP5 of the Adopted LDP and the Wales Marine Plan.

12 No development shall commence until:

a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.

b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.

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

Prior to the beneficial use of development:

d) Following remediation, a Completion/Verification Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

Reason: To ensure that any potential risks to human health and to prevent pollution of the water environment and to the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9, GP5 and GP7 of the Adopted LDP and the Wales Marine Plan.

13 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 shall include the following as a minimum:

a) Risk assessment of potentially damaging construction activities;

b) Identification of "protection zones";

c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;

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;
- i) General site management: details of the construction programme including site clearance, method statements, surface water management and measures, site waste management and disposal, sustainable drainage (pre- and post-construction), maintenance and monitoring programmes;
- j) Pollution prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and an incident response plan;
- k) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- l) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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 River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

14 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 CE6.

15 Notwithstanding the plans submitted, no development, to include demolition, shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall contain full details of the following:-

- (a) Trees and hedges to be retained/felled clearly identified and marked on a plan;
- (b) Trees and hedges requiring surgery;
- (c) The root protection areas to be identified on plan for retained trees and hedges;
- (d) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
- (e) The precise location of the barrier fencing, to be shown on plan.

The development shall be carried out in accordance with the approved Tree Protection Plan.

Reason: To protect important landscape features within the site. In accordance with policy GP5.

16 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site, in accordance with policy GP5.

17 No operations of any description, (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development, until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. (The Arboricultural Method Statement shall contain full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
- (b) Construction exclusion zones;
- (c) Protective barrier fencing;
- (d) Ground protection;
- (e) Service positions;
- (f) Special engineering requirements including 'no dig construction';
- (g) Pre construction tree works;
- (h) Approved tree removals;
- (i) Access facilitation pruning;
- (j) Landscaping;
- (k) Name, qualifications and contact details of the Arboricultural Contractor(s) and/or Consultant(s) who will be implementing the above are to be supplied to the Councils Tree Officer.

The development shall be carried out in full compliance with the Arboricultural Method Statement unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To protect important landscape features within the site, in accordance with policy GP5.

***Pre – construction conditions***

18 No work shall commence on the construction of the development until details/samples of materials and finishes to be used on any proposed hard landscaped areas have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the agreed materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings, in accordance with policies GP2 and GP6.

19 No work shall be commenced on the construction of the development until full details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be maintained as such thereafter.

Reason: To ensure that the development is completed in a manner compatible with its surroundings, in accordance with policies GP2 and GP6.

20 No work shall commence on the construction of the development until details/samples of materials and finishes to be used on the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the agreed materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings, in accordance with policies GP2 and GP6.

### ***Prior to beneficial use conditions***

21 Prior to first beneficial use of any of the uses hereby permitted details of the opening hours shall be submitted to and approved in writing by the local planning authority. The use shall operate in accordance with the approved hours.

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

22 If at any time the use of the premises is to involve the preparation and cooking of hot food the extraction of all fumes from the food preparation areas shall be mechanically extracted to a point to be agreed in writing by the local planning authority, and the extraction system shall be provided with de-greasing and de-odorising filters. Details of the above equipment (including scaled schematics, location plans, odour attenuation measures and future maintenance) shall be submitted to and approved in writing by the local planning authority prior to its installation and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the approved details.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities, in accordance with policies GP2, GP6 and GP7.

### ***General conditions***

23 The development shall take place in accordance with the mitigation identified within table 7 – recommendations of the Preliminary Ecological Appraisal rev B (Wildwood Ecology, October 2019).

Reason: In the interests of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

24 No works within the River or associated with piling shall be undertaken during the period from 1 March to 30 June.

Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period, in the interests of protecting the integrity of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

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

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

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

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP8, SP9, SP12, SP18, GP2, GP4, GP5, GP6, GP7, CE1, CE2, CE6, CE7, CF4 and CF8 were relevant to the determination of this application.

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

03 Any existing access points not intended to be utilised will need to be formally stopped up under the Town and Country Planning Act 1990

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# Report

## Appeal Decisions

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### Part 1

Date: 7<sup>th</sup> October 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** Caerleon, Gaer, Graig, Langstone, Llanwern, Liswerry, Malpas, Rogerstone and Stow Hill

**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: 7<sup>th</sup> October 2020

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**Planning Application Appeal**

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Reference	20/0154
Address	Yew Tree Cottage, North Row, Redwick, Newport, NP26 3DX
Development	Proposed two storey side extension and porch
Appellant	Mr & Mrs Jameson
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0244
Address	30 Blossom Close, Langstone, Newport, NP18 2LT
Development	Two storey extension to rear and second storey extension to front over garage
Appellant	Mrs Stinchcombe
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0080
Address	6 Blake Road, Newport, NP19 0JH
Development	Erection of two storey side and rear extension incorporating first floor balcony
Appellant	Mr M. Pike
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Enforcement Appeal**

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Reference	E17/0404
Address	New House, Church Row, Redwick, Newport, NP26 3DE
Breach of planning control	Without planning permission and within the last four years, the filling of a reën
Appellant	Mr. C Rogers
Officer Decision	Issue Enforcement Notice
Committee Decision	N/A
Appeal Decision	Notice upheld

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**High Hedge Appeal**

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Reference	E19/0302
Address	14 Pollard Close, Caerleon, Newport, NP8 3SS
Appellant	Mrs. M, Hunt
Officer Decision	Not to issue Remedial Notice
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0523
Address	Land south of Rush Wall Lane, Redwick, Newport
Development	Display of Budweiser advertisement of nacelle of a consented wind turbine
Appellant	Cleanearth energy Ltd
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0179
Address	Land adjacent to 1 Llewellyn Grove, Newport, NP20 6LX
Development	Erection of detached dwelling and associated parking
Appellant	Ms A, Ivory
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0107
Address	12 Augustan Drive, Caerleon, Newport, NP18 3DB
Development	Retention and completion of front dormers
Appellant	Mr N, Suller
Officer Decision	Allow with conditions
Committee Decision	N/A
Appeal Decision	Allowed with varied condition

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**Planning Application Appeal**

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Reference	20/0034
Address	20 Gwladys Place, Caerleon, Newport, NP18 3EL
Development	Subdivision of curtilage and construction of detached dwelling with integral garage
Appellant	Ms F, Bater
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	19/1242
Address	The Ferns, Parc-y-Brain Road, Rogerstone, Newport NP10 9GN
Development	Construction of garage
Appellant	Mr & Mrs Bryant
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Allowed

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**Planning Application Appeal**

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Reference	20/0019
Address	Fields Veterinary Group, 214 Stow Hill, NP20 4RB
Development	Replacement windows from timber to UPVC, replacement of fascia, bargeboards and downpipes previously installed
Appellant	A Leigh of Field Vets (IVC Ltd)
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0032
Address	6 Camellia Avenue, NP10 9JA
Development	Garage conversion with first floor extension on top of existing single garage and perimeter fence around front garden / driveways
Appellant	Mr Paul Grant
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

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**Planning Application Appeal**

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Reference	20/0195
Address	202 Cardiff Road, Newport NP20 3AG
Development	Construction of porch and retention of boundary retaining wall, fence and gates.
Appellant	Mr A Georgiou
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Part allowed and part dismissed

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