

Agenda



Planning Committee

Date: Wednesday, 2 December 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

Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 4 November 2020</u> (Pages 3 - 6)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 132)	
5. <u>Appeal Decisions</u> (Pages 133 - 138)	
6. To view the Webcast, click on the link below: To view the meeting, please click here	

Contact: Neil Barnett, Governance Officer
Tel: 01633 656656
E-mail: democratic.services@newport.gov.uk
Date of Issue: Wednesday, 25 November 2020

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Minutes



Planning Committee

Date: 4 November 2020

Time: 10.00 am

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

In Attendance: Tracey Brooks (Head of Regeneration, Investment and Housing), Matthew Sharp (Acting Development Services Manager), Joanne Evans (Senior Solicitor), Joanne Davidson (East Area Development Manager), Lindsay Christian and Neil Barnett (Governance Officer)

Apologies: Councillor V Dudley

1. **Declarations of Interest**

Councillor Carmel Townsend – declared a prejudicial interest in application **20/0656** and left the meeting.

2. **Minutes of the meeting held on 7 October 2020**

The minutes of the meeting held on 7 October 2020 were submitted.

Resolved

That the minutes of the meeting held on 7 October 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. **Appeal Decisions**

Members' attention was drawn to the appeals report, for information.

The meeting terminated at 12.10 pm

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Appendix A
 PLANNING COMMITTEE – 04 11 2020
 DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
20/0593	<p>Site: Sunnyside Nurseries, Langstone</p> <p>Proposal: Retention of log cabin outbuilding proposed to be used as a delicatessen (Resubmission of 20/0119)</p> <p>Recommendation: Refused</p>	Langstone	<p>Presented to Committee as requested by Councillor Routley in order for the Committee to consider the planning policy and impact on this niche business.</p> <p>Mr Steven Parry – Applicant, spoke in support of the application.</p> <p>Cllr William Routley – Ward Member, spoke in support of the application.</p>	Refused.
20/0656	<p>Site: Land to the rear of 128-130 Caerleon Road</p> <p>Proposal: Demolition of double garage/store and erection of a dormer bungalow (Resubmission)</p> <p>Recommendation: Granted with conditions</p>	St Julians	<p>Presented to Committee as requested by Councillor Townsend to consider impact on parking and neighbouring amenity</p> <p>Councillor Carmel Townsend declared a prejudicial interest in application and left the meeting.</p> <p>Mr Jon Wilks – Agent, spoke in support of the application.</p> <p>Cllr Phil Hourahine – Ward Member, spoke against the application.</p>	Granted with conditions and subject to a Section 106 legal agreement

20/0798	<p>Site: St Omer, Lodge Road Caerleon</p> <p>Proposal: Demolition of existing single storey extension, conservatory and garage to the rear of the property and erection of two storey rear extension with new roof. Single storey side extension and new retaining wall and steps to rear garden.</p> <p>Recommendation: Granted with conditions</p>	Caerleon	Presented to Committee site owned by employee of NCC in planning team.	Granted with conditions.

Report

Planning Committee – Virtual Meeting

Part 1

Date: 2nd December 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.

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

LOCAL POLICY

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

Supplementary Planning Guidance (SPG):

Affordable Housing (adopted August 2015)
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
Flat Conversions (adopted August 2015) (updated January 2020)
House Extensions and Domestic Outbuildings (adopted August 2015) (updated January 2020)
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)
New dwellings (adopted August 2015) (updated January 2020)
Parking Standards (adopted August 2015)
Planning Obligations (adopted August 2015) (updated January 2020)
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)
Wildlife and Development (adopted August 2015)
Mineral Safeguarding (adopted January 2017)
Outdoor Play Space (adopted January 2017)
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)
Air Quality (adopted February 2018)
Waste Storage and Collection (adopted January 2020)
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

1.

APPLICATION DETAILS

No: 20/0696 **Ward:** Rogerstone

Type: Full (Major)

Expiry Date: 25th September 2020

Applicant: DSI Ltd

Site: Ye Olde Oak Stave Ruskin Avenue Rogerstone Newport South Wales

Proposal: **DEMOLITION OF EXISTING PUBLIC HOUSE AND CONSTRUCTION OF 21NO. FLATS WITHIN 3NO. BLOCKS AND ASSOCIATED INFRASTRUCTURE WORKS**

Recommendation: **GRANTED WITH CONDITIONS AND SUBJECT TO A s106 AGREEMENT WITH DELEGATED POWER TO REFUSE THE APPLICATION IF THE s106 AGREEMENT IS NOT SIGNED WITHIN 4 MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION**

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the construction of 21 no. flats which would be provided across three apartment blocks; and associated infrastructure works, including car parking.
- 1.2 The site includes the building, land and car park associated with the former Olde Oak Stave on Ruskin Avenue, Rogerstone. It is proposed to demolish the existing former pub building.
- 1.3 The application is brought before Planning Committee as it constitutes major development.

2. RELEVANT SITE HISTORY

03/1726	ERECTION OF TIMBER DECK TO PROVIDE BEER GARDEN WITH DISABLED RAMPED APPROACH TO CAR PARK	Granted
14/0336	DEVELOPMENT OF 10NO. APARTMENTS AND ASSOCIATED WORKS	Refused
16/0350	RETENTION OF FORMER SMOKING SHELTER TO OFFICE (A2) AND ASSOCIATED ALTERATIONS	Granted with conditions
19/0587	DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF 6NO. 4 BEDROOM RESIDENTIAL DWELLINGS, INCLUDING ACCESS, PARKING, LANDSCAPING, BIN STORGE AND ALL ASSOCIATED WORKS	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 **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 **SP13 Planning Obligations** enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.

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

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

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

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

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

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

Policy **H2 Housing Standards** promotes high quality design taking into consideration the whole life of the dwelling.

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

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

Policy **CF12 Protection of Existing Community Facilities** resists the loss of existing community buildings unless alternative provision is made or it is demonstrated that the building is surplus to the needs of the community.

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

3.2 The following Supplementary Planning Guidance are also relevant:

- Sustainable Travel
- Wildlife and Development
- New Dwellings
- Waste Storage and Collection
- Parking Standards
- Trees, Woodland, Hedgerows and Development Sites.

4. CONSULTATIONS

4.1 SOUTH WALES FIRE AND RESCUE: The developer should consider the need for the provision of:
a. adequate water supplies on the site for firefighting purposes; and
b. access for emergency firefighting appliances.

4.2 DWR CYMRU – WELSH WATER: We can confirm capacity exists within the public sewerage network in order to receive the foul only flows from the proposed development site. No problems are envisaged with the Wastewater Treatment Works for the treatment of domestic discharges from this site.

4.2.1 The development requires approval of Sustainable Drainage Systems (SuDS) features. It is recommended that the developer engage in consultation with the determining SuDS Approval Body (SAB). Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

4.2.2 The proposed development is crossed by a trunk/distribution watermain. Dwr Cymru Welsh Water has statutory powers to access our apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site. A 3m easement from the crown of the main in both directions should be observed and the ground cover above the main should not be changed.

4.3 REGIONAL AMBULANCE OFFICER: No response.

4.4 HEDDLU – GWENT POLICE: I have previously commented at the pre planning stage and am pleased to see that my comments concerning lack of surveillance have been addressed, and there are more habitable rooms now overlooking the parking areas, along with the introduction of CCTV. Ideally, communal parking should be avoided where ever possible as this can mean an increase in potential criminal damage to vehicles. Where this can not be avoided I would look to see a change in road surfaces to the entrance to the communal parking and clear signage indicating that it is private and for residents only.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (HIGHWAYS): Highways do not object to the application. The application site is found within a residential area, as such highway considerations are mainly given over the personal safety, sustainability of the site, access, parking and the vehicle trip impact.

Safety

5.1.1 The highway collision history of the area has been reviewed, the area in general is deemed to have a low incident record, therefore no highway improvements are proposed.

Sustainability

5.1.2 The area is well served by local public amenities and transport services that link the site to local and distant services, that can be reached by walking, cycling, public transport or a combination of these. To encourage cycle use, the applicant will provide secure cycle storage facilities. Overall the site is considered acceptable in sustainability terms.

Access

5.1.3 The site will use two access points for vehicles, these are off Squires Gate and the service road found to the north of the site. To ensure service vehicles can use these accesses, the applicant has provided swept path analysis diagrams, that show that a refuse vehicle can enter and leave the site in a forward gear. Both accesses are considered suitable for their intended uses.

Parking

5.1.4 Car parking provision for the proposed development will be provided in accordance with Newport City Council Parking Standards August 2015. A total of 53 spaces will be available on site. This will ensure that the development should not generate unacceptable on-street parking.

Cycle Parking Provision

5.1.5 Each accommodation block will have an area set aside to facilitate the secure covered storage of cycles. This will encourage residents to use a cycle as a means of transport.

Vehicle Trip Impact

5.1.6 The proposed development of 24 apartments will increase vehicular trips in the area. However, the impact the additional trips will have is not considered to be unacceptable.

Construction Phase

5.1.7 The construction phase will generate HGV trips, sights and sounds that are not generally linked to a residential area. It is recommended that a Construction Environmental Management Plan is put in place, that helps manage the impact of the construction and staff vehicles.

5.2 HEAD OF CITY SERVICES (ECOLOGY): I am pleased to see that the landscaping plan has been updated to include areas of wildflowers around the car park and seed mix suitable for wet areas to be used in swales.

5.2.1 To ensure that the landscape scheme is appropriately implemented and managed to deliver the benefits to biodiversity, a management plan is required to provide the details of how and when the

landscaping will be delivered and who is responsible for it. A pre-commencement condition would be suitable to secure this information.

- 5.2.2 The other biodiversity features to replace bird and bat opportunities have been transferred to the updated plan. If you are minded to grant this permission the drawing should be listed on the approved plans list and they should be secured with a condition.
- 5.3 HEAD OF CITY SERVICES (LANDSCAPING): The landscaping proposal demonstrates an attractive and welcoming scheme. Some minor points, require clarification:
1. Requested as part of pre-app landscape management plan has not been found. The management plan should cover the maintenance of the SUDS features including swales and rain gardens.
 2. Some proposed trees are located within small areas. It is likely that the sufficient tree root volume will not be provided. The use of underground crate system may be considered.
 3. Tree pit sections are required, to include method of support and as a minimum to show:
 - Tree planting in close proximity to hard surfaces and measures to protect surfaces from root damage.
 - Avenue tree planting.
 - Tree planting in soft landscape planting or grass.
 4. SUDS features and drainage design details should be in line with the landscape strategy. Can landscape architect check the drainage details?
 5. Proposed swale design detail from provided DRAINAGE CONSTRUCTION DETAILS show that the 300 mm deep mulch is used for the swale design. Can the type of growing medium for the swale be clarified?
 6. For the raingarden Type 1 and raised planter the depth of topsoil is proposed as 150 mm. Some concerns remain, as the depth may be insufficient for successful plant establishment. Are there any ways to increase the depth of topsoil?
- 5.4 HEAD OF CITY SERVICES (TREE OFFICER): No objections, subject to conditions to prevent the felling of any existing trees, the submission of a tree protection plan, the use of root protection barriers and the appointment of an arboriculturalist.
- 5.5 HEAD OF CITY SERVICES (DRAINAGE): No response.
- 5.6 HOUSING STRATEGY MANAGER: No response.
- 5.7 PLANNING CONTRIBUTIONS MANAGER: Sets out the contributions required in accordance with policies SP13 and H4; and the Affordable Housing and Planning Obligations SPG's.
- 5.8 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection subject to conditions requiring a Construction Environmental Management Plan, a restriction on the hours of construction and the investigation and remediation of any unforeseen contamination.
- 5.9 PLANNING POLICY: Overall, the proposal is supported in principle. The proposal provides residential development on a brownfield site within the urban boundary. This support is subject to the application meeting relevant policy requirements such as planning obligations, air quality, design, ecology and landscape matters.
- 5.9.1 In terms of the request for an updated report on the provision of an update to criterion ii) of policy CF12. This is a matter of satisfying a development plan policy and national policy is clear that planning's role is to look at the long term impacts from development, even in the light of the current situation. The previous application did have a relatively recent assessment which does satisfy policy.
- 5.9.2 The provision of passive infrastructure for electric vehicles is welcomed and is considered to aid in the mitigation of the impact of development.
- 5.10 HEAD OF CITY SERVICES (ACTIVE TRAVEL): Objection on the basis that provisions for cycling have not been fully considered. The site sits in the vicinity of Active Travel route NP-ROG-C007 (NCN Route 47) which utilises the Monmouthshire Brecon Canal tow path and provides numerous opportunities for local residents to carry out convenient off road cycle journeys to numerous locations along its route. Therefore, provisions to encourage cycling should be at the forefront of this development to ensure greater uptake of this sustainable means of transport.

- 5.10.1 Cycle Storage: Providing adequate storage space for cycles is an important part of encouraging sustainable travel. The provision of appropriate storage and parking will assist in getting more people to use a cycle to travel and help reduce car dependency. The provision for cycle storage does not appear to conform to the minimum standards set out in the Sustainable Travel SPG for both long and short stay requirements.
- 5.10.2 Each long-stay cycle parking space for staff and residents should be located in a safe, convenient and accessible place suitable for everyday long-stay use; long-stay parking should be secure, covered, well-lit and have CCTV where practical/ feasible (see Active Travel (Wales) Act 2013 – Design Guidance). Short-stay cycle parking should have step-free access and be located within 15 metres of the main site entrance, where possible.
- 5.10.3 Connecting Cycling Routes within and outside the development: Dedicated or shared use paths should be included within the development site to provide safe links away from vehicular routes. Good road safety is achieved by separating pedestrian and cycling routes from faster vehicle routes. Fear over personal safety can be major barrier to walking and cycling, and therefore lighting is an important influence on the public's perception of what constitutes a safe area.
- 5.10.4 Proposed new developments will need to take a holistic approach to consider how they link with their entire surrounding community and environment in a safe and sustainable way. Therefore improvements of connecting routes to Active Travel route NP-ROG-C007 outside the development site should also be considered to increase the likelihood of sustainable means of transport being adopted by residents. Sustainable travel routes should connect with one another seamlessly to form a comprehensive, permeable and logical network.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (87 properties), a site notice displayed and a press notice published in the South Wales Argus. 64 representations were received, along with a petition of 39 signatories. A further 7 representations were received following a reconsultation of amended plans in October 2020. All representations raised objections and the following concerns were raised:

Traffic, access and parking

- The development would result in increased traffic which would cause the following issues:
 - Increased queuing of traffic along Ruskin Avenue at the junction with Cefn Road. Exiting onto Cefn Road can take up to 15 minutes, once on High Cross Road waiting up to 20-25 minutes is common;
 - Morning and evening traffic can tail back to Mount Pleasant Junior School, which has the potential for young children to come into contact with queues of stationary traffic;
 - Queuing traffic on Squires Gate due to traffic waiting to exit the estate onto Ruskin Avenue;
 - Traffic calming measures on Ruskin Avenue are inadequate. The estate is also used as a short cut by vehicles travelling through the lane to and from Cwmbran. The Council should be considering improving the existing conditions rather than exacerbating them;
 - The unnamed road off Ruskin Avenue and the car park is used daily by parents, carers and childminders dropping off and picking children up from Mount Pleasant Primary School. The removal of this parking option will increase the risk and danger for young children attending school in a location where the existing road infrastructure cannot cope with the volume of traffic;
 - It will significantly increase traffic turning into Squires Gate as this is the proposed entrance to the main residents car parking area and it is already a dangerous turning onto Squires Gate from Ruskin Avenue. This is the case because of the road calming narrowing just above the turning onto Squires Gate. It causes confusion between cars because with cars waving to those letting them through the narrowing causes cars to think they are waving them out and they can turn;
 - The road leading into Squires Gate will effectively become a public car-park given the flat visitors with nowhere to park and the displaced parking for the school at school times. All these extra cars parking will cause bottlenecks in an already narrow road, increasing the likelihood of minor collisions between vehicles, creating significant road safety issues for children and increase pollution;
 - No 5. Squires Gate is located on the corner of the first cul-de-sac as you enter Squires Gate. As it's the first turning you come too, this quiet and safe space is already a popular turning circle for vehicles who enter Squires Gate by accident. Once these flats were

built, this safe space is highly likely to become a common turning circle and car-park for flat visitors. This will cause congestion, pollution and will be a significant safety issues for all the young children living in the area.

- Increased traffic will pose a serious risk to canal visitors, already, the number of vehicles entering and exiting Ruskin Avenue makes crossing the road to get from one side of the canal to the other hazardous. 2 near misses have been witnessed.
- Blocking Squires Gate for large vehicles such as fire engines.
- Insufficient parking provision will lead to overspilling onto surrounding streets, to the detriment and safe passage of existing residents.
- Insufficient visitor parking.
- The agents have conducted their own transport study – this should be a quantitative, independent study in light of the residents' concerns.
- The extrapolated anticipated 'extra' traffic burden / journeys is unreliable and inappropriate. It cannot be compared to the previous application for 6 dwellings and considered 'similar'.
- The entrance/exit on to Squires Gate is close to the junction of Squires Gate/Ruskin Avenue and does not give sufficient sight, distance and visibility.
- Queries why it is proposed to access the proposed development via Squires Gate, where there is a large unused and viable road with a turning off the main road at the top of the site. A far safer and more practical solution which, would make the entire development more palatable for those to the south side (i.e. residents of Squires Gate) would be to move the entrance to the new flats car park to the top road and not off Squires Gate.
- It is believed that the Planning, Design and Access Statement and Transport Statement both misstate the impact that the traffic generated by the development is likely to have in the vicinity and fail to consider the degree of conflict and combined effect which this traffic will create if the location and spacing of junctions remains as proposed.
- Queries the distances and walking time in the Transport Statement, stating that many of these involve steep hills and other obstructions.
- Queries the accuracy of the list of public transport services in the Transport Statement.
- Queries the accuracy of walking distances to public transport connections.
- The hazard of the Squires Gate access was less of a problem when it only served the former public house, as its use did not normally coincide with peak times.
- The DPAS and Transport Statement also fail to mention the conflict with the closeness of the adjacent access to residential development granted under Planning Application Ref. 18/1013. Only Planning Permission Ref. 19/0587 is mentioned in Transport Statement.
- The visibility splays of the two new accesses now proposed in Squires Gate overlap blocking emerging drivers' vision and further increases the hazard to vehicles turning into Squires Gate.
- The trip generation forecast summarised in Transport Statement appears to have made solely on generic data with none of the unique characteristics of Ruskin Avenue and the journey patterns of the residents of Mount Pleasant Estate recognised. With the presence of the school, there are many more journeys from the estate focussed around the peak hours and the forecast that a possible total 48 residents' cars parked on the new development will generate only 8 trips in the peak hour is hard to believe.
- There also appears to have been no modelling of the proliferation of the junctions and traffic calming measures in the vicinity and the impact that the additional conflict and congestion that will be caused.
- There would be an additional demand for public transport, especially rail, which is over-crowded at peak times.
- There is no regular bus service to Mount Pleasant.
- There have been a number of accidents regarding cats being run over from cars driving along Ruskin avenue, there are too many cars on the road here.

Residential amenity

- Referring to the previous permission for 6 detached dwellings, the flats would be much closer to 201 Ruskin Avenue, of a significantly larger and imposing scale.
- The flats will result in overlooking and in particular, Block 2 of the flats will overlook the rear garden of 201 Ruskin Avenue and invade privacy to a rear facing bedroom, study and dining room.
- Block 2 would result in a significant loss of light to the rear garden of 201 Ruskin Avenue.
- The elevation, height and proximity would result in overshadowing of 201 Ruskin Avenue.
- It is suggested that the 25-degree rule from any habitable window has not considered the habitable windows to the rear of 201 Ruskin Avenue - rather than just stating there are no habitable windows on the southern facade. The bedroom at the rear of 201 Ruskin Avenue is

the main bedroom and the subsequent invasion of privacy to both the living accommodation and garden has been overlooked and dismissed and will seriously impact on quality of life.

- A development of this size and density will pose a significant increase in noise nuisance from multi dwelling occupancy and vehicles.
- The former pub has not traded for many years and the earlier response from the agent that this development would pose no greater risk to noise nuisance is inappropriate and trite.
- Headlights would be directly aimed into lounge and bedroom windows of 1 Squires Gate.
- Afternoon sun will be blocked from houses close to the apartment blocks.
- The flats will see trouble experienced at the neighbouring Stevenson Court.
- There is a lack of bin storage.
- The proposal makes no provision for improvements or extra funding for local primary schools and surgeries which are already over subscribed.
- There is a lack of dedicated open space and playing amenities for local children. The proposal will exacerbate the situation significantly.
- The open space should be retained for everyone to enjoy and should be tidied.
- Construction disruption during the build, local residents must be protected. Access to the building site should not be from Squires Gate and appropriate support and compensation should be made to all local residents to facilitate cleaning cars, homes and other assets from the dust and disruption.
- Construction restrictions must include site traffic not entering via Squires Gate turning, working hours and restricted weekend activity. The south side of the plot should have a high panel fence, to completely reduce the noise, dust and most importantly child safety aspects during the development.
- Flats pose an unknown quality and quantity of social issues, affordable housing for people who are struggling with drug addictions, alcohol abuse and a multitude of psychiatric disorders. That's bad news for families and kids as it will be constant nuisance and bad influence on them while commuting back and forth from school as well as work.
- The Rogerstone area has no local parks for children, this space could serve as a safe play area for the local children.
- The air pollution in this area is right outside the Junior School, this must have a detrimental effect on children's breathing which could lead to them developing asthma.

Visual amenity

- Out of keeping with all other properties in the area, which are largely single dwellings, semi detached or detached in design.
- It will be visually overbearing.
- It would ruin the open nature of the area.

Other matters

- The PAC report has not detailed the proper details of the responders or the precise nature of their objections. Issues raised regarding errors and deficiencies in the Transport Assessment are not represented by any of the points listed; and those points listed fail to reflect the full nature of objections.
- The timing of this application during the restrictions imposed during the COVID crisis and subsequent lockdown has been extremely detrimental to local residents. It is appreciated that an extension was granted to the initial pre-consultation period, this was of little assistance since we have only recently been able to meet as a community and exchange views in person. Regular visits to the property by several contractors and workmen who were removing items from the interior of the existing premises were witnessed, making many non - essential journeys during the lockdown period. Similarly, photography professionals were engaged to visit site during the same period, as were representatives to assign the statutory notices. This was a flagrant breach of National Guidelines, and blatant disregard for safety at a time of unprecedented crisis. Our ability as a community to engage and respond has been seriously compromised by this timing.
- Queries the ownership of the boundary line adjacent to 201 Ruskin Avenue as it incorporate a public right of way, footpath and grass verge. This footpath is used every day by residents, families with pushchairs, wheelchairs and mobility scooters and young children. Users will have their pedestrian access seriously impeded if the grass verge is removed as it will undoubtedly lead to cars being parked extremely close to the footpath. This is completely at odds with recent government initiatives to prevent obstacles on footpaths, ensuring a safe right of way.
- There are a number of animals and birds living in the tress, bushes and grassland on the site, this wildlife is encouraged by the canal with animals living in green patches and gardens across the estate. Destroying their habitats to build flats damages the environment and deprives

residents of green views and a connection to nature that contributes to wellbeing and good mental health.

- The Olde Oak site was once occupied by a thriving Italian restaurant which was replaced by an enterprise which failed due to bad management. The original restaurant was a much-loved amenity for the local area and a Change of Use application should not have been granted. It would be better if the area was returned to the hospitality sector and provide much-needed jobs rather than housing.
- The previous application for flats was refused.
- There is no need for additional affordable housing in the area.
- Communal parking can mean an increase in potential criminal damage to vehicles.
- The environmental impacts should be re-assessed.
- There is no school capacity at Mount Pleasant school.
- Family housing is more welcome.
- There should be no felling of trees.
- The footpath in front of the public house and around the edge of the site, connecting to Nash Close should not be closed and remain open throughout the build and beyond.
- The address is shown as Ruskin Avenue, there is no road access from that street. That is misdirection.

6.2 COUNCILLOR CHRIS EVANS: Raises the following concerns/objections:

- Road safety.
- Increase in traffic turning into Squires Gate.
- Increase in number of cars turning into the estate.
- Increased pollution.
- Squires Gate will have increased numbers of cars parking on the road, increasing the likelihood of collisions and road safety issues.
- Accessing the site via the road at the top of the site is a safer and more practical solution, which would make the development a more palatable for those to the south side (i.e. residents of Squires Gate).
- The existing road infrastructure cannot support this highly populated area, let alone 24 new flats. Peak/rush hour queues can take 30 minutes to get to the M4 in the morning. The exit off Ruskin Avenue is accident black spot, which often blocks the Squires Gate entrance. In order to protect the residents of Ruskin Avenue, the council should be doing more to control traffic and reduce pollution, and must not make it worse by approving flats which brings more traffic and more congestion.
- There are very few visitor parking spaces.
- Parking at school time on Ruskin Avenue is already very busy and dangerous for school children. The school is located on a busy route and parents already regularly park on yellow lines with no intervention from council enforcement officers, even with the pub car park available just down the road. The pub car park is nearly full every school day with parents doing pick up and drop off, so where do all these cars go if this land is developed.
- There will be construction disruption during the build and as such, local residents must be protected. Appropriate support and compensation should be made to all local residents to facilitate cleaning cars, homes and other assets from the dust and disruption.
- Flats are not appropriate in this area. The Squires Gate estate is primarily comprised of detached and semi-detached housing. Ruskin Avenue does not need Flats. Rogerstone has multiple new developments and ample accommodation. 24 high density flats would overpower the landscape and stand out as 'out of place' in this established and settled community. Although not ideal, larger houses are the only residential development appropriate for this land.
- Rogerstone is already a massively overpopulated area with a number of developments (notably Jubilee Park and Carnegie Court). Jubilee Park alone provides ample new flats & smaller properties to purchase locally.
- There is already a huge strain on amenities and infrastructure to support the local community. Doctors surgeries are already at breaking point due to developments at Jubilee Park and Carnegie Court.
- The proposal lacks any environmental considerations, no solar panels, no integrated recycling facilities, no car charge points. It seems that little regard as been given as to environmental considerations.
- These dwellings will be far from 'affordable' for young people and families starting out. Rogerstone desperately needs affordable homes for our children and grandchildren to live in or return to be part of our community, not so called 'luxury' apartments. My community needs 'homes' and whilst there is no legal/planning obligation to build 'affordable'

homes or 'Green' environmentally friendly dwellings the lack of ambition on the part of the developer consolidates my concerns.

6.3 COUNCILLOR YVONNE FORSEY: Requests to be kept up to date with the application.

6.4 ROGERSTONE COMMUNITY COUNCIL: No response.

7. ASSESSMENT

7.1 The application site sits within the Mount Pleasant housing estate. It is accessed via Cefn Road to the south and via Groes Road/Cwm Lane to the north, which also links on to Bettws and Cwmbran. The site comprises a part single storey, part two storey building, which is surrounded by garden areas, in association with the use of the building, together with some hardstanding, open landscape areas and a large car park. The building is currently vacant but it has historically operated as a pub/restaurant. The building is accessed by an un-named road to the north of the site, which comes off Ruskin Avenue. To the south east of the site is the remaining portion of the car park. This is under different ownership and planning permission was recently granted for the construction of 3 no. houses on this land (reference 19/0709). The surrounding area is residential and properties lie adjacent to the north eastern, eastern and south eastern boundaries of the application site. Elsewhere residential properties lie opposite along Ruskin Avenue and along Squires Gate.

7.2 Planning history

7.2.1 Planning permission was refused for 10 no. flats within a two storey L shaped building in June 2014 (reference 14/0336). The building was located within the western portion of the car park and it did not involve the pub or its gardens. The design and scale of the building was considered acceptable however, the applicant failed to demonstrate that future occupiers would be protected from noise generated by the then operational pub, they failed to demonstrate that adequate parking provision could be provided for the pub as the proposal would remove all parking associated with the pub and they did not agree to the required planning contributions.

7.2.2 Planning permission was granted for 6 no. detached dwellings in November 2019 (reference 19/0587). The application site involved the pub and its gardens, it did not include the car park which is now included in this application. Access to the development was from the un-named road off Ruskin Avenue to the north.

7.3 The proposals

7.3.1 It is proposed to demolish the existing Old Oak Stave pub and construct three residential blocks to provide 21 no. two bedroom flats. The current proposal has been reduced down from 24 no. units which were originally proposed. This was to address concerns over scale and massing. The apartment blocks would be located on the land currently occupied by the pub building and its gardens. Block 1 would run parallel to Ruskin Avenue and would have a frontage onto this road. It would be set back around 9m from the road and would retain the open landscape area in between. Blocks 2 and 3 would face into the site, which would have a central communal landscaped garden area. The rear of block 2 would face towards the un-named road to the north and the rear of block 3 would face towards properties in Squires Gate.

7.3.2 The un-named road to the north would be retained and it would provide access to 10 parking spaces which would be positioned behind block 3. It is also proposed to remove some of the grass verge adjacent to the road to provide a further 4 parking spaces and 2 visitor spaces. There would also be one of two refuse stores located at the end of this road. The footpaths to the north of the site and south of the existing pub building would be retained and would continue to link Ruskin Avenue to Taliesen Close and beyond.

7.3.4 It is proposed to retain the existing car park in the south western portion of the site. It would be accessed from Squires Gate, using the existing access. It would be reconfigured to provide 30 parking spaces and 4 visitor spaces. Overall the development would provide 50 parking spaces, across the two car parking areas. The existing area of landscaping and trees in between the car park and Ruskin Avenue would be retained; and additional landscaping would be provided at the entrance to the car park, within the car park itself and along the boundary with the neighbouring development site (3 no. dwellings). A second refuse store would be located at the top of the car park, adjacent to Block 1.

7.3.5 The apartment blocks would be largely identical, except for some different positions of balconies. They would measure 25m in length and 11.5m in width (centrally, at their widest point). They would have a maximum ridge height 9.2m, with an eaves height of 5.2m. The blocks would have hipped roofs, with a gable feature at each end and two small dormers positioned centrally in the front elevation. To the rear there would be a central projection, which provides access to the apartments, via a central lobby. Roof lights are proposed in the front and rear roof slopes to serve accommodation within the roof space. The buildings would be finished in red brick and render. Blocks 1 and 2 would have a first floor balcony on each end of the building. Block 3 would differ slightly, with a first floor balcony proposed on the northern side elevation and the other balcony on the front elevation.

7.3.6 Each apartment block would provide 3 x 2 bedroom flats on the ground and first floor, with 1 x 2 bedroom flat in the roof space. The apartment blocks would be surrounded by landscaping, incorporating lawn areas, swales for sustainable drainage, pollen and nectar rich wild flowers, rain gardens in raised beds, shrub and tree planting. There would be footpaths around the blocks and a footpath which runs centrally through the communal gardens, leading to the south western parking area.

7.4 **The principle of development**

7.4.1 The site is previously developed land within the defined settlement boundary. The building is currently vacant and it is considered that the provision of residential development within the urban area is consistent with policy SP18 of the Newport Local Development Plan and its general brownfield strategy.

7.4.2 Policy CF12 states that proposals that would result in the loss or change of use of buildings currently used for community facilities will only be permitted if:
i) alternative provision can be made, of at least an equal benefit to the local population; or
ii) it can be demonstrated that the existing provision is surplus to the needs of the community.

7.4.3 The building has ceased to function as a public house and is currently vacant, following a temporary spell as a coffee shop. The applicant has submitted a planning statement which provides an address to the requirements of this policy. The applicant notes that Rogerstone benefits from a number of public houses, many of which are in close proximity to the application site, these include the Rising Sun, Tiny Rebel brewery bar and the Tredegar Arms. The applicant further notes that these establishments are within walking distance of the application site and are comparable in their role and function. It is agreed that this contributes towards the existing pub being surplus to the needs of the community.

7.4.4 The applicant also makes reference to the previous planning permission which also involved the demolition of the pub. That application included an independent commercial viability study (dated May 2019) which concluded that the building is poorly located for passing trade and there are better venues with better facilities in close proximity. The public house was loss-making prior to its closure and the viability study assessed the option of re-opening the building as a public house business. When considering the cost of refurbishment, staff costs, sales and operator profit, it concluded that the public house is commercially unviable now in and the long term.

7.4.5 The proximity and number of other public houses, along with the viability study were previously considered to adequately address policy CF12. There has been little change since the determination of the previous application and if anything, the Covid-19 pandemic has made the viability of vacant premises such as this even more precarious. The proposal is therefore considered to satisfy policy CF12.

7.5 **Highways and access**

7.5.1 *Traffic generation and impact on the highway network:* In accordance with the Parking Standards SPG the proposed development generates a requirement for 42 parking spaces (1 space per bedroom) and 5 visitor spaces (1 space per every 5 units). 50 parking spaces are proposed. This will generate vehicle trips and a demand on the local highway infrastructure. When assessing whether or not this demand would result in a harmful impact on the local highway infrastructure a number of factors need to be considered:

- the lawful fallback use of the site and its associated vehicle trips/demand on highway infrastructure;

- the likely level of vehicular trips generated by the proposed development, using recognised and industry standard trip generation data;
- the condition of the existing highway network.

7.5.2 The applicant has submitted a Transport Statement which, addresses these factors. The Transport Statement uses the TRICS database, which is a national system of trip generation analysis (the database contains over 7000 directional transport surveys at 110 types of development). The Councils Highways Officer has no objection to the methodology of data collection. The lawful use of the site is an A3 use (pub/restaurant); and this use could resume at any time. As such it is necessary to understand the vehicle trips associated with the former use, as the lawful fallback position. The TRICS analysis has used the Hotel, Food & Drink category of the data-base to derive a representative sample of sites of similar size and locational characteristics to that of the former pub/restaurant. The data considers the morning and evening peak hours (0800-0900 and 1700-1800), as well as a sum of daily movements. The Transport Statement, based on the TRICS analysis shows that the former use would generate 0 trips during the am peak hour, 49 trips during the pm peak hour and 677 daily movements.

7.5.3 The TRICS trip generation database has also been used to calculate the vehicular trips of the proposed development. The sites used to derive the data were selected based on; privately owned flats, Monday to Friday survey days and within the UK (excluding Greater London, NI and the Republic of Ireland). As with the former use the data considers the morning and evening peak hours, as well as daily movements. The Transport Statement shows that the proposed use would generate 6 trips during the am peak, 7 trips during the pm peak and 77 daily movements. A comparison of the existing and proposed trip generation is set out in the table below:

Table 1

Period	Former pub/restaurant			Proposal 21 no. flats			Difference		
	Arrive	Depart	Total	Arrive	Depart	Total	Arrive	Depart	Total
0800-0900	0	0	0	1	5	6	+1	+5	+6
1700-1800	31	18	49	5	2	7	-26	-16	-42
Daily	344	333	677	40	37	77	-304	-296	-600

7.5.4 It can be seen from the above table that the proposed development would result in less vehicle trips overall when compared with the existing use. There would be an increase in trips during the am peak hour however, an additional 6 trips is not considered to be significant.

7.5.5 There have been objections from the local community, with nearly all representations raising concerns over the impact of the proposal on the local highway infrastructure. There is concern that during the peak hours and in particular during the morning rush hour, there are long queues of vehicles attempting to leave Ruskin Avenue onto Cefn Road. These queues often back up to the Squires Gate entrance and further. There are concerns that additional vehicles will further exacerbate these queues, causing a highway safety issue and the potential for accidents. It is recognised that there are existing issues with queuing traffic during the peak periods. However, this is an existing problem and as it has been shown that the proposed development would only generate an additional 6 vehicle trips during the am peak period and 7 trips during the pm peak period, this is considered to not have a significant additional harmful impact on the existing highway network. The Councils Highways Officer has no objection to the additional vehicle trips nor the impact on the highway network.

7.5.6 *Parking and servicing:* As set out in paragraph 7.5.1 the parking and visitor parking demand generated by the proposed development is 47 spaces in total. As it is proposed to provide 50 spaces, including 6 visitor spaces, it is considered that sufficient parking is proposed. The Highways Officer also has no objection to the proposed parking provision.

7.5.7 Local residents have raised concern that the car park is currently used by parents dropping off and collecting children from Mount Pleasant primary school. Without this car park, vehicles would be displaced onto neighbouring streets to find on-street parking. Local residents are concerned that this will result in indiscriminate parking and a risk to highway and pedestrian safety, particularly children as they walk to school. Whilst these concerns are understood, parking within the existing car park is on an informal basis and could be stopped by the landowners at any point. It would therefore be unreasonable to refuse the proposed development on the basis of this informal arrangement.

- 7.5.8 In terms of servicing, swept path analysis has been provided to demonstrate that refuse vehicles can enter and leave the un-named road to the north in a forward gear. The Highways Officer is satisfied with this.
- 7.5.9 It is proposed to provide cycle storage adjacent to each apartment block. The Sustainable Travel Supplementary Planning Guidance requires 1 long stay cycle space per every 2 bedrooms and 1 short stay cycle space per every 20 bedrooms. Long stay spaces should be provided in secure, ideally covered structures and short stay spaces should be obvious and easily accessible. The demand created by the proposed development is 7 cycle spaces for each apartment block and 1 short stay space. It is considered that the cycle stores shown would be located in convenient, secure and accessible places. It is considered that the precise details to demonstrate that 7 cycles can be stored within the shelters can be secured through a condition.
- 7.5.10 Further concerns have been raised by local residents. A number of concerns relate to the visibility from the Squires Gate entrance/exit and its proximity to both the Squires Gate/Ruskin Avenue junction and the access to the adjacent approved development. Both of these accesses are existing and currently serve a car park. The existing car park provides (including that of the neighbouring development site) around 70 parking spaces. The proposed development and the neighbouring 3-house development would result in less parking provision and as such the vehicle movements would be less than could resume. The Highways Officer does not object to the continued use of the access and no improvements to visibility are considered necessary as the proposed development would result in fewer vehicle movements than could exist.
- 7.5.10 A neighbour representation has noted that the Squires Gate access was less of a problem when the site operated as a pub, as it did not coincide with peak hours. This observation is noted however, it remains to be considered that because vehicle trips are not predicted to be significant during the peak periods, there would not be significant worsening on the surrounding highway network.
- 7.5.11 Neighbour representations query why the un-named road to the north of the site cannot be used as the entrance to the development. If the use of the Squires Gate access was considered to be unacceptable then an alternative access might be pursued however, as this is not the case, then this option is not considered necessary.
- 7.5.12 Neighbour representations are made regarding the public transport sections within the submitted Transport Statement, in particular the accuracy of distances and walking times listed to public transport services. These comments are noted however, the sustainability of the site is not in question and no reductions in parking provision are being sought. It is possible that the Transport Statement does not accurately reflect terrain constraints when considering walking distances however, this is not material to the consideration of this application.

7.6 **Active Travel**

- 7.6.1 The Council's Active Travel Officer objects to the proposed development as they do not believe that cycling provision has been adequately considered. As set out in paragraph 7.5.9 it is considered that the cycle shelters proposed would be located in convenient, secure and accessible places. Each shelter would be adjacent to a footpath and would be a short distance from the canal Active Travel route (around 150m). Whilst dedicated or shared paths for pedestrians and cyclists are not provided within the development, there are very close connections with the existing highway network (which the applicant has no control over). It is not considered reasonable to require the applicant to make improvements to the existing highway network to improve cycle links to the canal given the scale of development and the short distance to the tow path. Overall it is considered that the proposed development meets the requirements of the Sustainable Travel SPG and would encourage the uptake of active travel.

7.7 **Existing and future residential amenity**

- 7.7.1 The New Dwelling SPG is the relevant guidance when assessing the impact of the proposed development on the residential amenity of neighbouring properties; and amenity provided for future occupiers. The main function of the SPG is to:
- i) To ensure that occupants of new dwellings have reasonable living conditions;
 - ii) To ensure that new dwellings do not deprive persons in existing dwellings of reasonable living conditions; and
 - iii) To protect the character and appearance of the natural and built environments.

- 7.7.2 *Reasonable living conditions for future occupiers:* the SPG sets internal space standards for flats and for a two bedroom flat with a communal entrance a floor space of 59 sqm is recommended. All of the proposed flats exceed this standard.
- 7.7.2 The SPG states that private or communal amenity space should be provided for flats. Private amenity space could be provided on balconies and where these are provided the desired space is 3 sqm. Six of the proposed flats would have balconies with a floor space of 2.8 sqm, which whilst marginally less than the desired standard, is considered acceptable.
- 7.7.3 The SPG recommends that for developments providing accommodation for between 41 and 60 people, communal amenity space at a ratio of 13 sqm per person should be provided. The submitted floor plans indicate that each bedroom could accommodate a double bed and as such each flat could potentially house up to 4 people (although, in reality this is unlikely). Excluding those flats with balconies the development could accommodate up to 60 people (15 flats x 4 people) and as such 780 sqm of communal amenity space is required (13 sqm x 60 people). The development would provide around 860 sqm of communal amenity space and this is considered acceptable.
- 7.7.4 Overall the proposed living conditions for future occupiers is considered acceptable.
- 7.7.5 *Protecting the living conditions of persons in existing dwellings – Internal Privacy:* To ensure the privacy of all residents are protected, suitable separation distance must exist between protected windows. The SPG sets a suitable separation distance of 21m, unless separated by permanent structures or evergreen trees protected by Tree Preservation Orders. A protected window is one which serves a habitable room. The SPG defines a habitable room as any room used or intended to be used for sleeping, living, cooking or eating purposes.
- 7.7.6 The nearest residential properties to the proposed development are 201 Ruskin Avenue, 1 and 2 Stevenson Court; and 80, 81 and 90 Squires Gate. The side elevation of Block 1 would face towards the side elevations of 201 Ruskin Avenue. It is proposed to have small living room and kitchen windows in the side elevation of Block 1, it is proposed to obscure glaze these windows. There are no windows in the side elevations of 201 Ruskin Avenue and it is considered that there would be no loss of privacy to this neighbour.
- 7.7.7 Elsewhere there are no infringements of the 21m window to window separation distance accept where there is a window in the side elevation of 80 Squires Gate. The rear of Block 2 would face towards this property and bedroom and bathroom windows are proposed in this elevation. However, given the likely internal configuration of 80 Squires Gate it is likely that this window serves a landing and not a habitable room. It is therefore considered that this neighbours' privacy would be protected.
- 7.7.8 Consideration is given to the relationship with the houses approved under planning permission 19/0709, which would be built adjacent to Block 3. There would be small living room and bathroom windows in this elevation, which are proposed to be obscure glazed. There are no windows proposed in the side elevation of the neighbouring approved development and therefore privacy would be protected.
- 7.7.9 *Protecting the living conditions of persons in existing dwellings – Privacy within gardens:* In order to prevent overlooking or perceived overlooking and overbearing effects developments must have a suitable separation distances between new high-level protected windows and adjacent back gardens. The SPG does not recommend what that distance should be for flats however, it does recommend for single dwellings that a back garden should extend at least 10m from the rear elevation high level window in order to protect the amenity within neighbouring gardens. It is considered that this principle is equally relevant to flats.
- 7.7.10 There are instances whereby the proposed development would have windows which face towards the private gardens of neighbouring properties however, in all cases except one, the distance between the windows and neighbouring gardens is in excess of 10m. The closest relationship is between the bedroom windows in the rear of Block 2 and the neighbouring rear garden of 201 Ruskin Avenue. These bedroom windows would align with the rear most part of the garden and are 14.3m away. Whilst the neighbour has raised concerns over this relationship, it is considered acceptable and in accordance with the SPG.

- 7.7.11 The exception occurs between the side elevation of Block 3 and the nearest house approved under planning permission 19/0709; and also between the rear garden of 90 Squires Gate. There is around 3m between Block 3 and the side boundary of the approved development and the rear boundary of 90 Squires Gate. There would be first floor living room and kitchen windows in this elevation however, they are proposed to be obscured glazed. This is considered to be adequate mitigation to protect the neighbouring privacy. A condition is recommended to ensure the windows remain as such in perpetuity. There are no permitted development rights for flats and as such it would not be permissible to insert additional openings without first gaining planning permission.
- 7.7.12 *Protecting the living conditions of persons in existing dwellings – Overbearing effect on neighbouring gardens:* the SPG states that consideration should be given to the characteristics of the affect garden(s) including its size, orientation, likely usage, topography, existing neighbouring development and screening vegetation when assessing overbearing effects.
- 7.7.13 The closest relationship between the proposed development and neighbouring properties is that between the recently approved three dwelling development to the south east and between 90 Squires Gate. Block 3 would be 3m from the nearest approved dwelling however, this is a side to side relationship and the approved house would have single storey projection closest to the shared boundary, which would screen the impact of the proposed development when using the rear garden. It is considered that this would prevent the building being overbearing upon that neighbouring garden.
- 7.7.14 The side elevation of Block 3 would also align with the rear garden of no. 90 Squires Gate, it would be around 3m from the rear boundary. The rear garden of 90 Squires Gate is long, measuring around 25m in length. It is considered that with a garden of this length and with a building with an eaves height of 5.2m and with a hipped roof, this relationship would not cause an overbearing impact on the neighbouring garden.
- 7.7.15 Elsewhere it is considered that there is sufficient distance between neighbouring gardens and the proposed development to ensure that the proposal would not be overbearing. The occupier of 201 Ruskin Avenue has raised concern that the proposal would be overbearing on their property. However, it is considered that given the scale of the development, which whilst slightly closer to this property, is only 700mm higher than the houses previously approved under permission 19/0587. The parts of the building closest to this property would be the lower parts of the roof slope. Block 1 would be 14.1m from 201 Ruskin Avenue and Block 2 would 14.3m away. The highest parts of the roofs would be a further 18m and 17.6m away respectively. It is considered that at these distances and given the scale of the buildings it would not represent overbearing development.
- 7.7.16 *Protecting the living conditions of persons in existing dwellings – loss of light:* the SPG sets out natural light tests for protected windows to ensure there is no unacceptable loss of light to those windows. It is considered that there would not be any neighbouring windows affected by a loss of light as a result of the proposed development. The occupier of 201 Ruskin Avenue considers that the applicant has not addressed the habitable room window to the rear of their property. It is noted that there are ground and first floor windows in the rear elevations of no. 201. These windows are orientated away from the proposed development and it is considered that there would not be a direct impact on these windows. There are ground floor windows in the side elevation of the rear projection. These windows would face towards the proposed development however, there is an existing boundary treatment in front of these windows which measures 2m in height. The applicant has also undertaken the 25 degree natural light test from the nearest point of this property and the test is passed. It is considered that light to the neighbouring property would not be adversely effected.
- 7.7.17 Overall it is considered that the proposed development would adequately protect existing residential amenity, in terms of light, privacy and overbearing impact.
- 7.7.18 The Head of Law and Regulation (Environmental Health) has no objection to the proposed development subject to conditions requiring the submission of a construction environmental management plan (CEMP), a requirement to investigate and remediate any unforeseen contamination and a restriction on the hours of construction. The CEMP and contamination conditions are recommended however, it is not considered necessary to restrict the hours of construction through a condition, as there are more effective controls of any nuisance generated through construction through the Control of Pollution Act 1974.

- 7.7.19 A neighbour representation has raised concern that the proposal will result in vehicle headlights shining directly into the lounge and bedroom windows of 1 Squires Gate. This property is located opposite the existing car park and this is a situation which could currently arise. It is considered that the proposal would not result in a worse impact.
- 7.7.20 Neighbours are concerned that the proposal would block neighbouring properties from afternoon sun. It is considered that the separation distances from neighbouring properties and the scale/height of the proposed buildings would prevent a material loss of light to the closest properties.
- 7.7.21 Local residents are also concerned about the disruption caused during the construction phase. The submission of a Construction Environmental Management Plan (to be agreed via a condition) would ensure that local residents are protected from construction activities.
- 7.7.22 A neighbour is also concerned that affordable housing will result in anti-social issues. The proposal would include the provision of 6 no. affordable units. These would be managed by a Registered Social Landlord. There is no evidence to suggest that well managed affordable units would could cause anti-social issues and this would not be grounds to refuse an application.

7.8 Design and visual amenity

- 7.8.1 It is considered that the existing buildings forming the Old Oak Stave do not have any significant design merit and in visual terms, they do not have sufficient quality to warrant their retention. The surrounding area is residential and buildings are two storeys in scale. There is a variety in design with a mix of materials.
- 7.8.2 The design of the proposed buildings has been amended in order to address concerns over the scale and massing of the proposal. It was originally proposed to provide 24 flats, with greater use of the roof space to provide accommodation. This resulted in taller buildings, with dormers in the front and rear elevations, including larger dormers in the front elevation. It was considered that this design was over-scaled and would be out of keeping with the two storey context of the surrounding area. The amended design has reduced the unit numbers, reduced the height of the apartment blocks, removed dormers from the rear elevations and reduced the number and size of dormers in the front elevations.
- 7.8.3 There have been objections from the local community who consider that flats are not appropriate for the area. Many residents refer to the acceptability of the previous planning permission for part of this site, which involved the provision of 6 no. detached houses. It is recognised that the scale of the previous permission was most comparable with that of the surrounding area however, it should be noted that whilst the massing of the buildings are greater, their overall height is not significantly higher than the approved 6 house scheme. The applicant has provided an overlay of the previous dwelling scheme (overlaid red), in order to demonstrate that the proposed scheme is of a comparable height to that previously approved, see below:



- 7.8.4 It is considered that the scale of the proposed flats is not significantly different to the previously approved scheme, nor the scale of the properties in the surrounding area. The buildings are largely

two storey in scale, with modest additions to the roof. It is recognised that the massing of the building is greater than the housing scheme, as there are no gaps between the building. However, it is considered that the use of render either side of the brick work allows the elevation to be broken up, thereby reducing the visual impact of its massing.

- 7.8.5 When considering the massing of the building, it is also worth noting that, whilst planning permission was refused for the 14/0336 scheme (10 no. apartments, within an L shaped building, sited on the car park), which was brought before planning committee in August 2014. The reasons for refusal did not relate to the design, scale or massing of the building. The applicant has also provided an overlay of that previous design (overlaid in red), in order to demonstrate that a building of greater massing was previously considered acceptable (see below). Whilst the height is less than currently proposed, it is not significantly different.



- 7.8.6 It is also recognised that the footprint of the buildings is greater than that of the approved housing scheme. However, as set out in paragraphs 7.7.1 to 7.7.18 the proposed development is not considered to be harmful to existing residents in terms of privacy, light or overbearing. The scale of the proposed buildings is considered to be comparable to the previous consent and the context of the surrounding. Overall it is considered that the design, layout, scale and massing of the proposed building would not be visually harmful, nor would it result in a form of development which appears out of character or at odds with the surrounding area.
- 7.8.7 The proposal involves the provision of a large expanse of car park. Good design would normally see parking provision integrated within the development in order to avoid such an emphasis on car parking areas. Whilst this isn't an ideal layout, it is considered that it would not result in a visual harm. It is proposed to retain the significant vegetation and trees, which provide screening along Ruskin Avenue. It is also proposed to provide additional planting at the entrance and within the car park, this would help to break up the hardstanding areas. Furthermore, given its current use as a car park, with much less landscape treatment, it is considered that the continued use of this car park would not be visually worse than that which currently exists.

7.9 Air Quality

- 7.9.1 The application site does not lie within an Air Quality Management Area (AQMA). The nearest area begins at the Ruskin Avenue/Cefn Road junction and covers a stretch of the road in an easterly direction. Neighbour representations raise concerns over additional air pollution as a result of increased traffic movements. The Air Quality SPG does not require an Air Quality Impact Assessment to be provided given the location of the site outside of the AQMA or a buffer zone and not adjacent to an A road. However, the Air Quality SPG does state that "it is important to recognise that even if a proposed development is not located directly within an AQMA, it could still have an impact on air quality. Increases in air pollution, due to road traffic, can impact on human health and in order to manage this risk all developments must be designed so as not to make matters worse through its construction and implementation".
- 7.9.2 As set out in paragraphs 7.5.1 to 7.5.5, the Transport Statement indicates that there would be a marginal increase in traffic movements during the am peak period, but overall the number of vehicle trips is shown to be significantly less than its fall back position. It is considered that the impact of the proposed development would not be worse than that which could exist. Furthermore, measures to reduce the impact on air quality during the construction phase would be secured through a Construction Environmental Management Plan (via a condition). Mitigation measures in the form of infrastructure to provide electric vehicle charging points would also be secured through a condition, in order to improve air quality.

7.10 Noise

- 7.10.1 The Council's Environmental Health Officer has no concerns regarding noise from or to the proposed development. The surrounding area is residential and noise sources are not considered to require mitigation. Any noise generated during construction can be mitigated through measures secured through a Construction Environmental Management Plan (via a condition).
- 7.10.2 Neighbour representations raise concerns that the development would pose a significant increase in noise nuisance from multi dwelling occupancy and vehicles. The existing use of the site is as a pub/restaurant with a large car park. This use could resume at any time. It is considered that the provision of residential development, in a residential area would not result in unacceptable noise nuisance in its own right, nor would it be any worse than the existing use. Noise generated by vehicle movements is also considered to be no worse than the existing use.

7.11 Ecology

- 7.11.1 A Preliminary Ecological Assessment and bat survey have been submitted. They conclude that the site has low ecological value and there is no evidence of bat roosts. The Councils Ecological Officer is satisfied with the surveys and their conclusions.
- 7.11.2 The applicant proposes the following ecological mitigation and enhancements across the site:
- bat bricks integrated into the gable ends of each apartment block;
 - swift bird bricks integrated into the rear elevations of each apartment block;
 - Igloo hedgehog homes;
 - External wall lights to be low wattage from dusk till dawn;
 - Pollen and nectar rich wild flowers as part of the landscaping scheme.
- 7.11.3 The Councils Ecology Officer is satisfied with the proposed ecological and mitigation enhancements. Conditions are recommended requiring the implementation of the ecological enhancement plan (plans condition) and the submission of a landscape method statement and management plan.

7.12 Landscaping

- 7.12.1 It is proposed to provide a landscaped communal garden which would sit centrally within the proposed development. The garden would have a circular walk way through it, leading from the car park to the apartment blocks. Landscaping is also proposed to the sides, front and rears of the apartment blocks. This is in the form of lawn areas, hedges and shrubs. Hedges and shrubs are proposed within the car park and along the shared boundary with the neighbouring development. Wildflower planting is proposed within the existing landscape area in between the car park and Ruskin Avenue. New trees are proposed within the car park, communal garden and within the grass verge adjacent to the un-named road.
- 7.12.2 The Councils Landscape Officer considers the landscape proposals to be an attractive and welcoming scheme. The Officer requests the submission of a landscape management plan, which can be secured through a condition. The Officer requested details of tree pits sections, the applicant has provided these details, no further comments are made by the Landscape Officer. The Officer also queries whether the depth of top soil for the rain garden raised planter could be increased to ensure successful plant establishment. This information has not been provided and as such it is recommended to be secured through a condition.
- 7.12.3 The Landscape Officer also raises queries in relation to the drainage design and SuDS features. The Officer considers that these should be in line with the landscape strategy. The scale of this development means that separate sustainable drainage consent would be required from the Council's Sustainable Drainage Approving Body (SAB) before any development could start. It is for the applicant to ensure that the proposed development, including its landscape scheme is in line with the drainage strategy. If amendments are required to the landscape scheme as a result of the drainage approval process then additional planning consents may be required.

7.13 Trees

- 7.13.1 A tree survey, categorisation and constraints report has been submitted. The report recommends the on-going management of trees on site. It does recommend the felling of one tree, a Red Maple, which is located adjacent to the boundary wall of Stevenson Court. This tree is assessed as having significant crown dieback, with a short life expectancy. The Councils Tree Officer has no objection to the proposals subject to conditions to prevent the felling of any other existing trees, the submission

of a tree protection plan, the use of root protection barriers and the appointment of an arboriculturalist.

7.14 Waste and recycling

7.14.1 In accordance with the Waste Storage and Collection SPG for a development with this number of flats the following waste provision is required:

- 4 x 660l bins for plastic, paper, card and cans
- 2 x 360l bins for glass
- 1 x 240l bin for food
- 120l per flat for landfill waste = 2,520l

7.14.2 It is proposed to provide two enclosed timber refuse stores, they would provide enough space for 6 x 660l bins, 3 x 360l bins, 3 x 240l bins and 3 x 1100l bins for landfill waste (3,300 litres). One refuse storage enclosure would be located at the end of the un-named road and swept path analysis of a refuse vehicle demonstrates that a vehicle can access the store and turn within the site. The other store would be located adjacent to Block 1, where a refuse vehicle can collect from Ruskin Avenue.

7.14.3 It is considered that the refuse storage areas would be in a convenient location for future residents and can be accessed by refuse vehicles. They would provide more storage than the requirements of the SPG, this is considered acceptable.

7.15.1 Drainage

7.15.2 Welsh Water confirm that there is capacity within the public sewerage network for foul discharges only. Separate consent is required for the sustainable drainage system and Welsh Water are a statutory consultee in that process. Given that there is a separate consenting regime for surface water it is not considered necessary to require any further details.

7.16 Security

7.16.1 The Gwent Police Architectural Liaison previously commented on the scheme during the public pre-application consultation (PAC). The Officer welcomes measures to increase the amount of habitable rooms overlooking the parking areas, along with the use of CCTV. To limit the potential for criminal damage within the car park it is recommended that there is a change in the road surfaces to the entrance and signage indicating that it is private and for residents only. These additional security measures can be secured through a condition.

7.17.1 Section 106 Planning Obligation matters

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

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
Regeneration , Investment and Housing	To provide an on-site provision of affordable housing or a commuted sum.	30% affordable housing units (6 x 2 bed units) to be transferred to a Registered Social Landlord (zoned to develop in Newport) at a price of 50% of ACG in accordance with policy H4 of the LDP.	Agreed	No
Education	For the provision and/or improvement of facilities at Bassaleg Comprehensive School	A contribution of £29,741	£29, 741 agreed	No

Leisure	To contribute towards the deficit of “Equipped”, “Informal” and “Formal” play in the Rogerstone ward.	£65,182 to upgrade and maintain off-site play at Cefn Wood.	£65, 182 agreed	No
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7.17.2 The applicant has agreed to the Head of Terms as set out above. The proposal would deliver a total of £94,923 in contributions towards education and leisure provision. Six of the flats would also be transferred to a Registered Social Landlord for affordable housing.

7.17.3 Neighbour representations raise concern that there is already insufficient infrastructure in the Rogerstone ward and the local primary school is already at capacity. Many representations raise concern that the local doctors and dentist are also at capacity or have long waiting times for appointments. The proposed development has been assessed against the Planning Obligations SPG which sets the triggers and formulas for deriving contributions towards education, leisure and affordable housing. All of the above contributions are accordance with those triggers and formula. The contributions delivered would be spent on the local secondary school and local leisure facilities. It is considered that these contributions ensure that a sustainable development is provided. The scale and type of development means that no contribution is required for primary school education.

7.17.4 The provision of doctors surgeries and dentist is not a matter that the applicant nor the Council can control.

7.18 Other matters

7.18.2 There have been a number of concerns raised by local residents, the majority of which have been addressed in the proceeding paragraphs. The following paragraphs address those issues not covered above.

7.18.3 *The Pre Application Consultation report (PAC) not addressing the full nature of objections:* applicants are required to produce a PAC report with an application having undertaken that process. The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 is the relevant legislation to Pre Application Consultations. Article 4 states that applicants are required to include a summary of all issues raised in response to the statutory publicity and confirm whether the issues raised have been addressed. In response to the concern raised by the resident the applicant states that whilst they did summarise the comments raised by consultees and they consider that they addressed the highways objections in a general sense; they acknowledge that the PAC report could have been more specific in respect of specific comments. The applicant has updated the report. Neighbour re-consultations were undertaken following the submission of amended/updated information. No further comments were made in relation to the PAC. It is considered that PAC report meets the statutory requirements.

7.18.4 *The timing of the application during the Covid-19 restrictions has hampered the community to engage and respond with the application:* At the time this application was submitted the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 allowed people to leave home with a reasonable excuse, one of these being to travel for the purposes of work where it is not reasonably practicable for that person to work from where they are living. Welsh Government advice was that site notices could be displayed whilst complying with the Regulations. The Regulations apply to planning consultants, architects and other agents in the same way as planning officers. Welsh Government also advised that where pre application community consultation is required in advance of a planning application for major development, it is necessary for a site notice to be displayed. This aspect of the pre application process cannot be undertaken from home and is therefore a reasonable excuse to travel to the site.

7.18.5 The Planning Applications (Temporary Modifications and Disapplication) (Wales) (Coronavirus) Order 2020 (“the Amendment Order”) came into force on the 19 May 2020. The requirement to make information available for inspection at a location in the vicinity of the proposed development was temporarily replaced. Instead developers were required to make all the information available on a website and send hard copies of the documents to any person who requests it. Site notices were required to be amended to reflect these changes. The applicant duly undertook these changes and restarted the consultation period with the community.

- 7.18.6 It is considered that the applicant acted in accordance with the Regulations at that time and in line with the advice from Welsh Government, who deemed these measures appropriate to keep the community involved in pre application consultation.
- 7.18.7 *Boundary ownership:* The applicant has signed Certificate A on the application form, which is a legal declaration that the applicant is the owner of all the land within the application site (red line). The Council may have highway rights over land which they do not own and as such they would undertake maintenance of that land.
- 7.18.8 *Users of the footpath would be impeded if the grass verge (adjacent to the un-named road) is removed:* the proposed parking spaces would not encroach onto the existing footpath, which would be retained. This arrangement is considered to be no different to a footpath alongside a road.
- 7.18.9 *The address is shown as Ruskin Avenue, there is no road access from that street, that is misdirection:* notwithstanding that address points are not a material planning consideration, it is considered that the planning application submission, including the plans make it clear where the proposed development would be located.
- 7.18.10 *The proposal will lead to the devaluation of property:* the impact on property values is not a material planning consideration.

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.

8.5 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.

8.6 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.

9. CONCLUSION

9.1 The proposed development is considered to be acceptable and in accordance with policies SP1, SP2, SP9, SP12, SP13, SP18, GP2, GP4, GP5, GP6, GP7, H2, H4, T4, CF12 and W3 of the Newport Local Development Plan. It is considered that the proposed development would not have a harmful impact on existing or future residential amenity, highway safety, the character and appearance of the surrounding area or on protected species. It is considered that the proposal would deliver sustainable development through the on-site provision of affordable housing, contributions towards education and leisure provisions; and ecological enhancements would be delivered across the site. It is recommended that planning permission is granted subject to conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS AND SUBJECT TO A s106 AGREEMENT WITH DELEGATED POWER TO REFUSE THE APPLICATION IF THE s106 AGREEMENT IS NOT SIGNED WITHIN 4 MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION

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

1478_P01, 1478_P02 rev A, 1478_P03, 1478_P04, 1478_P05 rev K, 1478_P06 rev C, 1478_P07 rec C, 1478_P08 rev B, 1478_P09 rev F, 1478_P10 rev C, 1478_P11 rev D, 1478_P12 rev C, 1478_P13 rev C, 1478_P14 rev C (Ecological Enhancements), 1478_P15, 1478_P19 rev F, 1478_P20 rev B, 1478_P21 rev B, 1478_P22 rev A, 1478_P23 rev B, 1478_P27 rev B, 1478_P28 rev B, 1478_P29 rev B, 1478_P30

DLA-1993-L-01-rev 08
DLA-1993-L-02-rev 12
DLA-1993-L-03-rev 02
DLA-1993-L-04-rev 01
DLA-1993-RPT-LMP-02-rev 1

Tree Survey, Categorisation and Constraints Report (Steve Ambler & Sons, March 2020)
Planning, Design and Access Statement (Asbri Planning, July 2020)
PAC Report rev A (Asbri Planning, July 2020)
Transport Statement (Asbri Transport, October 2020)
Preliminary Ecological Assessment (Ecosupport, April 2019).
Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

Pre- commencement conditions

02 No development, to include demolition and site preparation, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- a) dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- b) wheel wash facilities;
- c) noise mitigation measures;
- d) measures to minimise the impact on air quality;
- e) details of temporary lighting;
- f) details of enclosure of working areas;
- g) details of contractor parking areas and construction site accesses;
- h) pollution prevention and contingency measures.

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

Reason: In the interests of amenities and highway/pedestrian safety; and in accordance with policies GP2, GP4 and GP7.

03 No development, other than demolition, shall commence on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

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

04 Prior to the commencement of development a landscape method statement and management plan shall be submitted to, and be approved in writing by the local planning authority. The content of the plan shall detail how the Soft Landscape Scheme (drawing reference DLA-1993-L-02-Rev12) will be implemented and maintained, to include at minimum:

- a) Description and evaluation of features to be provided and managed
- b) Details of methods to create wildflower areas and initial aftercare to ensure establishment
- c) Prescriptions for ongoing management actions including a work plan capable of being rolled forward
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure the development provides ecological net benefit as required in Planning Policy Wales Edition 10 and in accordance with policy GP5.

05 Prior to the commencement of development details of the rain garden raised planter shall be submitted to and approved in writing by the Local Planning Authority. The details shall include cross sections to show the depth of top soil. The rain garden raised planter shall be implemented in accordance with the approved details prior to the occupation of the approved development.

Reason: To ensure successful plant establishment and to provide a sustainable landscaping scheme, in accordance with policy GP5.

06 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction 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. All weather notices on Heras fencing, 1 per 10 panels, stating ' CONSTRUCTION EXCUSION ZONE NO ACCESS' shall be erected. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned.

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

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

- (a) Supervision and monitoring of the approved Tree Protection Plan;
- (b) Once the barrier fencing is erected, the approved Arboricultural Consultant must inspect and "sign off" in writing and submit a copy of this to the Local Planning Authority stating that the protective fencing is in the correct location and is fit for purpose- this will be the first watching brief .
- (c) Supervision and monitoring of the approved tree felling and pruning works;
- (d) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (e) Oversee working within any Root Protection Area;
- (f) Reporting to the Local Planning Authority;
- (g) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

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

Pre –occupation conditions

08 Prior to the occupation of the development hereby approved a scheme for electric vehicle charging points serving the parking spaces shall be submitted to and approved in writing by the

Local Planning Authority. The scheme shall be implemented prior to the occupation of the development and the charging points shall be retained thereafter in perpetuity.

Reason: In the interests of sustainability and air quality; and in accordance with policies SP1 and GP7.

09 Prior to the occupation of the development hereby approved the parking areas shown on drawing 1478_P05 rev K shall be implemented and available for use thereafter. The parking areas shall be retained in accordance with the approved details.

Reason: To ensure adequate parking is provided on site in the interests of highways safety and in accordance with policies GP4 and T4.

10 Notwithstanding the approved plans, prior to the occupation of the development hereby approved details of the cycle shelters shall be submitted to and approved in writing by the Local Planning Authority. The shelters shall include provision for the storage of a minimum of 7 cycles. The shelters shall be provided in accordance with the approved plans prior to the occupation of the development and retained thereafter.

Reason: To encourage the use of sustainable modes of transport, in accordance with policies SP1 and GP4.

11 Prior to the occupation of the development hereby approved the obscured glazing as shown in drawings 1478_P10 rev C, 1478_P11 rev D and 1478_P28 rev B shall be implemented and retained thereafter in perpetuity.

Reason: In the interests of residential amenity, in accordance with policy GP2.

12 Prior to the occupation of the development hereby permitted the Ecological Enhancement Plan (Drawing Ref 1478_P14 Rev C) shall be implemented in full and shall be retained as such in perpetuity.

Reason: To ensure the development provides ecological net benefit as required in Planning Policy Wales Edition 10, in accordance with policy GP5.

13 Prior to the commencement of development details of car park security measures shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a change in the road surface at the entrance to the car park (Squires Gate entrance) and signage to indicate the car park is private and for residents only. The security measures shall be implemented prior to the occupation of the development and retained thereafter.

Reason: In the interests of security and in accordance with policy GP2.

14 Prior to the occupation of the development hereby approved the refuse storage areas as detailed in drawing 1478_P15 shall be fully implemented and retained thereafter.

Reason: In the interests of residential amenity, in accordance with policy GP2.

General conditions

15 Other than the Red Maple detailed in the Tree Survey, Categorisation and Constraints Report (Steve Ambler & Sons) no existing trees shall be felled, topped or lopped, and no existing hedges shall be removed.

Reason: To protect existing landscape features on the site, in accordance with policy GP5.

16 Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed, in accordance with policy GP7.

17 No development, to include demolition, shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been implemented in accordance with the Tree

Protection Plan submitted by Steve Ambler and sons 31 March 2020. 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.

18 The scheme of landscaping hereby approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the development. Thereafter the trees and shrubs shall be maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purpose of this condition, a full planting season shall mean the period from October to April.

Reason: To secure the satisfactory implementation of the proposal, in accordance with policy GP5.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP9, SP12, SP13, SP18, GP2, GP4, GP5, GP6, GP7, H2, H4, T4, CF12 and W3 were relevant to the determination of this application.

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

03 The proposed development is crossed by a trunk/distribution watermain. Dwr Cymru Welsh Water has statutory powers to access our apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site. A 3m easement from the crown of the main in both directions should be observed and the ground cover above the main should not be changed.

2.

APPLICATION DETAILS

No: 20/0734 **Ward:** Stow Hill

Type: Full Application

Expiry Date: 4th December 2020

Applicant: Loftco

Site: *Newport Provisions Market High Street Newport South Wales NP20 1DD*

Proposal: *REFURBISHMENT OF NEWPORT MARKET TO COMPRISE MARKET STALLS, FOOD AND DRINK COURT AND FLEXIBLE WORKSPACE AND RECONFIGURATION OF EXISTING BUILDING TO ACCOMMODATE RESIDENTIAL FLATS AND LEISURE USES, SERVICING ARRANGEMENTS AND ASSOCIATED WORKS*

Recommendation: **GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED POWER TO REFUSE THE APPLICATION IF THE S106 AGREEMENT IS NOT SIGNED WITHIN 6 MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION**

1. INTRODUCTION

- 1.1 This is a full planning application to convert the existing market to a mixed use commercial (food court and Market stalls), flexible office uses on the Mezzanine floor as well as the conversion of the upper floors to include an additional 42 affordable residential units. The application is being considered at Planning Committee as the proposal is considered to be major and part of the site is owned by Newport City Council.
- 1.2 This application has been made in combination with planning application reference 20/0735 for the internal and external works to the Listed building. The Listed Building Consent will consider the impact of the works on the special qualities of the listing as well as wildlife conservation. The following designations apply to the application site: -
- Urban settlement boundary
 - River Usk- Special Landscape Area (SLA) - 100m east of the site
 - Grade II Listed Building- Newport Provisions Market
 - City Centre Conservation Area
 - Archaeologically sensitive Area
 - Parking Zone 1
 - Flood Zone B
- 1.2 The main issues to consider in this application is the intensification and change of use in this location, the visual impact of the proposed changes on the site and the setting of the Listed building as well as the visual amenities of the City Centre Conservation Area, impact upon neighbouring buildings, any increase in traffic, deliveries/servicing and parking, impact upon protected sites, species and habitats, drainage and archaeology.
- 1.3 In addition to the plans/drawings, the application has been supported by a PAC report, Design and Access Statement, Drainage Strategy, Ecological Impact Assessment, Sustainability Technical Note, Planning Statement and Cover letter.
- 1.4 5 representations have been received from members of the public. The Officers recommendation for the scheme is to grant the consent with conditions subject to a S106 agreement being signed within 6 months of any resolution to grant planning permission.

2. RELEVANT SITE HISTORY

01/1433	New glazed canopy and entrance doors to high street entrance including removal of existing canopy (in part)	GRANTED	
02/0828	Replacement of roof glazing and market gable end curtain wall glazing	GRANTED CONDITIONS	WITH
02/1174	External alterations	GRANTED CONDITIONS	WITH
11/1305	Change of use of 22, 23, 24 and 25 high street to create 1no. A3 unit, the creation of terraces and seating on high street, the Redesign, enlargement and relocation of market entrance, the Creation of 2no. A3 units and 1no. A1 unit south of new market entrance, new windows and doors in high street elevation and the creation of a window in griffin street elevation	GRANTED CONDITIONS	WITH
11/1307	Conservation area consent for demolition of canopy on high Street elevation	GRANTED	
12/0863	Partial discharge of condition 1 (external doors, windows and gates) of planning permission 11/1305 for change of use of 22, 23, 24 and 25 high street to create 1no. a3 unit, the creation of terraces and seating on high street, the redesign, enlargement and relocation of market entrance, the creation of 2no. a3 units and 1no. a1 unit south of new market entrance, new windows and doors in high street elevation and the creation of a window in griffin street elevation	APPROVED	
13/0477	Partial discharge of condition 3 (fume extraction details) relating to planning permission 11/1305 for the change of use of 22, 23, 24 and 25 high street to create 1 no. a3 unit, the creation of terraces and seating on high street, the redesign, enlargement and relocation of market entrance, the creation of 2 no. a3 units and 1 no. a1 unit south of new market entrance, new windows and doors in high street elevation and the creation of a window in griffin street elevation	APPROVED	

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
SP2 Health
SP3 Flood Risk
SP9 Conservation of the Natural, Historic and Built Environment
SP18 Urban Regeneration

3.1.2 General Policies

GP1– Climate Change
GP2– General Amenity
GP3– Service Infrastructure
GP4– Highways and Accessibility
GP5– Natural Environment
GP6– Quality of Design
GP7– Environmental Protection and Public Health

3.1.3 Environment/ Countryside Protection

CE1 Routeways, Corridors and Gateways
CE2 Waterfront Development
CE3- Environmental Spaces and Corridors

3.1.4 The Historic Environment

CE6- Archaeology
CE7- Conservation Areas

3.1.5 The Natural Environment

CE9 Coastal Zone

3.1.6 Employment

EM3 Alternative uses of Employment Land

3.1.6 Transport

T4 Parking
T7 Public Rights of Way and New Development
T8 All Wales Coast Path

3.1.8 Retailing and the City Centre

R1- City Centre Schemes
R3- Non-Retail Uses in Other City Centre Secondary Shopping Areas
R4- Non-Retail Uses in Other City Centre Shopping Areas

3.1.9 Community Facilities and Other Infrastructure

CF4- Riverfront Access
CF8- Tourism

3.1.10 Waste

W3- Provision for Waste Facilities in Development

3.2 **PLANNING POLICY WALES:**

- 3.2.1 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.
- 3.2.2 The following chapters and sections are of particular relevance in the assessment of this planning application :

Chapter 4- Active Travel and Social Places

Sustainable Transport

4.1.8 The Welsh Government is committed to reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Delivering this objective will make an important contribution to decarbonisation, improving air quality, increasing physical activity, improving the health of the nation and realising the goals of the Well-being of Future Generations Act.

4.1.9 The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which:

- Are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;
- Are designed in a way which integrates them with existing land uses and neighbourhoods; and
- Make it possible for all short journeys within and beyond the development to be easily made by walking and cycling.

4.1.12 The sustainable transport hierarchy should be used to reduce the need to travel, prevent car-dependent developments in unsustainable locations, and support the delivery of schemes located, designed and supported by infrastructure which prioritises access and movement by active and sustainable transport.

4.1.13 The sustainable transport hierarchy must be a key principle in the preparation of development plans, including site allocations, and when considering and determining planning applications.

4.1.14 Careful consideration needs to be given to the allocation of new sites, which are likely to generate significant levels of movement in development plans, to ensure that access provisions which promote walking and cycling, as well as by public transport, are included from the outset and that any implications associated with airborne pollution can be addressed.

4.1.15 It is recognised that there will be other transport considerations, such as provision for service vehicles in the design of schemes, and further measures to support sustainable transport, such as the decarbonisation of public transport and multi-modal travel.

Mixed Uses and Primary and Secondary Shopping Areas

4.3.30 Although retailing (A1) uses should underpin retail and commercial centres, it is only one of the factors which contribute towards their vibrancy.

4.3.31 Primary areas are typically characterised by a high proportion of A1 retail uses, and their designation requires an understanding of the existing distribution of uses in a centre together with careful consideration of a centre's role and how it relates to the retail strategy for the area. Secondary areas typically contain mixed uses, for example shops, cafes and restaurants, financial establishments and other services and community facilities.

4.3.32 Policies should encourage a diversity of uses in centres. Planning authorities should identify which retail and commercial centres in their development plans have primary and secondary shopping areas, and show these on the proposals map.

4.3.33 Vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre's well-being and success, whilst also reducing the need to travel. Development plans should include policies describing the types of use that are likely to be acceptable in primary and secondary areas.

Chapter 5 - Productive and Enterprising Places

- Economic Infrastructure (electronic communications, transportation Infrastructure, economic development, tourism and the Rural Economy)
- Energy (reduce energy demand and use of energy efficiency, renewable and low carbon energy, energy minerals)
- Making Best Use of Material Resources and Promoting the Circular Economy (design choices to prevent waste, sustainable waste Management Facilities and Minerals)

Economic Development

5.4.1 For planning purposes the Welsh Government defines economic development as the development of land and buildings for activities that generate sustainable long term prosperity, jobs and incomes. The planning system should ensure that the growth of output and employment in Wales as a whole is not constrained by a shortage of land for economic uses.

5.4.2 Economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services. The construction, energy, minerals, waste and telecommunications sectors are also essential to the economy and are sensitive to planning policy.

5.4.4 Wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration. Sites identified for employment use in a development plan should be protected from inappropriate development.

Tourism

5.5.1 Tourism involves a wide range of activities, facilities and types of development and is vital to economic prosperity and job creation in many parts of Wales. Tourism can be a catalyst for regeneration, improvement of the built environment and environmental protection.

5.5.2 The planning system encourages tourism where it contributes to economic development, conservation, rural diversification, urban regeneration and social inclusion, while recognising the needs of visitors and those of local communities. The planning system can also assist in enhancing the sense of place of an area which has intrinsic value and interest for tourism. In addition to supporting the continued success of existing tourist areas, appropriate tourism-related development in new destinations is encouraged. In some places however there may be a need to limit new development to avoid damage to the environment or the amenity of residents and visitors.

5.5.4 Much of the existing provision of facilities and accommodation for tourism occurs in urban locations, including historic and coastal towns and cities. There will be scope to develop well-designed tourist facilities in urban areas, particularly if they help bring about regeneration of former industrial areas. The sensitive refurbishment and re-use of historic buildings also presents particular opportunities for tourism facilities in all areas.

5.5.5 Long-distance routes, rights of way, disused railways, waterways and other green infrastructure are important tourism and recreation facilities, both in their own right and as a means of linking attractions.

5.5.6 Planning authorities should provide a framework for maintaining and developing well-located, well designed, good quality tourism facilities. They should consider the scale and broad distribution of existing and proposed tourist attractions and enable complementary developments such as accommodation and access to be provided in ways which limit negative environmental impacts as well as consider the opportunities to enhance biodiversity

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a derisking approach)

Listed Buildings

6.1.10 There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses

Special Protection Areas, Special Areas of Conservation and Ramsar Sites

6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations. The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers. Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs, but are not subject to the Habitats Regulations. However, Ramsar sites should be treated within the planning system in the same way as SACs and SPAs.

3.3 TECHNICAL ADVICE NOTES:

3.3.1 The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 5 – Nature Conservation and Planning
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 18 – Transport
- Technical Advice Note 23 – Economic Development
- Technical Advice Note 24 – The Historic Environment

3.4 SUPPLEMENTARY PLANNING GUIDANCE:

3.4.1 In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Parking Standards
- Air Quality
- Wildlife and Development
- Trees and Hedgerows
- Archaeology and Archaeologically Sensitive Areas

3.5 Other relevant Legislation and guidance

3.5.1 The following legislation and documents would also be relevant: -

- The Planning (Listed Buildings and Conservation Areas) Act 1990 - Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- Section 66 of the above Act also states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

4. CONSULTATIONS

- 4.1 DWR CYMRU/WELSH WATER- Welsh Water confirms capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. 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.
- 4.2 SENIOR FIRE PREVENTION OFFICER- The proposed site plan in relation to the above has been examined and the Fire and Rescue Authority. No objection is outlined but the following comments were made. It is important that these matters are dealt with in the early stages of any proposed development. The developer should consider the need for the provision of:-
a. adequate water supplies on the site for firefighting purposes; and
b. access for emergency firefighting appliances
- 4.3 ARCHITECTURAL LIAISON OFFICER (POLICE) - The Police do not object to the application but recommend matters relating to CCTV, Hostile Vehicle Mitigation and security to the public areas. The principles of Secure by Design should be taken incorporated into the design.
- 4.4 EMERGENCY SERVICES- AMBULANCE OFFICER- No response has been received to date
- 4.5 NEWPORT CIVIC SOCIETY- No response has been received to date
- 4.6 NATURAL RESOURCES WALES- National Resources Wales has indicated that it would have significant concerns with the proposed development as submitted but recommend the Council should only grant planning permission if a biodiversity Construction Environmental Management Plan condition is included with any permission.
- 4.7 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST- No objection subject to a condition requiring an appropriate programme of historic building recording and analysis being secured and implemented in accordance with a written scheme of investigation.
- 4.8 CADW- HISTORICAL BUILDINGS AND LANDSCAPES- No comments to date, but would not respond to planning applications.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING POLICY MANAGER) - The proposal for the refurbishment of the Provisions Market is supported in principle and will provide a new focus to an important civic building. The applicant will need to ensure that all the relevant policies can be complied with for policy support for the application. Those policies of particular relevance concern the impact on the listed building, conservation area, flat sizes, amenity and noise.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS) – The site comprises 21 x 2 bedroom and 26 x 1 bedroom apartments resulting in a total of 68 bedrooms which will require 14 cycle stands are provided for the residential units to comply with the SPG. Amended drawings and additional information received on 02 November 2020 and the Sustainability Technical Note were submitted on 17 November 2020. The applicant has

provided a Sustainability Technical Note that provides an assessment of facilities available to the site and will be acceptable to mitigate the zero parking provided on the site. Drawing 2536-EWA-AG(04)01_P11_ Proposed Ground Floor Plan shows that 2 additional cycle stands have been provided within the cycle store adjacent to the Market Street entrance to the flats but will not be acceptable as their location in the store, parallel to the wall, will only allow access to one side of the stand. A revised layout drawing will be required which could be conditioned.

I would therefore offer no objection on highway grounds. The zero provision of parking on this site is acceptable due to its location within Zone 1 and the provision of an acceptable Sustainability Assessment which complies with the requirements of Newport City Council SPG Parking Standards (August 2015) Appendix 5: Sustainability. However, whilst the Sustainability Technical Note provides acceptable mitigation for the provision of zero parking, the applicant should note that the statement in Sustainability Technical Note 4.3 'The affordable tenure of the 42 units proposed further justifies this reduction in car parking provision' is refuted.

- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY OFFICER) - I can confirm that aside from NRW's concerns regarding surface water drainage, no other potential impacts on the River Usk SAC need to be considered. Under Regulation 63 of the Habitat Regs, the application should be screened under TOLSE. Whether a full Appropriate Assessment is required will depend on whether mitigation will be required to reduce impacts from surface water drainage. If no potential effects are identified (and therefore no mitigation is required) the proposal can be screened out from further assessment. However, the 2019 People Over Wind judgement means that if mitigation is required to reduce potential effects of a proposal, then a full Appropriate Assessment is necessary.

A bat report has been undertaken. The surveys were undertaken in 2018, and whilst this is older than we would normally accept to inform a planning decision, due to the findings and recommendations of the report, I consider it acceptable in this case. If the Council are minded to grant this application, then the methods described in Section 5.7 of the ecology report should be secured with a condition. Works to the roof should be carried out outside of bird nesting season but feral pigeons have been known to breed out of season, so a licence may be required if they cannot be safely excluded from the building.

Ecological Enhancements will be required to meet our Section 6 duty and planning policy requirements. The report includes some basic recommendations but is not sufficient to secure a plan of enhancement. A scheme of this scale should provide many nesting and roosting opportunities for birds and bats. "Bee bricks" could also be considered. If not provided prior to determination, I would be happy for the scheme to be secured with a condition.

- 5.4 HEAD OF REGENERATION AND REGULATORY SERVICES (PUBLIC PROTECTION MANAGER) - No objections to the scheme subject to a noise assessment, noise/sound insulation, fume extraction, waste management, opening hours, details of any new plant or equipment and Construction Environmental Management Plan.
- 5.5 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTION MANAGER) - The Council S106 Officer has indicated that he has no objections to the scheme and does not request any contributions as affordable housing is exempt from contributing towards leisure and education planning obligations. However, in order to safeguard any future Council infrastructure liabilities, there is a requirement to provide a S106 legal agreement in the event that any of the dwellings are sold or rented on the open market. The full details of the requirements if there are any market dwellings are set out in his response.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (WASTE) - Satisfied with the commercial bin store proposals but seeking additional information on how the waste provision will be provided for the residential element, which does not accord with the waste provision guidance for sizes of bin and recycling set out in the Councils advice.

5.7 TEAM MANAGER REGENERATION: The Council's Regeneration Manager supports the scheme, outlining that the economic and regeneration benefits of the scheme cannot be underestimated. The Indoor Market redevelopment is identified as a flagship scheme within the Council's City Centre Masterplan. It is of high priority both in order to lever the Council's remaining assets within the city centre as drivers for regeneration and investment, and also due to the precarious economic position of the Market itself in light of changing retail habits, the relocation of the primary shopping area to Friars Walk and Kingsway, and the increasingly poor condition of the building structure.

Diversification of economies, including more varied, flexible and quality spaces to live, work and stay, has been at the core of policy solutions to the decline of town and city centres for many years, and a hallmark of successful urban centres. The COVID-19 emergency means that the future is uncertain for Newport's economy, and the Council's previous policy objectives must flex and respond accordingly; however the pandemic has only accelerated the core challenges around changing retail habits that has driven the increasing marginalisation of secondary retail centres.

The proposed development will deliver not only a strong economic impetus by supporting greater diversity of use, but will also provide much-needed city centre housing and accommodation. These will in turn bring greater footfall to the struggling northern part of the city centre and prompt further development, investment and diversification of the economy. Public and private investments into schemes such as the Market Arcade, Information Station, Mill Street Hub and others are in part predicated on the complementary value added by the Market being redeveloped as the centrepiece of the vision for the 'Northern Gateway' to the city centre.

Finally, it is noted that previous concerns were expressed in relation to the development potentially causing disruption and restriction of vehicular access to the High Street and surrounding thoroughfares; given the ongoing need to respond to the pandemic and likely trading restrictions imposed, as well as the more general restrictions introduced by the Council in respect of vehicle transit adjacent to the Market building (all of which have had a positive impact on the trading environment and city scape in their own right). It is hoped that these potential issues are now of less concern should the redevelopment go ahead.

5.8 HEAD OF REGEN & REGULATORY SERVICES (HOUSING DEVELOPMENT MANAGER)- The Council's Housing Manager has no objection and sets out that the Local Housing Market Assessment shows an annual shortfall of 70 affordable housing units in the Stow Hill ward, with the need predominantly being for one and two bedroom units of accommodation. In terms of current need, there are 1,568 households with active applications on the waiting list for affordable housing in Newport. Of these 1,282 have been assessed as being in need of 1 or 2-bedroom accommodation. Need for this type of accommodation has increased significantly since additional regulations regarding COVID-19 were brought in and this development will help us meet that need. We would require all affordable units delivered through this development to be let through the common housing waiting list on a neutral tenure basis.

5.9 HEAD OF CITY SERVICES (HIGHWAYS - ACTIVE TRAVEL CO-ORDINATOR) - No comments have been received to date.

5.10 HEAD OF CITY SERVICES (DRAINAGE MANAGER)- No comments have been received to date.

5.11 HEAD OF REGENERATION AND REGULATORY SERVICES (CONSERVATION OFFICER) - I can confirm that whilst detailed comments I have provided relate to the listed building consent, they also apply to the planning application as we are duty bound to consider the impact on the special character of a listed building as part of any application for planning permission. However, subject to the provision of clear justification for the residential elements of the scheme, I see no reason why the planning permission should not be granted subject to relevant conditions, with other outstanding issues being dealt with through the listed building consent process.

5.12 LAW AND REGULATION (TOURISM - DESTINATION DEVELOPMENT MANAGER) – No objection, but has set out that the alterations have resulted in the change of the product mix. The tourist lets would have been a good addition to the city centre economy, and complementary to the food hall offer. This therefore might alter the income mix for the business, and technically means it might be less profitable.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m with the application site were consulted (448 addresses), a site notice displayed on 28th August 2020 and a press notice published in South Wales Argus on 5th September 2020. To date, 5 representations have been received in respect of the application, one is supportive of the proposed development and 4 were representations against the proposal. The main reasons outline in the objection include:

- Concerns over the extraction system for the food court- no detail of the centralised extraction system and how it will vent from the external walls.
- The Design and Access Statement and Heritage Impact Statement has no rationale for arriving at the current proposal, which will result in a loss of many heritage features.
- The fact that the Market has not been put to effective use is through the Council's inability to manage the building and no evidence that other options have been considered.
- A detailed and comprehensive survey needs to be undertaken to ascertain the heritage features and the current assessment is not good enough. A more detailed survey would reveal more stalls of moderate or high significance.
- The current market stalls have an inconsistency of layout because it follows the original victorian conception and the developer has not recognised this.
- The Developer has not responded to the significance of the building but has arrived with a plan, cut and pasted from a separate market development and imposed it on the building with little regard to the historical and cultural importance of the Market
- The redevelopment should be to strip back stalls to the victorian design and where not possible, remodel spaces to be complimentary.
- The developer has no proven record or experience of delivering or operating markets and this project will not be sustainable or viable and it will lead to the use of the building being changed from a market.
- Many of the existing traders will not be going forward with the proposed development and only one business has signed up to the proposal.
- There is no detail of the additional insulation into the vaulted roof. This is a notable feature and details will need to be provided.
- The categorisation of Historic Significance has been used in a cynical manner, to the effect that all the Stalls that the Developer intends to demolish are conveniently categorised as being of 'low significance'.
- The developer will destroy vast amounts of historical features to deliver his development but there is no justification that he needs to do this.
- The proposed scheme is not viable or sustainable as a business. A lot of businesses that opposed the proposal within the market are not being represented by the National Market Traders Association (NMTA). The developer has failed to secure the commitment of a number of the trading businesses. In addition, proposed heads of terms have been provided for current traders but has offered no clear path to businesses as development is occurring or costs to relocate.
- It is clear that the current Market is, to all intents and purposes, extinguished and any future development will be faced with the onerous task of establishing a new Market in Newport.
- The Developer has, to my knowledge, not provided any detailed business case as to how he is going to deliver what he is promising.
- On what (acknowledged) basis has this developer been "selected by Newport Council to carry out this development".
- No rational indications or evidence has been provided to show the delivery of a viable and sustainable Market to be presently contained within this proposal. Based on the evidence of his actions up until now, I would question the Developer's ability "to increase its vitality, increase footfall and maintain the Market as a viable facility into the future"

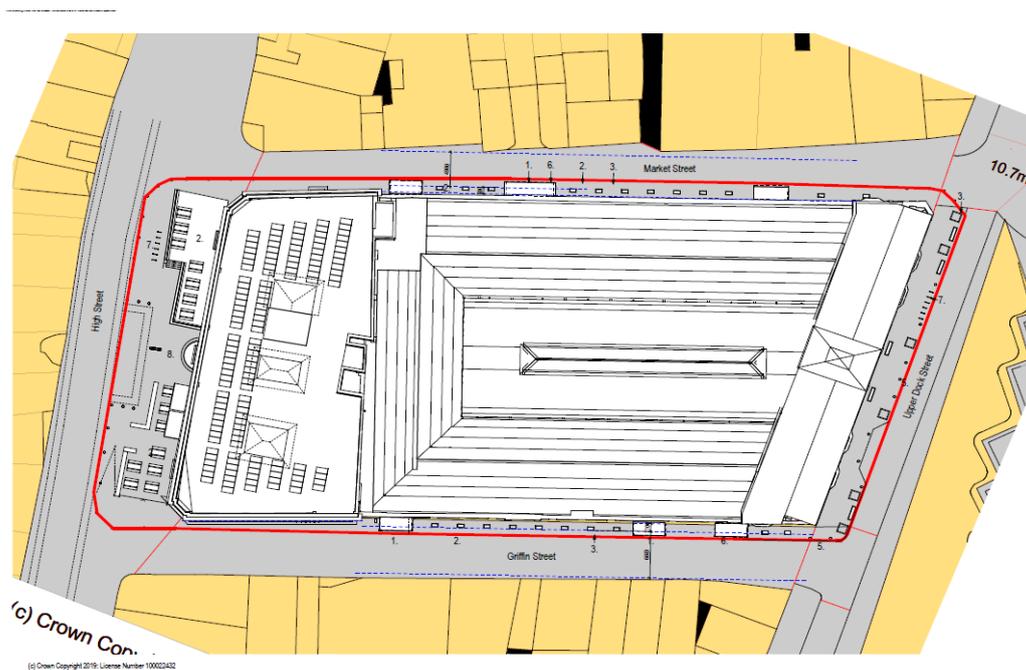
- The Developer has proven incapable of retaining the Market's existing businesses, let alone shown any indication of his ability to attract new businesses on the scale that would be necessary to ensure the success of this proposal and secure any viable future for the building as a Market/Food Court.
- Concerns of service access in terms of the provision of sufficient parking/ loading zones for the Market and Food Court element of the proposal, especially with the proposed landscaping and break out seating areas outside the site.
- No parking for proposed 62 residential units.
- The proposal does not comply with well being and future generations act as stated by the Council in the cabinet report regarding the market. The representation sets out that the Council did not correspond with someone who represented the traders and the agreement with the developer was to deal with the costs of the building and not the sustainability of the building as a future use
- The agreement between the Council and the developer should have been more open and transparent to allow greater public scrutiny before the agreement was made between the Council and developer.
- Neither the City Council's Corporate Plan (April 2016) nor the City Masterplan (January 2018) contain any proposed measures to address the retail decline of the City through a targeted and pro-active approach to the regeneration of retail areas and management of the City Centre retail offer.
- To have residential units would increase traffic movements and result in safety issues with pedestrians in the city centre.
- As there is no parking the units would not be served by parking and so could not be sold or rented as already has happened in the Kingsway development.
- The only access to the site, by car, would be via the road on Upper Dock Street and this is already heavily used by Taxis and delivery vehicles. This will be to the danger of pedestrians using this area.
- Disability access to the residential use is limited and so the proposal would breach accessibility laws
- The proposals do not seek to retain the decorative glass window in place. This is cultural vandalism and it really needs to be resisted. I think it's the largest stained glass window in Wales, and it is essential that it is retained.

7. ASSESSMENT

7.1 Site Description

- 7.1.1 Newport Market is located within the Newport City Centre with access off High Street to the west and Upper Dock Street to the east as well as secondary entrances from Market and Griffin Street. The site is approximately 0.5 hectares and holds a prominent central position along the partially pedestrianised area of High Street. Newport Market comprises a collection of buildings filling the site bounded by Market Street to the north, Upper Dock Street to the east, Griffin Street to the south and High Street to the west.
- 7.1.2 The group of buildings form the central covered markets in Newport City Centre, with additional accommodation and uses provided in bookend 4-storey buildings at either end facing High St and Upper Dock St. The buildings are Grade II Listed as a group. Griffin House (Royal Chambers) is a Portland stone elevation on granite base in an inter war classical style that fronts High Street with four storeys. Riverside House is a French Renaissance style in red-brown rock faced stone with pale ashlar dressings and the stone walls of single storey aisles of the Market Hall provide access from Market Street and Griffin Street. The Market Building itself has a highly significant barrel vaulted roof spanning the centre of the market hall and exposed ironwork supporting columns surrounding the market aisles with continuous patent glazed roof lights.
- 7.1.3 The area is characterised by commercial units at the ground floor within historical three to four storey buildings fronting the road. Currently, there are various uses in the building from a Market and commercial A1-A3 uses at either end, some residential units and offices in the upper floors. High Street is the main shopping location with recognised retail units with historical three to four storey buildings fronting the road. Upper Dock Street is very close to the redeveloped Bus Station and looks out towards the River Usk. Commercial activity is still present at ground floor but with more secondary rather than primary uses. Market Street and Griffin street are narrower side streets with three to four storey buildings facing the market.

These roads have been recently improved within public realm along with the regeneration of many of the ground floor uses, especially within Griffin Street. An extract of the site plan is detailed below: -



7.2 Description of Development

7.2.1 The proposal relates to two principal elements; the conversion of the market to introduce a food court to the ground floor as well as retain market trading to the periphery as well as conversion of the upper floors of Griffin and Riverside House from a mixture of residential and B1 offices to 42, affordable residential units. The development is summarised below: -

Market Building/Commercial

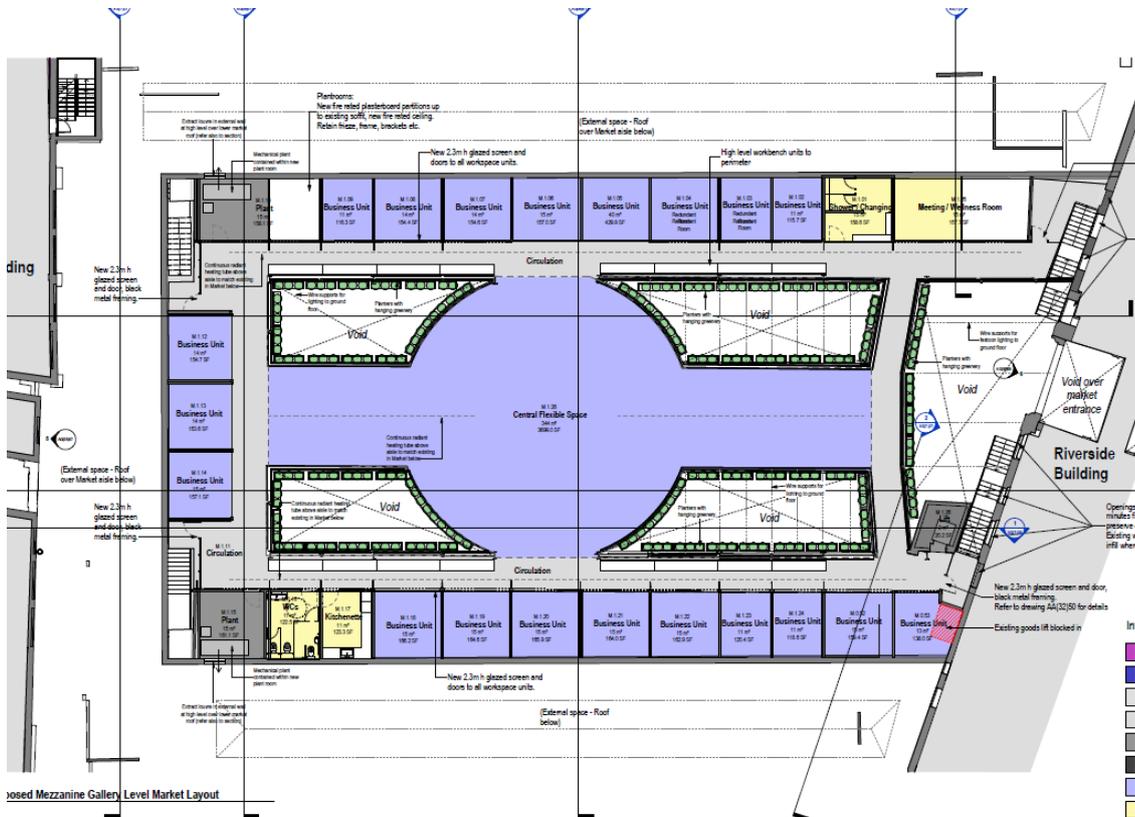
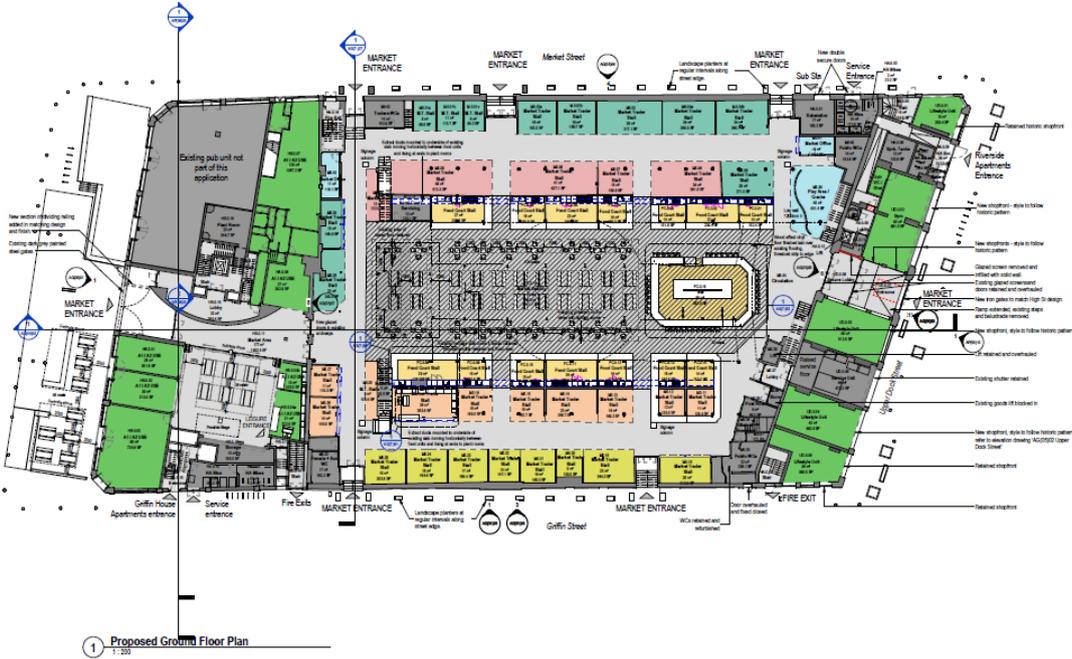
- Redeveloping the provisions market (A1/A3 use)- The market is proposed to be redeveloped to provide a flexible food court which will be able to accommodate 15-20 units. These units will include a range of unit sizes from 100-125sqf, a large central large drink offer (bar) and circa 100 seats placed centrally with a clear view to all the food traders. The provisions market will provide a minimum of 30 units for existing traders to continue in the market with additional space for new / additional traders to develop their businesses.
- Utilise the mezzanine floor above the indoor market to create new sustainable workspace offices (B1 use) in the city centre, including both a workspace hub with flexible rental desks; office units, private meeting rooms and associated facilities including W/C and kitchenettes.
- Convert the basement of Griffin House into a space suitable for escape rooms (D2 use) alongside 4 x A1/A3 units at ground floor.
- Reconfigure the ground floor of Riverside House to provide a gym and 4 x lifestyle units (D1 use).

7.2.2 Griffin and Riverside House- Residential

- Providing affordable social housing within the existing Griffin House buildings (30 apartments; 9 x 2-bed and 21 x 1-bed units) and convert the first, second and third floor of Riverside House to provide 12 residential (C3 use) units (9 x 2-bed and 3 x 1-bed apartments) for use by Newport City Homes.
- The proposed layouts of the affordable housing units are designed to meet the national guidance in the Wales DQR and housing association standards and specifications. There is no parking provision or amenity space proposed for units specifically.

7.2.3 The application submissions set out that the whole development is proposed as a new sustainable model for city centre living, working and leisure. Extracts of the conversion and proposed extensions are detailed below (please note that this is not full complement of the drawings): -

Floor Plans- Ground and Mezzanine of Market



Riverside elevation



High Street Elevation



Elevation High St

7.3 Principle of Development

7.3.1 The site is located within the City Centre secondary frontage and consequently the urban boundary as defined in the Adopted NLDP. Policy R1 City Centre Schemes is clear that proposals which enhance the provision of retail facilities within the city centre will be favoured as long as they are compatible with the overall functioning of the city centre. LDP Policy H3 (Housing Mix and Density) indicates that residential development proposals of 10 dwellings or more should provide a mix of housing to meet a range of needs and a residential density should that meet a minimum of 30 dwellings per hectare. Strategic policies SP1-

Sustainability and SP18- Urban Regeneration promote sustainable residential development within the urban boundary. In addition, mixed use developments, which combine retailing with entertainment, restaurants and, where appropriate, residential in a comprehensive and planned way should also be encouraged where appropriate to promote lively centres during both the day and the evening.

- 7.3.2 The proposal would see leisure uses in the basement, retail, food and drink and offices on the ground floor with flexible workspace on the mezzanine levels and residential in the upper floors. The High Street frontage is a central location and is identified in the LDP as a secondary frontage of the city centre retail area. As it is a secondary frontage, policy R3 Non-Retail Uses in Secondary City Centre Shopping Areas would be relevant. As well as the general criteria requiring the proposals to protect residential amenity and be accessible, policy R3 also seeks to retain retail uses within secondary frontages and to avoid large gaps or areas where there are no retail uses.
- 7.3.3 The existing uses at High Street are a mixture of A1 (curtain shop and butchers/sandwich shop), A3 Coffee shop and A3- Public House. The proposal indicates that a mix of A1/A3 uses are proposed across these units with half of the frontage remaining occupied by Tiny Rebel- A3 use. With an open A1/A3 use in this location it is a possibility that the units could comply with policy R3 or there is the potential that the units could be occupied by A3 uses and technically be considered contrary to the requirements. However, due to the decline occurring in the city centre along with the pandemic issues that are likely to continue to exacerbate this issue, it is considered that to place an over emphasis on A1 uses on this secondary frontage may undermine the site and wider city centre's prospects of succeeding. As such, in this instance, it is considered that to provide an open A1/A3 uses would comply with the requirements of policy R3 and allow greater flexibility to the site and may play a greater role in reducing vacancy levels to the scheme and city centre as a whole.
- 7.3.4 The changes of use to the ground floor at Riverside are proposed as a Gym and 4x open D1 uses. The Upper Docks Street frontage would be in the city centre but outside the secondary frontage. In addition, the proposed D2- escape room use in the basement (accessed from High Street) would also be outside the secondary frontage. As such, Policy R4- Non-Retail Uses in Other City Centre Shopping Areas would be relevant.
- 7.3.5 Policy R4 indicates that non retail uses would be acceptable in these locations subject to their impacts upon the residential amenity and adjacent areas being acceptable and the units being accessible by all forms of transport. The proposed uses are lifestyle or leisure uses, which relate to uses such as gyms, health clinics, crèches, art galleries (other than for sale or hire) and non-residential education and training centres. These uses could be varied but would provide the residents within the location a mix of uses outside of the retail, bar/food and night time economy. With a central sustainable location, they are very accessible and are unlikely to result in uses that would have significant impact upon amenity by traffic generation, noise and disturbances or odours. Therefore, the open D1 -use and gym use would be acceptable in principle along Upper Dock Street, complying with the requirements of policy R4.
- 7.3.6 The proposed 42 dwellings on site are in the city centre would also comply with sustainable city living and urban regeneration of the centre. The density on site would be above the 30 dwellings per hectare and as the scheme is 100% affordable housing, the scheme complies with the requirements of policy H4- Affordable Housing. The Council's housing section have indicated that the adopted Local Housing Market Assessment shows an annual shortfall of 70 affordable housing units in the Stow Hill ward, with the need predominantly being for one and two bedroom units of accommodation. Need for this type of accommodation has increased significantly since additional regulations regarding COVID-19 were brought in and this development will help us meet that need. The applicant has worked in conjunction with a Registered Social Landlord- Newport City Homes- to deliver the properties.
- 7.3.7 Lastly, there will be a loss of B1 offices to the upper floors of the Riverside building, which could be considered contrary to the requirements of policy EM4- Alternative uses of Employment Land. However, the lost office space would be offset by proposals in the scheme to replace the lost office space with more modern, flexible and quality office spaces

to let from the building at the mezzanine level of the market. As such, in this instance it is considered there will be no unacceptable loss of office space.

- 7.3.8 In summary, it is considered that the general presumption for a mix of commercial uses should be encouraged in city centre locations, especially where the area is in decline. Local policies encourage these sorts of developments whereas PPW highlights that vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre's well-being and success, whilst also reducing the need to travel. Leisure and entertainment and food and drink uses can benefit retail and commercial centres, and with adequate attention to safeguarding amenities can contribute to a successful evening economy.
- 7.3.9 Although the proposed scheme is supported in principle, this is subject to the development criteria of policies SP9- Conservation of the Natural, Historic and Built Environment H4- Affordable Housing and GP2- General Amenity, GP3- Service Infrastructure, GP4- Highways and Accessibility, GP5- Natural Environment, GP6- Quality of Design, GP7- Environmental Protection and Public Health, CE7- Conservation areas and T4- Parking being satisfied as well as the advice and guidance of the SPG's set out above.
- 7.3.10 The primary considerations in this application relate to the impact of the proposed conversion of a Grade II Listed Building, the wider visual impact of the scheme on the City Centre Conservation Area, its impact upon the amenities of the nearby residential and commercial occupiers, amenity requirements of future occupiers as well as parking and highway safety, ecology, archaeological constraints, flooding and drainage, waste provision and S106 obligations. These matters will be considered in turn: -

7.4 Impact upon Listed Building and wider visual Impact

7.4.1 Listed Building Alterations

- 7.4.2 The applicant's agent indicates that the central area of the Market Hall Ground and Mezzanine floors as well as the upper floors can be modified as proposed without an unacceptable impact to the character of the Listed Building and the proposals would refurbish and secure the building in its continuing use as a Market.
- 7.4.3 Section 66 of the above The Planning (Listed Buildings and Conservation Areas) Act 1990 Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy SP9 also require schemes including Listed Buildings to be sensitively designed to mitigate any adverse impact upon the protected built environment.
- 7.4.4 Policies GP2- General Amenity, GP6- Quality of Design of the Adopted LDP 2011-2026, also seek to ensure that the development proposals are of a good quality of design and reflect the scale and context of the locality.
- 7.4.5 Initially, the proposals did involve the erection of a two storey flat roof extension to the roof of the Griffin House to accommodate serviced apartments. However, the extensions have been removed from the scheme, which means the proposed external alterations to the listed building are limited to shopfront alterations, new and replacement doors and windows at ground floor as well as refurbishment of windows and the roof to the upper floors of Riverside House and Griffin House. The majority of the changes to the site would involve the proposed internal conversion of the ground floor and mezzanine of the Market and the internal alterations of the upper floors of Griffin House and Riverside Building to form the affordable housing units. As the change of use cannot be formed without internal alterations to the building, the internal changes to the historic fabric must be considered as part of the application.
- 7.4.6 However, the physical works to carry out the internal alterations will require separate Listed Building Consent and justification in the form of a Heritage Impact Statement has been provided as part of that application but is not necessarily required as part of the planning

application. Notwithstanding the fact that the internal alterations to the Listed Building will be considered in more detail within the LBC, all of the changes, external and internal are summarised below: -

Riverside House- Changes to façade and internal alterations to form commercial shopfronts and residential units above

Currently the building is showing signs of distress from poor maintenance – eg vegetation growing in flashings/ stone joints, flaking paint on windows etc. Boarded up or roller shutters visible throughout the day has created an uninviting or dead frontage to the northern side of the building whereas to the south there are new, unsympathetic shopfronts serving a café, taxi office and hairdressers.

The current upper floors of Riverside have an established use as offices, with a staircase at each end (North and South) providing access to the offices from either end of the building. A central internal walkway provides access to the office spaces to the front and rear of the building across the width of the building.

External Changes

The application proposes to install new shopfronts following the historic pattern, which will replace modern and shopfronts of disrepair. External renovation of the Riverside building including stone cleaning, window overhauls, redecorations and re-roofing of slate roof areas as well as infilling of rear roof rooflights. Renewal of the extended mansard roofing and windows at high level with more sympathetic and durable materials (steel window frames). Secondary glazing will be introduced to upper floors to provide a suitable warm environment for apartments

Windows overhauls, including redecoration of timber windows, replacement of copings, flashings with matching materials as well as sympathetic replacement of shopfronts would improve the overall appearance of the facade from street level and wider views. Replacement of upper level non-original metal windows with new matching aluminium units following the original pattern will retain this layer of the buildings history of development, and at the same time provide suitable internal environment to the new apartments and update the external appearance.

Overall it is considered that the refurbishment of the ground floor shop units and the upgrading of the windows and roof in agreed materials would enhance the building appearance externally while providing longevity to the building.

Internal Changes

The proposals set out a re-planning of the current office accommodation (mostly vacant) to provide 12 affordable residential units. The planning statement indicates that the layout would accord with Welsh Government requirements for housing and fit within the existing structure as best as possible.

The internal changes alter the layout to show a walkway across the rear of the first, second and third floor providing access to residential units to the front of the building. The proposals include 4no. 1 and 2 bedroom apartments per floor level: new domestic partitions, bathrooms, kitchens and associated services. All apartments are single storey within the existing floor levels and working wherever possible within existing solid dividing walls. The scheme would also retain chimney breasts.

A void exists at first floor centrally with an exposed walkway between the north and south of the building. A new 60 Minute fire rated glazed screen will be provided for fires safety precautions whereas the, the balustrades will be preserved. It was originally proposed to removal a chimney breast internally from these floors but this has been omitted from the latest revisions.

Currently the building appears to be in good condition externally with some minor distress to some of the stonework, coping and flashings. The ground floor shopfronts and access to the market were recently updated along with the areas to the front of the building.

It is understood that the last known use of the upper floors was in part as a department store along with the introduction of two floors of apartments accommodating 14 units

External Changes

The application does not propose to carry out significant external works to the building façade fronting High street as well the side streets.

The works would include some minor alterations to the shopfronts, cleaning of stonework, repair/ re-setting copings, replacement of flashings with matching materials where needed to ensure weather tightness. Existing Crittal windows refurbished, overhaul, rub down & repaint along with the provision of secondary glazing to provide appropriate insulation of new apartments.

It is considered that the minor alterations of the ground floor shop units and the upgrading of the windows would enhance the building appearance externally while providing greater longevity to building.

Internal Changes

30 new affordable residential units are proposed within the existing upper floors. As in Riverside, these have been designed to accord with Welsh Governments requirements. The statement indicates that the changes to the interior of the upper floors would comprise the removal and replacement of modern partitioning. The existing facades and window positions will be retained. Appropriate replacements for the existing non-insulated windows will be explored and original internal glazed screens, staircase, balustrades and lift cage would all be retained.

Market Building

The existing building is currently operating as an indoor Market. There are some market units occupied but with a high level of vacancy currently exists. The building has a highly significant barrel vaulted roof spanning the centre of the market hall and exposed ironwork supporting columns surrounding the market aisles with continuous patent glazed roof lights.

There are original/ old market stalls still in existence particularly at each end, some have been re-created by matching the original designs and others with tagged on modern adaptations. Original features do exist behind modern changes. The first floor is a mezzanine providing a visual connection to the ground floor. The rear of the Riverside building and the glazed gable end wall are visible at one end of the Market and from the mezzanine level. First floor retains the original ironwork balustrade behind the modern additions.

All areas have additions of surface mounted service runs and fixings, ad-hoc constructions and additions, which has some impact upon the visual appreciation of the historic market internally.

External

The existing fabric would be retained as providing the essential character of the market, and renovated where weathered/ decayed. The glazing would be retained and replacements provided where cracked/ missing. The lantern surmounting the barrel vault provides ventilation and smoke clearance - the sections of louvres in the upstand will be replaced with matching designed versions with automatic controls to ensure they function correctly but do not change the appearance of the roof.

The existing entrance areas with the individual tile designs will be retained and overhauled. The floor tiles on the steps will be replaced with sympathetic replacements to ensure security

and slip-resistance. The existing ironwork, walls and roofs will be retained and repainted. On the side elevations, new aluminium framed opening louvres in existing openings with existing timber arched windows/vents to be retained, overhauled & painted. Shutters, where shown, would be removed and iron grille reinstated to match other openings along street.

Internal

Reorganisation of the market hall into three distinct areas with new stalls and services to each area:

1. Creation of a food-orientated area in the centre of the market hall;
2. Produce market around the perimeter in the existing aisles;
3. Workspace on the mezzanine.

The proposal wants to formalise the ad-hoc open gaps/ spaces centrally to form a food court centrally, utilising a central historical stall as a bar with a large open seating area. Surrounding the bar area would be a number of food court stalls and beyond these Market stalls will be located to the outer perimeter of the building facing in. The applicant has sought to retain historical stalls, freezers and frames where possible and relocated some historic fabric where it is not possible to retain it in its current location. The planning submission indicates that if trends change and the food court seating is not required in future, then stalls could be re-instated in the central seating area in the future following the historic designs and without affecting any of the rest of the Market Hall fabric.

First Floor/Mezzanine :

The perimeter stalls will be refurbished and formalised with glazed partition fronts and the current modern suspended ceilings within the units renewed. The central area of upper Gallery floor will be retained as an open flexible-use space with controlled public access to retain the appreciation of the Market roof. The stained glass window to the western elevation would be retained but covered with company logo using a covered film.

7.4.7 The proposed change of use is accepted in principle in respect to planning issues, but the Conservation Officer is considering some outstanding matters with respect to the applicant's Listed Building Consent and the accompanying Heritage Impact Statement. For instance, these outstanding issues with respect to the LBC include the following: -

- Riverside House- The proposed change of use is accepted in principle in respect to planning issues, however, the Conservation Officer has expressed concern over the change from a central walkway to a corridor to the rear of the building as well as the considerations behind the enclosure of the exposed walkway. He has requested that the applicant provides an update to the HIA (accompanying the LBC) to demonstrate that alternative uses to the upper floors were considered previously to demonstrate that the internal change to the layout is necessary. This will be considered in the accompanying LBC.
- Griffin House - The proposed change of use is again accepted in principle in respect to planning issues, however, the Conservation Officer has expressed concern over whether there is nothing of historical value within the upper floors of this building and outlined whether alternative uses were considered prior to the determining that the residential use was the most appropriate use that would retain the most historic fabric.
- Market and Mezzanine - Assessment of certain stalls' historical significance and some of the accuracy of detail set out within the accompanying HIA. Also there are some concerns over the loss of some market fascias and the covering of the window artwork as well as the more structured/formalised layout of the market.

7.4.8 Further justification is being sought through the HIA and will be detailed in the LBC application if supplied prior to the committee meeting.

7.4.9 On balance, it is considered that the scheme would provide a number of improvements to the façade of the building. Restoration of the elevations, windows, shopfronts and roof, especially at Riverside would enhance the appearance of the building externally. The majority

of the issues with the application are with respect to the internal changes to the Market floor and the upper floors of Griffin and Riverside House. The applicant has compromised by removing the rooftop extensions as well as acknowledging the Conservation Officers concerns over the removal of a number of historical features on the Market ground floor and within Riverside House. The removal of modern additions is welcomed and the scheme has been revised to retain a number of fascia's/freezes and original market stalls of high value. The formalising of the space to a more ordered layout would impact upon the more ad-hoc Victorian layout of the market, however, the loss of the layout in itself does not infer the works are unacceptable, especially if the proposed use and internal works are the most appropriate development to sustain the Listed Building.

- 7.4.10 The Conservation Officer was consulted as part of the planning application and has considered the external and internal changes to form the new uses of Riverside House, Griffin House and the Provisions Market. He accepts the proposed mix of uses and welcomes the improvements to the building, especially at Riverside. His comments, with respect to the planning application, outline that there are some missing items from HIA that need to be provided to justify for the choice of the residential elements of the upper floors and some of the changes at ground floor. He does not object to the proposed development subject to conditions and with the remaining outstanding issues within the HIA being dealt with through the Listed Building Consent application.
- 7.4.11 On balance, it is considered that the works would retain the market use along with a mix of leisure, business and residential uses to provide a sustainable future use of the Listed Building whilst seeking to retain, where possible, the internal features of historical significance. As such, the scheme does have special regard to the desirability of preserving the longevity of the building as well as maintaining features of special architectural or historic interest which it possesses. Accordingly, it is considered that the scheme complies with Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 and SP9 of the Adopted Newport Local Development Plan. A number of conditions relating to the specific details of materials, shopfronts, as well as windows and doors will be included with the planning permission. Further conditions would be included with any LBC permission in order to preserve and enhance the special qualities of the building.
- 7.4.12 Policy CE7 also requires schemes within or adjacent to conservation areas and other protected sites to be sensitively designed to mitigate any adverse impact upon the protected built environment and wider landscape features.
- 7.4.13 The area is characterised by commercial units at the ground floor within historical three to four storey buildings fronting the road. The site is considered a secondary retail frontage of the city centre and is a notable Listed Building within the City Centre Conservation Area. Although it is not adopted yet, there is currently a draft City Conservation Area Appraisal that clearly indicates that the site along with neighbouring buildings and streets are some of the most important assets within the Conservation Area. The site coupled with the buildings opposite as well those situated to the north and south are either identified as positive buildings or are also listed buildings themselves.
- 7.4.14 The majority of the changes to the Market, Griffin House and Riverside would be internal and cumulatively it is considered that the external alterations are relatively minor in scale and would be limited in their impact to the Listed Building.
- 7.4.15 For instance, external alterations to the building would be visible from close proximity or via partial views of the streetscape. The most notable external alterations from the street would be the changes at ground floor to the Market along the side streets, as well as shopfront alterations as well as the overhauling of the windows and re-roofing of Riverside. These external changes would have to be considered as enhancements to the existing building, especially at Riverside House where the building can appear 'tired and run down' with some unsympathetic modern additions. As such, it is considered that the special character and historic value of the listed building externally would be enhanced.
- 7.4.16 Given that the roof top extensions have been deleted, the more minor alterations to the buildings externally would not have any adverse impact upon the character and appearance of the City Centre Conservation area. Accordingly, the development would preserve the

character, appearance and setting of this particular Conservation Area, as required by Policies SP9 and CE7 of the NLDP.

7.5 Impact upon Neighbours

- 7.5.1 With regard to neighbouring impacts, there are no overlooking or overbearing impacts from the conversion of the Market space or mezzanine floors. Griffin House upperfloors adjoin 39 to 46 High Street to the west, 27 High Street and 10 and 11 Giffin Street to the south as well as 20-21 High Street and 1-2 Market Street to the north. The Riverside building has no neighbouring properties to the east (facing bus station) but would adjoin 10 and 11 Market Street to the north and 186 Upper Dock Street and 1 and 2 Girffin Street to the south .
- 7.5.2 The New Dwellings SPG (Aug-2015) sets out tests for loss of light, this relates to neighbours' habitable rooms. In most cases, a proposal that fails both the 45° tests in relation to a single protected window is unlikely to be acceptable. In addition, in order to protect privacy, the SPG also indicates that a scheme should generally ensure a minimum of 21m between habitable rooms in adjoining properties.
- 7.5.3 As the proposed extensions have been removed, the conversion works would not result in any loss of light or overbearing impact upon the neighbouring units. Accordingly, the main consideration is the issue of overlooking to neighbours and due to the nature of the commercial use and its location in the City Centre it would also be necessary to consider impacts of noise and disturbance on adjoining properties.
- 7.5.4 The properties opposite on High Street are between 18 and 19m from building to building and as such the converted flats to the front would be below the recommended distance outlined in the Councils Amenity Standards SPG (21m between habitable windows). However, the context of the site must also be taken into account, and in this instance the existing residential flats that occupy the upper floors on the opposite side of the road are all 18m to 19m apart. As such, given the benefit of retaining and using the existing building and the comparable distance between flats in this location, it is considered that there is no adverse impact with respect to privacy.
- 7.5.5 Griffin House and Riverside do wrap around the corner and have windows that front the side streets. There are a number of the windows in the side elevations facing properties fronting the side streets. Although these windows exist at present, they do not currently serve habitable living spaces and following the residential conversion, the limited distances between the properties and the adjoining property (approximately 6 to 8m) could potentially result in an increased overlooking that does not exist at present.
- 7.5.6 Due to COVID restrictions and not being able to access the units to the side at first, second and third floor, it is unclear what privacy impact there is from these windows, especially when trying to assess from a ground floor position. The windows have differing heights and angles to the neighbouring windows and some, if any, may need to be obscured prior to being brought into beneficial use. The windows could be obscured by inserting either obscure glazing or film to the secondary window proposed internally. However, rather than conditioning the consent to require all of these windows to be obscured, it is considered appropriate to condition the consent to require the applicant to provide a scheme indicating what windows need to be obscured on the side elevations on the upper floors of Riverside and Griffin House for the Council to agree prior to their use as residential units.
- 7.5.7 The noise and odour pollution that could result from the proposed food court as well as open A1/A3 uses could be a concern to existing residential properties within the vicinity along with the potential noise and disturbance from delivery vehicles and the general use of the building for commercial purposes.
- 7.5.8 The application does detail that a centralised extraction system is proposed to serve the food court with indicative plans indicating that the extraction vents for the food court would be from a plant room on each side of the market at mezzanine level. As the market side elevation is set within the site, there is a greater separation distance between the neighbouring properties on Market Street and Griffin Street and the proposed extraction system, limiting its impact visually and with respect to odour issues. As the open use at ground floor has not been

defined, there are no details of ground floor extraction to consider. However, the Council's Environmental Health officer has not objected to these proposals but has requested conditions for new plant noise as well as specific fume and extraction details for food preparation. (discussed under 'Amenity for future occupiers' section below).

- 7.5.9 No proposed hours are indicated on the submission but given the established use as a Market along with the late night economy already present at ground floor and accommodated on the adjoining streets, it is considered that existing night time economy as well as early morning deliveries to and from sites are commonplace. This is not a residential area in character and occupiers of flats above shops and commercial premises in a location of this nature might reasonably expect levels of noise and disturbance which would not be generally acceptable in a mainly residential area. Therefore, within the commercial high street context it is considered that the proposed commercial uses at ground floor would not be out of character with the surrounding uses or exacerbate any issues of noise and disturbance at unreasonable time of the day. However, in order to safeguard existing as well as future occupiers above, Environmental Health have requested an opening hours condition so that the applicant can provide details of opening hours on the future A1/A3 uses at ground floor prior to their use.
- 7.5.10 The use of the market for the mix of uses proposed as well as increased movements to and from the site for housing is likely to give rise to some increase in noise and disturbance but not to the extent that it would detrimentally impact upon the residential amenity of the neighbouring occupiers or be significantly greater than a well-used market (established use). The site is in a very sustainable location, within close proximity to the train station, bus station and all the necessary amenities and facilities within a short walking distance. The type of accommodation is likely to attract occupiers without a car and it is also known that a smaller percentage of tenants of socially rented and affordable units have a private car. As such, the increase in housing would not give rise to significant movements of traffic over and above the existing situation.
- 7.5.11 It is considered that based on the consent being subject to the above mentioned conditions, the Council does not consider that the scheme would have an adverse impact on neighbouring residential amenity by virtue of privacy, noise or disturbance complying with policy R8 as well as GP2 and GP6 of the Adopted LDP 2011-2026.

7.6 Amenity for future occupiers

- 7.6.1 In terms of residential amenity, Policy H4 (affordable housing) and H8 (conversions) of the Local Development Plan are relevant along with the Flatted Developments SPG. Policy H4 requires that onsite affordable housing will be provided within sites of 10 or more dwellings within the settlement boundary. Policy H8 Self Contained Accommodation and Houses in Multiple Occupation within the defined settlement boundaries, proposals to subdivide a property into self-contained accommodation, bedsits or a house in multiple occupation will only be permitted where it provides adequate noise insulation and amenity for future occupants.
- 7.6.2 The site is completely developed and so there is no provision for an area of communal garden/amenity space. The roof space at Griffin House was going to be utilised for an extension to accommodate serviced apartments but this has been deleted and solar panels are being proposed across the flat roof.
- 7.6.3 Nevertheless, the SPG for flatted developments sets out that outdoor space should be provided when it is available. In view of the constrained urban nature of the site, it is considered that it would be impractical to provide the outdoor amenity space within the development site, while at the same time developing it viably. It is considered that in a city centre location such as this, where higher densities of residential developments are both sustainable and appropriate, there is a justification in relaxing these standards. Moreover, there is a designated area for bin storage and cycle storage that can be utilised by the occupiers.

7.6.4 The Council's Adopted Supplementary Planning Guidance: Flat Conversions and New Dwelling requires the following internal space standards:

	Size (sqm)
1 bed (Studio)	32
1 bed	45
2 bed	58

7.6.5 Having regard to the above, it is clear that the proposed 1 and 2 bedroom flats would exceed the standards set out by the SPG. In addition, all have windows with either a single or dual outlook onto the area around the site, ensuring that appropriate natural light would be received by the flats.

7.6.6 In order to satisfy Building Regulations the applicant will need to provide adequate sound insulation between all flats. As this issue is controlled by other legislation, no further consideration is given on this issue. However, noise associated with external activities is relevant. The wider street scene is a city centre setting with a variety of commercial properties including late night bars, nightclubs, pubs and hot food establishments. It is accepted that future occupiers of the proposed flats may experience more noise and disturbance than more suburban housing. This is the nature of city centre living and future occupants would be aware of this before deciding whether to occupy such accommodation.

7.6.7 Notwithstanding this, in most cases, a noise assessment would be submitted to inform the application, however, due to the unique situation of the pandemic and the timing of the application, the applicant was unable to provide the Council with a noise assessment that would have provided accurate results.

7.6.8 Despite the application not including a noise assessment to consider the potential noise from external impacts from the City Centre location, there have been recent applications on the same streets, for example ref 14/1285 at 27 High Street (adjacent property) and ref 16/0600 at 195, Upper Dock Street where a noise assessment was carried out. In these instances, it was concluded that the residential use of the upper floors were acceptable subject to certain mitigations, such as secondary glazing and mechanical ventilation. As such, it is considered that, in principle, the Council can conclude that that the proposed residential units on the upper floors of the development would be acceptable subject to the assessment being provided and what mitigation would be necessary.

7.6.9 The Council's Environmental Health Officer considered the submissions and indicated that she has no objection to the scheme subject to a noise assessment being submitted to demonstrate what the external noise impacts were and how they could be mitigated. In addition, a request for a condition for fume extraction from the food court and open A1/A3 uses shall be provided prior to their use and details of any new plant and equipment is controlled to an adequate level.

7.6.10 In summary, it is considered that the proposed units are of an appropriate internal size with acceptable outlook and subject to details confirming that the all units can be appropriately insulated from the City Centre noise to an appropriate standards, it is considered that the design and layout of the proposed units are acceptable, complying with policies GP2 and GP6 of the Adopted LDP 2011-2026 and the Flat conversions and New Dwellings Supplementary Planning Guidance.

7.7. Parking and Highway Safety

7.7.1 The main access to the market will be gained from High Street with 2 additional accesses being located off Griffin Street, 3 accesses off Market Street and a further access off Upper Dock Street. Access to the proposed Griffin House Apartments and a service entrance are located off the western end of Griffin Street with access to business units located at the eastern end of Griffin Street. Access to the Riverside House Apartments and a service entrance are provided at the eastern end of Market Street.

- 7.7.2 There is no direct vehicle access into the building but it can be served by Upper Dock Street and at certain times via High Street, Griffin Street and Market Street. The proposals have ensured that the site will be accessible to all with DDA compliant design to all aspects of the building. An Access statement which details vehicular and pedestrian access to the site and details how the proposals have ensured a DDA compliant scheme.
- 7.7.3 The site is situated within the City Centre and is very accessible by public transport (Train and Bus), vehicle and on foot. The proposal would not result in any loss of on site parking but no on site parking is proposed as part of the scheme. Cycle provision is proposed for 14 cycle storage units for residential aspect and 18 spaces for operational and non-operational elements of the site. The site is situated within Parking Zone 1 as identified with the Council's Parking Standards SPG. Parking on the adjoining roads directly very restricted, mostly relating to deliveries at certain times as most of the area is pedestrianised.
- 7.7.4 Newport strategic policy SP1- Sustainability sets out proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. They will be assessed as to their potential contribution to, amongst other factors.....iii) providing integrated transportation systems, as well as encouraging the co-location of housing and other uses, including employment, which together will minimise the overall need to travel, reduce car usage and encourage a modal shift to more sustainable modes of transport.
- 7.7.5 A Sustainability Technical Note has been provided to confirm the sustainability credentials of the site. It also sets out that the current Market operates successfully without any designated operational spaces and there is sufficient room, on street, for deliveries to be made to the Market Hall, and the site will continue to operate successfully from a management perspective, as it does, currently.
- 7.7.6 The Highways Authority were consulted and have not objected to the scheme and indicated that the Sustainability Technical Note provides an assessment of facilities available to the site to demonstrate that zero parking provided on the site would be acceptable. Drawing 2536-EWA-AG(04)01_P11_ Proposed Ground Floor Plan shows that additional cycle stands have been provided within the cycle store adjacent to the Market Street entrance to the flats but will not be acceptable as their location in the store, parallel to the wall, will only allow access to one side of the stand. A revised layout drawing will be required but this could be conditioned.
- 7.7.7 In addition, due to concerns raised from representations over deliveries and servicing to the commercial and residential uses, it is appropriate to include a condition requiring a delivery and servicing management plan to be submitted to the Council prior to the use coming into effect. In addition, some of the proposed accesses onto Griffin, Market and Upper Dock Street do open outwards onto the adopted highway and there could be some conflict with pedestrian users. Accordingly, an informative will have to be included to require the applicant seek consent from the Highways Authority prior to the access doors being implemented.
- 7.7.8 Accordingly, it is considered that the proposal would be acceptable in respect of parking as well as pedestrian and highway safety, complying with the requirements of policies SP1, GP4 and T4 of the Adopted LDP 2011-2026.
- 7.8 Ecology
- 7.8.1 Policies SP9, GP5 and GP7 of the Newport local development plan 2011-2026 (adopted January 2015) as well as supplementary planning guidance: wildlife and development (SPG: WD) indicates the development will be permitted where the proposals are designed to encourage biodiversity and ecological connectivity and demonstrate how they avoid, mitigate or compensate any negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national and local protected habitats and species, and protecting features of importance for ecology and water quality.
- 7.8.2 To support the planning application, an Ecology Impact Assessment was provided. The Report, prepared by Wildwood Ecology confirms the findings of a preliminary roost

assessment and a single dusk bat activity survey. The report confirms that the onsite building had suitability for nesting birds and there may be a negative impact on nesting birds as a result of the proposed development. Populations of common pipistrelle, soprano pipistrelle and noctule are present in the area but no roosts for these species, or any other bat species, were identified within the structure itself. As such, there is likely to be minimal impact upon bat population. A number of recommendations have been made within the report, including works taking place outside of bird nesting season unless completely necessary and any signs of bats or bat roosts will result in works being ceased and the ecologist being notified as well as bat roosting boxes be incorporated within the building.

- 7.8.3 National Resource Wales and the Council's Ecologist were consulted and are satisfied with the information provided within the preliminary ecology appraisal information and the proposed mitigation set out. However, the Council Ecologist has indicated that the enhancements proposed are not sufficient at this stage but would be satisfied with a condition requesting further details of enhancements.
- 7.8.4 The proposal is also within close proximity (100m) to the River Usk, which is a Special Area of Conservation (SAC) and the River Usk (Lower Usk) Site of Special Scientific Interest (SSSI), therefore the authority is required to prepare a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations (2017) prior to the determination of the planning application. The appropriate assessment HRA has been prepared and agreed with National Resource Wales and is detailed below in full.

Appropriate Assessment

- 7.8.5 The Newport Provisions Market is approximately 110m West of the River Usk, separated by a major road, the A4042 Kingsway highway. The River Usk is a designated Special Area of Conservation (SAC) as well as a Site of Special Scientific Interest (SSSI) and Special Landscape Area (SLA) The site edged red does not include the protected site and the market building and its surroundings are already within a heavily developed or urbanised area of Newport City Centre. The site is not directly connected or necessary to the management of the river for nature conservation.
- 7.8.6 In accordance with The Conservation of Habitats and Species Regulations 2010 the Local Planning Authority, prior to determining the application, need 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 need 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.
- 7.8.7 Information has been submitted with a preliminary roost assessment and bat survey but no consideration of the ecological impact of the project on the above mentioned protected site. Following a request, details of the existing and proposed Drainage Strategy were also submitted. The submitted information has been considered by the Council's Ecologist and Natural Resources Wales. The drainage information was considered in conjunction with ecology matters, since the consequences of addressing contamination (particularly groundwater) and the method of developing the site could have significant implications on key biodiversity and ecology interests.
- 7.8.8 The River Usk is designated as an SAC based primarily on the presence of a number of migratory and non migratory fish species and otter. Certain fish species known to use the River Usk contribute to the selection of the river as an SAC site. The fish species listed are a primary reason for the selection of the River Usk as a SAC are:
- Sea Lamprey
 - Brook Lamprey
 - River Lamprey
 - Twaite Shad
 - Atlantic Salmon
 - Bullhead
 - Allis shad are also an annex 2 species present within the river as a qualifying feature.
- 7.8.9 The presence of watercourses of plant to meadow levels with Ranunculus fluitans and Callitriche-Batrachium vegetation is also a qualifying feature for this sites designation. The

SSSI is designated based on the aquatic habitats and condition of the river and its plant and animal communities that use the feature across its range. The conservation objectives of the River Usk SAC are attached in *Appendix A*. From a consideration of the protected features of the SAC, the potential hazards from proposals include

- Disturbance to protected species from noise and lighting.
- Pollution /surface water run-off during construction and operation
- Long term discharge from the building into the river
- Construction methods, including piling vibrations that could effect protected species identified (fish) The rare fish species Allis and Twaite Shad, features of the river Usk SAC, are especially sensitive to vibration.

7.8.10 Based on the specific proposal to convert and extend (roof top) of the application site building approximately 110m from the site, the potential hazards to be taken forward from the above list would be pollution /surface water run-off during construction and long term discharge. The building exists and there is no scheme to increase lighting on the building or result in a notable increase in noise that would be over and above the major road network separating the SAC from the site. Any major works are to the roof of a Listed Building and as a consequence there is no foundation work or piling operations to be carried out.

7.8.11 Consultation with Natural Resources Wales (NRW) and consultation with the Council ecologist did not identify any potential risks from the proposal other than surface water from the construction period and as it is operational. Surface water drainage has the potential to provide a pathway through which the proposed development could impact the SAC.

Pollution/ Surface/Ground Water Contamination issues during construction to River Usk

7.8.12 While the river is outside of the development boundary, works will be undertaken in close proximity of the SAC. The aquatic river habitat itself is sensitive to pollution which may lower water quality affecting a wide range of species and habitat that use it. The potential Impacts during construction include: -

- Pollution incident during construction
- Contamination during construction due to unknown previous uses (land contamination)

7.8.14 The construction period could potentially result in impacts from the development if pollution from the construction works were not prevented. The proposed development is located in a sensitive location, however, the construction site would not be located within or adjacent to the SAC and construction periods would be temporary their nature.

7.8.15 Accordingly, there is not anticipated to be a significant effect from the proposed development by way of pollution from surface water run off during construction or operation on the protected SAC, however, there are no measures or mitigation embedded in the scheme to ensure that the special qualities of the SAC are protected from the proposed scheme.

7.8.16 As such, National Resources Wales were consulted and have set out that the Council should only grant planning permission if the Council attach a biodiversity Construction Environmental Management Plan condition to any consent. The condition requested can be attached to any subsequent consent and draft condition 3 below refers.

Long term discharge from Newport Market

7.8.17 The proposed surface water drainage discharge is indicated in the drainage strategy. The scheme would not increase the footprint of the site (extension to roof and conversion of existing buildings) or require SUDS consent and that the site, maintaining the existing foul and surface water drainage for the site.

7.8.18 From the information submitted with the drainage strategy surface water from the development, where connected to below ground drainage systems, communicate with the DCWW public sewerage network, which eventually discharges into a trunk sewer adjacent to Kingsway and the River, some **Page 64** east of the site. No additional surface water flows are expected to enter the public sewerage system from the new development, therefore

no change from the current situation is anticipated or impacts upon the protected SAC, provided the applicant carries out the drainage scheme in accordance with the details submitted.

- 7.8.19 Accordingly, a compliance condition to require the applicant to comply with the surface water drainage scheme as submitted can be included with any subsequent consent and draft condition 5 refers.

Combination Effects

- 7.8.20 Consideration must be given to the cumulative effects of the proposed development when considered alongside other developments in the area. There have been schemes within close proximity that remain extant, such as

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
18/0360	ERECTION OF AN ASPHALT PLANT AND ASSOCIATED ANCILLARY DEVELOPMENT	
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
19/0111	DEMOLITION OF BUILDINGS AND ERECTION OF CLASS A1 FOODSTORE WITH ASSOCIATED ACCESS, CAR PARKING AND LANDSCAPING	Granted with conditions
19/0599	VARIATION OF CONDITIONS 1 (APPROVED PLANS) OF PLANNING PERMISSION 17/1185 FOR THE VARIATION OF CONDITIONS FOR BULK DRYING AND PELLETING FACILITY WITH ONSITE ENERGY CENTRE	Granted with conditions
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	Granted with conditions
19/1164 and 19/1165	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	Granted with conditions

Although the proposals could result in a cumulative impact, these have been subject to the same HRA assessments and similar conditions/controls. In this respect, it is concluded that there are no other developments which would result in a cumulative effect and most recent projects within the proximity of the River Usk has been subject to its own Appropriate Assessment in which similar conditions were imposed to protect the integrity of the river.

- 7.8.21 Having regard to the above, NRW and the Council's Ecologist have confirmed that they have no objections to this aspect of the proposal and to the Appropriate Assessment that has been undertaken in accordance with The Conservation of Habitats and Species Regulations 2010.

7.8.22 It is therefore considered that, subject to the imposition of conditions, the proposed development would not have a significant impact on this protected European site or any protected species. As such, the development is considered to satisfy Policies GP2, GP6, SP9 and GP5 and GP7 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) as well as Technical Advice Note 5 and Supplementary Planning Guidance: Wildlife and Development (SPG: WD). Conditions 3, 5, 15 and 16 refer.

7.9 Archaeology

7.9.1 As the building is a historic Listed Building and is within Archaeological Sensitive area, Policy CE6 is of relevance. Policy CE6 sets out that development proposals within areas of recognised archaeological interest will have carry out archaeological impact assessments prior to the application being determined.

7.9.2 No Archaeological Impact Assessment was submitted with the application. However, in consultation with Glamorgan Gwent Archaeological Trust (GGAT), it has been indicated that as the proposals will affect the historic fabric of the structure and in order to preserve this structure by record, it is requested that a condition requiring a programme of historic building recording and analysis be required prior to any works. It is recommended that a Level 3 survey (Historic England 2016, *Understanding Historic Buildings: A Guide to Good Recording Practice*) is made prior to work commencing. This can be conditioned in accordance with GGAT request. (Condition 2 Refers)

7.9.3 As such, subject to the historic building recording and analysis being carried out and considered acceptable prior to any works on site, the development complies with policy CE6 of the Adopted LDP 2011-2026.

7.10 Flooding and Drainage

7.10.1 The site lies within Flood Zone B, within which TAN 15 advises that Natural Resources Wales and the Council's Flood Risk Engineers should be consulted. Neither consultee has raised any objection in respect of flood risk, both in terms of the site itself or adjacent land.

7.10.2 The applicant has submitted a Drainage Strategy, which indicates that they will seek to discharge surface water into the combined system. This is because the whole site currently an impermeable surface, it will not increase the impermeable surface of the site and result in increased surface water drainage from the site. Welsh Water have indicated that they have no objection to the proposed scheme subject to a foul drainage scheme being submitted and no increased surface water run off entering the system.

7.10.3 In light of the above and the fact that the scheme may not be caught within the new SAB regulations, it would be appropriate to condition any consent to require a detailed drainage scheme for the foul drainage from the site and the surface water drainage scheme to accord with the submitted details. The proposed development is, therefore, considered acceptable in terms of drainage and flooding subject to this condition. (Condition 5 and 6 refer)

7.11 Waste

7.11.1 The management strategy indicates that the waste storage area for the commercial elements would be a compactor and space for storing compacted materials for a minimum of 4 x 1100L Eurobins and there is level access onto Upper Dock Street. Also the bin storage for the apartments at Riverside and Griffin House would be internal with strep free access onto the side street with less than 10m to a vehicle position on the highway and sufficient bin storage in line with the waste storage guidance

7.11.2 The Waste Section were consulted but unfortunately the details of the waste storage for residential units does not accord the waste storage requirements for residential schemes. For instance, Griffin House bin store for 30 apartments would require 3 x 1100L domestic euro's + 360L bin required for black bag general waste, plus recycling bins as per the attached guidance. Market Street bin store for 12 apartments - 1 x 1100L euro + 360L bin required for black bag general waste, plus recycling bins as per the attached guidance. In addition, Environmental Health have indicated that it is unclear to the waste management

provision to be provided by the A1/A3/D2 and D1 Use Class units. Although it is considered that this information could be provided prior to their use to accord with the residential requirements as well as further details of the open uses at ground floor. As such, a condition will be included with any consent for further details to be provided.

7.11.3 Accordingly, there is proposed space within the site to store bins and recycling facilities for commercial and residential uses on the site with good access to the public highway. The proposed bin storage area would be enclosed and, subject to a condition detailing the appropriate size to accommodate the necessary bin storage sizes the development is considered to be acceptable in this regard. As such there are no concerns with respect to waste storage provision and access in accordance with W3 of the Adopted LDP. (Condition 17 refers)

7.12 Other Matters

7.12.1 The Police were consulted and have raised some concerns in respect of CCTV, Hostile Vehicle Mitigation and general security measures. Although no CCTV, lighting or Vehicle mitigation has been proposed as part of this scheme, matters relating to lighting and CCTV can be included as conditions to require the applicant to submit details of these matters to the Council prior to occupation. With respect to hostile vehicle mitigation, this would be beyond the remit of control of the planning application and are better addressed by the Safer Newport group and their ongoing actions. The Police recommendation on secure by design can be included as an informative as part of the permission.

7.12.2 The neighbour's/public representations main concerns have been addressed within other sections of the report and relate to traffic and parking issues, impact upon the listed building as well as noise and disturbance. However, it should be acknowledged that issues relating to the management of the market or the agreement between the applicant and the Council or between existing traders and the applicant are not material considerations of a planning application. Planning permission runs with the land and therefore issues surrounding the lease of the building or private contracts are not material in the considering the impacts of the proposed use. For example, if granted, anyone could implement the consent or even a separate applicant could propose an alternative scheme that could be acceptable subject to it being compliant with all relevant material planning considerations.

7.13 Section 106 Planning Obligation matters

7.13.1 Summary

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

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
<i>e.g. Regeneration, Investment and Housing</i>	<i>e.g. to provide on site affordable housing</i>	<i>e.g. 40% affordable housing units at xx ACG, etc in accordance with policy XX of LDP or in accordance with formulae in adopted SPG, etc</i>	<i>e.g 20% affordable housing at XX ACG</i>	<i>Yes/No? Has the developer argued viability? If so, elaborate in relevant section of separate text</i>
Regeneration, Investment	Affordable Housing	30% affordable	In line with request	No

and Housing				
Education	Primary and Secondary education	John Frost High School (prior to commencement) x £29,741 = Secondary Education Sum; St Woolos Primary School and Ysgol Gymraeg Bro Teyrnnon Primary School (prior to commencement) x £19,034 = Primary Education Sum	In line with request	No
Leisure	Equipped and formal play provision	Number of one bed 'open market' dwellings x £1,821 = Leisure Sum; Number of two bed 'open market' dwellings x £3,816 = Leisure Sum	In line with request	No

Heads of Terms Agreed by Applicant

- 7.13.2 The scheme is for 100% Affordable housing and Council policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. However, in order to safeguard any future Council infrastructure liabilities, there is a requirement to provide a S106 legal agreement in the event that any of the dwellings are sold or rented on the open market.
- 7.13.3 Prior to commencement of the development, the Owner and/or Developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings. As such, the details set out in the chart above would apply and a S106 legal agreement would need to be entered into before the determination of the application.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

9. CONCLUSION

9.1 Having regard to policies SP1 Sustainability, SP2 Health, SP3 Flood Risk, SP9 Conservation of the Natural, Historic and Built Environment, SP13 Planning Obligations, SP18 Urban Regeneration, R1 – City Centre Schemes, R3 R4 – Non-Retail Uses in Other City Centre Shopping Areas, H3- Housing Mix and Density, H4 Affordable Housing, GP1– Climate Change, GP2– General Amenity, GP3– Service Infrastructure, GP4– Highways and Accessibility, GP5– Natural Environment, GP6– Quality of Design, GP7– Environmental Protection and Public Health, CE6 Archaeology, CE7 Conservation Areas, T4 Parking, and W3- Provision for Waste Facilities in Development of the Adopted Newport Local Development Plan 2011-2026 and the Adopted SPGS, Planning Policy Wales (10th Edition), and Technical Advice Notes 5 – Nature Conservation and Planning, 11 – Noise (1997), 12 – Design (2016) 18 – Transport, 23 – Economic Development, 24 – The Historic Environment it is considered that the proposed mixed used scheme is considered acceptable in respect of the principle the development, its impact on the listed building, its setting and the City Centre Conservation Area, impact on neighbours, highways safety and parking, amenity for future occupiers, drainage, ecology, waste and archaeology.

10. RECOMMENDATION

10.1 GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED POWER TO REFUSE THE APPLICATION IF THE S106 AGREEMENT IS NOT SIGNED WITHIN 6 MONTHS OF THE COUNCIL'S RESOLUTION TO GRANT PLANNING PERMISSION

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

- AE(0)A00 A3 1:1250 Site Location (Redline) Plan P1
- AE(0)A01 A1 1:200 Existing Site Plan P1
- AE(0)20 A1 1:200 Existing Basement Plan P0
- AE(0)A21 A1 1:100 Existing Ground Floor Plan - Part 1 P3
- AE(0)A22 A1 1:100 Existing Ground Floor Plan - Part 2 P2
- AE(0)A23 A1 1:100 Existing Mezzanine Level Plan P3
- AE(05)01 A1 1:100 Existing Elevation - High Street P1
- AE(05)02 A1 1:100 Existing Elevation - Upper Dock Street P2
- AE(05)03 A1 1:100 Existing Elevation - Griffin Street 1 P1
- AE(05)04 A1 1:100 Existing Elevation - Griffin Street 2 P1
- AE(05)05 A1 1:100 Existing Elevation - Market Street 1 P1
- AE(05)06 A1 1:100 Existing Elevation - Market Street 2 P1

AE(05)07 A1 1:100 Existing Elevation - Griffin Rear P1
AE(6-)01 A1 1:100 Existing Sections A and B P2
AE(6-)02 A1 1:100 Existing Section C P0
AE(7-)25 A1 1:100 Existing Internal Market Elevations P1
AE(7-)26 A1 1:100 Existing Internal Market Elevations P1
AE(7-)27 A1 1:100 Existing Internal Market Elevations P2
AE(7-)50 A1 NTS Existing Typical Historical Stall P1
D7336-A-0003 A0 1:100 Existing First Floor Plan C
D7336-A-0004 A0 1:100 Existing Second Floor Plan C
D7336-A-0005 A0 1:100 Existing Third Floor Plan B

AG(4-)D21 A1 1:100 Demolition Ground Floor Plan - P4
AG(4-)D22 A1 1:100 Demolition Ground Floor Plan - P4
AG(4-)D23 A1 1:100 Demolition Mezzanine Floor Plan P2
AG(4-)D24 A1 1:100 Demolition Roof Plan P1

AG(04)00 A1 1:200 Proposed Basement Plan P3
AG(04)01 A1 1:200 Proposed Ground Floor Plan P11
AG(04)02 A1 1:100 Level 01 - First Floor HA Apartments - Griffin Hse P12
AG(04)03 A1 1:100 Level 02 - Second Floor HA Apartments - Griffin Hse P11
AG(04)04 A1 1:100 Level 03 - Third Floor HA Apartments - Griffin Hse P11
AG(04)05 A1 1:100 Proposed Roof Plan P2
AG(04)11 A1 1:100 Level 01 - First Floor HA Apartments - Riverside P8
AG(04)12 A1 1:100 Level 02 - Second Floor HA Apartments - Riverside P8
AG(04)13 A1 1:100 Level 03 - Third Floor HA Apartments - Riverside P8
AG(04)A23 A1 1:100 Proposed Mezzanine Plan P6
AG(04)30 A1 1:500 Phasing Plan - Site/ Overview P0
AG(05)01 A1 1:100 Proposed Elevation - High Street P3
AG(05)02 A1 1:100 Proposed Elevation - Upper Dock Street P5
AG(05)03 A1 1:100 Proposed Elevation - Griffin Street 1 P5
AG(05)04 A1 1:100 Proposed Elevation - Griffin Street 2 P5
AG(05)05 A1 1:100 Proposed Elevation - Market Street 1 P5
AG(05)06 A1 1:100 Proposed Elevation - Market Street 2 P6
AG(05)07 A1 1:100 Proposed Elevation - Griffin Building Rear P2
AG(05)08 A1 1:100 Proposed Elevation - Riverside Building Rear P3
AP(04)10 A1 1:100 Historical Significance Plan - Ground Floor P1
AP(05)10 A1 1:100 Historical Significance Elevation - Upper Dock St P0
AG(06)01 A1 1:100 Proposed Sections A and B P4
AG(06)02 A1 1:100 Proposed Long Section C P2
AG(06)03 A1 1:50 Proposed Internal Typical Bay Section/ Elevation P2
AG(31)20 A1 1:20 Proposed External Door Elevations P0
AG(31)22 A2 1:20 Proposed Window Elevations P2
AG(31)25 A3 1:50 Proposed Shopfront Typical Pattern P0
AG(7-)A25 A1 1:100 Proposed Internal Elevations P3
AG(7-)A26 A1 1:100 Proposed Internal Elevations P4
AG(7-)A27 A1 1:100 Proposed Internal Elevations P3
AG(7-)A28 A1 1:100 Proposed Internal Elevations - Griffin Building P0
AG(7-)A52 A1 1:25 Proposed Bar Design (Plan) P4
AG(7-)A53 A1 1:25 Proposed Bar Design (Elevations) P4
AG(70)01 A3 Typical Market Unit Design P2
AG(70)02 A3 Typical Food Stall Unit Design P2
AG(70)03 A3 Typical Workspace Unit Design P3
AG(9-)01 A1 1:500 Proposed Site Plan P8
AA(01)50 A2 1:20 Proposed Secondary Glazing Typical pattern P0
AA(31)55 A3 1:10 Proposed Automatic Opening Vents P0
AA(32)50 A2 1:25 Proposed Security Screen Typical Pattern P0

23.11.20 A3 Heritage Statement 7
23.11.20 A3 Design and Access Statement 6
PAC REPORT
Ecology Impact Assessment (Revised)
Sustainability Technical Note

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 No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority

Reason: As the building is of architectural and cultural significance the specified records are required to mitigate impact.

03 No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed.
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas of spoil, oils, fuels, concrete mixing and washing areas and any watercourse or surface drain.
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.
- Steps and procedures that will be implemented to minimise the creation and impact of noise, air quality, vibration resulting from the site

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

04 The surface drainage scheme shall be carried out in accordance with the strategy set out within Surface water drainage strategy document by Austin Partnership consulting engineers submitted on 21st September 2020. Reason: To ensure adequate drainage is provided and ensure surface water from the development does not pollute the protected SAC by discharging untreated polluting water to the river.

05 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. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

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

07 The windows in the side elevation of Griffin House and Riverside shall be glazed using fixed obscured glass to a minimum of level 3 of the Pilkington scale of obscuration. Details of the specific windows to be obscured shall be agreed with the Local Planning Authority prior to their use as residential units. The development shall be carried out in accordance with these details prior to any residential unit being occupied. Reason: To ensure that the amenities of nearby residential occupiers are safeguarded and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP

08 Prior to first beneficial use of each A1/A3/D2/Gym and/or D1 Use Class unit, details of 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.

09 Prior to occupation of the residential accommodation at Griffin House and/or Riverside House, an acoustic assessment is required to demonstrate that the current noise climate will not have an impact on the proposed residential accommodation. The report(s) should be prepared by a person with appropriate acoustic qualifications and should be with full regard to all relevant guidance including BS8233:2014 - Guidance on Sound Insulation and Noise Reduction for Buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound. Where noise mitigation measures are required in order to protect the amenity of future occupants, e.g. secondary glazing and/or mechanical ventilation, then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the local planning authority. The development shall not be brought into beneficial use until the approved mitigation measures have been implemented in accordance with the agreed measures. Reason: To ensure that the amenities of occupiers of the development and other premises in the vicinity are protected and the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP.

10 Prior to the commencement of the food court stalls within the market area and the A1/A3/ D2/ Gym and/or D1 use, a noise assessment in accordance with BS 4142: 2014 'Methods for rating and assessing industrial and commercial sound' shall be submitted to and approved in writing by the Local Planning Authority. The assessment will need to demonstrate that the rating level of the noise emitted from fixed Plant and equipment located at the site (each unit) shall not exceed the background level at any premises used for residential purposes (sensitive receptors) and if appropriate, include measures to be taken to mitigate excess noise impact. The development shall not be brought into beneficial use until any required mitigation measures have been implemented in accordance with the agreed measures. Reason: To ensure that the amenities of occupiers of the development and other premises in the vicinity are protected and the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP

11 Prior to first occupation of the approved residential units, a scheme of sound insulation works to the floor/ceiling and party walls structures between the basement/ground floor Commercial Use Class and the proposed residential accommodation at both Griffin House and/or Riverside House shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. It is recommended that the sound insulation between the ground floor (Commercial) and first floor residential units be of a higher standard than approved document E, as approved document E is for residential to residential not commercial to residential. The approved scheme shall be retained thereafter in perpetuity. Reason: To ensure that the amenities of occupiers of the development and other premises in the vicinity are protected and the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP

12 Noise emitted from any new plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed the existing background level, with no tonal element to the plant. Reason: To ensure that the amenities of occupiers of the development and other premises in the vicinity are protected and the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP.

13 Fumes from the food preparation areas shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odorising filters. Details of

the extraction equipment (including scaled schematics, location plans, odour & noise 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 and maintained in accordance with the approved details prior to the commencement of use for the cooking of food. Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities.

14 Prior to the installation of any lighting or CCTV, full details of any external illumination/lighting or CCTV shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme prior to the beneficial use of the scheme. Reason: In order to ensure a satisfactory and safe development and to amenities of occupiers of other premises ensure compliance with Policies GP2, GP6 and GP7 of the Adopted LDP.

15 Prior to the occupation of the development, a Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall include measures to widen travel choices by all modes of transport, encourage sustainable transport, and cut unnecessary car use at all times. It shall also include measure for its implementation. Reason: To provide residents a choice of means of travel and to promote sustainable travel.

16 Notwithstanding the submitted plans, full details of the 18 no. cycle parking facilities shall be submitted to and agreed in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details before any part of the development is occupied, and it shall be retained for the parking of cycles at all times. Reason: To provide residents a choice of means of travel and to promote sustainable travel.

17 Works shall be carried out in accordance with the mitigation described in Section 5.7 of the submitted report "Ecological Impact Assessment Report (Bats and Nesting Birds), Newport Market. Produced by Wildwood Ecology Ltd. Dated 24th October 2018, revision A". The mitigation shall be implemented in full and any subsequent amendments provided to the Local Planning Authority for record and enforcement purposes. Reason: To safeguard species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

18 Prior to the commencement of development full details of a scheme of ecological mitigation enhancement shown on the approved elevations and plans shall be submitted to and approved in writing by the local planning authority. This shall include full details of the location and specification of the bat boxes and bird boxes/nests/cups and the timing of their inclusion. The details shall then be implemented as approved and shall be retained in perpetuity. Reason: In the interest of providing biodiversity 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.

19 Notwithstanding the details set out within the 2536-EWA-Newport Market DAS_8_Waste Management Statement for residential bin storage and prior to first beneficial use of each A1/A3, D1 and D2 commercial units at ground floor and the residential units above, a scheme for the provision of waste storage and recycling shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first beneficial use and thereafter maintained for the duration of the use. Reason: To ensure the satisfactory collection of waste to protect amenity and comply with policy W3 of the Adopted LDP 2011-2026.

20 Notwithstanding the submitted plans, the internally illuminated box signs proposed above the doors on the proposed entrances shall not be permitted as part of this permission. Reason: To protect the visual amenities of the Listed Building and wider conservation area, complying with SP9 and CE7 of the Adopted LDP 2011-2026.

21 Notwithstanding the submitted plans indicating external planters and canopies, further details of hard and soft landscaping scheme to be submitted to and agreed by the Local Planning Authority prior to its installation. The agreed details shall be carried out in accordance with the approved details prior to the beneficial use of the proposed development.

Reason: Insufficient detail to agree planters and canopies and to protect pedestrian walkways as well as the visual amenities of the Listed Building and wider conservation area, complying with SP9 and CE7 of the Adopted LDP 2011-2026.

22 Prior to the first beneficial uses hereby approved, a delivery and servicing Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include information such as the typical times of servicing, number and size of delivery vehicles. The management plan shall be implemented in full as per the agreed details when the use is in operation.

Reason: In the interests of pedestrian and highway safety and to safeguard the amenities of the area, in accordance GP4 of the Adopted LDP 2011-2026

23 Prior to their use, details of all proposed external materials (including samples) to be used shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure a satisfactory standard of development and to ensure compliance with Policies SP9, CE7 and GP6 of the Adopted LDP 2011-2026

24 Prior to their installation, full details of the replacement shopfronts on Riverside House, including sectional drawings of all new or replacement joinery shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details prior to the beneficial use of the development. Reason: To protect the character and appearance of the site and street scene and to comply with the Councils adopted Shopfront design guidance and GP6 of the Adopted LDP 2011-2026.

25 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order), Schedule 2, Part 2, Class A, no means of enclosure, other than those approved as part of this permission, shall be erected without the prior written permission of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and to protect the special qualities of the Listed Building, complying with SP9 of the Adopted LDP 2011-2026.

26 Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the mezzanine floor of the market shall be used for B1 office space and for no other purpose (including any other purpose in Class B1 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification. Reason: To ensure the office space is maintained in accordance with the proposals and to ensure the LPA can control any changes to the alternative uses that could potentially harm neighbouring amenity, in accordance with GP2 and GP6 of the Adopted LDP 2011-2026.

27 Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the basement floor of the market shall be used for D2- Escape rooms and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification. Reason: To ensure the basement is maintained in accordance with the proposals and to ensure the LPA can control any changes to the alternative uses that could potentially harm neighbouring amenity, in accordance with GP2 and GP6 of the Adopted LDP 2011-2026.

28 Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the uses fronting High Street shall be used for A1 or A3 uses and for no other purpose (including any other purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification. Reason: To ensure the high street fronting uses are maintained in accordance with the proposals to ensure the LPA can control any changes to the alternative uses that could potentially impact the viability of the town centre and central shopping area, complying with R3 of the Adopted LDP 2011-2026.

To ensure the office space is maintained in accordance with the proposals and to ensure the LPA can control any changes to the alternative uses that could potentially harm neighbouring amenity, in accordance with GP2 and GP6 of the Adopted LDP 2011-2026

29 Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the basement floor of the market shall be used for D2- Gym and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification. Reason: To ensure the Gym is maintained in accordance with the proposals and to avoid any changes to the alternative uses that could potentially harm neighbouring amenity.

30 The proposed shopfronts fronting High Street and Upper Dock Street shall be maintained for display purposes and shall not be obscured by painting, boarding up, advertising or other material. Reason: To maintain the retail character of the shopfronts and shopping area and to avoid dead frontages within the City Centre Conservation shopping area.

31 Further details and sections (to a scale of 1:20) of all new doors and rainwater goods shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be maintained in the approved form. Reason: To ensure a satisfactory standard of development and to ensure compliance with Policies SP9, CE7 and GP6 of the Adopted LDP 2011-2026.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1 Sustainability, SP2 Health, SP3 Flood Risk, SP9 Conservation of the Natural, Historic and Built Environment, SP13 Planning Obligations, SP18 Urban Regeneration, R1 – City Centre Schemes, R3 R4 – Non-Retail Uses in Other City Centre Shopping Areas, H3- Housing Mix and Density, H4 Affordable Housing, GP1– Climate Change, GP2– General Amenity, GP3– Service Infrastructure, GP4– Highways and Accessibility, GP5– Natural Environment, GP6– Quality of Design, GP7– Environmental Protection and Public Health, CE6 Archaeology, CE7 Conservation Areas, T4 Parking, and W3- Provision for Waste Facilities were relevant to the determination of this application.

02 The archaeological work must be undertaken to the Chartered Institute for Archaeologists (CIfA), “Standard and Guidance for Building Recording” (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member

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 NESTING BIRDS: Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended). The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting.

Nests are considered active from when adults begin to build or repair a nest until the final brood has fledged. Blocking access to a nest is also an offence. The nesting season for most bird species is between March and September but some species, notably feral pigeons, will nest outside of this time period.

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

06 Separate consent under the advertisement regulations will be required for the signs indicated on the submitted drawings.

07 The security standards recommended ie LPS 1175 for the entrance doors that will provide resistance to attack, and laminated glass used particularly as mentioned above in the mezzanine. Further information and guidance can be found at www.securedbydesign.com.

08 The applicant is advised that Planning Permission is not a consent or the grant permission for doorways to open out onto a public highway and consent would be needed from the Highways Authority.

09 It should be noted that this consent is dependant on the applicant entering into a Planning Obligation under Section 106 of the Town and Country Planning Act 1990

10 We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Any details of lighting or CCTV would require further Listed Building Consent.

3.

APPLICATION DETAILS

No: 20/0735 **Ward:** Stow Hill

Type: Listed Building

Expiry Date: 4th December 2020

Applicant: Loftco

Site: *Newport Provisions Market High Street Newport South Wales NP20 1DD*

Proposal: *REFURBISHMENT OF NEWPORT MARKET TO COMPRISE MARKET STALLS, FOOD AND DRINK COURT AND FLEXIBLE WORKSPACE AND RECONFIGURATION OF EXISTING BUILDING TO ACCOMMODATE RESIDENTIAL FLATS AND LEISURE USES, SERVICING ARRANGEMENTS AND ASSOCIATED WORKS*

Recommendation: **GRANTED WITH CONDITIONS** subject to CADW

1. INTRODUCTION

- 1.1 This is a Listed Building Consent application to convert the existing market to a mixed use commercial (food court and market stalls), flexible office uses on the Mezzanine floor as well as the conversion of the upper floors to include an additional 42 affordable residential units. The application is being considered at Planning Committee as the site is currently owned by Newport City Council. The application has been submitted by a private investor seeking to agree a long term lease on the buildings.
- 1.2 This application has been made in combination with planning application reference 20/0734 for the change of use of the building and all external alterations that require formal planning permission. The Listed Building Consent will consider the impact of the works on the special qualities of the listing as well as ecology/conservation of protected sites and species. The following designations apply to the application site: -
- Urban settlement boundary
 - River Usk- Special Landscape Area (SLA)- 100m east of the site
 - Grade II Listed Building- Newport Provisions Market
 - City Centre Conservation Area
 - Archaeologically sensitive Area
 - Parking Zone 1
 - Flood Zone B.
- 1.3 The main issues to consider in this application is the impact of the proposed changes on the listed building. The Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 66 and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area or building. Listed Building Consents must also have regard to the impact upon protected sites, species and habitats.
- 1.3 In addition to the plans/drawings the application has been supported by a Design and Access Statement, Heritage Impact Assessment, Ecological Impact Assessment, Planning Statement and Cover letter.

1.4 4 representations have been received from members of the public. The Officers recommendation for the scheme is to grant the consent with conditions subject to CADW.

2. RELEVANT SITE HISTORY

00/0686	Listed building consent application for internal alterations to include removal of existing f f stalls and pens, erection of new stalls and fire escape/passenger lift enclosure, new flooring, installation of solar control (levolux blinds) replacement glazing where required	Granted
01/1433	New glazed canopy and entrance doors to high street entrance including removal of existing canopy (in part	Granted
02/0827	Listed building consent for replacement of ground and first floor glazing, replacement of main barrel roof glazing, top roof lantern light and gable end curtain wall glazing	Granted with Conditions
02/0828	Replacement of roof glazing and market gable end curtain wall glazing	Granted with Conditions
02/0829	Listed building consent for replacement of roof glazing and replacement of market end curtain wall glazing	Granted with Conditions
02/1173	Listed building consent application for internal and external alterations including creation of fire escape lobbies, glass lifts, glass floor infills and replacement market stalls	Refused
03/0916	External alterations	Approved with Conditions
05/1446	Listed building consent application for internal and external alterations, insertion of new lift within existing cabin/utility building for public disabled access; glass floor infill to voids to create events space; replacement of market stalls	Granted with Conditions
07/1114	Listed building consent for restoration of market stalls on ground floor	Granted with Conditions
11/1305	Change of use of 22, 23, 24 and 25 high street to create 1no. A3 unit, the creation of Terraces and seating on high street, the redesign, enlargement and relocation of Market entrance, the creation of 2no. A3 units and 1no. A1 unit south of new market Entrance, new windows and doors in high street elevation and the creation of a Window in griffin street elevation	Granted with conditions
12/0863	Partial discharge of condition 1 (external doors, windows and gates) of planning permission 11/1305 for change of use of 22, 23, 24 and 25 high street to create 1no. A3 unit, the creation of terraces and seating on high street, the redesign, enlargement and relocation of market entrance, the creation of 2no. A3 units and 1no. A1 unit south of new market entrance, new windows and doors in high street elevation and the creation of a window in griffin street elevation	Approved
13/0477	Partial discharge of condition 3 (fume extraction details) relating to planning permission 11/1305 for the change of use of 22, 23, 24 and 25 high street to create 1 no. A3 unit, the creation of terraces and seating on high street, the redesign, enlargement and relocation of market entrance, the creation of 2 no. A3 units and 1 no. A1 unit south of new market entrance, new windows and doors in high street elevation and the creation of a window in griffin street elevation	Approved

- 3.1.1 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.

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

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

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

Chapter 6 - Distinctive and Natural Places

· Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)

Listed Buildings

6.1.10 There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses.

Special Protection Areas, Special Areas of Conservation and Ramsar Sites

6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations. The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers. Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs, but are not subject to the Habitats Regulations. However, Ramsar sites should be treated within the planning system in the same way as SACs and SPAs.

3.3 Technical Advice Notes:

- 3.3.1 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)
- Technical Advice Note 24 – The Historic Environment (2017)

The paragraphs below are considered to be of relevance: -

- 5.12 Applicants for listed building consent are required to provide a heritage impact statement. This presents the results of a heritage impact assessment, which is a process designed to ensure that the significance of the building is taken into account in the development and design proposals for change. Heritage impact assessment

should be proportionate both to the significance of the listed building, and to the degree of change proposed, and the statement should provide enough information to allow the local planning authority to judge significance and impact when considering applications for listed building consent.

5.13 When determining a listed building consent application, the local planning authority should consider the following issues:

- The importance and grade of the building and its intrinsic architectural or historic interest.
- The physical features of the building which justify its listing and contribute to its significance, (for example its form and layout, materials, construction and detail) including any features of importance such as the interior, which may have come to light after the building's inclusion on the list.
- The contribution of curtilage and setting to the significance of the building, as well as its contribution to its local scene.
- The impact of the proposed works on the significance of the building.
- The extent to which the proposed works would bring substantial community benefits for example, by contributing to the area's economy or the enhancement of its local environment.

The listing grade may be a material consideration, but is not in itself a reliable guide to the sensitivity of a building to alteration or extension. For example, many grade II buildings are humble, once common building types, listed precisely because they are relatively unaltered examples of their kind and their special interest can be damaged by inappropriate alteration or extension.

5.14 Many listed buildings can sustain a degree of sensitive alteration and extension to accommodate continuing or new uses. Past changes that reflect the history of use and ownership may themselves be aspects of the special interest of the listed building. When applicants and the local planning authority assess the heritage values and significance of a listed building, which is the subject of a consent application, they must consider the sensitivity of that building to the proposed changes. Sustaining the special interest and significance of a listed building through the process of alteration, extension or re-use is exacting, and should always be based on specialist knowledge and skill in order to realise the benefits that well-designed interventions can bring.

3.4 Supplementary Planning Guidance:

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG is of relevance:

- Wildlife and Development SPG
- Archaeology and Archaeologically Sensitive Areas

3.5 Other relevant evidence or policy guidance:

3.5.1 The following legislation and documents would also be relevant

- The Planning (Listed Buildings and Conservation Areas) Act 1990 - Section 16 states that in considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

4. CONSULTATIONS

4.1 NEWPORT CIVIC SOCIETY – No comments have been received to date.

4.2 THE ROYAL COMMISSION – No comments have been received to date.

- 4.3 NATIONAL RESOURCES WALES – National Resources Wales has indicated that it would have significant concerns with the proposed development as submitted but recommend the Council should only grant planning permission if a biodiversity Construction Environmental Management Plan condition is included with any permission.
- 4.4 COUNCIL FOR BRITISH ARCHAEOLOGY - We have reviewed this application and whilst we would in principle support the redevelopment of the market and agree that the existing market is underused and would benefit from regeneration, we are concerned regarding some of the impacts on the significance of the building/s and would like to provide the following comments.

We would like to point out that due to Covid19, a site visit has not been possible and so this information is solely based on the information provided in the application.

Our overall concern is that the proposals would create a homogenized and sterile American style mall or modern shopping centre. We have experienced successful adaptations of historic market halls and spaces and would encourage the applicants to further study these in order to understand and identify the principles which have been applied to ensure that their overall character has been retained. We are entirely supportive of the principle of addressing the issues which face Newport Market Hall and encourage the investment which is undoubtedly necessary in order for it to survive, however, it is essential that such an iconic and significant property is very carefully conserved and adapted to today's needs.

The HIS identifies that some of the market stalls are original and are of high historical value (sections 3.3. and 3.5 of the HIS). It also identifies architectural details such as brackets and hanging hooks - undoubtedly there are other characteristic details as well. We are concerned that despite the identification of most of the central stalls and the stalls along the Griffin Street walls as being of high and historic significance that they are effectively proposed for alteration if not entire removal. Considering the sparsity of original stalls suggested in the assessment, this would have a very negative impact on the evidential significance of the market. An alternative floorplan in line with the identified original layout of stalls and retaining those of historical significance could easily be incorporated.

In addition, the homogenizing of design and apparent removal of architectural detailing to ensure a 'uniform' arrangement and character would seem to be contrary to the entire essence of the overall existing character of the market hall. A market hall is a characterful, vibrant space with variations of colour, design, stall size, smells, sounds and 'ad hoc' development. These particular characteristics have not been identified as significant within the HIS and the uniformity and 'harmonising' of the stall layout and aisles would be detrimental to this aspect of its character. Note the standardised signs, lighting, stall fronts, colour scheme, pallet of materials etc suggested by the design proposals.

There has been no identification of the importance of the subsequent alterations of the market hall area. It is widely acknowledged that later alteration can in itself be significant since it can be associated with changes in retail and shopping practices, social change and communal use of a building. In addition, it seems highly likely, given the lack of financial investment inherent in these buildings, that early stalls have simply been adapted and that original materials and form have been retained whilst hidden under later development.

We are also concerned regarding the design of the proposed two storey extension to the roof of the Griffin Building. The proposals demonstrate that this will have a strong aesthetic impact on both the building and the street scene, thereby impacting on the character and appearance of the conservation area. A full justification for this proposed extension should be provided, other than that it was included in the brief. The design should also seek to minimize its visual impact.

- 4.5 THE VICTORIAN SOCIETY- 'Assessed, no comment' (no objection in principle) and we do maintain this stance. However, as I mentioned, this was in part based on the amendments, particularly the stated intention to re-use original fabric of the market stalls where possible. Please can it be clarified that it was this amendment in particular which influenced our shift

to the 'no comment' stance, and that we expect every effort to be made to retain as much of the historic fabric of the stalls as possible.

- 4.6 ANCIENT MONUMENT SOCIETY- The Ancient Monuments Society do not object to the principle of the development and welcome the revitalisation of this underused building, however, we do have several concerns with the amended proposal.

The AMS recognises that alterations are needed to ensure this building is fit for purpose and meets modern requirements and building standards, in accordance with guidance in paragraph 5.14 of TAN 24. The amended scheme seeks to retain and reuse more of the original market stall features and structures identified in the HIS as having a high level of significance and historic value. While this is welcomed, we are somewhat apprehensive about the introduction of a completely uniform scheme for the market hall, in terms of the layout, architectural features, signage and colour. Considering the limited number of original stalls that remain, the loss of the diverse character of the market could have a negative impact on the evidential significance of the market. The AMS would therefore encourage this diversity to be celebrated, particularly in the two outer aisles of the market where the original market stall structures are to be retained or relocated to, by reusing more of the existing individualised signage, etc. to retain more of this historic character.

We also oppose the removal of the chimney breast that affect three proposed units on levels 1-3 and the related alterations to support for the chimney above roof level. The argument that retaining the chimney would reduce the proposed two bedroom units 'to very oversized one-bedroom units' (p 28, D&A Statement) is not considered enough to justify the loss of historic building fabric to this extent. We would recommend this is reviewed to ensure the architectural features of this building are sustained and enhanced.

5. INTERNAL COUNCIL ADVICE

- 5.1 COUNCIL'S ECOLOGY OFFICER: I can confirm that aside from NRW's concerns regarding surface water drainage, no other potential impacts on the River Usk SAC need to be considered. Under Regulation 63 of the Habitat Regs, the application should be screened under TOLSE. Whether a full Appropriate Assessment is required will depend on whether mitigation will be required to reduce impacts from surface water drainage. If no potential effects are identified (and therefore no mitigation is required) the proposal can be screened out from further assessment. However, the 2019 People Over Wind judgement means that if mitigation is required to reduce potential effects of a proposal, then a full Appropriate Assessment is necessary.

A bat report has been undertaken. The surveys were undertaken in 2018, and whilst this is older than we would normally accept to inform a planning decision, due to the findings and recommendations of the report I consider it acceptable in this case. If the Council are minded to grant this application, then the methods described in Section 5.7 of the ecology report should be secured with a condition. Works to the roof should be carried out outside of bird nesting season but feral pigeons have been known to breed out of season so a licence may be required if they cannot be safely excluded from the building.

Ecological Enhancements will be required to meet our Section 6 duty and planning policy requirements. The report includes some basic recommendations but is not sufficient to secure a plan of enhancement. A scheme of this scale should provide many nesting and roosting opportunities for birds and bats. "Bee bricks" could also be considered. If not provided prior to determination, I would be happy for the scheme to be secured with a condition.

- 5.2 COUNCIL'S CONSERVATION OFFICER- Having considered the most recent revisions to the HIA, it seems that limited additional justification or details has been received on the missing items in the HIA. If listed building consent is granted at this present time, the permission would need to be subject to a number of pre commencement conditions. The conservation officers proposed conditions have been summarised in the report below.

6. REPRESENTATIONS

6.1 The application was advertised by way of a site notice and press notices. 5 representations have been received in respect of 20/0734 and 20/0735. Rather than split these representations, they have been included on both applications as they do include objections to the LBC along with the FUL proposals: -

The main reasons outline in the objection include: -

- Concerns over the extraction system for the food court- no detail of the centralised extraction system and how it will vent from the external walls.
- The Design and Access Statement and Heritage Impact Statement has no rationale for arriving at the current proposal, which will result in a loss of many heritage features
- The fact that the Market has not been put to effective use is through the Council's inability to manage the building and no evidence that other options have been considered
- A detailed and comprehensive survey needs to be undertaken to ascertain the heritage features and the current assessment is not good enough. A more detailed survey would reveal more stalls of moderate or high significance
- The current market stalls have a inconsistency of layout because it follows the the original victorian conception and the developer has not recognised this.
- The Developer has not responded to the significance of the building but has arrived with a plan, cut and pasted from a separate market development and imposed it on the building with little regard to the historical and cultural importance of the Market
- The redevelopment should be to step back stalls to the victorian design and where not possible, remodel spaces to be complimentary.
- The developer has no proven record or experience of delivering or operating markets and this project will not be sustainable or viable and it will lead to the use of the building being changed from a market.
- Many of the existing traders will not be going forward with the proposed development and only one business has signed up to the proposal.
- There is no detail of the additional insulation into the vaulted roof. This is a notable feature and details will need to be provided.
- The categorisation of Historic Significance has been used in a cynical manner, to the effect that all the Stalls that the Developer intends to demolish are conveniently categorised as being of 'low significance'.
- The developer will destroy vast amounts of historical features to deliver his development but there is no justification that he needs to do this.
- The proposed scheme is not viable or sustainable as a business. A lot of businesses that opposed the proposal within the market are not represented by the National Market Traders Association (NMTA). The developer has failed to secure the commitment of a number of the trading businesses. In addition, proposed heads of terms have been provided for current traders but has offered no clear path to businesses as development is occurring or costs to relocate.
- It is clear that the current Market is, to all intents and purposes, extinguished and any future development will be faced with the onerous task of establishing a new Market in Newport.
- The Developer has, to my knowledge, not provided any detailed business case as to how he is going to deliver what he is promising.
- On what (acknowledged) basis has this developer been "selected by Newport Council to carry out this development".
- No rational indications or evidence has been provided to show the delivery of a viable and sustainable Market to be presently contained within this proposal. Based on the evidence of his actions up until now, I would question the Developer's ability "to increase its vitality, increase footfall and maintain the Market as a viable facility into the future"
- The Developer has proven incapable of retaining the Market's existing businesses, let alone shown any indication of his ability to attract new businesses on the scale that would be necessary to ensure the success of this proposal and secure any viable future for the building as a Market/Food Court.

- Concerns of service access in terms of the provision of sufficient parking/ loading zones for the Market and Food Court element of the proposal, especially with the proposed landscaping and break out seating areas outside the site
- No parking for proposed 62 residential units
- The proposal does not comply with well being and future generations act as stated by the Council in the cabinet report regarding the market. The representation sets out that the Council did not correspond with someone who represented the traders and the agreement with the developer was to deal with the costs of the building and not the sustainability of the building as a future use
- The agreement between the Council and the developer should have been a more open and transparent to allow greater public scrutiny before the agreement was made between the Council and developer.
- Neither the City Council's Corporate Plan (April 2016) nor the City Masterplan (January 2018) contain any proposed measures to address the retail decline of the City through a targeted and pro-active approach to the regeneration of retail areas and management of the City Centre retail offer.
- To have residential units would increase traffic movements and result in safety issues with pedestrians in the city centre.
- As there is no parking the units would not be served by parking and so could not be sold or rented as already has happened in the Kingsway development.
- The only access to the site, by car, would be via the road on Upper Dock Street and this is already heavily used by Taxis and delivery vehicles. This will be to the danger of pedestrians using this area.
- Disability access to the residential use is limited and so the proposal would breach accessibility laws
- The proposals do not seek to retain the decorative glass window in place. This is cultural vandalism and it really needs to be resisted. I think it's the largest stained glass window in Wales, and it is essential that it is retained.

7. ASSESSMENT

- 7.1 Newport Market is Listed Grade II. This designation is a statutory recognition of the national architectural and/or historical importance of the building and applies to the building and its immediate curtilage. Listed buildings are protected by the Planning (Listed Buildings and Conservation Areas Act) 1990. The group of buildings form the central covered markets in Newport City Centre, with additional accommodation and uses provided in bookend 4-storey buildings at either end facing High St and Dock St.
- 7.2 A Listed Building Consent application is informed, primarily, by the supporting Heritage Impact Statement.(HIA). The HIA should take into account sufficient information to enable both the significance of the asset and the impact of change to be understood. It should be proportionate both to the significance of the historic asset and to the degree of change proposed.
- 7.3 The HIA submitted with this scheme has set out in detail, the listing of the market building. It is evidenced that the Newport Market comprises a collection of linked buildings, built over a period of approximately 80 years with different qualities and historical significances to each building. The collection are three buildings, the main covered Market Hall, Griffin House (Royal Chambers) and Riverside House. Griffin House and Riverside are located at either end (East and West end) of the market and resulting in a bookend scenario to the buildings.
- 7.4 The main covered Market Hall in the centre of the current group spanning between Market and Griffin Streets was constructed in 1854, The Market Hall is a fine example of a wrought ironwork large-span structure, clad in copper roof sheet and with patent glazing lanterns. The Riverside building was added after the Market Hall later in 1887 and has a French Renaissance style with tall slate roof turrets above a rusticated stone principal facade. The Market is entered via a two-storey archway in the centre of the Riverside facade beneath the central tower. The central tower, end turrets and tall chimneys give the building a distinctive profile in the Newport cityscape. There is a later attic storey, which appears to have been added in the late 1960s/ early 70s based on the age of construction materials. The ground floor comprises a row of shopfronts facing the street and either side of central Market entranceway. A number shopfronts have been altered changed over time as tenants and

retail styles have changed. The existing shopfront corner (no.194 Upper Dock street) being the most consistent with the original design but there are a mix of timber and aluminium framed shopfronts and external shutter-doors. The more recent of the three relates to the Royal Chambers building facing High Street constructed in the 1930's. Royal Chambers / Griffin House was added later and is a fine example of 1930s civic architecture that shares a similar rectilinear Modern style and Portland Stone facing to Newport Civic Centre, originally the building was a department store. The HIA also provides historical photographs to evidence the historical significance and architectural merit of the buildings.

- 7.5 The key issue to be considered is the impact on the listed building, having special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 66 of the above The Planning (Listed Buildings and Conservation Areas) Act 1990 Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.6 SP9 also require schemes including Listed Buildings to be sensitively designed to mitigate any adverse impact upon the protected built environment. Policies GP2- General Amenity, GP6- Quality of Design of the Adopted LDP 2011-2026, also seek to ensure that the development proposals are of a good quality of design and reflect the scale and context of the locality.
- 7.7 Initially, the proposals did involve the erection of a two storey flat roof extension to the roof of the Griffin House to accommodate serviced apartments. However, the extensions have been removed from the scheme, which means the proposed external alterations to the listed building are limited to shopfronts, new and replacement doors and windows at ground floor as well as refurbishment of windows and the roof to the upper floors of Riverside House and Griffin House. The majority of the changes to the site would involve the proposed internal conversion on the existing fabric at ground floor and mezzanine of the Market and the internal alterations of the upper floors of Griffin House and Riverside Building to form the affordable housing units. As the change of use cannot be formed without internal alterations to the building to enable the use, the internal changes to the historic fabric must be considered as part of the application.
- 7.8 However, the physical works to carry out the internal alterations will require separate Listed Building Consent and justification in the form of a Heritage Impact Statement has been provided as part of that application but is not necessarily required as part of the planning application. Notwithstanding the fact that the internal alterations to the Listed Building will be considered in more detail within the LBC, all of the changes, external and internal are summarised in detail below: -
- 7.9 Listed Building Alterations
- 7.10 The applicant's agent indicates that the central area of the Market Hall Ground and Mezzanine floors as well as the upper floors can be modified as proposed without an unacceptable impact to the character of the Listed Building and the proposals would refurbish and secure the building in its continuing use as a Market.
- 7.11 Although the principle of the planning permission has been accepted, the physical works to carry out the internal and external alterations will require separate Listed Building Consent and justification in the form of a Heritage Impact Statement has been provided as part of that application. All of the changes, external and internal are summarised below: -
- 7.12 Riverside House- Changes to façade and internal alterations to form commercial shopfronts and residential units above

Currently the building is showing signs of distress from poor maintenance – eg vegetation growing in flashings/ stone joints, flaking paint on windows etc. Boarded up or roller shutters visible throughout the day has created an uninviting or dead frontage to the northern side of the building whereas to the south there are new unsympathetic shopfronts serving a café, taxi office and hairdressers.

The current upperfloors of Riverside have an established use as offices, with a staircase each end (North and South) providing access to the offices from either end of the building. A central internal walkway provides access to the office spaces to the front and rear of the building across the width of the building.

7.13 External Changes

The application proposes to install new shopfronts following the historic pattern, which will replace modern and shopfronts of disrepair. External renovation of the Riverside building including stone cleaning, window overhauls, redecorations and re-roofing of slate roof areas as well as infilling of rear roof rooflights. Renewal of the extended mansard roofing and windows at high level with more sympathetic and durable materials (steel window frames). Secondary glazing will be introduced to upper floors to provide a suitable warm environment for apartments

Windows overhauls, including redecoration of timber windows, replacement of copings, flashings with matching materials as well as sympathetic replacement of shopfronts would improve the overall appearance of the facade from street level and wider views. Replacement of upper level non-original metal windows with new matching aluminium units following the original pattern will retain this layer of the buildings history of development, and at the same time provide suitable internal environment to the new apartments and update the external appearance.

Historical Significance Plan- Upper Docks Street elevation



Proposed Elevation



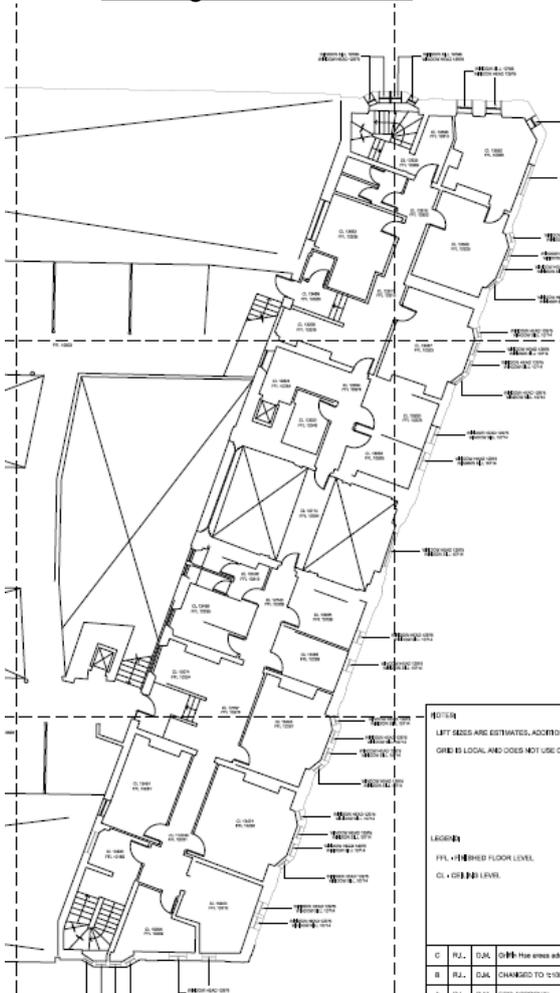
7.14 Internal Changes

The proposals set out a re-planning of the current office accommodation (mostly vacant) to provide 12 affordable residential units. The planning statement indicates that the layout that accord with Welsh Government requirements for affordable housing and fit within the existing structure as best as possible.

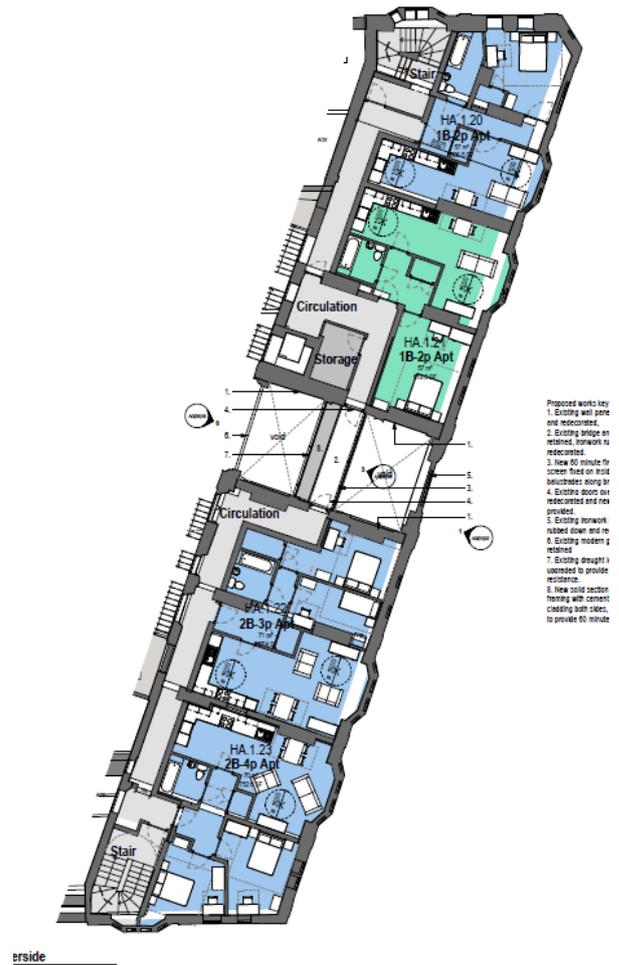
The internal changes alter the layout to show a walkway across the rear of the first, second and third floor providing access to residential units to the front of the building. The proposals include 4no. 1 and 2 bedroom apartments per floor level: new domestic partitions, bathrooms, kitchens and associated services. All apartments are single storey within the existing floor levels and working wherever possible within existing solid dividing walls. It was originally proposed to removal a chimney breast internally from these floors but this has been omitted from the latest revisions.

A void exists at first floor centrally with an exposed walkway between the north and south of the building. A new 60 Minute fire rated glazed screen will be provided for fire safety precautions whereas the, the balustrades will be preserved.

Existing First Floor Plan



Proposed First Floor Plan



7.15 Griffin House (Royal Chambers)

Currently the building appears to be in good condition externally with some minor distress to some of the stonework, coping and flashings. The ground floor shopfronts and access to the market were recently updated along with the areas to the front of the building.

It is understood that the last known use of the upper floors was in part as a department store along with the introduction of two floors of apartments accommodating 14 units.

7.16 External Changes

The application does not propose to carry out significant external works to the building façade fronting High street as well the side streets.

The works would include some minor alterations to the shopfronts, cleaning of stonework, repair/ re-setting copings, replacement of flashings with matching materials where needed to ensure weather tightness. Existing Crittal windows refurbished, overhaul, rub down & repaint along with the provision of secondary glazing to provide appropriate insulation of new apartments.

Existing High Street Elevation



① Existing Elevation High St
1:100

Proposed High Street Elevation



Elevation High St

7.17 *Internal Changes to Griffin House*

30 new affordable residential units are proposed within the existing upper floors. As in Riverside, these have been designed to accord with Welsh Governments requirements. The statement indicates that the changes to the interior of the upper floors would be the removal and replacement of modern partitioning. The existing facades and window positions will be retained. Appropriate replacements for the existing non-insulated windows will be explored and original internal glazed screens, staircase, balustrades and lift cage would all be retained.

Existing first floor Plan



Proposed First floor Plan



7.16 Market Building

The existing building is currently operating as an indoor Market. There are some market units occupied but with a high level of vacancy currently exists. The building has a highly significant barrel vaulted roof spanning the centre of the market hall and exposed ironwork supporting columns surrounding the market aisles with continuous patent glazed roof lights.

There are original/ old market stall still in existence particularly at each end, some have been re-created by matching the original designs and others with tagged on modern adaptations. Original features do exist behind modern changes. The first floor is a mezzanine providing a visual connection to the ground floor. The rear of the Riverside building and the glazed gable end wall are visible at one end of the Market and from the mezzanine level. First floor retains the original ironwork balustrade behind the modern additions.

All areas have additions of surface mounted service runs and fixings, ad-hoc constructions and additions, which has some impact upon the visual appreciation of the historic market internally.

7.17 External

The existing fabric would be retained as providing the essential character of the market, and renovated where weathered/ decayed. The glazing would be retained and replacements provided where cracked/ missing. The lantern above the barrel vault provides ventilation and smoke clearance - the sections of louvres in the upstand will be replaced with matching designed versions with automatic controls to ensure they function correctly but do not change the appearance of the roof.

The existing entrance areas with the individual tile designs will be retained and overhauled. The floor tiles on the steps will be replaced with sympathetic replacements to ensure

security and slip-resistance. The existing ironwork, walls and roofs will be retained and repainted. On the side elevations, new aluminium framed opening louvres in existing openings with existing timber arched windows/vents to be retained, overhauled & painted. Shutters, where shown, would be removed and iron grille reinstated to match other openings along street.

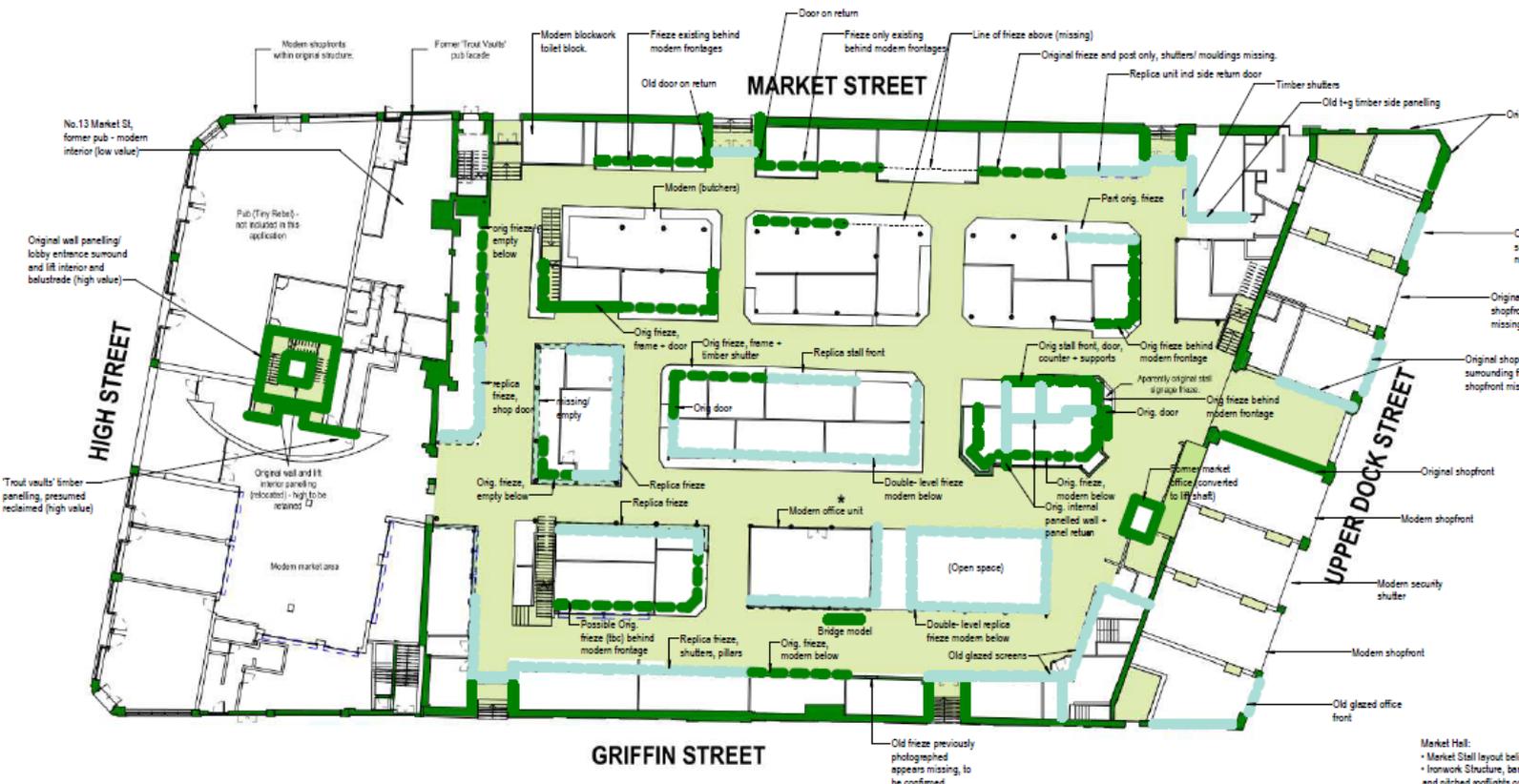
7.18 Internal

Reorganisation of the market hall into three distinct areas with new stalls and services to each area:

1. Creation of a food-orientated area in the centre of the market hall;
2. Produce market around the perimeter in the existing aisles;
3. Workspace on the mezzanine.

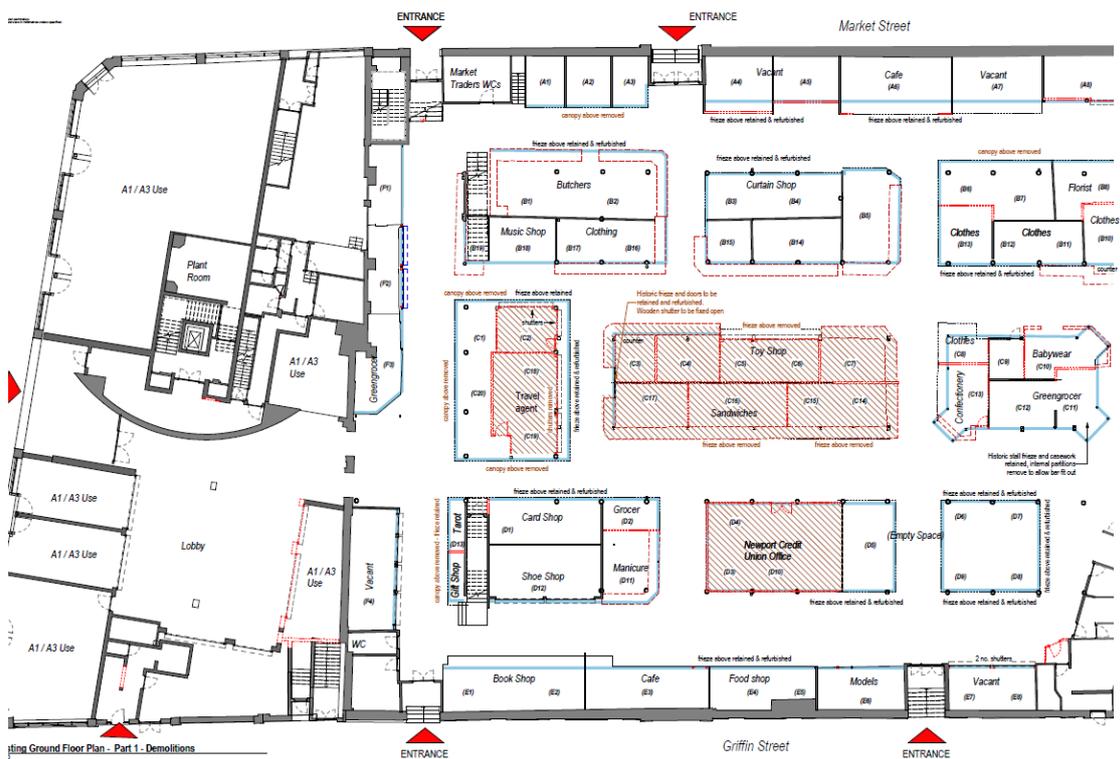
The proposal wants to formalise the ad-hoc open spaces centrally to form a food court centrally, utilising a central historical stall as a bar with a large open seating area. Surrounding the bar area would be a number of food court stalls and beyond these Market stalls will located to the outer perimeter of the building. The applicant has sought to retain historical stalls, frieze and frames where possible and relocated some historic fabric where it is not possible to retain it in its current location. The planning submission indicates that if trends change and the food court seating is not required in future, then stalls could be reinstated in the central seating area in the future following the historic designs and without affecting any of the rest of the Market Hall fabric, this would be a matter for further application.

Historical Significance- (dark green- high value (if dashed ---- the feature is above/ light green-moderate or partial value/ turquoise- Moderate Value -vertical feature/ stall fronts above/ White- modern or low va

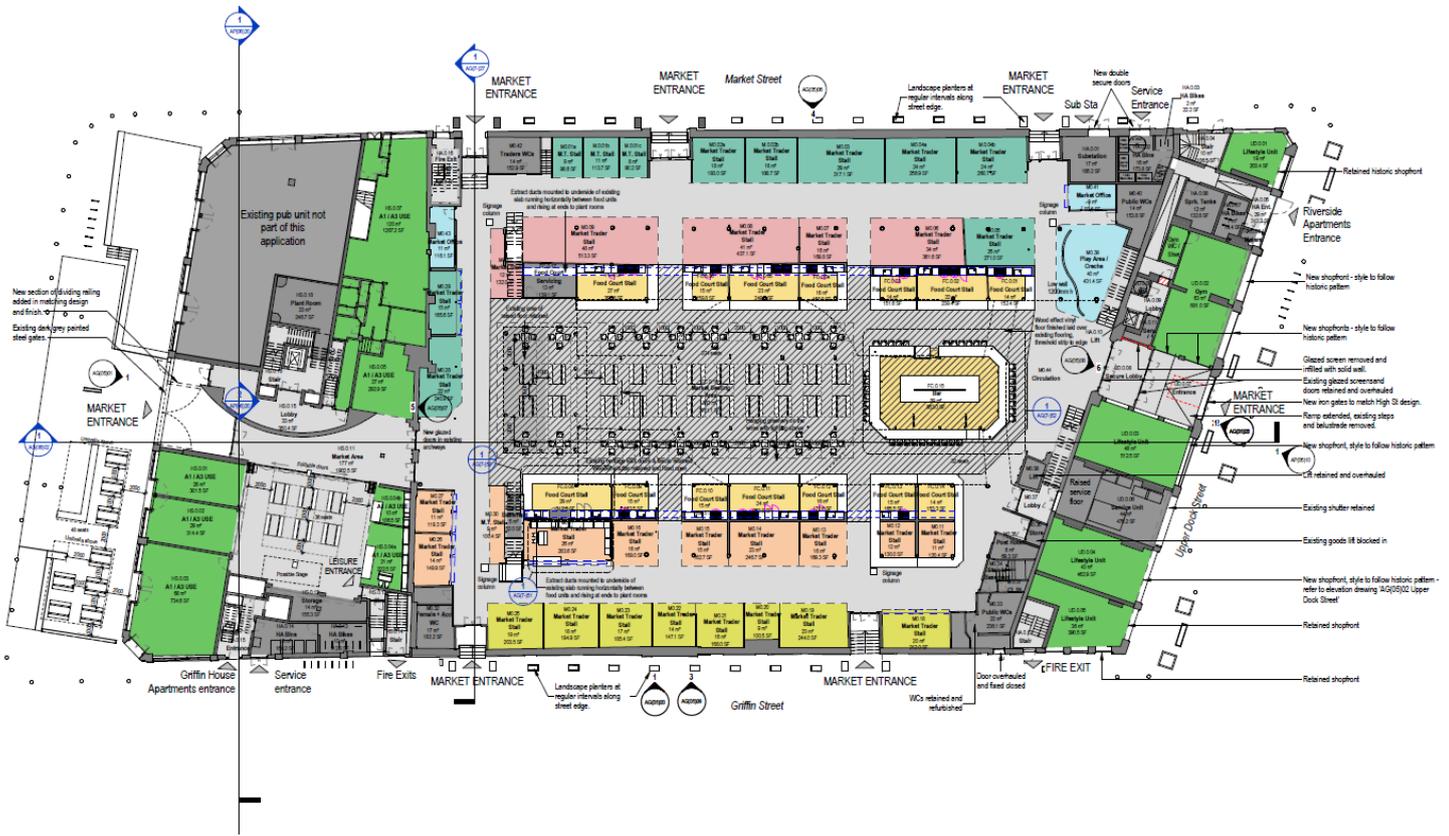


Market Hall:
 • Market Stall layout below
 • Ironwork Structure, beam and pitched rooflights (of value)
 • Market stall-fronts, columns - mostly replica (moderate value)
 • Original stall-fronts: a small original, or dating from the mezzanine gallery floor (moderate value)
 • Stall counters, shelving (modern) rebuilt (low value)
 • Ancillary accommodation: office, stores, or ad-hoc (low value)
 • Terrace overlay flooring (2003 renovations based on existing floor potentially moderate value)

Demolition Plan- Red/Brown removal of structure or partition/ Blue- retention or refurbished
freezes/fascia's above



Proposed Ground Floor Plan for Market and Food Court (includes uses to ground floor of
Griffin House and Riverside House)



7.20 First Floor/Mezzanine :

The perimeter stalls will be refurbished and formalised with glazed partition fronts and the current modern suspended ceilings within the units renewed. The central area of upper Gallery floor will be retained as an open flexible-use space with controlled public access to retain the appreciation of the Market roof. The stained glass window to the western elevation would be retained but covered with company logo using a covered film. The scheme also proposes a radiant heating system and lighting above the flexible working space areas.

Proposed Mezzanine Plan

alternative uses were considered prior to the determining that the residential use was the most appropriate use that would retain the most historic fabric.

- Market and Mezzanine- Assessment of certain stalls historical significance and some of the accuracy of detail set out within the accompanying HIA. Also there are some concerns over the loss of some market fascia's and the covering of the window artwork as well as the more structured/formalised layout of the market.

7.22 With respect to the justification for residential uses above, it is acknowledged that the development is attempting to provide a range of uses in order to provide a scheme that satisfies a diversion from the existing uses and to regenerate the site. Diversification of economies, including more varied, flexible and quality spaces to live, work and stay, has been at the core of policy solutions to the decline of town and city centres for many years, and a hallmark of successful urban centres. As the scheme includes a mix of retail and lifestyle commercial uses at ground floor as well as more modern offices to the mezzanine it is important to provide a residential element of the scheme for its viability as a mixed use scheme. The provision of housing, especially affordable, is in high demand within this location and the upper floors would be the most appropriate and sustainable area for a residential use at this site. The range of uses, including sustainable living, would provide longevity to the use of the Listed Building.

7.23 The Council's Conservation Officer has set out in his final response that limited justification has been received following his latest request for updated information on the HIA. However, it is understood that the majority of the concerns with respect to the retention of the historical market stalls at ground floor have been satisfied and although it is understood that a survey of upper floors of Griffin House and Riverside would be required it is accepted that there are less features of historic interest remaining and this can be appropriately covered by an internal survey required by condition. Due to the limited time available to address the missing items in certain areas of the HIA, the Council's Conservation Officer has set out that any listed building consent granted would need to be subject to a number of matters that would need to be addressed by condition. These include the following details having to be submitted prior to any works to the Listed Building: --

- Scheme of restoration for the trout pub external elevations
- Details of awnings graphic and signage to external elevation
- Details of any new windows, doors, gates, hatches and shopfronts
- Works to openings within riverside house fronting internal market
- Works to enclose covered walkway
- Re roofing method and details
- Survey and joinery work details for any works to historic market stalls prior to any works being carried out- including sectional drawings of any new joinery
- Details of all redecoration to markets stalls
- Details of works to existing 'art screen' glass
- Works and finishes to floors
- Details of services to be installed- including drainage pipe works and extraction for Market and Mezzanine areas
- Survey works to upper floors of Royal Chambers section
- Full schedule and specification of works to Riverside, Royal Chambers and Griffin House
- Historical internal survey of Royal chambers and Griffin House
- Details of works to historical ironwork
- Details of new or updated rainwater goods, fascia, soffits
- Details of services, including the type and location of any new or modified services to include, drainage pipework (including soil vent pipe terminations) and accessories, boiler flues, extract vent grilles, meter cupboards, external lighting, sprinklers, ventilation
- Details of ay repairs, alteration or refurbishment of existing joinery
- Details of works to external and internal render, leadwork, structural changes, painting of basements floors

- Details of Solar Panels installation
- Details of external wash lighting installation.

7.23 Although the conditions requested are extensive, a number of the requirements would be included with any Listed Building Consent and others are required in order to address the missing items of the Heritage Impact Statement. The Local Planning Authority is satisfied with the principle of the development but the above matters have to be included as conditional safeguards to ensure the special qualities and items of historical significance within the building are protected. In conclusion, it is considered that on balance, subject to details being provided through conditions, the proposal has an acceptable impact on the listed building.

7.24 **Ecology**

7.25 Policies SP9, GP5 and GP7 of the Newport local development plan 2011-2026 (adopted January 2015) as well as supplementary planning guidance: wildlife and development (SPG: WD) indicates the development will be permitted where the proposals are designed to encourage biodiversity and ecological connectivity and demonstrate how they avoid, mitigate or compensate any negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national and local protected habitats and species, and protecting features of importance for ecology and water quality.

7.26 As part of a Listed Building Consent, the Authority must also have due regard to the requirements in Regulation 63(1) of the The Conservation of Habitats and Species Regulations 2017. It should be acknowledged that Natural Resources Wales (NRW) is satisfied, having reviewed the Appropriate Assessment prepared by the Local Planning Authority, which includes proposed planning conditions, that the proposed works would not have an adverse effect on the integrity of the River Usk SAC European Site.

The Appropriate Assessment

The Newport Provisions Market is approximately 110m West of the River Usk, separated by a major road, the A4042 Kingsway highway. The River Usk is a designated Special Area of Conservation (SAC) as well as a Site of Special Scientific Interest (SSSI) and Special landscape Area (SLA) The site edged red does not include the protected site and the market building and its surroundings are already within a heavily developed or urbanised area of Newport City Centre. The site is not directly connected or necessary to the management of the river for nature conservation.

In accordance with The Conservation of Habitats and Species Regulations 2010 the Local Planning Authority, prior to determining the application, need 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 need 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.

Information has been submitted with a preliminary roost assessment and bat survey but no consideration of the ecological impact of the project on the above mentioned protected site. Following a request, details of the existing and proposed Drainage Strategy were also submitted. The submitted information has been considered by the Council's Ecologist and Natural Resources Wales. The drainage information was considered in conjunction with ecology matters, since the consequences of addressing contamination (particularly groundwater) and the method of developing the site could have significant implications on key biodiversity and ecology interests.

The River Usk is designated as an SAC based primarily on the presence of a number of migratory and non migratory fish species and otter. Certain fish species known to use the River Usk contribute to the selection of the river as an SAC site. The fish species listed are a primary reason for the selection of the River Usk as a SAC are:

- Sea Lamprey

- Brook Lamprey
- River Lamprey
- Twaite Shad
- Atlantic Salmon
- Bullhead
- Allis shad are also an annex 2 species present within the river as a qualifying feature.

The presence of watercourses of plain to montane levels with Ranunculion fluitantis and Callitriche-Batrachion vegetation is also a qualifying feature for this sites designation. The SSSI is designated based on the aquatic habitats and condition of the river and its plant and animal communities that use the feature across its range. The conservation objectives of the River Usk SAC are attached in *Appendix A*. From a consideration of the protected features of the SAC, the potential hazards from proposals include

- Disturbance to protected species from noise and lighting.
- Pollution /surface water run-off during construction and operation
- Long term discharge from the building into the river
- Construction methods, including piling vibrations that could effect protected species identified (fish) The rare fish species Allis and Twaite Shad, features of the river Usk SAC, are especially sensitive to vibration.

Based on the specific proposal to convert and extend (roof top) of the application site building approximately 110m from the site, the potential hazards to be taken forward from the above list would be pollution /surface water run-off during construction and long term discharge. The building exists and there is no scheme to increase lighting on the building or result in a notable increase in noise that would be over and above the major road network separating the SAC from the site. Any major works are to the roof of a Listed Building and as a consequence there is no foundation work or piling operations to be carried out.

Consultation with Natural Resources Wales (NRW) and consultation with the Council ecologist did not identify any potential risks from the proposal other than surface water from the construction period and as it is operational. Surface water drainage has the potential to provide a pathway through which the proposed development could impact the SAC.

Pollution/ Surface/Ground Water Contamination issues during construction to River Usk

While the river is outside of the development boundary, works will be undertaken in close proximity of the SAC. The aquatic river habitat itself is sensitive to pollution which may lower water quality affecting a wide range of species and habitat that use it. The potential Impacts during construction include: -

- Pollution incident during construction
- Contamination during construction due to unknown previous uses (land contamination)

The construction period could potentially result in impacts from the development if pollution from the construction works were not prevented. The proposed development is located in a sensitive location, however, the construction site would not be located within or adjacent to the SAC and construction periods would be temporary their nature.

Accordingly, there is not anticipated to be a significant effect from the proposed development by way of pollution from surface water run off during construction or operation on the protected SAC, however, there are no measures or mitigation embedded in the scheme to ensure that the special qualities of the SAC are protected from the proposed scheme.

As such, National Resources Wales were consulted and have set out that the council should only grant planning permission if the Council attach a biodiversity Construction Environmental Management Plan condition to any consent. The condition requested can be attached to any subsequent consent and draft conditions 2 below refers.

Long term discharge from Newport Market

The proposed surface water drainage discharge is indicated in the drainage strategy. The scheme would not increase the footprint of the site (extension to roof and conversion of existing buildings) or require SUDS consent and that the site, maintaining the existing foul and surface water drainage for the site.

From the information submitted with the drainage strategy surface water from the development, where connected to below ground drainage systems, communicate with the DCWW public sewerage network, which eventually discharges into a trunk sewer adjacent to Kingsway and the River, some 100m south east of the site. No additional surface water flows are expected to enter the public sewerage system from the new development, therefore no change from the current situation is anticipated or impacts upon the protected SAC, provided the applicant carries out the drainage scheme in accordance with the details submitted.

Accordingly, a compliance condition to require the applicant to comply with the surface water drainage scheme as submitted can be included with any subsequent consent and draft condition 3 refers.

Combination Effects

Consideration must be given to the cumulative effects of the proposed development when considered alongside other developments in the area. There have been schemes within close proximity that remain extant, such as

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
18/0360	ERECTION OF AN ASPHALT PLANT AND ASSOCIATED ANCILLARY DEVELOPMENT	
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
19/0111	DEMOLITION OF BUILDINGS AND ERECTION OF CLASS A1 FOODSTORE WITH ASSOCIATED ACCESS, CAR PARKING AND LANDSCAPING	Granted with conditions
19/0599	VARIATION OF CONDITIONS 1 (APPROVED PLANS) OF PLANNING PERMISSION 17/1185 FOR THE VARIATION OF CONDITIONS FOR BULK DRYING AND PELLETING FACILITY WITH ONSITE ENERGY CENTRE	Granted with conditions
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	Granted with conditions
19/1164 and 19/1165	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	Granted with conditions

Although the proposals could result in a cumulative impact, these have been subject to the same HRA assessments and similar conditions/controls. In this respect, it is concluded that there are no other developments which would result in a cumulative effect and most recent projects within the proximity of the River Usk has been subject to its own Appropriate Assessment in which similar conditions were imposed to protect the integrity of the river.

- 7.27 To support the planning application, an Ecology Impact Assessment was also provided. The report, prepared by Wildwood Ecology confirms the findings of a preliminary roost assessment and a single dusk bat activity survey.
- 7.28 The report confirms that there are two international statutory designations and one non statutory designation within 5km of the site. The report confirms that the onsite building had suitability for nesting birds and there may be a negative impact on nesting birds as a result of the proposed development. Populations of common pipistrelle, soprano pipistrelle and noctule are present in the area but no roosts for these species, or any other bat species, were identified within the structure itself. As such, there is likely to be minimal impact upon bat population.
- 7.29 A number of recommendations have been made within the report, including works taking place outside of bird nesting season unless completely necessary (in which an ecologist would be present), any signs of bats or bat roosts will result in works being ceased and the ecologist being notified as well as bat roosting boxes be incorporated within the building. National Resource Wales and the Council's Ecologist were consulted and are satisfied with the information provided within the preliminary ecology appraisal information and the proposed mitigation set out. However, the Council Ecologist has indicated that the enhancements proposed are not sufficient but a condition requesting further details of enhancements would be sufficient.
- 7.30 As such, in line with the LPA's Appropriate Assessment and the mitigation set out within the ecology appraisal, conditions should be attached to this Listed Building Consent to secure these measures along with the submission of details for enhancements.

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.

8.5 ***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.

8.6 **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.

9. **CONCLUSION**

9.1 The decision to recommend listed building consent is granted has been taken in accordance with Section 16 of The Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that, in determining an application for listed building consent, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Having special regard to the above, the proposal is considered to be acceptable in terms of its impact on the listed building and its setting and ecology, complying with the policies SP9, GP5 and GP7 of the Adopted Local Development Plan 2011-2026 as well as the Planning Policy Wales and relevant technical advice notes.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS subject to CADW

1) The development shall be implemented in accordance with the following plans and documents The development shall be implemented in accordance with the following plans and documents: -

AE(0)A00 A3 1:1250 Site Location (Redline) Plan P1
AE(0)A01 A1 1:200 Existing Site Plan P1
AE(0)20 A1 1:200 Existing Basement Plan P0
AE(0)A21 A1 1:100 Existing Ground Floor Plan - Part 1 P3
AE(0)A22 A1 1:100 Existing Ground Floor Plan - Part 2 P2
AE(0)A23 A1 1:100 Existing Mezzanine Level Plan P3
AE(05)01 A1 1:100 Existing Elevation - High Street P1
AE(05)02 A1 1:100 Existing Elevation - Upper Dock Street P2
AE(05)03 A1 1:100 Existing Elevation - Griffin Street 1 P1
AE(05)04 A1 1:100 Existing Elevation - Griffin Street 2 P1
AE(05)05 A1 1:100 Existing Elevation - Market Street 1 P1
AE(05)06 A1 1:100 Existing Elevation - Market Street 2 P1
AE(05)07 A1 1:100 Existing Elevation - Griffin Rear P1
AE(6-)01 A1 1:100 Existing Sections A and B P2
AE(6-)02 A1 1:100 Existing Section C P0
AE(7-)25 A1 1:100 Existing Internal Market Elevations P1
AE(7-)26 A1 1:100 Existing Internal Market Elevations P1
AE(7-)27 A1 1:100 Existing Internal Market Elevations P2
AE(7-)50 A1 NTS Existing Typical Historical Stall P1
D7336-A-0003 A0 1:100 Existing First Floor Plan C
D7336-A-0004 A0 1:100 Existing Second Floor Plan C
D7336-A-0005 A0 1:100 Existing Third Floor Plan B

AG(4-)D21 A1 1:100 Demolition Ground Floor Plan - P4
AG(4-)D22 A1 1:100 Demolition Ground Floor Plan - P4

AG(4-)D23 A1 1:100 Demolition Mezzanine Floor Plan P2
AG(4-)D24 A1 1:100 Demolition Roof Plan P1

AG(04)00 A1 1:200 Proposed Basement Plan P3
AG(04)01 A1 1:200 Proposed Ground Floor Plan P11
AG(04)02 A1 1:100 Level 01 - First Floor HA Apartments - Griffin Hse P12
AG(04)03 A1 1:100 Level 02 - Second Floor HA Apartments - Griffin Hse P11
AG(04)04 A1 1:100 Level 03 - Third Floor HA Apartments - Griffin Hse P11
AG(04)05 A1 1:100 Proposed Roof Plan P2
AG(04)11 A1 1:100 Level 01 - First Floor HA Apartments - Riverside P8
AG(04)12 A1 1:100 Level 02 - Second Floor HA Apartments - Riverside P8
AG(04)13 A1 1:100 Level 03 - Third Floor HA Apartments - Riverside P8
AG(04)A23 A1 1:100 Proposed Mezzanine Plan P6
AG(04)30 A1 1:500 Phasing Plan - Site/ Overview P0
AG(05)01 A1 1:100 Proposed Elevation - High Street P3
AG(05)02 A1 1:100 Proposed Elevation - Upper Dock Street P5
AG(05)03 A1 1:100 Proposed Elevation - Griffin Street 1 P5
AG(05)04 A1 1:100 Proposed Elevation - Griffin Street 2 P5
AG(05)05 A1 1:100 Proposed Elevation - Market Street 1 P5
AG(05)06 A1 1:100 Proposed Elevation - Market Street 2 P6
AG(05)07 A1 1:100 Proposed Elevation - Griffin Building Rear P2
AG(05)08 A1 1:100 Proposed Elevation - Riverside Building Rear P3
AP(04)10 A1 1:100 Historical Significance Plan - Ground Floor P1
AP(05)10 A1 1:100 Historical Significance Elevation - Upper Dock St P0
AG(06)01 A1 1:100 Proposed Sections A and B P4
AG(06)02 A1 1:100 Proposed Long Section C P2
AG(06)03 A1 1:50 Proposed Internal Typical Bay Section/ Elevation P2
AG(31)20 A1 1:20 Proposed External Door Elevations P0
AG(31)22 A2 1:20 Proposed Window Elevations P2
AG(31)25 A3 1:50 Proposed Shopfront Typical Pattern P0
AG(7-)A25 A1 1:100 Proposed Internal Elevations P3
AG(7-)A26 A1 1:100 Proposed Internal Elevations P4
AG(7-)A27 A1 1:100 Proposed Internal Elevations P3
AG(7-)A28 A1 1:100 Proposed Internal Elevations - Griffin Building P0
AG(7-)A52 A1 1:25 Proposed Bar Design (Plan) P4
AG(7-)A53 A1 1:25 Proposed Bar Design (Elevations) P4
AG(70)01 A3 Typical Market Unit Design P2
AG(70)02 A3 Typical Food Stall Unit Design P2
AG(70)03 A3 Typical Workspace Unit Design P3
AG(9-)01 A1 1:500 Proposed Site Plan P8
AA(01)50 A2 1:20 Proposed Secondary Glazing Typical pattern P0
AA(31)55 A3 1:10 Proposed Automatic Opening Vents P0
AA(32)50 A2 1:25 Proposed Security Screen Typical Pattern P0

23.11.20 A3 Heritage Statement 7

23.11.20 A3 Design and Access Statement 6

PAC REPORT

Ecology Impact Assessment (Revised)

Sustainability Technical Note

Waste Strategy

Surface Water Drainage Strategy

Planning Statement (REV C)

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

2. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:
 - Construction methods: details of materials, how waste generated will be managed.
 - General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas,

appropriately sized buffer zones between storage areas of spoil, oils, fuels, concrete mixing and washing areas and any watercourse or surface drain.

- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

3. The surface drainage scheme shall be carried out in accordance with the strategy set out within Surface water drainage strategy document by Austin Partnership consulting engineers submitted on 21st September 2020.

Reason: To ensure adequate drainage is provided and ensure surface water from the development does not pollute the protected SAC by discharging untreated polluting water to the river.

4. Notwithstanding the details submitted, a scheme of restoration for the external elevation of the former "Trout" public house and the doorway and panelling to its rear entrance adjacent to the staircase to Royal Chambers shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the reinstatement of elements removed since the time of listing such as the lantern and coloured glazing to the frontage. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

5. Notwithstanding the details submitted, no awnings, signage or graphics shall be affixed to the exterior of the building without the prior written approval of the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

6. Notwithstanding the details submitted, prior to installation, full details of all proposed new external windows, doors, gates shutters, hatches, and grills shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

7. Notwithstanding the details submitted, prior to commencement of works to shopfronts, full details of all proposed new shopfronts and work to existing shopfronts shall be submitted to and agreed in writing by the Local Planning Authority. The proposed new shopfronts to Upper Dock Street shall be provided with recessed entrances to match the historic arrangement and shall match historic details as closely as possible. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

8. Notwithstanding the details submitted, prior to commencement of works to block existing window or door openings between the market hall or entrance and the part of the building identified as "Riverside House", full details of all such works shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

9. Notwithstanding the details submitted, no works to enclose the first floor walkway which crosses the main entrance to the market hall from Upper Dock Street shall be carried out and no alterations shall be made to existing staircases within "Riverside House" without the prior written approval of the Local Planning Authority.

Reason: In the interest of safeguarding the special character of the Listed Building.

10. In existing roof areas where roofing is affected by the works, any sound slates shall be carefully stripped and stored for re-use. No roofing work shall be carried out until a method statement setting out where slates from differing sources are to be used has been submitted to and approved in writing by the Local Planning Authority and no slates shall be brought to the site to supplement existing slates unless they match a sample which has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, details of slate coursing, valleys, ridges, hips, abutments and accessories in new work shall match existing.
Reason: In the interest of safeguarding the special character of the Listed Building.
11. Notwithstanding the details submitted, no works shall be carried out to historic elements of existing market stalls until a detailed survey of surviving historic fabric has been carried out and full details of proposals to retain or relocate elements found has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
12. Notwithstanding the details submitted, no new works shall be carried out to existing market stalls until full details of such works including large scale sectional drawings of any new joinery and shutters has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
13. Notwithstanding the details submitted, no redecoration works shall be carried out to existing market stalls until full details of such works has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
14. Notwithstanding the details submitted, no works shall be carried out to existing "art glass" screen to the west side of the mezzanine floor of the market hall until full details of such works has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
15. Prior to commencement of any works to existing flooring and floor finishes within the market hall, full details of such works shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
16. Notwithstanding the details submitted, no new installations shall be provided within the market hall and mezzanine level until full details of such works has been submitted to and approved in writing by the Local Planning Authority. These shall include new doors, partitions, play area, workbench details, planters/greenery, heating and lighting. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
17. Prior to installation, full details of the proposed extract system for the new food units shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
18. Notwithstanding the details submitted, no development in connection with the conversion of the parts of the building referred to as "Riverside House" to residential units shall take place until a detailed survey of historic internal fabric has been carried out and full details of proposals to retain or relocate elements found has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.

19. Notwithstanding the details submitted, no development in connection with the conversion of parts of the building referred to as "Riverside House" to residential units shall take place until a full schedule and specification of works required has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
20. Notwithstanding the details submitted, no development in connection with the conversion of the parts of the building referred to as "Griffin House" and "Royal Chambers" to residential units shall take place until a detailed survey of historic internal fabric has been carried out and full details of proposals to retain or relocate elements found has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
21. Notwithstanding the details submitted, no development in connection with the conversion of parts of the building referred to as "Griffin House" and "Royal Chambers" to residential units shall take place until a full schedule and specification of works required has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
22. Prior to commencement of any works to existing historic ironwork, full details of such works shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
23. No works to the building's rainwater goods shall commence on site until details of all new or replacement rainwater goods and their means of fixing to the building have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
24. No work to the building's fascia and soffits shall be commenced on the approved scheme until details of such works 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.
Reason: In the interest of safeguarding the special character of the Listed Building.
25. No new or modified services shall commence on site until details of services, including the type and location of any new or modified services to include, drainage pipework (including soil vent pipe terminations) and accessories, boiler flues, extract vent grilles, meter cupboards, external lighting, sprinklers, ventilation have been submitted to and approved in writing by the Local Planning Authority. Thereafter the new or modified services shall be installed in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
26. Notwithstanding the details submitted, no repairs, alteration, or refurbishment to existing joinery shall take place until 1:5 scale details of any repairs, alteration, relocation or refurbishment to joinery (external and internal) shall be submitted to and approved in writing by the Local Planning Authority. This shall include a schedule which shall include details of windows, doors, architraves, skirting. The development shall be implemented in accordance with the approved details.
Reason: In the interest of safeguarding the special character of the Listed Building.
27. Prior to commencement of any works to the existing external or internal render, masonry or chimneys, including cleaning, refurbishment, repainting, pointing or the addition of insulation, full details of such works including method statements shall be submitted to and agreed in writing by the Local Planning Authority. Notwithstanding details on the approved drawings, no waterproof sealant shall be applied. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

28. Prior to commencement of any works to the existing leadwork, full details of such works shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

29. Prior to commencement of any structural works to the existing building, full details of such works shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

30. Prior to commencement of any works to the basement, including the painting of floors, full details of such works shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

31. Prior to installation, full details of the proposed photovoltaic cells to the roof of Royal Chambers shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

32. Prior to installation, full details of the proposed secondary glazing shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

33. Prior to installation, full details of the proposed external wash lighting shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

34. No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority

Reason: As the building is of architectural and cultural significance the specified records are required to mitigate impact.

NOTE TO APPLICANT

- 01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP9, GP5 and GP7 were relevant to the determination of this application.

- 02 Section 16(2) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 was relevant to the determination of this application.

4.

APPLICATION DETAILS

No: 20/0739 **Ward:** Victoria
Type: Full Application
Expiry Date: 22nd December 2020
Applicant: S Bell
Site: 38 Brynderwen Road Newport NP19 8LQ
Proposal: **CHANGE OF USE OF 5NO. BEDROOM DWELLING TO 4NO. STUDIO FLATS AND 1NO. ONE BEDROOM FLAT**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 This application seeks planning permission for the conversion of an 5no. bedroom dwelling house to 4no. studio flats and 1no. one bedroom flat at 38 Brynderwen Road, in the Victoria ward.
- 1.2 The application is reported to Planning Committee as a Councillor resides on the application street and has been consulted as part of the consultation process.

2. RELEVANT SITE HISTORY

2.1

20/0213	CHANGE OF USE OF FIVE BEDROOM DWELLING TO CREATE A TEN BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS USE)	NON-DETERMINATION APPEAL (APP/G6935/A/20/3254249) ALLOWED BY WELSH PLANNING INSPECTORATE
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3. POLICY CONTEXT

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

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

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

Policy GP4 ‘General Development principles – highways and accessibility’ states that development proposals should make adequate provision for car parking and ensure that development would not be detrimental to highway or pedestrian safety.

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 Environment Protection and Public Health states that development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or vibration, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.

Policy H2 Housing Standards states residential development should be built to high standards of environmental and sustainable design, taking into account the whole life of the dwelling

Policy H4 Affordable Housing states the Council will seek a commuted sum contribution for housing sites of fewer than 10 dwellings within the settlement boundary.

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

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

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

Relevant Supplementary Planning Guidance

Parking Standards SPG (adopted August 2015)

Flat Conversions SPG (adopted August 2015)

Planning Obligations SPG (adopted January 2020)

Waste Storage and Collection SPG (adopted January 2020)

4. CONSULTATIONS

- 4.1 WELSH WATER DWR CYMRU: No objection subject to the use of a condition and advisories.

5. INTERNAL COUNCIL ADVICE

- 5.1 THE HEAD OF CITY SERVICES (HIGHWAYS):

Consultation Response - 11th September 2020

The site is located on Brynderwen Road a residential road with a 30mph speed limit. The vehicular access arrangement will not be changed and although substandard will be acceptable as it remains as existing.

The site was the subject of application 20/0213 (currently at appeal) and is located in Parking Zone 3: Urban which will require 1 parking space/flat to comply with Newport City Council SPG Parking Standards (August 2015), a total of 5 parking spaces. The proposed block plan drawing 3834.PL.02 shows two parking spaces in tandem for which will not be acceptable for this type of development due to access problems for the vehicle furthest from the highway; the site therefore provides only 1 parking space and this level of parking provision is unacceptable without mitigation.

Previous planning application 20/0213 proposed a development of 10 HMO units on the site that would have a parking demand of 10 residential spaces and 2 visitor spaces. A parking survey was submitted by the applicant which demonstrated that sufficient on street parking spaces were available in the area to accommodate an additional 9 spaces. This application will generate an additional parking demand of only 4 parking spaces and will therefore be acceptable.

I would therefore offer no objection to this application on highway grounds.

- 5.2 THE HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

- 5.3 THE HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING CONTRIBUTIONS MANAGER):

1. Introduction

This Draft 'Head's of Terms' relates to pre-planning application 20/0739 for the conversion of the existing 5 bed house to 5 flats at 38 Brynderwen Road.

In accordance with the Adopted Newport Local Development Plan – Policy H4 – Affordable Housing, there is a policy requirement for sites of fewer than 10 dwellings within the settlement boundary, or fewer than 3 dwellings within the defined village boundaries, to provide a commuted sum contribution to assist the Council in meeting its on-going requirement for affordable housing. The following planning obligation is required to mitigate the impact of the development and create a sustainable development.

2. Affordable Housing Contribution

Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Newport East, based upon a 20% target. The methodology for establishing the housing target areas and calculating the associated payments is set out within the adopted [Affordable Housing SPG \(August 2015\)](#) . Based upon a net increase of 4 no. studio flats and subject to economic viability, a commuted contribution of £7,512 (4 x £1,878) would be requested for affordable housing provision.

Affordable Housing Sums will be index linked to the Retail Price Index. Payments will be staggered and directly related to occupancy rates.

3. Administration Fee

In accordance with the Planning Obligations SPG (2020), an £304 (20% of Application fee) administration fee is charged for monitoring the S106 agreement. This is to be paid upon signing of the legal agreement.

4. Financial Viability

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

Developer profit on open market housing will normally be a range between 15% and 20%, depending on risk and market conditions. An 'open book' viability appraisal was undertaken by the Newport Norse. It concluded:

Overall, the project appears unviable for payment of s106 based on the appraisal information provided;

There is no room for developers profit in the current appraisal and is outside the standard 15% – 20% margin;

Given the information provided and the data from comparable evidence it is clear the scheme is unviable in terms of making a contribution to the section 106 payments.

Taking into account the viability appraisal, it is concluded that the above contributions should be waived

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (58no. properties) and a site notice displayed. 5no. objections have been received, as summarised below;

30 Brynderwen Road

- The proposed apartments will be very small for individuals or couples to live in;
- Existing properties within the street have previously been subdivided into flats, which already places a burden on the street due to the increasing number of people living here. Changing no.38 into a property of multiple occupancy will create a further over concentration of homes in a small area.

- The demographic of the street will be changed and there will be increased transient movement of people into this part of the street, potentially adding to or creating anti-social behaviour;
- Transient movement of people does not promote a sense of ownership or pride in your local area in which you live;
- There are already existing issues, reflecting the vulnerability of some neighbours, of which the police are familiar with concerns;
- There will be an additional number of bins which will end up being placed on the street and whilst bins are supposed to be taken back into the properties this already does not happen. Consequently pedestrians find it difficult to negotiate or walk easily down the street;
- Extremely concerned in relation to parking in Brynderwen Road and the surrounding area. Parking on any evening of the week and at weekends needs to be taken into consideration. With residents often having to find parking spaces further away. Which has got worse in the last ten years;
- The proposal that two cars will be parked off street is not feasible;
- No.24 is a care home and staff are expected to park vehicles on the street adding to the problems;
- The site is not served by regular bus services and due to the topography of the surrounding area it is not easy for elderly people to walk with a limited bus service and many people would find living in this problematic if they did not have ownership of a car;
- Whilst there are amenities close by, you need to be fit and active to access these without a car.

37 Brynderwen Road

- Parking is already an issue in this area and there are not enough spaces for the conversion of the property to flats.

41 Brynderwen Road

- Concerns raised by the content of the planning application form;
- Concerns in relation to impact on mature trees in garden of the property by using this as a communal area;
- Increase in waste generated at the property and that refuse bins are likely to remain on the street cluttering the pavement;
- The property might be better served as a family home with 4 to 5 bedrooms;
- This change of use application does not support the achievement of the aims and objectives of local, regional and national policy, as it is stated it does in the Planning Statement;
- The application will also lead to long-term rental income for individuals or businesses based outside of Newport and goes against the community culture of Maindee and surrounding areas. Approval of the application would go directly against the Newport Local Development Plan;
- The proposal fails to meet the aims of Policy H8;
- Multiple flats increase the likelihood of social problems on Brynderwen Road, including social detachment, increased waste, and a slowdown in the revitalisation of the Maindee community;
- Rental flat occupants tend to be short-term residents and less invested in keeping good relations with the wider community, not to mention fellow occupants. This is possibly where some of the shouting has come from in other buildings along Brynderwen Road;
- Concerns in relation to social cohesion and potential transient nature of future occupants as well as potential noise from occupants and other anti-social behaviour;
- Brynderwen Road is located at the end of a steep hill and as such occupants are likely to need to rely on private motor vehicles as opposed to cycling, walking and public transport;
- Increased parking demand and impact on highway safety;
- The parking layout is likely to cause issues due to the requirement of vehicles to park one in front of each other

- Increased number of bathrooms and intensification of use of property resulting in impact on the sewer;
- The proposal will have a negative impact on local residents and their well being as well as that of the future generations.

43 Brynderwen Road

- Has submitted a number of photographs showing parking situation at various times (photos uploaded on website);
- As the development proposed the creation of 5 rooms there could be in excess of 10 extra vehicles looking to park on Brynderwen Road and neighbouring streets;
- Adding more vehicles to the street will not only have an environmental impact but could cause tension between new and existing residents;
- Unless tenancy agreements included restrictions on car use the future residents would be free to have as many vehicles as they wish;
- The proposed parking on site requires one car to block another and is unlikely to offer much utility;
- The proposal doesn't comply with the aims of Policy H8 in relation to parking impact and altering the character of the neighbourhood;
- As there are already flats on Brynderwen road which have increased the density of housing, the proposed development risks burdening a neighbourhood that had been comfortable, beneficial and convenient to live in;
- Many residents currently living on Brynderwen Road would find it impossible to be pedestrians and it seems more than likely that the new tenants, perhaps unknowingly, would find themselves in much the same situation.

45 Brynderwen Road

- This level of occupancy will introduce further traffic and car parking into an area where there is a high demand for spaces currently. Previously police have had to attend to find owners of vehicles blocking driveways;
- The lack of space leads to people parking dangerously on junctions;
- Raises concerns with the usability of the parking layout.

61 Victoria Avenue

- The application is no different to the previous HMO application and will still have the same number of residents;
- The property at 24 Brynderwen Road is used as a gateway support and care house and results in additional parking and antisocial issues;
- Neighbours to the rear of the site will experience an increased level of overlooking due to increase in occupants;
- The building work to be undertaken will result in an unacceptable impact on neighbouring residents;
- The increase in parking as a result of the proposal will cause an unacceptable impact on the area;
- Housing values will decrease.

6.2 COUNCILLOR RAHMAN: No response received.

7. ASSESSMENT

7.1 This application seeks to convert the 5no. bedroom dwelling house to 4no. studio flats and 1no. one bedroom flat.

7.2 The application site is a large end of terrace property split over four floors that is located at the eastern end of Brynderwen Road, a residential street in the Victoria Ward. The appearance of the property and the other six properties forming the terrace are rather uncommon, with a hipped two storey element taking on the appearance of an extension fronting onto the highway with access located to the side, and the rear of the building comprising of four floors. The property is currently vacant and a number of openings in the rear elevation are boarded up for security reasons. To the side of the property is a driveway

leading to a large enclosed rear garden at a lower ground level. The garden is currently overgrown and requires attention to bring this back into a useable space.

- 7.3 It is proposed to subdivide the property into 5no. separate residential units. At ground floor as you enter the site at street level a one bedroom apartment is proposed, split over two floors and measuring approximately 58sqm. In the main section of the property at ground floor a studio flat is proposed measuring approximately 40sqm. This is accessed via a corridor centrally located within the building which contains a staircase. This stair case leads down to a studio flat at lower ground floor measuring approximately 40sqm and up to the first and second floor containing two studio flats, both measuring approximately 40sqm. The proposed site layout includes 2no. tandem parking spaces to the side of the property as well as an area for bin and bike storage. The side access leads to a large rear enclosed communal garden.
- 7.4 The application site is within the urban boundary and therefore the principle of development is accepted. The property is a very large residential property and as a result of its size and layout is considered to be appropriate for conversion into smaller units. Owing to the proposed sub-division of the property into individual units the impact of the proposal upon the character of the surrounding area and residential amenity, the impact on parking provision and the residential amenity of the future occupiers are the main considerations of this application. The site was recently subject to a non determination appeal for a planning application which sought the property to be used as a 10no. bedroom House in Multiple Occupation (HMO). The appeal was allowed by the Welsh Planning Inspectorate and subsequently the site now has planning permission for this proposal. The lawful fallback of the site as a 10no. bedroom HMO will need to be given due weight in the assessment of this current application.
- 7.5 Policies GP2 (General Amenity), GP4 (Highways and Infrastructure), GP5 (Natural Environment), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), H2 (Housing Standards), H4 (Affordable Housing), H8 (Self Contained Accommodation and Houses in Multiple Occupation), T4 (Parking) and W3 (Provision for Waste Management Facilities in Development) of the NLDP 2011-2026 (adopted January 2015) are relevant to the determination of this application.

Residential Amenity

- 7.6 In terms of residential amenity Policy GP2 requires development not to have a significant adverse effect on local amenity, not be detrimental to visual amenities of nearby occupiers or the character or appearance of the surrounding area and to provide adequate amenity for future occupiers. Policy H8 states that self-contained accommodation will only be permitted if the scale and intensity of the use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on street parking problems; and adequate noise insulation is provided.
- 7.7 The site is a large end of terrace detached property that is located within a predominantly residential area and therefore, the principle of the use for residential purposes is established. A number of concerns received relate to the intensification of the use of the property and the potential transient nature of this proposed use, along with the impacts this would have on residential amenity by way of increased refuse, parking issues and general noise and disturbance. As a large dwelling house containing 5no. bedrooms it would be reasonable to anticipate a large family could lawfully occupy the property, which could result in at least 5no. people being resident. It is accepted however, that subdividing the property into 5no. smaller units is likely to result in the intensification of its use. Being 4no. studio flats and 1no. one bedroom flat it could reasonably be expected that anywhere between a minimum of five and maximum of ten residents could occupy the units at any one time, albeit it the studio flats would be more likely to contain a single occupant, however this could not be assumed. Consideration must also be given to the fact that the property has an extant planning permission to intensify its use as a 10no. bedroom HMO and this could be implemented at any time, subject to the applicant discharging any outstanding conditions and obtaining a HMO licence. Consequently, it is considered that the proposal is likely to be less intense, or at worst comparable than that use as a 10no. bedroom HMO. There are no additional high level openings proposed that would result in overlooking of neighbouring properties. Due to the layout of the site and the neighbouring properties there is currently some overlooking to

the rear of the properties along Victoria Avenue, however it is not considered that the proposal would adversely impact residential amenity over and above existing. When residing in an urban area typically there is to be expected some level of mutual overlooking in any case.

7.8 In terms of the internal layout and how that might impact the adjoining neighbour, the stair case is located broadly central within the property and the stairs do not run parallel with the party wall. Sound insulation between the application property and the neighbouring property and between proposed flats would be required under Approved Document E of the Building Regulations 2010 and this would form separate approval from Building Control. It is also acknowledged that the use of the property as a 10no. bed HMO would likely generate a similar level of noise. The proposal includes an area within the curtilage for the storage of refuse. Concerns are raised by residents in relation to this and the potential for refuse bins to clutter the highway and cause nuisance, however the scheme presents an acceptable solution for on site storage and this will be discussed in more detail (Para 7.19). If residents were to leave refuse bins or recycling boxes on the street longer than necessary following collection then this is not a matter than could be controlled, as would be the same with a single residential unit. The transient nature of future residents renting the properties and the impact this would cause on the character of the surrounding area has been raised, however there is no evidence to suggest that open market rental properties would result in an adverse impact. In any case, there is no indication that the properties would be rented and they could be sold if permission were approved. The tenure of the property is not a material planning consideration.

7.9 In terms of the residential amenity of future occupiers the Flat Conversions Supplementary Planning Guidance (SPG) seeks to ensure that flats provide reasonable living conditions and for proposed converted flats it recommends a minimum internal floor space standard of 35sqm for studio flats and 45 sqm for 1 bed flats. The table below outlines the proposed gross internal floor space of the proposed flats and how they stand against the SPG standards;

Flat No.	No. Bed	Proposed Size (sqm)	SPG Flat Conversion Requirement	Difference (sqm)
1	Studio	39.54	35	+4.54
2	Studio	40.59	35	+ 5.59
3	Studio	40.59	35	+5.59
4	Studio	39.16	35	+4.16
5	One	58.21	45	+13.21

7.10 Each flat is compliant with the figures as set out as being desirable in the Flat Conversions SPG (adopted August 2015), however this just looks as the size of each unit and layouts should be utilised to maximise the living standards of occupants. Having reviewed the layout of the proposed units, each of the four studio flats are located at the rear of the property and all have large windows that are facing south, providing the main open plan living areas with satisfactory levels of natural light, ventilation and outlook. At present, there is a raised lightweight structure serving as a raised amenity area in the rear elevation of the property at the level of the proposed ground floor flat. This structure currently covers the rear openings of the proposed lower ground floor studio and would result in a loss of light and an overbearing impact, to the detriment of the lower ground floor flats amenity. It has therefore been agreed with the agent that a condition requiring the removal of this structure in its entirety is to be included within the conditional regime. This would also result in betterment to the residential amenity of the neighbouring property at 36 Brynderwen Road which is currently overlooked when residents would use this raised area. Furthermore, in order to protect the amenity of the lower ground floor flat from overlooking from the communal garden, it is proposed to enclose an area to the rear area to prevent views, whilst also providing some private amenity space. Again, this would be conditioned should

the application be approved. The proposed one bedroom flat is split over two levels, with the bedroom, bathroom and study located at first floor. The proposed layout of the ground floor has been amended through the course of the application in order to provide a satisfactory level of amenity for future occupiers. It was considered that the original layout and window locations would result in an adverse impact on residential amenity due to residents of the other apartments having to walk directly past and in close proximity to the windows serving habitable rooms to access the communal building entrance, which would result in a loss of privacy and in disturbance. It also would have been resultant in any residents parking their cars on site creating disturbance in close proximity to these openings. The revised layout includes a newly proposed access to the flat from the communal stairwell area with the internal stairs also relocated to this end of the flat. This in turn allows for a new window to be proposed in the front elevation of the flat which would allow for sufficient light into the property. Consequently, in the side elevation of concern it is now proposed to remove the access door and have two of the existing windows obscure glazed, allowing light into the property whilst protecting privacy for residents. Following these revisions, the layout is satisfactory and allows a sufficient level of amenity for future occupiers.

- 7.11 None of the units would have a private outdoor amenity area, however it is accepted that this is often not the case when considering the conversion of a building. The flats would however have access to a large communal outdoor garden area to the rear of the property which would offer a sufficient area for recreation and socialising. Owing to the location of the site it is considered to offer a sufficient level of access to local amenities, such as shops and hot food and drink outlets, with the Maindee District Centre being within a reasonable walk. Concerns have been received stating that due to the topography of the local area the amenities may not be as conveniently located as it may appear, with elderly people or people who are less able having access issues. It is acknowledged that Brynderwen Road is located at the top of Victoria Avenue and Christchurch Road, which are both steep inclines, however it would be the choice of the future occupier whether this location is suitable to their needs and requirements. Overall, it is generally considered that the proposal would offer a satisfactory level of residential amenity and local amenity for the future occupiers of the proposed residential units.
- 7.12 Taking into consideration the above aspects of the proposal it is considered that the scheme offers a sufficient level of residential amenity and living standards for the future occupiers and preserves the residential amenity of the neighbouring properties. As such, the proposal is considered to comply with the aims of Policy GP2, H2 and H8 of the NLDP 2011-2026 (adopted January 2015).

Highways/Parking

- 7.13 One of the most referred to aspects included within the objections received from local residents focuses on the impact that the proposal would have on matters of highway safety and parking. The objections describe how the parking situation Brynderwen Road and surrounding streets is currently very problematic, particularly during evenings and on weekends and that residents often need to circulate the area in their vehicles before finding a space, often away from their property. There are concerns expressed that the conversion of the property from a 5no. bedroom property to 4no. studio flats and a one bedroom flat will compound the existing situation even further, resulting in an adverse impact on highway safety and residential amenity. There are also concerns raised in relation to the recent appeal decision whereby the Inspector allowed an appeal for a 10no. bedroom HMO and how the impact in relation to parking was considered during that assessment. A number of photographs have been submitted from residents in order to evidence the issues faced in relation to this matter.

- 7.14 In accordance with the Parking Standards SPG (adopted August 2015) the existing 5no. bedroom property generates a parking demand of 3no. spaces. The proposed use generates a parking demand of 5no. spaces plus 1no. visitor space, so 6no. spaces in total. Subsequently, the proposal increases the parking demand of the property by 3no. spaces.
- 7.15 As previously mentioned, the proposal has planning permission for a 10no. bedroom HMO and this fall-back position must be given weight in the assessment of this application. In accordance with the Council's Parking Standards a 10no. bedroom HMO will generate a parking demand of 10no. spaces and 2no. visitor spaces, generating an overall demand of 12no.spaces, which is 6no. spaces greater than the current proposal and 9no. spaces greater than the existing residential use. The Head of City Services (Highways) has stated that the existing and proposed layout shows 2no. parking spaces as being available on site. However, as these are one in front of each other, this layout would not be accepted as providing 2no. parking spaces for a shared property, due to access issues for the vehicle furthest from the highway. Only 1no. space would be considered useable for the shared use. The below table sets out parking for the existing, proposed and fall-back use of the property.

	Existing Use as 5no. bedroom dwelling	Proposed use as 5no. one bed units	Lawful Fall-back position as 10no. bedroom HMO
Parking Requirement	3 spaces	6 spaces	12 spaces
Off Street Parking Provision	2 spaces	1 space	1 space
Resulting On Street Parking Demand	1 space	5 spaces	11 spaces

- 7.16 As part of the submission for the previous 10no. bed HMO planning application a parking survey was submitted by the applicant which was undertaken at suitable times and submitted in a suitable format, prior to the Covid-19 restrictions. The LPA was unable to robustly verify the results of this survey as shortly after the application was submitted Covid 19 restrictions were introduced. When the Planning Officer undertook their own site visits to try and verify the survey findings these differed significantly and it was questioned whether these were a true and accurate representation of the normal situation. It was subsequently concluded that a robust assessment of the survey findings could not be undertaken and it would be considered unreasonable to refuse the application on this basis. As no decision was taken by the Council a non-determination appeal was submitted to the Welsh Planning Inspectorate by the applicant.
- 7.17 This appeal was subsequently allowed by the Inspector. The following is an extract from the appeal decision letter;

“7. The appellant accepts this shortfall, but also states that there is an explicit discretion within the SPG to take into account various factors, such as accessibility, when applying these standards. Furthermore, Planning Policy Wales, Edition 10 (PPW) states at paragraph 4.1.51 that parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport.

8. The applicant has submitted a parking survey (conducted prior to the Covid-19 lockdown2), carried out at appropriate times when on street parking demand is likely to be

at its highest, in order to demonstrate that sufficient off-street parking spaces are available in the area to accommodate the additional 9 spaces. The survey demonstrates that the additional parking can be accommodated within the surveyed area, with spaces occupied ranging from 42% to 69%. Indeed, at the time of my site visit there were a number of on-street parking spaces available, although this was in the morning outside peak hours.

9. The Council have also undertaken a parking survey³, which show that approximately 90% of car parking spaces were occupied. The Council's surveys were undertaken during the Covid-19 Lockdown period and whilst they may reflect parking demand when everyone is at home, there may also be a higher demand during that time due to families co-existing to accommodate shielding and other arrangements.

10. Taking all these surveys into account it appears that some roadside parking has been typically available in the local area. Moreover, I have no evidence that emergency routes have been blocked nor presented with accident data to persuade me that any shortfall in parking is causing highway safety issues.

11. In any event, taking into account the sustainable credentials of the site and the nature of the proposed accommodation I consider it reasonable to expect that car ownership would be lower than that set out in the SPG. Accordingly, I consider that the parking requirements generated by the proposed HMO would be likely to be limited and would therefore not materially add to any localised parking stress.”

- 7.18 It is unclear how much weight the Inspector gave to the sustainable location of the site and the nature of the proposed accommodation as no quantitative reduction has been stated. However, the sustainability credentials of the site have not altered, which leaves the only material difference in the appeal decision and this current application as being the type of accommodation being offered. Taking the SPG parking demand into consideration for both the proposed used and the fall-back as a HMO, the fall-back generates an extra 6no. spaces than the current proposal that would need to be accommodated on street. Even if a hypothetical 50% reduction was applied to the overall HMO parking demand due to it being assumed occupants would be less likely to own a vehicle this would still generate a comparable demand to the scheme before the LPA.
- 7.19 A number of photographs have been submitted with the objection representations received by local residents and these photographs do indicate that there can be issues with parking within this area and the LPA is mindful of this. However, when taking into account the Inspector's decision which accepted the previous parking survey as being an accurate parking representation prior to Covid-19 restrictions and giving weight to the fall-back use of the site as a 10 bed HMO, it is considered that it would be unreasonable to refuse the application on the grounds of parking/highway safety and impact on residential amenity. If this application were to be refused then the applicant could rely on implementing the 10no. bed HMO use, which is arguably a worse off scenario in terms of parking. Consequently, the proposal is considered to comply with the aims of Policy GP2 and H8 of the NLDP 2011-2026 (adopted January 2015).

Waste

7.20 As touched upon earlier in the assessment, concerns have been raised in relation to the impact of increased waste. The Council's Waste Storage and Collection SPG (adopted January 2020) looks at bin provision requirements as shown in the extracted table below.

Table 1 - Bin Provision Requirements– readers should review the Council's website for updates: http://www.newport.gov.uk/en/Waste-Recycling/Waste-Recycling.aspx							
Property type:	HMO ⁽¹⁾		Flats		Houses		
Resident number	Residual	Recycling	Residual	Recycling	Residual	Recycling	Garden
1-5	1 x 120l bin	Kerbside boxes	1 x 120l bin	Kerbside boxes	1 x 120l bin	Kerbside boxes ⁽²⁾	1 x 240l wheelie bin
6-7	Individual 180l bins, communal 660l and/or 1100l. Assessment to made by Waste Department	Suitable combination of recycling boxes or communal bins – to be assessed by the Waste Department	1 x 120l capacity per flat. Assessment to made by Waste Department as to bin size & numbers	1 x 360 litre card/paper; 1 x 360 plastic/cans; 1 x 360 glass; 1 x 240 food.	Additional provision should be made for houses with 6+ residents which will be allocated larger or recycling boxes. Assessment to made by Waste		1 x 240l wheelie bin
8 -12							1 x 240l wheelie bin
12-17							1 x 240l wheelie bin

7.21 The proposed site layout plan indicates an area for storage of refuse and recycling which is set back from the public highway and largely out of site. However, whilst this appears acceptable on plan it seems that this area would not be level and as such, questions regarding the usability are raised. It also appears that as set out the stated provision just falls short of the provision required by the SPG and it is unclear whether this would be a screened or enclosed area to prevent views from neighbouring properties. As such, whilst this is broadly acceptable further information will be necessary via a conditional discharge and will need to include a cross section showing a level area, details of necessary screening and the provision of waste. As such, subject to this condition to proposal complies with the aims of Policy W3 of the NLDP 2011-2026 (adopted January 2015).

Section 106 Planning Obligation matters

Summary

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

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought	Summary Heads of Terms agreed by	Viability Issues?
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		by Planning Authority	applicant(s)	
Regeneration, Investment and Housing	Commutated sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Newport East, based upon a 20% target	Based on a net increase of 4no. studio flats and subject to economic viability, a commuted sum contribution of £7,512 (4 x £1,878) would be requested for affordable housing provision	Not Agreed due to viability issues.	Yes – See section 7.22

Viability

- 7.23 In this case, the developer has provided information in relation to the viability of the planning obligations relevant to the scheme.

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

Developer profit on open market housing will normally be a range between 15% and 20%, depending on risk and market conditions. An 'open book' viability appraisal was undertaken by the Newport Norse. It concluded;

Overall, the project appears unviable for payment of s106 based on the appraisal information provided;

There is no room for developer's profit in the current appraisal and is outside the standard 15% – 20% margin;

Given the information provided and the data from comparable evidence it is clear the scheme is unviable in terms of making a contribution to the section 106 payments.

Taking into account the viability appraisal, it is concluded that the above contributions should be waived

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

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

8.5 ***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.

8.6 ***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.

9. CONCLUSION

9.1 The proposed change of use of the property to 4no. studio flats and a one bedroom flat when giving significant weight to the fall back position of a 10no. bed HMO would preserve the residential amenity of the neighbouring properties, the character and appearance of the street scape and matters of highway safety, along with offering a sufficient level of amenity for future occupiers.

9.2 As such, the proposal complies with the aims of Policies SP1, GP2, GP4, GP6, GP7, H2, H4, H8, T4 and W3 of the NLDP 2011-2026 (adopted January 2015).

9.3 It is recommended that the application is granted subject to the following conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; Drawing No. 3834.PL.04 – Proposed Floor Plans Rev E; Drawing No. 3834.PL.02 Existing and Proposed Block Plans.

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 –occupation conditions

02 Notwithstanding the approved plans, details of an enclosed external area to the rear of Studio 1 that prevents views from the external communal garden shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be installed in full prior to the first beneficial use of Studio 1 and retained in that state thereafter.

Reason: In the interests of residential amenity in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

03 Full details of the proposed refuse storage area shall be submitted to and agreed in writing by the Local Planning Authority. This shall include details of a screen or enclosure,

cross section of the storage area and details of recycling units to be provided. The development shall be carried out in accordance with the approved details prior to the first beneficial use of any residential unit and retained in that state thereafter.
Reason: In the interests of residential amenity and provision of acceptable waste storage in accordance with Policy GP2 and W3 of the NLDP 2011-2026 (adopted January 2015).

04 The proposed cycle store shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The cycle store shall be carried out in accordance with the approved details prior to the first beneficial use of any residential unit and retained in that state thereafter.

Reason: In the interests of residential amenity and sustainable travel in accordance with Policy SP1 and GP2 of the NLDP 2011-2026 (adopted January 2015).

05 Prior to occupation of 'Apartment 5' hereby approved, an opening shall be installed into the ground floor elevation to Brynderwen Road in accordance with full details (including scaled elevation drawing) first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

06 Prior to the first occupation of 'Apartment 5' the door and window openings in the side elevation facing the parking spaces as shown on 'Drawing No.3834.PL.04 Rev E – Proposed Floor Plans' shall be blocked up and/or be obscure glazed and retained in that state thereafter. No openings other than those shown on the approved plans shall be inserted into any elevation of this property without first being submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

07 Notwithstanding the approved plans, prior to the first beneficial use of either 'Studio 1' or 'Studio 2' the raised balcony structure serving 'Studio 2' in the rear elevation shall be removed in its entirety.

Reason: In the interests of the residential amenity of future occupiers of Studio 1 in accordance with Policy GP2 and H8 of the NLDP 2011-2026 (adopted January 2015).

08 Prior to the first beneficial use of any studio unit hereby approved the glazing within the opening serving the bathroom shall be obscured up to a height of 1.8 metres above the floor level and retained in that state thereafter.

Reason: In the interests of residential amenity in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

09 Prior to the first occupation of any residential unit hereby approved the existing front boundary wall extending beyond the side elevation of the building shall be removed.

Reason: In order to provide satisfactory pedestrian access into the site and to provide improved vehicle visibility in accordance with Policy GP2 and GP4 of the NLDP 2011-2026 (adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Drawing No. 3834.PL.01 – Site Location Plan; Drawing No. 3834.PL.02 Existing and Proposed Block Plans; Drawing No. 3834.PL.03 – Existing Floor Plans; Drawing No. 3834.PL.04 – Proposed Floor Plans Rev E.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP2, GP4, GP6, GP7, H2, H4, H8, W3 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 The proposed development (including any demolition) has been screened under

the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

APPLICATION DETAILS

No: 20/0696 Ward: **Rogerstone**

Type: Full (Major)

Expiry Date: 25TH SEPTEMBER 2020

Applicant: **DSI LTD C/O AGENT UNITED KINGDOM**

Site: **Ye Olde Oak Stave Ruskin Avenue Rogerstone Newport South Wales**

Proposal: **DEMOLITION OF EXISTING PUBLIC HOUSE AND CONSTRUCTION OF 21NO. FLATS WITHIN 3NO. BLOCKS AND ASSOCIATED INFRASTRUCTURE WORKS**

1. LATE REPRESENTATIONS

- 1.1 The applicant has submitted a late response to the required planning contributions towards affordable housing, education and leisure. The following comments are made by the applicant:
- 1.2 Affordable housing: The applicant is in active dialogue with Newport City Homes with a view to taking on the affordable element of the proposed development. We seek no reduction in the Affordable Housing requirement.
- 1.3 Education: It is noted that the Local Education Authority is proposing that Bassaleg High School is expanded by construction of new teaching blocks, increasing overall capacity of the school from 1747 to 2050, with effect from September 2023. The proposal has already gone through a period of statutory consultation ending on 12th November 2020 and subject to no objections the development will proceed. A design team has been appointed and detailed plans have been drawn up ready for a planning application submission. A Pre-Application Consultation (PAC) has been completed and it is anticipated that the planning application will be made shortly.

The school project budget of £28m is 65% funded through the Welsh Government's 21st Century Schools programme that will provide approximately £16m of the required investment. The balance of £12m is to be met by Newport City Council through already banked Section 106 developer contributions from the Jubilee Park and Tredegar Park Golf Club housing developments, and supported borrowing.

The expansion of capacity at Bassaleg High School is therefore already funded and plans are well progressed. At this juncture, it is unclear if/when planning permission may be granted for the Old Oak Stave redevelopment, and the applicant will then have 5 years in which to commence development. Taking into account the need to secure SAB approval, the need to discharge planning conditions and a construction period of around 18 months, it is considered unlikely that the development would be fully occupied until after the expansion works at Bassaleg High School are completed by which time there will be no capacity issue.

On this basis, the capacity of Bassaleg High School will not be exceeded as a consequence of this new development and we do not feel that an education contribution is justified.

- 1.4 Leisure: This seeks a financial contribution to the improvement of off-site play at Cefn Wood.

The Council's Outdoor Play Space Provision SPG states at Para. 5.19 that;

"Facilities for children should, wherever possible, be provided within easy walking distance of related housing areas, readily accessible to the housing which they serve, without the need to cross barriers such as major roads, and should be sited to avoid or minimise disturbance to the existing or potential nearby residents."

The Council's SPG suggests (using Fields in Trust guidance) that the different types of Open Space should be located within the following walking distances of the homes they are intended to serve;

Type	Accessibility standard (distance in metres)	
Outdoor sport	1,200m	
Informal playing space	400m	
Designated equipped playing space	100m from LAPs	An accessibility standard of 400m has been used in Newport's assessment as no distinction has been on the maps between the different types of equipped play space.
	400m from LEAPs	
	1000m from NEAPs	

Cefn Wood is located 1.5km from the application site and is therefore over 500m beyond the outer limit of the largest type of play space. Furthermore, it is accessed on-foot via a busy stretch of the B4591 Chartist Drive. Whilst there are pavements for the entire 1.5km route, there are significant level changes along two sections of the route, namely Ebenezer Drive as it drops below the railway line and the steep hill from the Cefn Road/Chartist Drive roundabout to the site via Ruskin Avenue. Given the distance, the heavily trafficked nature of the route and the elevation changes, it is considered that this would not be a pleasant or easy walking or cycling route and it is therefore highly unlikely that any children living in these apartments will be taken to play at Cefn Wood play area on-foot, in a pushchair or on a bicycle.

On this basis, the contribution would be for the upgrade of facilities that would not be directly related to the proposed development as they are so distant from the development site and a contribution for this purpose would fail the tests set out in the Planning Obligations Circular.

It is also unclear as to how the existing facilities at Cefn Wood will be upgraded as they would appear to provide a good range of facilities and are in good condition.

It should also be noted that the site incorporates a semi-private garden space for use by the proposed residents for sitting out. Whilst relatively small in scale, it has been designed as an integral part of the development, with a detailed landscaping scheme prepared by a landscape architect. It enjoys a south-facing aspect and is well overlooked by the apartments which it serves.

The site also lies less than 70m from the Monmouthshire and Brecon Canal which is a high quality, well-maintained, highly accessible and extremely popular recreational facility that provides significant recreational and amenity value and opportunities for walking, running, cycling, kayaking and canoeing and dog exercise and it also forms part of National Cycle Route 47 and the Sirhowy Valley Walk.

The site is also located less than a 800m walk along the canal towpath from the Fourteen Locks Canal Centre which includes facilities for sitting out and informal play.

It is therefore considered that the site is reasonably well located for outdoor recreation and informal play. The nearest equipped play facilities are located 1.5km from the site and are so distant from the site as to not be reasonably or directly related to the development. In the absence of any proposals by the Council for the provision of new equipped play areas in the vicinity of the site, it is considered that a contribution to outdoor play space is not justified.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 Given the lateness of these comments, the Council's Planning Contributions Manager would require further time to consider the merits of these representations and advise whether the Council's requests on Planning Contributions should be varied.

3. OFFICER RECOMMENDATION

- 3.1 It is recommended that the application is deferred and brought back to a later Planning Committee following discussion about the required planning contributions.

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APPLICATION DETAILS

No: 20/0735 Ward: **Stow Hill**

Type: Listed Building

Expiry Date: 13TH NOVEMBER 2020

Applicant: **LOFTCO C/O AGENT**

Site: **Newport Provisions Market High Street Newport South Wales NP20 1DD**

Proposal: **REFURBISHMENT OF NEWPORT MARKET TO COMPRISE MARKET STALLS, FOOD AND DRINK COURT AND FLEXIBLE WORKSPACE AND RECONFIGURATION OF EXISTING BUILDING TO ACCOMMODATE RESIDENTIAL FLATS AND LEISURE USES, SERVICING ARRANGEMENTS AND ASSOCIATED WORKS**

1. LATE REPRESENTATIONS

1.1 NEIGHBOUR RESPONSE: 2 representations have been received. 1 letter has been received by Mr. Mark Rogers and the other by Ms. Catrin Jones. Ms. Catrin Jones has a specific objection to the covering of the stained glassed window. Mr. Rogers has outlined a number of issues with the scheme, which are summarised below (both representations have been included as appendix to this late representations document) : -

- Covering of the stained glass window is not acceptable.
- Covering of the open walkway with screen and covered flooring would impact upon the character of the entrance when alternatives could be provided.
- Contrary to statements in the HIS and DAS, all stalls bar one (C7) contain Heritage features of High Importance. I stand by my previous comments on the impact of the additional/amendments to the planning application.
- The requirement for residential accommodation in the Riverside building element of the development has not been provided and it is unnecessary. The office uses within the Riverside have been vacant but this is due to limited access to the office units up to 6pm, which could have been resolved by opening the offices to later times
- The scheme is a hotchpotch of a development where none of the constituent elements work in synergy or harmony with each other. The high end / high priced food court (when compared to lower cost alternative food offers in city Centre) with social housing rather than work offices will not operate successfully.
- The Food Court should have been accommodated in the Market Gallery and could be delivered with minimal change to the existing layout and configuration - This would avoid the impact upon many of the historical features of the market hall.
- There is no evidence and research that these options were considered and the reasons why they were found wanting?
- Where is the evidence of any demonstration of the commercial skill-sets and acumen that will deliver a Market and Food Court for Newport within this application.
- There are very few existing businesses left in the Market (most having either ceased trading or relocated elsewhere) and no more than two or three of these are considering future involvement with the Market and, as yet, are not definitively signed up to this Development.

- The developer is unlikely to deliver on his commitment to the Council to deliver a Market and Food Court.
- There are outstanding questions as to why the Council, having approached this Developer, did not then put the issue out to tender and expertise from the world of Markets and Development should give an independent assessment of the proposed Development.
- Refusal of this current application will allow the Council to consider alternative options
- The development must commit to the immediate appointment of a dedicated commercial management function to initiate and run the Market and Food Court elements of his Development otherwise he will not deliver on the Council's commitment to deliver what they have publicly stated.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 The covering of the stain glassed window has been covered within the LBC report. The window would be covered but it would not be removed from the site. The window does have cultural relevance to the building as a piece of public art, however, it does not form part of the listing of the Market building itself. As such, the covering would change the appearance of the window internally, however, it would not have a significant impact upon the special qualities of the listed building and, consequently, warrant the refusal of Listed Building Consent. Furthermore, there is a specific condition on the LBC application (condition 14) that ensures the developer must agree the change to the window prior to any alterations. If Members are particularly concerned over the covering of the window, as a piece of public art that would need to be retained, I would suggest that any agreed details could be brought to planning committee for formal determination when submitted as part of any condition discharge.
- 2.2 The works to the open walkway have been detailed within the Heritage Impact Statement as well as the reasoning to why it is necessary, which do largely relate building regulations requirements associated with two means of escape from the building. The applicant has considered solid wall as well as glass screened enclosures. The Council's Conservation Officer has not objected to the scheme but has raised concerns that alternative options that would result in the screen not being needed have been explored sufficiently. Consequently, Condition 9 of the LBC protects this element by indicating the following: -
- Notwithstanding the details submitted, no works to enclose the first floor walkway which crosses the main entrance to the market hall from Upper Dock Street shall be carried out and no alterations shall be made to existing staircases within "Riverside House" without the prior written approval of the Local Planning Authority.*
Reason: In the interest of safeguarding the special character of the Listed Building.
- 2.3 The condition, set out above, does not approve the proposed works to the enclosure and the Conservation Officer would expect further justification to be provided as part of the details of this condition. In principle, the Conservation Officer would accept that as long as all other options have been explored and this is the only option for the fire escape then the details of an enclosure across the walkway can be considered as part of the condition details of the LBC application.
- 2.4 The concerns with respect to the loss of heritage features on the market floor are acknowledged but the applicant has updated the plans and HIA to retain more historical features and reflect concerns raised by the Councils Conservation Officer. The HIA does identify that a lot of the market stalls have moderate or high value and while the central space would be cleared to form an open seating area, the high value elements can be retained to form the bar whereas the seating area would be framed by the existing fascia's and columns. The Council's Conservation Officer has not objected in principle to the layout of the scheme but again has required a notwithstanding condition for a detailed survey to

be produced to ensure surviving historic fabric is retained or relocated and agreed with the Council prior to any work being carried out.

- 2.5 With respect to the consideration of alternative uses for the upper floors of the building, the applicant's agent has indicated that the scheme retains the fundamental principles and characteristics on which Newport Market is based, e.g centred around a shopping and leisure use in the main public area, with additional uses which are required for the overall viability of the proposals in the surrounding buildings. The additional uses, such as the proposed residential areas, complement the scheme both economically but in the way that the overall mixed use development will function. The agent has set out that there is a need to consider the development of the scheme as a whole (mixed used scheme) and it is difficult to separate elements and produce alternative schemes for each element of the change of use without having to alter or amend the scheme as a whole. In this instance, the agent is indicating that the only viable options to the upper floors would have been residential and office uses. These were explored in terms of their overall contribution to the scheme and due to the current economic circumstances centred on COVID-19, it is the agent's view that the current level of office use in the mezzanine strikes an acceptable balance and, therefore, residential uses in the upper floors would be the most appropriate.
- 2.6 In the officer's view, it is understood why the applicant considers the market redevelopment holistically rather than to separate each aspect of the scheme and consider alternative uses in each of the three buildings. As the scheme includes a mix of retail and lifestyle commercial uses at ground floor as well as more modern offices to the mezzanine it is understandable that the most appropriate use to the upper floors would be residential. The provision of housing, especially affordable, is in high demand within this location providing an appropriate and sustainable use for the upper floors of this site. The range of uses, including sustainable living, would provide a more stable longevity to the use of the Listed Building, especially when the current office uses have experienced high vacancy levels.
- 2.7 The Council's Conservation Officer has considered the submission and he has raised concerns over the lack of information within the HIA when considering alternative uses to the upper floors. Despite the agent's latest response to the upper floor uses, the Conservation Officer would still consider that there is a lack of justification set out within the HIA. However, as the upper floors of the building have been materially altered over the years, it is considered the proposed use does not have an unacceptable impact upon the character of the Listed Building. In addition, the Listed Building Consent does include a number of conditions requiring the applicant to submit further information prior to any of the works in the upper floors being carried out.
- 2.8 Finally, I would set out that some of the matters raised in the representation are not material considerations with respect to planning. For instance, the following issues raised are not planning considerations and should not have a bearing on the decision making of a planning application: -
- Business acumen of the applicant
 - The fact that existing traders have not signed up to the developers scheme
 - The mixed use would not work in harmony with each other and the developer is unlikely to deliver his commitment to the Council (owner of the building)
 - The appointment of a dedicated commercial management function.
- 2.9 Planning permission runs with the land and a consideration of the applicant's failures or successes within business is not material when considering whether the scheme is acceptable in planning matters. We must just consider the acceptability of this proposal as it is presented and not whether the applicant should or should not be the person to carry out the development.

3. OFFICER RECOMMENDATION

- 3.1 GRANTED WITH CONDITIONS SUBJECT TO CADW APPROVAL

APPENDIX

1. Copy of email from Mr.Rogers

Please find an addendum to my previous responses to this Planning Application, along with supporting attachments, which is presented as a late representation, in view of the continuing additions on the Council's Planning Portal with regard to this application.

I am unsure as to the precise requirements necessary regarding the presentation of this response, but Morgan has my full details (address etc) and I would be grateful if you could add any necessary details as required.

Regards

Mark Rogers

Additional Response to Planning Application 20/0734: Newport Market Development

I would begin by expressing my concern at the presentation and progression of this application, with constant additions and amendments being added on a regular basis to the Council's Planning Portal.

Any response is made, therefore, to an Application in progress and not a definitive Planning Application. Indeed, even as I write this (25/11/20) documents are still being posted on the Council's Planning Portal.

I am led to understand that the progression of this Application does not contravene Planning Application legislation, but it certainly contravenes the spirit and intention of the process and inhibits a full and proper response to this Development.

Late additions to the Planning Portal have revealed;

The covering of the Art Glass Window Installation (the largest in Wales) with opaque film in order to facilitate 'branding' on behalf of the Developer LoftCo.

The fact that this can be removed at some unknown future point is an irrelevance; on what possible basis is this act of cultural vandalism being justified?

I attach a picture of the Gallery and would ask members of the Planning Committee to consider and contemplate on the significance of this Artwork, both on its own terms and as a defining and complimentary (in relation to the barrel roof) highlight of the greatest ambient space in the City.

A new concern has also surfaced in the form of a proposed enclosure to the open walkway that crosses the main entrance to the Market Hall.

It is stated that this is required by building control, but it is unclear why any issues could not be resolved by revisions to the proposals elsewhere so that it is not necessary to use this as a protected means of escape; the floor plans of the building would be so drastically altered that it seems almost incomprehensible that an alternative is not possible without further harm to historic character.

Although it is proposed to use glazed screens, clear details are not provided and these would seem to clash with existing building features. Furthermore, a solid section of flooring is to be provided to connect with an existing inserted screen. These alterations would clearly severely compromise the character of the main entrance to the building.

Impact of additions/amendments to Planning Application in relation to my previous responses

Whilst I note that some movement has been made which addresses some of my concerns, I stand entirely by my previous responses.

I note that the revised Demolition Plan (which, somewhat perversely, is not included in either the current Historic Impact Statement (HIS) or Design and Access Statement (DAS) has scaled down the extent of demolition within Market Hall, but would observe that contrary to statements in the HIS and DAS, all stalls bar one (C7) contain Heritage features of High Importance.

Further Observations on the Planning Application

I would look to challenge the apparent acceptance of the requirement for residential accommodation in the Riverside building element of the Development.

Many of the issues of concern, from a Conservation and other perspectives, result from the imposition of residential use upon the building, which I consider to be entirely unnecessary.

I note the current high levels of vacancy within the Riverside building, but proper 'market research' on behalf of the Developer would have revealed that the original 2004 development's intention to provide low-cost offices/start-up units for creative industries in an accessible site located in the centre of the City failed due to the restriction of opening hours to that of the Market.

This limited access meant that offices had to be vacated by 6PM and this proved unworkable for the vast majority of initial business who took space in the building (I spoke to many of the businesses personally at the time) and has continued to be an issue.

The provision of necessary 24-hour access would have resolved this problem at a stroke and would surely have been infinitely more practical than the onerous and unnecessary changes that are now being proposed.

The Heritage Impact Statement states in 'Accommodation Requirements' (page 4) that a primary intent of the Development is to;

"Provide affordable workspace within the city centre for start-up businesses and growing businesses"

So why wasn't this obvious delivery solution explored?

What we currently have is a hotch-potch of a Development where none of the constituent elements work in synergy or harmony with each other.

Examination of successful Food Courts in other areas of the UK (including Altrincham, upon which the current concept has been derived) tells us that we will be looking at a high concept food offer with (comparatively) high cover offer prices when contrasted with alternative Food Offers in the City.

Fully occupied office suites in the Riverside building would form a natural source of business and vibrancy for the Food Court.

This is unlikely to be the case with the socio economically challenged likely occupants of the proposed social housing in the Riverside building.

The Food Court, which could have included high end cafes and bars, should have been accommodated in the Market Gallery and could be delivered with minimal change to the existing layout and configuration, with extraction from outside walls and the central area used for seating.

This would entirely have avoided the destruction of so many Heritage Features in Market Hall, which should have been regenerated as a Market (with the retention of long-established businesses and the addition of new 'on trend' boutique, artisan, specialist and produce offers) and events space.

This is the obvious model for a coherent viable and sustainable Development; providing the cultural dimension that a City needs as opposed to what best suits the Developer's apparent financial considerations.

Where is the provision of evidence and research that these options were considered and the reasons why they were found wanting?

Where is the evidence of any demonstration of the Commercial skill-sets and acumen that will deliver a Market and Food Court for Newport within this application?

I note the references, in the HIS and DAS, to "existing" and "on-going" businesses in the Market but this is entirely misleading.

A casual stroll around the Market will quickly reveal that there are very few existing businesses left in the Market (most having either ceased trading or relocated elsewhere) and no more than two or three of these are considering future involvement with the Market and, as yet, are not definitively signed up to this Development.

This is a disturbing portent that indicates that the Developer is unlikely to deliver on his commitment to the Council to deliver a Market and Food Court.

I believe that the Planning Committee need to consider the situation very carefully. This is the moment to pause, review the facts of the matter and consider the likely outcome here; the failure to deliver on what the Council have promised to the citizens of Newport.

There are outstanding questions as to why the Council, having approached this Developer, did not then put the issue out to tender.

It is still not too late to call on expertise from the world of Markets and Development to give an independent assessment of the proposed Development from the position we now find ourselves in.

Refusal of this current Planning Application will grant the Council time to carry out this exercise.

I appreciate that the Developer will have already incurred considerable upfront costs (refusal could be considered a temporary postponement and not terminal) but, unless he commits to the immediate appointment of a dedicated commercial management function to initiate and run the Market and Food Court elements of his Development then his actions in arriving at the current perilous position indicate that he will not deliver on the Council's commitment to deliver what they have publicly stated.

I would consider that bringing on board the required expertise to ensure the delivery of successful and contracted outcomes can only be to his lasting commercial advantage.

As a late addition; please find attached file containing a representation from the artist responsible for the Art Installation Window, Catrin Jones, for the Committees consideration.

Mark Rogers
25/11/20

2. *Catrin Jones- Details of representation- saved as PDF on file (26th November 2020)*

**NEWPORT CITY COUNCIL
REFURBISHMENT OF NEWPORT MARKET
PLANNING APPLICATION REF: 20/0734**

The stained glass window at the west elevation of Newport Market is an important work of art, and should be considered as an essential constituent of Newport's cultural heritage. At 120m², it is the largest stained glass window in Wales, and is a significant work of public art in the UK. It was commissioned by Newport City Council as part of the refurbishment of the market in 2003, for the enjoyment of the citizens of Newport, Wales and beyond.

The window's creator, Catrin Jones, is a respected decorative glass artist in the UK, with an extensive portfolio. In Newport, she also produced glasswork for the Riverfront Arts Centre, and has recently completed five waiting room screens in the new Grange Hospital in Cwmbran. A photograph of the Newport Market window appears alongside Catrin's entry in *Post-War to Post-Modern: A Dictionary of Artists in Wales* (Gomer Press, 2015)

At its opening in 2003, Councillor Ken Critchely, cabinet member for resources commented, "The window is a real masterpiece which really adds to the ambience of what is already a special building in the city. I hope that this piece of art will draw people into the building. I'm sure that they will be bowled over by what they see."

Now, the developer of the market, Loft Co, proposes to cover the window with a vinyl film and, instead, to display their company logo. "*The glass art at the western end of the Market will be retained. It is proposed to cover it over with a new window film in order to provide for new branding to the Market Hall space, but for this to be fully reversible and allow the artwork to be uncovered at a later date.*" (Design & Access Statements, p26).

The developer's initial proposal was, it seems, to remove the work entirely, which they (mistakenly) assumed is made with film "*Existing gable end wall retained, decorative film removed and replaced*" (Design & Access Statement, p27). In reality, the artwork was created using ceramic enamels fused onto the clear glass, and is permanent.

The proposed concealment of the window is, effectively, no different from its removal, since it will preclude future public appreciation. The significance that developer assigns the window is demonstrated in the Summary which states that only "*low-value fabric*" will be removed, "*causing only less than substantial harm*" (Design & Access Statement, p38). The proposal clearly contravenes the requirements of the Conservation Area Appraisal (as articulated on page 6 of the Historic Impact Assessment), as it fails to recognise the significance of the stained glass feature which it proposes to remove, and the development proposal also fails to incorporate local detail, as required.

Furthermore, the proposal contradicts the developer's own claims for their working practice. According to the first page of their website, "*Loft Co's focus is to always keep the building and work a scheme around the historical importance and nature of the existing elements and infrastructure.*"

There is no architectural or aesthetic justification for removing the window, and there are plenty of reasons to preserve and cherish the existing glass. This window is a significant element in Newport's present and future cultural heritage. To replace it with the developer's own branding would be an act of cultural hooliganism.



Report

Appeal Decisions

Part 1

Date: 2nd December 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, Graig, Langstone, St Julians and Victoria

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: 2nd December 2020

Planning Application Appeal

Reference	20/0374
Address	New Cottage, Old Roman Road, Langstone, Newport, NP18 1JQ
Development	Proposed detached garage and associated works
Appellant	Mr & Mrs Sanges
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Allowed

Planning Application Appeal

Reference	20/0204
Address	The Old Dairy, Rudry Street, Newport, NP19 7AN
Development	Proposed change of use from UPVC manufacturing unit to car dealership
Appellant	Mr B. Patrick
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Application Appeal

Reference	20/0461
Address	Arnside, Magor Road, Newport, NP18 2EB
Development	Proposed construction of dormer to the side of property and refurbishment
Appellant	Mr H. Bowes
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Planning Application Appeal

Reference	20/0167
Address	24 Tan House Drive, Caerleon, Newport, NP18 1BS
Development	Proposed raising of land (re-submission of 19/0583)
Appellant	Mr S. Ireland
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Non-Determination Appeal

Reference	20/0317
Address	56 Fair oak Avenue, Newport, N19 8FW
Development	Proposed change of use of property to house in multiple occupation for up to six residents and a rear single storey extension
Appellant	Mr M. Layton
Officer Decision	N/A
Committee Decision	N/A
Appeal Decision	Allowed

Non-Determination Appeal

Reference	20/0120
Address	Land Adjacent to The Old Post Office, NP10 8GU
Development	Alterations to wall and creation of pedestrian access
Appellant	Mr Ben England
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Allowed
