

Agenda



Planning Committee

Date: Wednesday, 3 November 2021

Time: 10.00 am

Venue: Microsoft Teams Live Event

To: Councillors J Richards (Chair), J Guy (Deputy Chair), J Clarke, T Watkins, R White, W Routley, C Ferris, J Jordan, L. Lacey, Y. Forsey and M Spencer

WEBCASTING NOTICE

This meeting may be filmed for live or subsequent broadcast via the Council's internet site.

At the start of the meeting the Mayor or Person Presiding will confirm if all or part of the meeting is being filmed. The images and sound recording may be also used for training purposes within the Council.

Generally the public seating areas are not filmed. However by entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

If you have any queries regarding this, please contact the Chief Democratic Services Officer.

NB: Please click on the link to view [the Planning Code of Practice](#):-

Copies of the Planning Code of Practice will be available at the meeting.

Part 1

| Item | Wards Affected |
|--|-----------------------|
| 1. Apologies for Absence | |
| 2. Declarations of Interest | |
| 3. Minutes of the meeting held on 6 October 2021 (Pages 3 - 6) | |
| 4. Development Management: Planning Application Schedule (Pages 7 - 176) | |
| 5. Appeal Decisions (Pages 177 - 182) | |
| 6. Webcast of Committee Planning Meeting, 3 November 2021 - YouTube | |

Contact: Pamela Tasker, Governance Officer :

Tel: 01633 656656

E-mail: democratic.services@newport.gov.uk

Date of Issue: Wednesday, 27 October 2021



Draft Minutes

Planning Committee

Date: 6 October 2021

Time: 10.00 am

Present: Councillors J Richards (Chair), J. Guy, J Clarke, T Watkins, J Jordan and M. Spencer.

In Attendance: Matthew Sharp (Acting Development Services Manager), Anna Griffiths (Senior Traffic Transport & Development Officer), Stephen Williams (West Area Development Manager), Tracey Brooks (Head of Regeneration, Investment & Housing), Jacquie King (Senior Planning Officer), Joanne Evans (Senior Solicitor- Planning & Land), Grant Hawkins (Senior Planning Officer), Geraint Roberts (Principal Planning Officer), Alun Lowe (Planning Contributions Manager)
Pamela Tasker (Governance Support Officer), Felicity Collins (Governance Support Officer)

Apologies: Councillor T. Holyoake, Councillor C. Ferris, Councillor R. White and Councillor W. Routley

1. **Declarations of Interest**

None

2. **Minutes of the meeting held on 1 September 2021**

The minutes of the meeting held on 1 September 2021 were submitted.

Resolved

That the minutes of the meeting held on 1 September 2021 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. **Appeals**

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

The Development Manager advised the Committee that on page 79 of the Appeals report with reference to the appeal 20/0552, the Appeals decision stated that it was Allowed when in fact the decision was Dismissed.

The meeting terminated at 11:50am

Draft Appendix A
 PLANNING COMMITTEE – 06 10 2021
 DECISION SCHEDULE

| No | Site/Proposal | Ward | Additional Comments | Decision |
|--------|---|-----------------|--|--|
| Page 5 | <p>Site: Phase 2D Glan Llyn, Llanwern</p> <p>Proposal: RESERVED MATTERS FOR RESIDENTIAL DEVELOPMENT OF 181NO. UNITS WITH OPEN SPACE AND ASSOCIATED WORKS (PHASE 2D) PURSUANT TO THE WESTERN SUB AREA MASTERPLAN AND OUTLINE PLANNING PERMISSION 06/0471</p> <p>Recommendation: Approved with conditions</p> | Llanwern | This item is being presented to Committee at the request of Councillor Kellaway. | Granted with conditions |
| | <p>Site: Llanwern Village Development Site Phase 1 Cot Hill Llanwern Newport South Wales</p> <p>Proposal: RESERVED MATTERS APPLICATION FOR 77 NO. HOMES, ASSOCIATED INFRASTRUCTURE AND LANDSCAPING PURSUANT TO OUTLINE PLANNING PERMISSION 16/0864 FOR RESIDENTIAL DEVELOPMENT OF UP TO 1100 DWELLINGS AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10, AND DETAILS TO PARTIALLY DISCHARGE CONDITIONS 5 (BUILDING MATERIALS), 6 (HARDSCAPING MATERIALS), 7 (BOUNDARY TREATMENTS), 9 (HIGHWAY CONSTRUCTION DETAILS), 12 (DRAINAGE), 15</p> | Llanwern | This item is being presented to Committee at the request of Councillor Kellaway | Delegated authority given to the Head of Regeneration, Investment and Housing to issue a decision to Part Approve, Part Approve with Conditions and Part Refuse the application on receipt of no objection from Natural Resources Wales. |

| | | | | |
|----------------|---|---------------------|---|-------------------------|
| | (ABORICULTURAL IMPACT ASSESSMENTS), 18 (ECOLOGICAL MANAGEMENT PLAN), 21 (PARKING) AND 24 (LANDSCAPING) Recommendation: Part approved with conditions/part approved/part refused | | | |
| 21/0556 | Site: 23 - 24 Temple Street, Newport Proposal: INSTALLATION OF FREE STANDING CANOPY TO PROVIDE OUTDOOR SHELTERED LEARNING SPACE Recommendation: Granted with conditions | Pillgwenilly | This item is being presented to Committee as it relates to a facility owned by the Council. | Granted with conditions |

Report

Planning Committee – Virtual Meeting

Part 1

Date: 3rd November 2021

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.

The Socio-economic Duty, part of the Equality Act 2010, was also enacted in Wales on the 31st March 2021. This requires the Planning Committee, when making strategic decisions, to also pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage. Inequalities of outcome are felt most acutely in areas such as health, education, work, living standards, personal security and participation.

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 11 (February 2021)
 Development Management Manual 2016
 Welsh National Marine Plan November 2019
 Future Wales - The National Plan 2040 (February 2021)

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 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) (updated October 2021)
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
Flat Conversions (adopted August 2015) (updated October 2021)
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)
Shopfront Design (adopted October 2021)

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: 20/1068 Ward: Pillgwenlly

Type: Full (Major)

Expiry Date: 5th October 2021

Applicant: Aldi Stores Limited

Site: Land North Of And Adjacent To Abberley Hall Road Newport South Wales

Proposal: ERECTION OF A CLASS A1 FOODSTORE WITH ASSOCIATED ACCESS, CAR PARKING AND LANDSCAPING

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the construction of a foodstore with a gross floor area of circa 1800 sq. m, with associated development, including a new access, car parking and landscaping.
- 1.2 The application site is part of the Mon Bank development site. It lies north of Abberley Hall Road and access would be gained from this road.
- 1.3 The application is brought before Planning Committee as it constitutes major development.

2. RELEVANT SITE HISTORY

| | | |
|---------|---|-------------------------|
| 07/0540 | RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS (OUTLINE) | Allowed at appeal |
| 12/0272 | VARIATION OF CONDITIONS 7(PHASING), 8 (MEANS OF ACCESS FROM CARDIFF ROAD) AND 9 (DETAILS OF DOCKS WAY ACCESS) OF PLANNING PERMISSION 07/0540 FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS (OUTLINE) | 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 **SP19 Assessment of Retail Need** sets out the retail hierarchy for where retail development should be located. 1. Newport City Centre; 2. A Defined District Centre; 3. Local Centres; 4. Out of Centre

Policy **GP2 General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of

noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

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

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

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

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

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

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

Policy **T2 Heavy Commercial Vehicle Movements** states that developments which generate heavy commercial vehicle movements will be favoured in locations which have access to a railway line, wharf or dock. Where this is not appropriate, locations accessible to strategic and principal routes will be favoured. Elsewhere, such development will be resisted.

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

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

Policy **R10 New Out of Centre Retail Sites** notes that such sites will not be permitted unless a need is identified; it will not impact on other retail centres; location is acceptable in sequential terms; the highway has sufficient capacity and the proposal is fully accessible by sustainable transport modes.

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 adopted Supplementary Planning Guidance are also relevant to the determination of this application: **Page 16**

- Sustainable Travel
- Wildlife and Development
- Parking Standards
- Air Quality

3.3 The Newport Retail and Leisure Study 2019 (prepared by Nexus) is also material to the determination of this application.

4. CONSULTATIONS

4.1 HEDDLU – GWENT POLICE: No response.

4.2 REGIONAL AMBULANCE OFFICER: No response.

4.3 NEWPORT ACCESS GROUP: No response.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (ECOLOGY): I have reviewed the updated Ecological Mitigation and Enhancement Strategy (July 2021) and I am happy with the proposals for the enhancement bat and bird boxes. I have no objections or further comments.

5.2 HEAD OF CITY SERVICES (LANDSCAPE): No objection following the submission of information previously requested.

5.3 HEAD OF CITY SERVICES (TREE OFFICER): All the tree cover appears to have gone.

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

5.5 HEAD OF LAW AND REGULATION (ENV. HEALTH - NOISE): No objection subject to conditions requiring:

- Construction Environmental Management Plan;
- Restriction to opening hours;
- Restriction to delivery times;
- Servicing Management Plan;
- Details and mitigation, if appropriate, of external noise emitted from plant/machinery/equipment.

5.6 HEAD OF LAW AND REGULATION (ENV.HEALTH – AIR QUALITY): the findings of the Air Quality Assessment (AQA) are noted. Notwithstanding the findings of the AQA a contribution towards reducing traffic emissions needs to be afforded by new development. It is welcomed that EV charging points will be provided at the development and should be maximised in their use and provision as EV uptake gradually takes place. Other means by which the development could reduce its emissions are through low/zero emission heating systems and this should be adopted as part of development where feasible.

5.6.1 The routing of construction traffic associated with the proposed construction phase must be specified such that it does not travel through any of Newport's AQMAs where at all possible unless the vehicles in question are zero emission. To this extent a routing plan should be provided by the applicant and may be requested by condition. This is not only important from an air quality perspective but one of reducing traffic congestion in AQMAs.

- 5.6.2 A section 106 contribution should also be requested for the sum of £10,000, which would contribute towards updating air quality monitoring and action planning specific to the locality of the development.
- 5.6.3 Whilst I have no objections on air quality grounds, designing out the potential for the generation of additional traffic congestion at Monmouth Castle Drive needs to be considered as the locality already experiences rat run activity that has been reported to the council notwithstanding the constraints on what can be done about this.
- 5.7 HEAD OF CITY SERVICES (HIGHWAYS):
- 5.7.1 Access: no objection
- 5.7.2 Deliveries: no objection, subject to a condition requiring that deliveries can only be made from Cardiff Road to ensure delivery vehicles do not travel through Mon Bank.
- 5.7.3 Highways capacity: no objection
- 5.7.4 Parking: the site should provide 3 commercial vehicle spaces and 54 car parking spaces for customers. The application proposes to provide 1 commercial vehicle space which does not meet the parking standard and 112 car parking spaces which excessively exceeds the maximum parking requirement providing more than twice the maximum number of parking spaces required by the Parking Standards which is not acceptable.
- 5.7.5 The applicant has submitted Technical Note 3 Car Parking as evidence of parking provision at other similar local discount stores to mitigate the additional provision which shows that parking levels are likely to exceed the level required by the Parking Standard during peak periods which should lead to over flow vehicles parking on Abberley Hall Road. However, the level of parking provided that exceeds the Parking Standard is also likely to encourage customers to use the private motor car rather than sustainable forms of transport which does not comply with aims to encourage movement by sustainable modes of transport prioritised by Welsh Government. The failure to provide a pedestrian route from local bus routes to the store will also exacerbate the failure to promote sustainable forms of transport.
- 5.7.6 The Transport Assessment states that the store will only be served by two HGVs and several smaller vehicles throughout the day. The proposed reduction of parking for HGVs will therefore be acceptable on this occasion but a suitable condition will be required to prevent the occurrence of additional HGV movements.
- 5.7.7 It is proposed to provide 7 disabled parking spaces and 6 motorcycle spaces which complies with the parking SPG and will be acceptable. The drawing also shows 4 cycle stands providing 8 cycle parking spaces at the front of the site near the entrance which will be acceptable for short term cycle parking. 1 long term cycle space per 4 staff will be required to comply with Newport City Council SPG Sustainable Travel (July 2020). The Transport Assessment identifies between 30-50 staff equivalent to 27 FTEs. 8 long term spaces for staff which should be located in the service yard in a secure and covered area, close to a staff access, with wash and change facilities will be required which should be identified on a drawing and submitted for approval.
- 5.7.8 The site will also provide 4 x electric vehicle charging points (EVCP) with a further 20 spaces equipped with services for future connection which will not be acceptable. The applicant will be required to provide 10% EVCPs. A total of 11 ECVPs will be required.

- 5.7.9 Active Travel: The proposed development does little to encourage movement by the sustainable modes prioritised by Welsh Government, whilst parking provision for private motor vehicles is in excess of standards, however, the applicant has now proposed reasonable and commensurate contributions to the Active Travel Wales network in the local area which should be secured if planning is granted and will be acceptable
- 5.7.10 Transport Note 2 has identified that there are no improvements required to facilities at the nearest bus stops, however, contributions to promote and improve active travel have been proposed and will be acceptable.
- 5.7.11 Summary: no objection to this application on highway grounds subject to the applicant providing revised drawings addressing the above issues. However, objection to this application on sustainability issues regarding the over provision of car parking which will need to be considered against the loss of amenity that may arise due to any over flow vehicles parking on Abberley Hall Road.
- 5.8 HEAD OF CITY SERVICES (ACTIVE TRAVEL): The plan articulates that engagement with staff and community will take place, along with leaflets highlighting Active Travel routes will be planned.
- 5.8.1 Cycle storage has been mentioned, however no clarity on the design of the cycle storage. Storage must be 1 space per 4 staff for Long Stay and 2 space per 20 staff for short stay. Really all cycle storage should be covered to encourage use however the design for staff parking as a minimum should be covered and secure. The 'Design Guidance – Active Travel (Wales) Act 2013 states that 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 Sustainable travel SPG specifies the minimum cycle storage provision and this should be adhered to in the development.
- 5.8.2 Due to the increase in traffic along Monmouth Castle Drive and Abberley Hall Road, offsite developments should be provided to create a safe off road cycle link from Cardiff Road to the development sites proposed cycle parking areas, either through the development site or adjacent to existing highways.
- 5.8.3 I cannot see any mention of changing/washing facilities in store to support staff using active travel as a method to commute to and from work therefore I would like clarity on proposal.

6. REPRESENTATIONS

6.1 Pre-Application Consultation

- 6.1.1. Where a planning application for major development is proposed, the applicants are first required to carry out pre-application consultation. The relevant legislation states (as a minimum) that the applicant must publicise the proposed application by:
- Site notice;
 - Writing to any owner or occupier of any land adjoining the proposed application site; and
 - Making information about the proposal available.
- 6.1.2 During the pandemic there were emergency changes to the legislation, which came into force on the 19th May 2020 whereby, 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.

- 6.1.3 The applicant undertook pre-application consultation which included the following:
- Email contact and sharing of a consultation leaflet with ward members and neighbouring ward members;
 - Meetings with ward councillors, Member of Parliament and Member of the Senedd for Newport West;
 - Door-to-door meetings with neighbouring residents;
 - Press releases to the local press;
 - A leaflet drop to 4,048 addresses close to the site – including a feedback form with freepost envelope, email address and phone line direct to the project team, and the address of the consultation website with the full, draft planning application;
 - A consultation website with full details of the proposals, contact details for the project team, and the ability to leave feedback;
 - A virtual consultation exhibition, accessible throughout the consultation and post consultation period;
 - An online feedback webinar, to provide information about the key issues raised during the consultation process.
- 6.1.4 Feedback from those consultation events is provided in a Pre-Application Consultation report (PAC).
- 6.2 NEIGHBOURS: All properties within 50m of the application site were consulted (35 properties), a site notice was displayed and a press notice published in South Wales Argus. 65 representations were received, along with a petition of 221 signatures.
- 6.3 62 representations raise an objection to the proposal and include the following concerns under topic area:
- Highways
- It will increase traffic in area which already has high volumes of traffic; and is already used as a cut through to other shops on Docks Way/Maesglas retail parks;
 - There will be an increase in traffic which concerns the highway safety of a family estate. The traffic levels through the Mon Bank estate are already significantly high with no policing of the speed and weight restrictions. Artic vehicles proceeding along a residential estate is not acceptable. Already on Monmouth Castle Drive there has been:
 - an accident at the lights to Cardiff Rd involving a child crossing
 - a tree was demolished during an icy period due to a speeding vehicle
 - a bollard protecting a pedestrian area has still not been reinstated after an impact.
 - Increased traffic will cause safety issues for local children and the elderly;
 - Existing traffic problems through the estate would be exacerbated by the proposal as it will encourage shoppers from the Pillgwenlly area to drive through the estate to access the store;
 - Concern about delivery lorries travelling past a childrens play area halfway along Monmouth Castle Drive;
 - The entrance in Abberley Hall is too small and even with road widening, lorries/store traffic outside residential houses is not safe and a store like this is not in keeping with the character of the surrounding residential area;
 - It will cause infrastructure damage, the estate roads were not designed to carry increased large vehicles;

- Aldi's proposals are not inclusive for those who will be walking to the proposed store, the only entrance is across what will be a busy road, and into a car park, which by its nature is an unsafe area;
- It is likely that at peak times, the proposed car park will be insufficient, thus causing more on street parking. Also some shoppers will be parking on the main road to avoid the build up of traffic at the roundabout;
- Insufficient consideration has been given to the inevitable increase in traffic through Mon Bank estate and along Cardiff Road. There are already long traffic queues from the Maes Glas parade of shops to the Tredegar Park roundabout, these are not only at peak times, but have been throughout the day. With the new Lidl store opening, the queues will increase and back up to Mon Bank and if an Aldi store is built, will extend further back towards town, causing major traffic queues, which will greatly increase pollution in the area;
- The traffic coming along Cardiff Road towards Mon Bank from Tredegar Park is already queuing at the three sets of traffic lights between Mon Bank retail park and to turn right into Mon Bank. There is insufficient distance between the lights to allow for many cars to turn, and with an Aldi store, there will be a considerable increase in cars turning into Mon Bank, thus forming longer traffic queues along Cardiff Road, again, spewing out more emissions and causing increased noise and pollution in the area, which is not consistent with the ethos of GP7;
- Concern for busier festive periods as this will lead to an overspill (of parking) within the residential area, causing further impact on safety of residents and their properties;
- A local resident bought their home because it was a nice cul-de-sac area and with no lorries allowed within the street therefore, children could play safely in the street but now this will not be allowed to happen due to the fear of a road traffic accident because of increased traffic and HGV's entering Abberley Hall road;
- The road safety audit of the proposal identifies problem 8.3 "existing junction appears too tight to accommodate large delivery vehicles" Entrant designers response is that "swept path analysis carried out, see attached SK10, although acknowledging it is tight it works okay" Diagram SK10 clearly shows HGV turning from MCD into Abberley as using nearly whole width of the road. The designer response is not adequate and that is a major safety concern which needs raising with the highway authority;
- Abberley Hall Road is a cut-de-sac, very private and currently not adopted by the council. The impact of a supermarket, it's footfall and additional traffic on this road will impact the privacy of all living here;
- Traffic currently approaching the roundabout at the entrance to Abberley Hall Road often approach the roundabout at speed and with a limited line of site, due to the camber of the road, this is likely to cause accidents at this point;
- There is a risk that visitors to the food store will use the visitor parking spaces in the Cleeve Grange Crescent cul-de-sac. This should be investigated, and if the development proceeds, preventative measure implemented such as the placement of signage signposting "residential use only";
- Section 2.6 Existing Traffic Data of the Traffic Assessment should not be relied upon as the data gives an unfair view of the true situation, for example there are more than 25 residential units served from Abberley Hall Road;
- The data forming the basis of the assessment did not consider the increased volume of traffic since the Monmouth Castle Drive Road has been opened as a through road. This has significantly increased the volume of traffic and the risk of increased accidents, injuries and potential deaths as the traffic calming measures are ineffective. For example traffic tends to speed over the centre of the roundabout to avoid reducing their speed and following the actual road as they should. This may be a benefit for HGV's but not for the safety of residents, pedestrians and other commuters;

- Mon Bank residential estate is a designated 20mph zone for vehicular traffic, with a 7.5 tonne weight restriction;
- The location of the customer entrance should also portray as a Health and Safety concern due to it being located directly opposite a driveway so residents will be reversing into traffic exiting the store;

Residential amenity

- It will impact on the air quality for Mon Bank;
- Increase of noise pollution from delivery trucks and activities around the shop;
- Increased noise, especially early in morning and late in evening when the store is open or when deliveries are made before or after opening hours thereby impacting local residents for even longer;
- Disturbance from refrigeration units at night;
- It will bring nuisance and anti-social behaviour to the estate;
- Abberley Hall Road would change from a quiet no through residential street into a very busy one;
- The homes nearby will have a view of either a 3 metre wall, an extremely busy road right outside their front doors and the noise of traffic and people until quite late in the evening;
- Concern about the amount of litter that will be seen on the estate;
- Mon Bank is a modern residential estate that must not be downgraded in the way it would be if this Supermarket is built;
- People must come before an unnecessary commercial enterprise;
- The environmental impact of construction vice moving into an existing unit is going to be huge, not to mention the mental health aspect the construction and ongoing operation the site will have on those potentially forced to live with the site;
- Concern about light pollution to properties opposite the store;
- Concerns that it would increase 'homeless' people to the area as a place to 'beg' or camp.
- Will the car park be used for dangerous car cruising events that are already held within the area at Maesglas Retail Park?
- Aldi have recently expanded their capacity to offer online shopping. If nothing this global pandemic has taught us that online shopping is the future. Who's to say in 5 years time Aldi won't require such a big store and leave it to become run down, empty or derelict? Or sell the land to anyone they so wish?
- A local resident recently went to look around the Aldi Store at Barrack Hill and the littering and noise pollution from the lorries and refrigerators to the back of the store was hugely worrying;
- The surrounding area and pathway/ green space is currently used by the community for recreation and events;
- There is a footpath around the whole of the proposed site, which is heavily used by residents for: exercising their dogs, taking children in pushchairs for fresh air, taking toddlers for a walk, or to practise using their first bicycle – safely away from the traffic, joggers and those walking for exercise. Their access to this path would be seriously impeded by a supermarket being built here;
- The placement of the proposed car park will affect peoples through access of the cycle path in which many of the residents use for leisure and exercise. This comes as a great relief for people especially during the recent pandemic and with the government wanting to increase cycle usage for the national obesity crisis it would be a complete obstruction of these government recommendations, also mental health and wellbeing;
- We fear our mental health will deteriorate as a result of having to look out onto a large building that will be surrounded by 10-foot fencing;

- The current hours stated are 0800 - 2200. These are unsociable for many living locally especially those who work shifts as NHS staff as many do in this area;
- Landscaping should be appropriate (low hedges are not likely to be suitable in some areas) and maintained to ensure the privacy of residents in the immediate vicinity is suitably protected;

Retail impacts

- The proposed site has attracted many types of wildlife which the local children enjoy watching and engaging with. To lose this fantastic community asset would be a tragedy;
- There are already two Aldi stores within Newport is there really any need for another?
- There is no need for another supermarket, and to build a supermarket of the proposed size will take away trade from local shops, which could cause closures, with loss of jobs and more empty units in the area;
- A further development on the outskirts of the city centre would present another missed opportunity to create a vibrant city centre retail destination. Aldi, along with other well-known convenience stores, are moving into city centres across the UK and are being used as a catalyst for regeneration and city centre living;
- There are more appropriate, empty units at the retail park in Maesglas;
- There is already a Tesco and a Lidl in close proximity, we do not need another supermarket;
- Not in line with Newport Council own policy of encouraging investment/retail store in the actual City Centre, Aldi should be sited in the City Centre;
- Not following a sustainable approach, why is a new building being created when there are plenty of empty viable buildings in Newport which can be used such as the old Next building on Maesglas Estate. Has any other empty building or placement of the store on any of the retail parks been explored instead?

Visual amenity

- There are covenants on houses in Mon Bank to keep them looking nice. Occupiers would not be allowed to erect a 3m high timber fence around my boundary for instance as Aldi are planning to do.
- A large modern illuminated glass wall supermarket with a high Totem pole illuminated signage at the roundabout will look unsightly and absolutely ruin this pleasant approach;
- Redrow have strict restrictions on what we can, and can't do to our house to ensure the estate retains the "heritage" appearance, a major supermarket is totally out of keeping with the estate.

Ecology

- There is a local bat roost in the vicinity;
- The site has attracted many types of wildlife which the local children enjoy watching and engaging with. To lose this fantastic community asset would be a tragedy;

Other matters

- It will drive down the house prices in what at present is a nice place to live and will force people to move out the area;
- Aldi are offering a small number of mostly low paid jobs that will not be of significant benefit to the area;
- Recently the green area was used for an emergency ambulance helicopter landing site for the Gwent, with a store built there this could not happen again and possibly prevent saving another life.

6.4 1 representation supports the proposal.

6.5 TESCO: raise an objection to the proposal for the following reasons:

- There is a very substantial overprovision of existing convenience goods floorspace serving Newport. The lack of any quantitative need that arises is a determinative issue that should require planning permission to be refused. The failure on quantitative need cannot be overcome with qualitative submissions. Even if they were to be considered any assertion of additional choice and competition cannot have any weight in a situation where there is such vast overprovision and “no need”. Employment provision in the retail sector is generally related to negative impacts elsewhere and these are significant.
- The former Sainsbury’s site at Wyndham Street is a sequentially preferable and more accessible location. It is suitable and available to accommodate the proposal. Aldi’s rejection of it is wholly contrary to the High Court’s judgment in Aldergate. Sites cannot be rejected on the basis of proximity to Aldi’s proposal at Crindau. The sequential test is not retailer specific and must restrict itself to only the form of development proposed.
- The scale of impact on established and protected retail centres is significant and in particular on the Newport Retail Park District Centre. Here, impact is particularly harmful because of the level of under trading by the key anchor superstore as demonstrated by the applicant themselves. The applicant’s assessed impact on the Tesco is that it would trade at 55% below company average turnover should the application be approved. Such an impact would cause a very significant loss to footfall across the centre. That would be significantly harmful to the health of the centre as a whole. But it is noted that the applicant has chosen not to assess this important consideration in any detail whatsoever and against any assessment of the centre’s existing health. That itself should justify refusal in addition to refusal due to the significance of the adverse impact to trading conditions.

6.6 LIDL: two letters of objection have been submitted, raising the following issues:

- The proposals are contrary to the requirements of national planning policy and LDP Policies SP19 and R10 insofar as they do not demonstrate quantitative need.
- The qualitative need benefits of the proposed store are limited when considered against the tests outlined by Planning Policy Wales (Edition 10).
- Failure to comply with the sequential approach to site selection.
- The proposals will result in unacceptable levels of trade diversion from existing designated retail centres, resulting in detriment to the respective centres’ vitality and viability.
- Insufficient information has been submitted to demonstrate that the proposals will not lead to significant adverse impacts on features of acknowledged ecological importance.
- The Transport Assessment is insufficient in detail and fails to suitably assess active travel provision or the impact of the development on highway safety and operational capacity.
- Excessive parking is proposed, which will act to encourage car use. This is contrary to the aims of local and national planning policy.
- It has not been demonstrated that suitable visibility splays are achievable at the proposed point of access/egress, which will result in detriment to highway safety.
- Impact on the amenity of the neighbouring residential population.
- Deficiencies of the statutory Pre-application Consultation process

- 6.7 COUNCILLORS HAYAT AND HOLYOAKE: No responses.
- 6.8 All of the responses above have been read in full and considered as part of the assessment of this application.

7. ASSESSMENT

The Site and planning history

- 7.1 The application site is located on the western side of the Mon Bank housing estate. It sits in between residential properties (with those on Abberley Hall Road being the closest) and railway sidings, which border Cardiff Road. In between the railway sidings and the application site, there is an existing footpath, which follows the western boundary of the site and connects at the eastern end of Mon Bank by following the northern perimeter of the housing estate. To the south west of the site is an access road known as Monmouth Castle Drive, which connects Mon Bank with Cardiff Road. There is a roundabout which connects Monmouth Castle Drive with Abberley Hall Road. The footpath access is also off Monmouth Castle Drive.
- 7.2 To the north of the site is a factory, last known to be occupied by a steel processing business. There is also a group of trees and beyond this is the development site known as Whitehead Works. Planning permission has been granted for residential led scheme (reference 19/0439).
- 7.3 Mon Bank was originally owned by Network Rail and was known as Monmouthshire Bank Railway Sidings. In 2007, outline planning permission (reference 07/0540) was granted (at appeal) for residential development and associated works. The application site was excluded from residential development and known as "White Land". A legal agreement was attached to the outline permission that required the land to be marketed for B1 (office) development for 2 years. After which, should there be no reasonable interest in the land for a B1 use then other uses may be considered. This marketing exercise was undertaken between 2014 and 2016. The exercise found that there was no interest in the application site for a B1. The requirements of the legal agreement were discharged and it is now for the Council to consider other uses for the site.
- 7.4 The application site is brownfield land that is located within the urban boundary. It is within flood zone B and parking zone 4. There are no other Local Development Plan constraints or designation. There are no protected trees nor any public rights of way in or adjacent to the application site.
- 7.5 **The proposals**
- 7.5.1 It is proposed to construct a supermarket (Aldi) in the eastern portion of the site, with car parking in the southwest and west of the site. The front and entrance to the foodstore would face towards the car parking, or the west of the site. Servicing would take place to the rear of the building, with a servicing yard to the south of the building. The building would be generally rectangular in shape and would measure 64.5m in length (at its longest point), 31.7m in width, 7.1m in height (with a flat roof) at the rear/eastern end and 5.6m in height at the front/western end. It would be finished in white render with a black brickwork plinth, grey aluminium shop front, grey aluminium windows and doors and grey composite roof panels with a dark grey parapet. There would be full height glazing along the front/west elevation and part of the southern elevation, with high level windows along the remainder of the southern elevation.
- 7.5.2 There would be a trolley stand next to the entrance and four cycle stands along the southern elevation, near to the front entrance. There would be two entrances to the site, both would

be from Abberley Hall Road. One entrance would be to the customer car park and the other to the servicing yard. Servicing would take place at the rear of the store, where there would also be an enclosure for refrigeration plant, a bin store and employee parking. The service yard would be enclosed by a 3m high acoustic fence, with a pedestrian gate for emergency access onto Abberley Hall Road. The store would provide a net sales area of 1315 m².

- 7.5.3 104 car parking spaces would be provided in the customer car park, with 8 spaces for staff in the servicing yard. Of those 104 spaces, 7 would be disabled spaces, 6 spaces would have electric vehicle charging points and another 20 would have infrastructure for future electric vehicle charging points. Abberley Hall Road would be widened on its northern side to provide suitable access for delivery vehicles.
- 7.5.4 It is proposed to provide soft landscaping and tree planting around the perimeter of the site and within the car park, which also acts as sustainable drainage. The existing footpath off Monmouth Castle Drive (running around the northern perimeter of Mon Bank) would be unaffected.

7.6 Principle of development and retail Impact

- 7.6.1 The application site is brownfield land (previously railway sidings) and is located within the urban boundary. The general principle of development is supported by policy SP18 (Urban Regeneration) and the outline planning permission. However, the acceptability of an A1 (foodstore) use, which is located outside of any defined retailing centre (City Centre, District Centre or Local Centre) requires greater analysis and consideration.

National Planning Policy

- 7.6.2 Future Wales: The National Plan 2040 is Wales first national development plan. It was released in February 2021 and is a material planning consideration. The purpose of the plan is to “empower plans at the regional and local scales to identify schemes and projects that benefit our communities and help to achieve our national ambitions”. The Plan sets out a number of policies and policy 6 focuses on the town centre first approach. Policy 6 states:

“Significant new commercial, retail, education, health, leisure and public service facilities must be located within town and city centres. They should have good access by public transport to and from the whole town or city and, where appropriate, the wider region. A sequential approach must be used to inform the identification of the best location for these developments and they should be identified in Strategic and Local Development Plans”.

- 7.6.3 Planning Policy Wales (Edition 11) paragraph 4.3.13 states that “it is important that communities have access to adequate levels of retail provision. Evidence should demonstrate whether retail provision is adequate or not, by assessing if there is further expenditure capacity in a catchment area (quantitative need) or if there is a lack of retail quality, range of goods or accessibility (qualitative need)”.
- 7.6.4 Paragraph 4.3.14 states “In deciding whether to identify sites for comparison, convenience ... when determining planning applications for such uses, planning authorities should first consider whether there is a need for additional retail provision. However, there is no requirement to demonstrate the need for developments within defined retail and commercial centre boundaries or sites allocated in a development plan for specific retail uses. This approach reinforces the role of centres, and other allocated sites, as the best location for most retail, leisure, and commercial activities. It is not the role of the planning system to restrict competition between retailers within centres”.

7.6.5 Paragraph 4.3.15 states “need may be quantitative, to address a quantifiable unmet demand for the provision concerned, or qualitative. Precedence should be given to establishing quantitative need before qualitative need is considered for both convenience and comparison floorspace...”

Local Development Plan Policy

7.6.6 The Newport Local Development Plan designates retail centres. These are the City Centre, District Centres and Local Centres. The application site does not fall within any of these designated centres. In out of centre locations it is necessary to show that there is sufficient need to justify the provision of a retail unit. Consideration should then be given to whether an appropriate site was available within a centre and the impact of the proposed store on any existing centre.

7.6.7 Policy R10 (New Out of Centre Retail Sites) states that proposals for large scale retail development on sites outside the city centre or district centres will not be permitted unless:

- i) need is identified;
- ii) the proposed development would not, either in its own right or cumulatively with other out of centre developments, have an adverse effect on defined retail centres as a consequence of the type or range of goods sold;
- iii) the location is acceptable in sequential terms, or the proposal involves the relocation of an existing out of centre retail facility to a sequentially acceptable site where agreements can control future retail uses on the vacated land;
- iv) the surrounding highway and transportation network has capacity to serve the development, and that accessing and servicing arrangements can be accommodated in a satisfactory manner;
- v) the proposal is fully accessible on foot, by bicycle and by public transport.

Need

7.6.8 To prove need the applicant must identify a store catchment, calculate the available retail expenditure within that catchment and compare that with the existing retail provision within that catchment and identify any shortfall that can serve the proposal.

7.6.9 The applicant has provided a retail assessment which has been audited by Nexus who recently completed the Council's Retail and Leisure Study (November 2019).

7.6.10 The applicants' proposed catchment area is Zones 1 – 7 of the Nexus 2019 Study Area, which covers the entire administrative boundary of Newport. This is considered to be an appropriate approach.

7.6.11 The applicants' retail assessment demonstrates a significant convenience goods undertrading of £200m across Newport, which highlights an overprovision of convenience goods floorspace. The applicants and Nexus agree that the proposal cannot demonstrate quantitative need.

7.6.12 In terms of qualitative terms, Planning Policy Wales (PPW) places greater weight on the quantitative aspect of the need test. However, when considering qualitative need PPW (paragraph 4.3.16) identifies a number of matters of relevance to qualitative need, which it indicates may be an important consideration where it:

- supports the objectives and retail strategy of an adopted development plan or the policies in this guidance;
- is highly accessible by walking, cycling or public transport;
- contributes to a substantial reduction in car journeys;

- contributes to the co-location of facilities in existing retail and commercial centres;
- significantly contributes to the vibrancy, attractiveness and viability of such a centre;
- assists in the alleviation of over-trading of, or traffic congestion surrounding, existing local comparable stores;
- addresses locally defined deficiencies in provision in terms of quality and quantity, including that which would serve new residential developments; or where it;
- alleviates a lack of convenience goods provision in a disadvantaged area.

7.6.13 PPW also notes that “regeneration and additional employment benefits are not considered qualitative need factors in retail policy terms”.

7.6.14 Technical Advice Note 4 (Retail and Commercial Development) supports the precedence of quantitative need and states that “qualitative need is harder to justify and proposals based on this approach should be closely scrutinised to ensure that their development does not have unintended consequences and detrimental impact on existing retail activity within retail and commercial centres”.

7.6.15 When considering PPW the applicant considers that the following matters are present and are relevant to the proposal:

- is highly accessible by walking, cycling or public transport;
- contributes to a substantial reduction in car journeys;
- assists in the alleviation of over-trading of, or traffic congestion surrounding, existing local comparable stores;
- addresses locally defined deficiencies in provision in terms of quality and quantity, including that which would serve new residential developments.

7.6.16 *Highly accessible by walking, cycling or public transport; and that it would contribute to a substantial reduction in car journeys:* the application site is located a short distance from bus stops on Cardiff Road and there is a footpath network from Cardiff Road and from Mon Bank. However, as set out in the Highways and Active Travel section of this report, the site has a single pedestrian point of access, which crosses a vehicular access. There is a lack of other convenient, safe routes through the car park (from Monmouth Castle Drive) and this is considered to be a missed opportunity. It is considered that the proposal does not demonstrate that it is particularly more accessible by public transport or as a pedestrian compared with any other foodstore, particularly when you note that Tesco (Harlech Retail Park) and Lidl, Cardiff Road, are on the same bus routes. It is noted that there is a bus route which travels through Mon Bank (4 times a day at 3 hour intervals), however there are no bus stops within the development. This bus service also stops within the Harlech Retail Park, where Tesco is located. It is considered that it would not result in a substantial reduction in car journeys.

7.6.17 The submitted Transport Assessment includes a Travel Plan which is focused on encouraging staff to adopt sustainable travel modes and reducing the reliance on the private car for journeys. However, when adopting the measures in the Travel Plan it identifies that after 5 years, 75% of staff would travel by car, which is just 5% less than at the start of the plan.

7.6.18 The household survey that supported the Nexus Retail and Leisure Study reported that just 5% of shoppers from Zone 5 (where the proposed development is located) travel to their main foodstore by bus at the time of the survey, whilst 26% travelled to their most frequented town or commercial centre by bus.

- 7.6.19 The applicant states that existing Aldi stores are at Barrack Hill (a ten minute drive to the north east) and Spytty Road (a ten minute drive to the east). They say that residents of western Newport who are loyal to the Aldi brand have to drive to the other side of the city to undertake a shop. They state that “the proposal would reduce this requirement to travel excessive distances, leading to a substantial reduction in car journeys”. Notwithstanding that this application considers a foodstore, not an Aldi specifically, because the building could be occupied by any foodstore operator, it is considered that this argument may be true in a small number of cases however, it ignores shoppers who would be willing to switch to shopping at the nearby retail commitments (Lidl at Cardiff Road and Iceland at 28 East Retail Park). It is considered that this does not demonstrate “extended and unreasonable travel times” as defined by TAN 4 (paragraph 6.7).
- 7.6.20 Furthermore, the development proposes excess provision of car parking spaces, when assessed against the Parking Standards SPG (see paragraphs 7.7.14 to 7.7.19), which would incentivise travel by car.
- 7.6.21 When considering all of the above, it is considered that the proposal would not contribute to a substantial reduction in car journeys.
- 7.6.22 *Assists in the alleviation of over-trading of, or traffic congestion surrounding, existing local comparable stores; and addresses locally defined deficiencies in provision in terms of quality and quantity, including that which would serve new residential developments:* TAN 4 (paragraph 6.7) states that “this relates to the ability of all communities and disadvantaged areas in particular to access the goods and services which they need on a day to day basis. Current provision may not meet these requirements resulting in expensive, unnecessary trips further afield. Local provision to meet this need would therefore be a positive step for these communities. Localised deficiencies may also arise when new residential development has recently been constructed”.
- 7.6.23 The applicants note that the application site is within the ward of Pillgwenlly, which is one of the most deprived areas of Newport. They state that an additional discount foodstore will help those on lower incomes and would help to alleviate a lack of discount store provision in a disadvantaged area. This is noted however, it is not agreed that there is a demonstrable lack of provision in the area. Within the Pillgwenlly ward; and at the heart of the community, there is an Asda, which is located in the Commercial Road District Centre, and has greater potential for linked trips to nearby facilities (thereby reducing journeys). There is an Iceland Warehouse at 28 East Retail Park and on the periphery of the ward, there are two Lidl stores (Cardiff Road and Usk Way); and a Tesco (Harlech Retail Park). The household survey informing the Nexus Retail and Leisure Study found that Zone 5 (Pillgwenlly Ward) is relatively self-sufficient, with existing local retailers catering for 80% of main food and 60% of top-up trips by local residents, even before the Lidl at Cardiff Road was developed. It is considered that these figures do not indicate a lack of convenience foodstore provision.
- 7.6.24 The applicants also suggest that single stores such as the Aldi at Barrack Hill and the Aldi at Spytty Road are overtrading, which would be alleviated by the proposed development. The Aldi at Barrack Hill is due to close shortly and will be replaced by a larger store at Crindau, this will absorb a proportion of this overtrade. However, these specific overtrading examples ignore the wider significant undertrading position across both Newport and Zone 5 itself.
- 7.6.25 When considered collectively, convenience goods provision within Zone 5 is undertrading significantly (i.e. there is currently a surplus of convenience goods floorspace). The applicants retail assessment identifies that existing retail floorspace within Zone 5 undertrades by an estimated £96.5m

- 7.6.26 In terms of new residential development, the Mon Bank housing development is relatively new and there is planning permission for up to 500 dwellings on the former Whitehead Works site. However, the Nexus Retail and Leisure Study 2019 concludes that Newport currently has an overprovision of convenience retail and this will continue to be the case up until 2029 even allowing for population growth and housing allocations within the city. Furthermore, the Whitehead Works permission allows for the creation of a modest amount of retail floorspace to serve that development and as such it is considered to be adequately provided for. As no local deficiency, including for new or proposed residential development can be identified, no additional convenience retail provision can be justified under this criterion.
- 7.6.26 Overall, the £200m undertrading shortfall identifies a significant lack of need and this cannot be divorced from the consideration of qualitative need as it highlights the overprovision of foodstores across the Catchment Area, a position that would only be exacerbated by the proposed development. It is considered that the proposal fails to demonstrate that there is both a quantitative and qualitative need for the proposed development, which is contrary to criterion (i) of policy R10.

Sequential test

- 7.6.27 Although case law has established that if need for a retail proposal is not shown there is no requirement to undertake the other retail tests the other tests are considered for completeness.
- 7.6.28 PPW allows for the application of a sequential test in the event that need is identified. The purpose of this is to clarify whether locations within or, next best, adjacent to existing centres can accommodate the proposed development. Failing that, out of centre locations can be considered. The purpose of the policy is to support and enhance existing retail centres. This is also reflected in local policy where SP19 requires the sequential test to be applied to all retail locations outside of the city centre and criterion (iii) policy R10 which requires locations to be acceptable in sequential terms.
- 7.6.29 In application of the test it is for the applicant to robustly show that no more appropriate site is available or suitable. Caselaw requires a degree of flexibility is shown in site assessment in order to prevent an applicant setting such a stringent requirement that only their chosen site could ever meet it. The applicant has considered the Aldi store format and the likely parking generation and has concluded that no defined retail centre sites within the identified catchment is suitable or available. This conclusion is generally not disputed by Officers.
- 7.6.30 Tesco has raised an objection stating that the former Sainsbury's site at Wyndham Street is a sequentially preferable and more accessible location. They state that is it suitable and available to accommodate the proposal. The applicants rejection of the site is contrary to the High Court's judgment in Aldergate, in that sites cannot be rejected on the basis of proximity to Aldi's proposal at Crindau. The sequential test is not retailer specific and must restrict itself to only the form of development proposed.
- 7.6.31 The Tesco objection is noted. The Wyndham Street site has been cleared for a number of years and there is a recent permission for a mixed use development which has somewhat stalled. When Sainsburys vacated that site they signed a Section 106 legal agreement that precluded them from trading from that site but officers assess that there is no impediment to another supermarket firm occupying the site. The site is cleared and could potentially be used to provide the proposed scheme. However, whilst the site is nearer to the city centre and the Malpas Road District Centre, it is considered to not integrate well with either, being separated from both by the A4042 (Page 30 Drive). Again, foot links to the city centre and

District Centre from this site are constrained and uninviting consisting of narrow footways and little used underpasses. It is considered that this site does not perform any better sequentially than the application site. In the light of this the sequential element of the retail tests is passed and that element of Policy SP19 (Assessment of Retail need) and criterion (iii) of policy R10 is complied with.

Retail Impact

- 7.6.32 PPW advises that an impact assessment is needed when a proposal is expected to have an adverse impact on the viability and vibrancy of an existing centre.
- 7.6.33 PPW10 advises that Retail Impact Assessments are mandatory on out of centre schemes above 2500m² but should be proportionate for smaller schemes where impacts on designated centres can be expected.
- 7.6.34 In the review of the applicants' retail assessment Nexus has identified a number of areas of broad agreement relating to, the baseline position, turnover of the proposal and agreed data sources. There were also some areas of concern, some of these have been corrected by the applicant, but there are other areas of the assessment which adopt a more optimistic assessment, rather than a reasonable worst-case scenario. These areas relate to growth rates, trade diversions, comparison goods impact, other food store commitments and a health check on existing centres. There is potential that should the worst-case scenario be presented then the impacts could be further worsened. Whilst these are points of disagreement, Nexus has been able to advise the Council on the basis of the information provided, recognising that this is a more optimistic assessment.
- 7.6.35 It is important to understand the overall health of affected designated centres (Newport City Centre and Newport Retail Park District Centre) before considering the impact of the proposal on the vitality and viability of those centres.
- 7.6.36 The most recent health check of these centres was undertaken for the Nexus Retail and Leisure Study in 2019, prior to any impacts of Covid-19. The applicants have been asked to provide an updated health check to account for Covid-19 impacts, which has been responded to by way of a site visit to the City Centre (but not Newport Retail Park District Centre) in August 2021. The applicants also question the accuracy of the original figures provided as part of the 2019 Study, in particular the high vacancy rates. However, Nexus advise that a standard approach to data gathering was used as it allows for a consistent approach to comparing the proportion of various uses to both UK averages and changes across an individual centre over time. The 2019 Study found that the city centre was characterised as underperforming, with a concerning vacancy rate of 23% (far in excess of the UK average) and lacking a healthy provision of convenience foodstores. This was likely due to competition from out-of-centre facilities, with almost 20% of respondents to the household survey highlighting this as the primary reason that they did not visit the centre. Whilst there are promising developments such as the Newport Market, the City Centre has suffered further with the loss of Debenhams, Topshop, Flying Tiger and Gap in the last year. This demonstrates a particularly vulnerable centre, with Iceland, M&S Food, Sainsbury's Local and Tesco Express the only national multiple convenience retailers present in the City Centre. Notably, these stores are also considered to be vulnerable, with Iceland trading at around benchmark levels, but M&S Food (-75%), Sainsbury's Local (-52%) and Tesco Express (-95%) found to be significantly undertrading from the 2019 Study. The Study also noted that convenience retailers made up just 5.4% of units and 6.5% of floorspace at the time, compared to UK averages of 9.2% and 15.3% respectively.

- 7.6.37 The applicants suggest that the closure of high profile national multiples are the result of strategic business decisions rather than a reflection of Newport's health. However, whilst the closures may not have directly resulted from the performance of Newport specifically, the prominent vacancies themselves as well as the loss of anchors and key draws to Newport City Centre detract from the overall health of the centre, particularly given the prominence of stores such as the former Debenhams in Friars Walk.
- 7.6.38 The 2019 Study found the Newport Retail Park District Centre to be predominantly made up of comparison goods retailers, around 20% retail and leisure services, and just two vacant units and convenience retailers (Tesco Extra and Iceland), as well as a Food Hall within M&S and an adjoining Aldi store. With a high proportion of national retailers and low vacancy rate, the 2019 Study found the District Centre to be functioning well as a retail destination, meeting the needs of the local population, as well as being a destination for residents from further afield, in terms of both convenience and comparison goods.
- 7.6.39 *Impact on Newport Retail Park District Centre:* it is considered that each convenience retailer would be impacted by the proposal to varying degrees. The applicants retail assessment suggest that M&S would have no overlap of trade and the Tesco having the most (7.5%). Whilst the Aldi at Spytty Road adjoins Newport Retail Park and is shown as having 4.0% trade diverted to the application proposal, it is located outside of the District Centre boundary and does not benefit from policy protection. There are limited pedestrian connections between Aldi and the centre, which somewhat reduces the prospect of linked trips on foot. However, that does not preclude shoppers simply driving from one car park to the other in order to 'mix and match' their discount foodstore trip with a larger superstore such as Tesco Extra as was observed at the time of the 2019 Study, reducing trade to the centre.
- 7.6.40 It is also noted from the Tesco objection, which highlights that the lack of a health check assessment by the applicants also fails to consider Tesco's position as the largest anchor unit and main draw to the centre. Tesco suggest that the applicant's adopted 7.5% trade diversion would not only affect Tesco itself, but also reduce footfall to other retailers and operators across the centre. Tesco also reference the trading position of the Spytty store, which was found to be undertrading -39% below 'benchmark' company average levels at the time of the 2019 Study. The forecast impact would reduce this trading position to -55% below benchmark. Whilst Tesco do not go so far as to state that the Spytty store would close if the Aldi came forward, the implication is that the harm associated with the loss of trade and associated reduction in footfall would (in their view) be considered significantly adverse.
- 7.6.41 Despite the harm to Newport City Centre over the past year, the Retail Park has not suffered the same degree of closures and the proposal is unlikely to result in business closures given the relative health of the centre as a whole. On balance, it is considered that the proposal is likely to result in adverse, but quite not reach 'significantly adverse' levels of cumulative impact on Newport Retail Park District Centre.
- 7.6.42 *Impact on Newport City Centre:* there remains to be some concerns about how the applicants retail assessment and it is considered that it presents a somewhat optimistic approach rather than a reasonable worst-case scenario. The retail assessment concludes that there would be a cumulative impact of - 6.5% on the city centre. When considering this alongside the vulnerability of the city centre it is considered that there would be a significantly adverse impact on the vitality and viability of the city centre.
- 7.6.43 The proposal is considered to have an adverse impact on the city centre and is contrary to criterion (ii) of policy R10.

7.6.44 Overall it is recognised that the proposal cannot demonstrate quantitative need for the proposed store and it is considered that insufficient qualitative need been shown to justify approval. The proposal is considered to be contrary to national planning policy and Policy R10.

7.7 Highways and active travel

7.7.1 Policy GP4 requires development proposals to:

- i) provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
- ii) be accessible by a choice of means of transport;
- iii) be designed to avoid or reduce transport severance, noise and air pollution;
- iv) make adequate provision for car parking and cycle storage;
- v) provide suitable and safe access arrangements;
- vi) design and build new roads within private development in accordance with the highway authority's design guide and relevant national guidance;
- vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

7.7.2 In addition policy SP1 (Sustainability) requires proposals to make a positive contribution to sustainable development by (amongst other factors) 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.

7.7.3 Policy SP2 (Health) states "development proposals should seek to maximise their positive contribution to health and well-being, and minimise any negative effects by being located in the most sustainable locations, close to public transport links and providing efficient walking and cycling routes and other green infrastructure as part of development schemes".

7.7.4 Policy T4 requires parking to be provided in accordance with the Parking Standards Supplementary Planning Guidance (SPG).

7.7.5 The applicant has submitted a Transport Assessment (including a stage 1 Road Safety Audit). The Transport Assessment (TA) has been independently reviewed on behalf of the Council and by the Councils Highway Officer. Three technical notes have been produced following the first review of the TA and comments made by the Highway Officer and Lidl. A car parking survey of Abberley Hall Road has also been submitted. There are a number of elements to consider in term of the highways impact of the proposed development, these include:

- a) the impact of traffic movements on the surrounding road network;
- b) the suitability of the proposed new accesses;
- c) parking provision (non-operational and operational);
- d) pedestrian access and active travel.

Each of these matters are dealt with in turn.

a) The impact of traffic movements on the surrounding road network

7.7.6 The TA addresses the additional vehicle movements that would be generated by the proposal and their impact on the local highway network. The TA's trip generation calculation uses the TRICS (Trip Rate Information Computer System) database to determine the number of trips that the site will be likely to generate. The independent review and the Highways Officer requested additional information and clarification, which were provided in technical notes 1 and 2. The additional information includes trip generation data of a local Aldi store in Newport (Spytty). The trip data for the Spytty store shows higher trip rates and whilst the applicant

argues that these rates may be skewed by Covid-19 restrictions at the time, where there was a focus on food shopping as essential retail; and that local store data has not been requested for other foodstore developments in Newport, they have nevertheless used this data to assess the impact on the local road network.

7.7.7 The data has been used to analyse the impact on the Cardiff Road/Monmouth Castle Drive junction in particular, which is a signalised junction. The result of that analysis shows that the junction would operate within capacity in 2027 with the proposed development in operation. The analysis indicates that the traffic flows associated with the proposal would have negligible effect on either the existing traffic signal junction or the existing roundabout in terms of predicted capacity and queues. The Highway Officer is satisfied with the analysis and has no objection to the impact of the proposal on the surrounding highway network. This is in accordance with criterion (vii) of policy GP4.

7.7.8 Some local residents raise concern that there would be increased vehicle movements along Monmouth Castle Drive however, the TA notes that the road is unlikely to attract significant movements given the extent of traffic calming measures in place. The Highway Officer has not raised an objection to this.

b) New accesses

7.7.4.9 It is proposed to provide two accesses into the proposed development. One to serve the customer car park and the other to serve the service yard and staff parking. It is proposed to widened parts of Abberley Hall Road to ensure HGV deliveries do not over sail kerbs or the opposite side of the road. Swept path analysis for HGV's has been provided and clarifications made to the Highway Officer. A parking survey of Abberley Hall Road has also been provided as the Highway Officer was concerned that on-street parking would affect access for delivery vehicles. The parking survey demonstrated that whilst occasional parking takes place on Abberley Hall Road, access for delivery vehicles is still achievable.

7.7.10 Swept path analysis also demonstrates that access and egress for service vehicles would be undertaken in a forward gear. Vehicular visibility splays of 2.4m x 25m have been demonstrated from both accesses, which the Highway Officer considers acceptable.

7.7.11 The Highway Officer considers that a condition should be imposed which requires that deliveries can only be made from Cardiff Road to ensure delivery vehicles do not travel through Mon Bank. Such a restriction could be imposed through a suitable delivery management plan condition. The Officer also recommends that deliveries should be restricted to early morning and late night in this residential area. As discussed in paragraph 7.8.7 a condition could be imposed to restrict delivery times in the interests of residential amenity.

7.7.12 In terms of access the Highway Officer is satisfied that the proposal would not be harmful to highway and pedestrian safety. The proposed accesses are in accordance with criterion (v) of policy GP4.

7.7.13 The Highway Officer notes that to undertake the widening works on Abberley Hall Road a S.278/111 (Highways Act 1990) agreement would be required and no works can take place until an agreement is in place and prior approval has been given. An informative could added to alert the applicant to this.

c) Parking provision

7.7.14 The application site lies within parking zone 4 and as set out in the adopted Parking Standards SPG 3 no. operational **Page 34** spaces would be required and 1 non-operational

space per 20m² for staff and customers, which equates to 90 parking spaces. The proposed development would provide 112 spaces which represents an excess of 22 spaces. It is proposed to provide 1 commercial vehicle space however, the TA states that the store would only be served by two HGVs and several smaller vehicles throughout the day. The Highway Officer is satisfied with a reduction in commercial vehicle spaces but a condition would be required to prevent the occurrence of additional HGV movements.

- 7.7.15 The proposals include 7 disabled spaces and 6 motorcycle spaces which is in accordance with the Parking Standards SPG.
- 7.7.16 When considering the impact on highway and pedestrian safety in isolation the amount of parking proposed is considered acceptable. However, as highlighted in paragraph 7.6.20, excess parking provision does little to encourage sustainable methods of travel and reduce car journeys, which is a matter that the applicants are relying on in order to demonstrate qualitative need for the proposal.
- 7.7.17 The applicants state that the proposed 112 spaces would be commensurate with the operational needs of Aldi and they compare parking provision at their other stores in Newport. They state that their aim is to both prevent over-provision and encourage non-car trips but also to avoid too little parking, because this could lead to overspill onto local residential roads. They note that the Spytty Road store has 102 spaces and on many occasions, it is insufficient to meet demand.
- 7.7.18 This argument is understood however, the applicants' case is only derived on experience of Aldi stores. Whilst it is clear that the intended occupier of the proposed store is Aldi it cannot be guaranteed that it would remain as such in the future, where customer movements may differ. This is a similar position taken for the recently consented (and now operational) Lidl on Cardiff Road, although in that case there was a deficit of parking provision (- 12 spaces). In that case recognition was given to national planning policy's message that we should be moving away from car dominated developments. In particular paragraph 4.1.51 states that 'A design-led approach to the provision of car parking should be taken, which ensures an appropriate level of car parking is integrated in a way which does not dominate the development. 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. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed'. It was this message, along with a reasonable assumption that parking demand would be reduced as a result of its sustainable location, good pedestrian links and close proximity to a frequent bus service, that justified the shortfall in provision at the Lidl site.
- 7.7.19 On one hand the applicants seek to establish qualitative need by suggesting that the proposal would reduce car journeys, yet on the other hand they defend that an over provision of car parking is justified. On this basis, it is considered that the proposal does include an unacceptable over-provision of parking, which is contrary to the aims of Active Travel, PPW and policy SP1 (Sustainability).

d) pedestrian access and active travel

- 7.7.20 It is proposed to provide 4 cycle stands, providing 8 cycle parking spaces at the front of the store, near to the entrance. This provision is considered acceptable and is in accordance with the Sustainable Travel SPG.

- 7.7.21 The Sustainable Travel SPG requires 1 space per 4 staff. The TA identifies between 30-50 staff equivalent to 27 FTEs. 6.75 long term spaces for staff should be provided and they should be secure, covered, close to a staff access, with wash and change facilities. A floor plan has been submitted which shows 6 cycle spaces to be located within the internal warehouse. Staff changing rooms and shower facilities are also proposed. It is considered that the proposed long term cycle spaces meet the minimum requirement set out in the Sustainable Travel SPG.
- 7.7.22 The Parking Standards SPG states that footpaths must be provided in supermarket car parks to provide safe and adequate pedestrian access to the store both for motorists and those arriving on foot or by other means of transport. Pedestrian access to the site is proposed via the main customer car park entrance, along Abberley Hall Road. Pedestrians would be required to cross the access to reach the store entrance. Tactile paving is proposed at this crossing point. The applicant has discounted providing an additional pedestrian link from Monmouth Castle Drive as they consider that it would cause pedestrian and vehicle conflict within the car park. There are no footpaths within the car park leading to the store entrance.
- 7.7.23 The applicants retail qualitative need case places significant emphasis on the reduction of vehicle trips the proposal would generate. The excess of parking provision is discussed in paragraphs 7.7.14 to 7.7.19. In addition to this it is considered that the proposal should be maximising opportunities for customers to access the store in more sustainable ways. It is recognised that large bulky shops will necessitate car journeys however, the proposal also promotes itself as a neighbourhood store where an element of top shopping is expected. If this is to be given weight and to encourage non-vehicular trips greater accessibility on foot should be provided. A single pedestrian point of access, which crosses a vehicular access and a lack of other convenient, safe routes through the car park is considered to be a missed opportunity, which does not weigh in favour of the proposal's sustainability credentials.
- 7.7.24 The applicant states that they would be willing to contribute towards active travel routes in the surrounding area, which is welcomed. However, whilst there is an identified future active travel route along Cardiff Road, this route is very much in its infancy and has been identified as part of the recent review of the rejected M4 relief road. There are no tangible proposals that the applicant could contribute towards. In the absence of this contribution it is considered that the applicant should focus on improving the on-site accessibility of the store, which is considered to fall short.
- 7.7.25 When considering the over provision of car parking in a car dominated layout, with minimal incentives to access the store by other more sustainable means, it is considered that the proposal fails to provide a sustainable development and, on balance is contrary to policies SP1, SP2, GP4 and R10 (v).

7.8 **Noise and residential amenity**

- 7.8.1 There are residential properties which form a frontage onto Abberley Hall Road. No's 1 and 2 Abberley Hall Road would face towards the customer car park and entrance. No's 4, 12 to 26 would face towards the service yard which is enclosed by a 3m high acoustic fence. In the wider area there are residential properties to the south/south east within the Mon Bank development. There are residential properties along Cardiff Road to the north and north west however, these are separated from the site by Cardiff Road and railway sidings.

- 7.8.2 The applicant has submitted a noise assessment. It provides details of a survey undertaken to establish the existing noise climate, whereby the dominant noise source is identified as road traffic noise. It then goes on to assess the impacts of noise from:
- a) mechanical services plant;
 - b) customer car parking activity; and
 - c) delivery activity.
- a) mechanical services plant
- 7.8.3 The precise details of the fixed plant equipment for the proposed Aldi store have not been finalised, however, the fixed plant is likely to comprise of a mixture of refrigeration and ventilation equipment. The site layout plan indicates that the refrigeration plant equipment would be located on the east side/rear of the store building. The closest residential properties to the proposed fixed plant equipment would be those on the eastern end of Abberley Hall Road, the assessment considers the impacts on these properties.
- 7.8.4 The Councils Environmental Health Officer advises that the assessment for plant and equipment has been correctly carried out in accordance with BS4142:2014, but does not take into account background creep from multiple plant units so the proposed plant noise levels of 48dB daytime and 35dB at night would need to be revised once a detailed design of the plant has been made. The Officer has no objection in this respect but recommends that a condition is imposed requiring the details of the external noise level emitted from plant/machinery/equipment and any necessary mitigation measures. The mitigation measures must ensure that the noise level emitted from plant/machinery/equipment would be lower than the existing typical background noise level by at least 10dBA and 15dBA where the noise source is tonal. Noise levels must be measured from the nearest or most affected sensitive premise, with all machinery operating together at maximum capacity. With the imposition of this condition the Environmental Health Officer is satisfied that neighbouring occupiers would be protected from noise from plant and equipment.
- b) customer car parking activity
- 7.8.5 The noise assessment identifies that the closest residential properties to car parking spaces would be approximately 14m away. The car park activity noise level (during peak trading conditions) at these properties have been predicted to be 45dB LAeq,1 hour. This predicted noise level in the noise assessment are below the existing ambient and background noise climates. The Environmental Health Officer is satisfied that noise associated with the foodstore trading between 0800 and 2200hours would avoid significant adverse impact to the local amenity. A condition would be recommended to control these opening hours.
- c) delivery activity
- 7.8.6 The noise assessment considers noise levels of the different components of service activity measured at other Aldi stores. The results have been used as a base in the calculation of proposed noise levels. Arrival, unloading and departure activities have been acoustically assessed and the impact in terms of noise level for delivery activity occurring during the daytime is considered to be low.
- 7.8.7 These calculations are based on the delivery load area being screened by a 3m high boundary fence and are measured from the nearest residential receptor (no 22 Abberley Hall Road). The calculations also assume two daily deliveries. It concludes that deliveries could be made between 0700 and 2300 hours without associated noise giving rise to significant adverse impact. The Environmental Health Officer is satisfied with this assessment.
- 7.8.8 Overall, the Environmental Health Officer considers that the proposal would be in accordance with policies GP2 and GP7; and the development could proceed without the likelihood of

noise from subsequent operations giving rise to significant adverse impact on neighbouring occupiers, providing the following measures are secured through conditions:

- Opening hours restricted to 08:00 to 22:00 hours
- Deliveries restricted to 07:00 to 23:00 hours
- A Construction Environmental Management Plan
- Delivery Management Plan
- Details of plant/machinery/equipment and appropriate mitigation measures.

7.8.9 It is also considered necessary that a condition ensures that the 3m high acoustic fence is constructed prior to the beneficial use of the foodstore.

7.9 Lighting

7.9.1 It is proposed to light the customer car park and service yard with lighting columns. A lighting plan has been submitted which shows the amount of light spill from each lighting column. It shows that there would be some light spill onto Abberley Hall Road but it would not reach residential properties on the opposite side of the road. This is considered sufficient to protect the amenity of neighbouring occupiers however, a condition is recommended requiring that car park and service yard lighting be turned off outside of the opening and delivery hours.

7.9.2 There would be car parking spaces opposite no's 1 and 2 Abberley Hall Road. There is potential, without mitigation, that car headlights could shine into these neighbouring properties. It is proposed to plant hedges and trees along the car boundary with Abberley Hall Road and it is considered that this would provide appropriate mitigation to prevent disturbance from car headlights.

7.10 Design and visual amenity

7.10.1 The existing site is vacant and has no built form. The surrounding Mon Bank housing estate has a distinctive character. The house builder (Redrow) describes it as their "Heritage" range and it is reflective of traditional post war housing. Traditional materials such as red brick and render are used throughout. The wider area is mixed, with commercial, industrial and residential buildings.

7.10.2 The proposed foodstore building would have a simple, flat roof form. The proposed materials would be contemporary with extensive use of white render. Large glazing units are also proposed along the front and part of the southern side elevation. It is recognised that this more modern appearance differs to the more traditional style of the Mon Bank housing. However, the proposed building would not only be read alongside Mon Bank housing, but it would also be read alongside the backdrop of Cardiff Road and nearby commercial and industrial areas. It is considered that whilst, the proposed foodstore would contrast with its immediate neighbours, this contrast would not result in a harmful visual impact and the building would have its own distinctive character, which does not jar with the wider street scape. The visual impact of the proposed building is considered acceptable and in accordance with policies GP2 and GP6.

7.10.3 In addition to the foodstore building the development includes the construction of a 3m high acoustic fence, which would enclose the entire service yard. It would be set back from the pavement edge of Abberley Hall Road. In between the back edge of the pavement and the fencing there would be a narrow strip of landscaping, which is proposed to have climbing plants, along with some shrub planting where space allows it. As Abberley Hall Road turns the corner it is proposed to set back the fence further from the pavement edge and it is

proposed to provide more extensive shrub planting and a specimen tree. On the eastern edge of the service yard, the acoustic fence would turn into the site and away from the road. On this corner of the site it is proposed to plant three trees, hedgerow and shrubs.

7.10.4 It is recognised that the proposed fence is taller than a typical boundary fence; and it is necessarily so, to ensure residential properties are protected from noise. Alongside the climbing plants it is proposed that the fence would be painted green, in a graduating tone from dark green at the bottom to a lighter green at the top. It is considered that without these mitigation measures a 3m high fence along the boundary would result in a poor street scene and would be harmful to visual amenity. However, with the provision of the landscaping measures described and use of a graduating green paint finish, it is considered that the impact of the tall fence would be softened and would adequately reduce its harmful impact on the street scene.

7.10.5 Overall it is considered that the proposal would protect visual amenity and would be in accordance with policies GP2 and GP6.

7.11 **Air quality**

7.11.1 An Air Quality Assessment (AQA) has been submitted with the application and reviewed by the Councils Scientific Officer.

7.11.2 The assessment of the potential impacts during the construction phase has been carried out in accordance with the latest Institute of Air Quality Management Guidance (IAQM). The assessment shows that the proposed development would generate limited releases of dust and particulate matter during on-site activities. It concludes that through good site practice and the implementation of suitable mitigation measures, the impact of dust and particulate matter releases would be effectively mitigated, and the resultant impacts would be negligible.

7.11.3 The assessment comments that road dispersion modelling has been carried out to assess the impact of the operation of the proposed development on local pollutant concentrations. The reported results indicate that predicted concentrations of relevant pollutants concentrations are below the relevant objectives at nearby sensitive receptors. The assessment concludes that the operational impact of proposed development on NO₂, PM₁₀ and PM_{2.5} concentrations would be negligible. However, 4 active and 20 passive electrical vehicle charging points would be provided as part of the proposed development.

7.11.4 The Councils Scientific Officer notes the findings of the AQA and whilst they have no objection to the proposal, they consider that a contribution towards reducing traffic emission should be afforded by new development. The Air Quality SPG states "In all cases the applicant should aim to minimise the diffuse impact of the traffic generated from their development and to demonstrate their commitment to helping improve local air quality".

7.11.5 The Officer recommends that the routing of construction traffic associated with the proposed construction phase should be specified such that it does not travel through any of Newport's AQMAs where at all possible unless the vehicles in question are zero emission. The Officer recommends that a routing plan could be secured through a condition. It is also noted that electric vehicle charging points would be provided as part of the proposal.

7.11.6 The Scientific Officer also recommends that a section 106 contribution should be requested for the sum of £10,000, which would contribute towards updating air quality monitoring and action planning specific to the locality of the development.

7.11.7 Section 106 of the Town and Country Planning Act 1990 (as amended), is the legislative framework for planning obligations. Any obligation must meet three tests: 1) necessary to make the development acceptable in planning terms; 2) directly related to the development; and 3) fairly and reasonably related in scale and kind to the development. As the AQA has not identified that the proposed development would result in harm to air quality it is considered that a financial contribution towards monitoring equipment and action planning is not necessary to make the development acceptable in planning terms, thereby failing to meet the required tests.

7.12 Landscaping and trees

7.12.1 It is proposed to provide soft landscaping and tree planting around the perimeter of the site, through the central part of the car park, on the northern end of the store frontage and to the rear of the site, within and outside of the service yard. The perimeter planting includes a landscaping strip alongside the 3m high acoustic fence where climbing plants are also proposed. The landscaping details include a maintenance and management regime. Following some minor amendments and cross section detail the Councils Landscape Officer is satisfied with the proposed landscaping.

7.12.2 There are no trees present on site and as such this does not form a constraint to development.

7.12.3 The proposal is considered to satisfy policy GP5.

7.13 Ecology and protected species

7.13.1 An Ecological Assessment and a phase 1 habitat survey (undertaken in April 2020); along with a reptile survey addendum (undertaken in May 2021) has been submitted. The ecological assessment describes the site as an area of open land with species-poor, semi-improved grassland, improved grassland and tall ruderal of site ecological importance and disturbed/ephemeral grassland and ornamental shrubs of negligible ecological importance.

7.13.2 The assessment notes that the proposed development is likely to result in the loss of all habitat on site and whilst the habitats on site have some potential to support commuting/foraging bats, birds, hedgehog and invertebrates, the assessment concludes that the effects of the proposals are either temporary or can be mitigated for within the design of the site.

7.13.3 The reptile survey carried out in May 2021 did not identify any reptiles on site.

7.13.4 To compensate for the loss of habitats the proposal includes the following habitat creation:

- Planting of new hedgerows, the majority are native species and those that aren't native would provide ecological benefits such as flowers and/or fruits;
- Planting of new ecologically beneficial trees;
- Native shrub planting;
- Hydroseeding of the northern bank;
- Creation of areas of native wildflower grassland; and
- Creation of rain gardens, including 'wetland' type species.

7.13.5 There are no features within the application site to support bats. There is a group of trees to the north east of the site that could support foraging and commuting bats. There is also a known bat roost within those trees, which was identified as part of the Whitehead Works planning application. To ensure this area is protected from the development sensitive lighting would be used to avoid light spill onto the northern boundary, thereby maintaining a dark

corridor. The details of lighting could be secured through a condition. It is also proposed to provide two bat boxes on the acoustic fence, along the eastern boundary.

7.13.6 It is also proposed to provide two swift boxes on the northern elevation of the proposed building.

7.13.7 The Councils Ecology Officer is satisfied with the impact of the proposal and the proposed biodiversity enhancements. The proposal is considered to satisfy policy GP5.

7.14 **Contamination**

7.14.1 The applicant has submitted a geo-environmental desk study report. It identifies a moderate to high risk from ground contamination to future site users, in the absence of any investigation data. The report recommends an intrusive investigation is undertaken on site to determine risk from ground contamination to construction workers and future site users. The investigation should include gas/groundwater monitoring and also an assessment of risk from contamination to groundwater and surface water features. This further site investigation can be secured through a typical contaminated land condition regime.

7.15 **Foul and surface water drainage**

7.15.1 The applicant has submitted a Flood Consequences Assessment and a drainage strategy. The site is partly within Zone B flood risk area, TAN 15 generally permits development in such areas. The assessment concludes that the site is at minimal risk of flooding and the proposed development would not increase the risk of flooding to the neighbouring area.

7.15.2 Developments with a construction area greater than 100m² are required to incorporate Sustainable Drainage Systems (SuDS). All such systems are required to be approved by the SuDS Approval Body (SAB) under an approval application, and required to be adopted by the SAB where they serve more than a single property. This is a separate consenting regime to the planning process and as such the applicants would need to obtain this separate agreement.

7.15.3 For information it is proposed to dispose surface water to the existing surface water drainage system designed as part of the wider Mon Bank development.

7.15.4 It is proposed to discharge foul drainage to the existing public sewerage system. A connection to the public sewerage system would require separate agreement from Welsh Water.

7.16 **Other matters**

7.16.1 Concerns have been raised by local residents about increased traffic, access to the site for deliveries, pedestrian access, parking, the impact on air quality, noise impacts, residential amenity, light pollution, access to an existing footpath, visual amenity, landscaping proposals, the retail impact and ecological impacts. These matters have been addressed in the proceeding paragraphs.

7.16.2 A number of other concerns have been raised by local residents. These are addressed below.

7.16.3 *Anti-social behaviour, misuse of the car park, litter creation and encouraging homeless people to the area:* these matters would be controlled through the effective management of the store. It is noted that raised bollards would be used across the store entrance when the store closes and this would prevent the misuse of the car park.

- 7.16.4 *Disturbance during the construction phase*: a condition could be imposed requiring the submission of a Construction Environmental Management Plan, which would set out measures to protect the environment and neighbouring properties from unreasonable disturbance during the construction phase.
- 7.16.5 *The future of the store with online shopping becoming more popular, negative impacts on house prices and use of the green space as an air ambulance landing site*: these are not material planning considerations and cannot be considered by this application.
- 7.16.6 *Use of the application site for community events*: the application site is not public land and such events could be stopped by the land owners at any time.
- 7.16.7 *The jobs created would be low paid and would not have a significant benefit to the area*: job creation is generally welcomed and the salary offer 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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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. **PLANNING BALANCE AND CONCLUSION**

9.1 The benefits of the proposal are the provision of an Aldi store serving the western area of Newport, the development of brownfield, vacant land, which is located in a sustainable location, within the urban boundary; and the creation of 27 full-time equivalent jobs.

9.2 Since the proposed store is outside a designated retail centre it is necessary to demonstrate need for the development. It is agreed that there is no quantitative need for the store. A consideration of the qualitative need for the store against the criteria set out in Planning Policy Wales does not lead to the conclusion that there are sufficient deficiencies in retail provision within the catchment or benefits of the scheme to justify a grant of planning permission. PPW10 is clear that this is a point of judgement and very much secondary to the establishment of a quantitative need. Caselaw in Wales is clear that additional retail tests relating to the sequential test and retail impact are not required in the event that need cannot be shown. Officers conclude that there is no sequentially preferable location (within a designated retail centre) for the proposal within the identified catchment but also conclude that should permission be granted there would be an unacceptably adverse impact on the vitality and viability of the City Centre. National and local retail policy is not complied with.

9.3 The proposal does not support the aims of Active Travel. The suggested modal shifts away from private cars are modest at 5% and relate to staff only rather than the customer base. Active Travel is further disincentivised by an over provision of car parking, a car dominated layout and minimal incentives to travel by other more sustainable methods.

9.4 The benefits of the scheme are clearly outweighed by the identified harms and on balance it is recommended that the proposal should be refused.

10. **RECOMMENDATION**

REFUSED

Retail Need

01 The proposal cannot demonstrate quantitative need for the proposed store and nor has sufficient qualitative need been shown to justify approval. This is contrary to national policy and to Policy R10 of the adopted Newport Local Development Plan 2011 – 2026.

Retail Impact

02 The proposal would result in cumulative impact on the City Centre, which is identified as being vulnerable with a high percentage of vacancy rates and undertrading of existing convenience retailers. The identified cumulative impact on the City Centre, alongside its

vulnerability would result in a significantly adverse impact on the vitality and viability of the City Centre. This is contrary to national policy and to Policy R10 of the adopted Newport Local Development Plan 2011-2026.

Active Travel/Sustainability

03 The proposal does not support the aims of Active Travel. It proposes an over provision of car parking, in a car dominated layout, with minimal incentives to travel by other more sustainable means. This is contrary to national policy and to policies SP1, SP2, GP4 and R10 of the adopted Newport Local Development Plan 2011-2026.

NOTE TO APPLICANT

01 This decision relates to plan Nos: 180420-1000 P1, 180420-1050 P2, 180420-1411-P3, 180420-1412 P1, 180420-1413 P1, 180420-1414 P1, 180420-1100 P1, 180420-1415-P6, 180420-1416-P1, 180420-1425-P1, 180420-1700 P1, 180420-1701 P1, 180420-1703 P1, 180420-1705 P1, 1390-01 Rev D, p186-480-B, Temporary Site Set Up Plan, Transport Assessment (Entran, October 2020), Transport Assessment Audit –Technical Notes (Technical Note 1, 2 and 3, Parking Survey, Ecological Assessment (Tyler Grange, October 2020), Ecological Mitigation and Enhancement Strategy (Tyler Grange, July 2021), Ecology Addendum – Reptiles (Tyler Grange, May 2021), Planning and Retail Statement (Planning Potential, October 2020), Planning Policy response (Planning Potential, December 2020), Planning and Retail Response (Planning Potential, May 2021), Retail Impact Assessment (table 4), Updated Retail Impact Assessment (Table 1), Economic Impact Report (Hardisty Jones Associates, January 2021), Economic Impact Diagram, Acoustic Fence – street scene visual, Response to Environmental Health comments (Sharps Redmore), Landscape Management Plan rev b (Cambium), Email from Planning Potential (4 February 2021), Flood Consequence Assessment and Drainage Strategy (Craddys, June 2020), Construction Environmental Management Plan (Arc Bauen), Geo-Environmental Desk Study (Earth Environmental and Geotechnical Ltd, May 2020), Pre-Application Consultation Report (Planning Potential, October 2020) and Environmental Noise Assessment (Sharps Redmore, June 2020).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP9, SP19, GP2, GP3, GP4, GP5, GP6, GP7, EM3, T2, T4, T5, R10 and W3 were relevant to the determination of this application.

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

2.

APPLICATION DETAILS

No: 21/0661 **Ward:** Rogerstone

Type: Outline (Major)

Expiry Date: 17th August 2021

Applicant: Walters Land (Rogerstone) Ltd

Site: *Land To The West And The South Of Mandrake House Tregwilym Road Rogerstone Newport South Wales*

Proposal: **OUTLINE APPLICATION (WITH ALL MATTERS RESERVED) FOR RESIDENTIAL DEVELOPMENT**

Recommendation: **GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 4 MONTHS OF A RESOLUTION TO GRANT PERMISSION**

1. INTRODUCTION

- 1.1 The site is situated within the Jubilee Park estate in Rogerstone. The site, which has a total area of 1.36 hectares, comprises two separate parcels of land; 1. 'Parcel LC1', which is located to the north of Jubilee Way with an area of 0.45 hectares and 2. 'Parcel LC2', which is located to the north east of Castle Way, with an area of 0.77 hectares.
- 1.2 The site was allocated to be a local centre within the original permission for the Jubilee Park estate. This current application, which has been submitted in outline, with all matters reserved, is proposing the release of these two parcels of land to provide additional housing development. The application indicates the construction of between 40 and 50 units.
- 1.3 As the site exceeds 0.5 hectare, the application is 'major', and so it is being reported to Planning Committee for determination.

2. RELEVANT SITE HISTORY

| | | |
|---------|--|-------------------------|
| 12/0886 | Comprehensive redevelopment of former aluminium factory complex to create a new neighbourhood containing:- a range of new homes including houses, apartments and some sheltered accommodation for the elderly (c2 and c3), - a new primary school (d1), - a local centre including shops (a1), space for offices (b1), community facilities (d1), a clinic or surgery (d1), pharmacy (a1) and health and leisure facilities (d2), - a restaurant and pub (a3) together with a lodge or hotel (c1), - a network of open spaces including parkland, footpaths, sports pitches and areas for informal recreation, - new roads, parking areas, accesses and paths, - other ancillary uses and activities, - and requiring site clearance treatment and preparation, the installation or improvement of services and infrastructure, the improvement of flood defences and the creation of new water bodies and drainage channels, improvements/works to the highway network and other ancillary works and activities, affecting public rights of way 406/58, 406/54, 393/101 and 406/5 (outline accompanied by an environmental statement) | Granted with conditions |
| 13/1303 | Reserved matters residential 134 units (adjoins west of LC1) | Approved |
| 14/0150 | Reserved matters residential 144 units | Approved |
| 14/0377 | Reserved matters residential (Mandrake House) 28 units | Approved |

| | | |
|---------|---|---|
| 14/1090 | Reserved matters residential 125 units | Approved |
| 16/0467 | Reserved matters residential 81 units | Approved |
| 16/0486 | Reserved matters residential 92 units | Approved |
| 16/0564 | Reserved matters residential 34 units | Approved |
| 16/0984 | Reserved matters residential 9 units | Approved |
| 17/0457 | Reserved matters residential 108 units | Approved |
| 17/1071 | Reserved matters residential 179 units (adjoins east of LC2) | Approved |
| 19/1270 | Erection of 1no. class a1 food store and 2no. flexible use retail units (class a1 and/or class a3) with associated access, hardstanding, landscaping, car parking and ancillary works | Granted subject to conditions and section 106 |

3. POLICY CONTEXT

The development plan comprises the Newport Adopted Local Development Plan. The following LDP policies are relevant to the proposal:

- SP1 – Sustainability
- SP3 – Flood Risk
- SP9 – Conservation of the Natural, Historic and Built Environment
- SP10 – House Building Requirement
- SP12 – Community Facilities
- SP13 – Planning Obligations
- GP1 – Climate Change
- GP2 – General Amenity
- GP3 – Service Infrastructure
- GP4 – Highways & Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- GP7 – Environmental Protection and Public Health
- H1- Housing Sites
- H2 – Housing Standards
- H3 – Housing Mix and Density
- H4 – Affordable Housing
- CF12 – Protection of Existing Community Facilities
- T4 – Parking
- T5 – Walking and Cycling
- W3 – Provision of Waste Management Facilities in Development.

Adopted Supplementary Planning Guidance

- Planning Obligations SPG – January 2020
- Parking Standards SPG – August 2015
- Affordable Housing SPG – August 2015
- New Dwellings SPG– January 2020
- Trees, Woodland, Hedgerows and Development Sites SPG – January 2017
- Air Quality – February 2018
- Waste Storage and Collection – January 2020
- Wildlife and Development – August 2015
- Sustainable Travel 2020.

4. CONSULTATIONS

4.1 WELSH GOVERNMENT: as highway authority for the M4 motorway, it does not issue a direction in relation to this application.

4.2 Natural Resources Wales has concerns with the application but is satisfied that these concerns can be overcome by attaching the following conditions:

- Condition 1: Contamination verification report;
- Condition 2: Long term monitoring plan;
- Condition 3: Unsuspected contamination;
- Condition 4: Construction Environmental Management Plan.

Land Contamination and Controlled Waters

The submitted information confirms the site is part of a wider site which has undergone previous remediation and is currently used as the site compound as development is occurring on the wider site.

The Geoenvironmental & Geotechnical Assessment prepared by Integral Geotechnique, dated May 2021, has summarised the previous land uses and remediation completed on site. Section 5 of the report states that validation works will be completed once the site is cleared of the compound and a validation report will be provided.

We have considered the email from Rob Bathurst, Intégral Géotechnique (Wales) Limited, dated 11/06/2021, which considers our previously requested conditions 2 and 3 do not apply.

The discharge of the long-term monitoring plan condition (condition 2) is dependent on the outcomes of the verification/validation report (condition 1), which should demonstrate no ongoing risk to controlled waters following remediation at the site. Therefore, a long term monitoring plan will only be needed if the verification/validation report concludes long term monitoring is required. If the verification/validation report concludes no long term monitoring is required, condition 2 can be discharged with condition 1. Conditions 1 and 2 are sequential and as such, we consider condition 2 is still required.

We understand the site has previously been remediated. However, as any site investigation or remediation cannot cover the whole site, there is a residual risk unsuspected contamination could be present and found during development. Therefore, we consider condition 3 is still required.

Therefore, we request the following conditions are attached to any planning permission granted.

Condition 1: Prior to the occupation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Justification: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 2: Prior to the occupation of the development, a long term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority.

The long term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken
- Timescales for the long term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for 3 years)
- Timescales for submission of monitoring reports to the LPA e.g. annually
- Details of any necessary contingency and remedial actions and timescales for actions
- Details confirming that the contingency and remedial actions have been carried out.

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Justification: A land contamination long term monitoring plan should be submitted prior to occupation to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on controlled waters.

Condition 3: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

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

Protected Sites

The application site is located within 4.1km of the River Usk Special Area of Conservation (SAC) and within 5.4km of the Severn Estuary European Marine Site (SAC, Special Protection Area (SPA) and Ramsar site).

The Ecological Appraisal prepared by the Environmental Dimension Partnership Ltd. Dated June 2021, concludes indirect impacts associated with a deterioration in water quality and increase in suspended solids could occur during construction, as a result of the discharge of contaminated run-off and deposition of material following periods of heavy rainfall into the River Ebbw situated 230m to the south of the application site, which could be transferred downstream to the River Usk SAC and Severn Estuary European Marine Site. Pollution incidents could also arise as a result of leaks and spills from construction activities, resulting in the introduction of hydrocarbons and other contaminants from demolition activities, site plant or of sediment loads arising from dust deposition or spoil movement.

The proposals may affect the River Usk SAC and the Severn Estuary European Marine Site. The potential impact pathways to features of these sites are identified above. The above pathways may not result in an adverse effect if the following condition is attached to any planning permission granted.

The email from Rob Bathurst considers our requested condition 4 does not apply. A CEMP covers a range of things for applicants to comply with, not just impacts from potential land contamination. Therefore, we consider condition 4 is still required. However, in light of the additional information submitted, we have amended this condition as set out below.

Condition 4: No development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- 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;
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures;
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use;
- 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.

Justification: 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.

An assessment of likely significant effect under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 should be undertaken by your Authority. Should you conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being re-consulted.

Further Advice

During the construction phase the applicant/developer should take any precaution to prevent contamination of surface water drains and local watercourses. Oils and chemicals should be stored in bunded areas and spill kits should be readily available in case of accidental spillages.

Flood Risk

The planning application proposes highly vulnerable development (residential). Our Flood Risk Map confirms the site to be entirely within Zone C1 of the Development Advice Map (DAM) contained in TAN15.

Section 6 of TAN15 requires your Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an FCA that the potential consequences of flooding can be managed to an acceptable level.

The Flood Note prepared by Arup, dated 17 June 2021, shows that the risks and consequences of flooding are manageable to an acceptable level. Therefore, we have no objection on flood risk grounds to the application as submitted. The Flood Note shows:

- The proposed development site is predicted to be flood free during the 1% (1 in 100 year) plus 25% for climate change annual probability fluvial flood event. This meets the requirements of A1.14 of TAN15;
- The proposed development site is predicted to flood to maximum depth of 50mm, at a maximum velocity of 0.01m/s, during a 0.1% (1 in 1000 year) annual probability fluvial flood event. This is within the tolerable limits of A1.15 of TAN15.

Flood mitigation works, which include a flood wall and relief channel, have been fully implemented for the wider development site as a whole.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

European Protected Species

The Ecological Appraisal has identified that European Protected Species (EPS) were not using the application site. We would therefore have adverse no comments to make on the application as submitted in relation to EPS.

4.3 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST:

Original comments

The proposal has an archaeological restraint.

We have consulted the regional Historic Environment Record (HER) and note the proposed development area is within the Jubilee Park area, the site of the former Rogerstone Works.

An archaeological desk based assessment was undertaken for the entire larger area in 2012 (EDP, 2012), with archaeological field evaluation and excavation undertaken in certain areas.

The HER data also shows the site of Rogerstone Castle, originally a medieval castle, remodelled and with features incorporated into Rogerstone House in the 17th century, but with the motte surviving. The previous reports noted that these should be preserved within any development undertaken in the area. The core of the mansion is outside the proposed development area, however, historic maps show earthworks to the south and west which may represent historic activity and the survival of below ground remains.

It is therefore our opinion that there is potential that archaeological deposits survive, which maybe encountered during the work. The impact of the proposal on these is not understood, and in the first instance we would recommend that an archaeological desk based assessment is undertaken, focused directly upon the current proposal and the remains of Rogerstone castle and mansion. This is consistent with our response to a screening request in January 2021.

However, the supporting information submitted does not refer to archaeological remains or designations and therefore no consideration has been made concerning any physical impact on buried archaeological remains, or any potential indirect, visual impact of the proposed development. As a result there is insufficient information presented to allow an informed decision to be made regarding the archaeological resource. Planning Policy Wales 2021 (Edition 11) Section 6.1.26 notes that "Where archaeological remains are known to exist or there is a potential for them to survive, an application should be accompanied by sufficient information, through deskbased assessment and/or field evaluation, to allow a full understanding of the impact of the proposal on the significance of the remains." More details on this guidance can be found in TAN 24 Sections 4.7-4.8.

In order to ascertain the impact that the development will have on the archaeological resource, a suitably qualified archaeologist should initially prepare an archaeological desk-based assessment of the current knowledge of the archaeological resource in the application area in order for the impact of the proposed development to be determined and to allow informed mitigation measures to be proposed.

The assessment should be prepared in accordance with the Chartered Institute for Archaeologists (Cifa) Standard and Guidance for Historic Environment Desk-Based Assessment (2014) and will require the specification or project design to be approved prior to the commencement of the work. It is our policy to recommend that it is undertaken by a Cifa Registered Organisation or accredited Member of Cifa (www.archaeologists.net/ro and www.archaeologists.net/codes/ifa). The work will also need to provide information in accordance with Cadw's Conservation Principles for the Sustainable Management of the Historic Environment in Wales (2011). The impact of the development on the archaeological resource will be a material consideration in the determination of the current planning application consequently this should be deferred until the assessment has been submitted to your Members.

Subsequent comments

The concern of the original screening response was that the desk-based assessment dated to 2012 is long past the point at which we would look at an update. Savills assert that of the 14th July, that '*watching briefs, evaluations and area excavations undertaken between September and November 2013 which were taken across the whole Jubilee Park site (including Parcels LC1 and LC2*' which I don't believe is correct. Conversely, the work did focus on areas of known archaeological remains. However, the southern parcel of the current proposal has the potential to effect remains associated with Rogerstone Castle, although I have been informed that this area has already been stripped and partially landscaped which reduces this possibility.

I take it you are minded to not request any further archaeological documentation/work? If so, particularly considering the planning history of the site, we would not object.

- 4.4 DWR CYMRU WELSH WATER: no objection subject to 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.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (HIGHWAYS):

Initial comments

The site is located at the entrance to the Jubilee Park development and proposes to provide 50 residential units on the site of the previously approved local centre and pub/hotel.

Access to the western (Pub) site will be gained from a junction off Jubilee Way to the west of the roundabout junction with Castle Way in a location similar to the Indicative Masterplan approved under application 12/0886 and will be acceptable. Access to the southern (Local Hub) site will be gained off Castle Way to the south of the roundabout junction with Jubilee Way which will be acceptable, however, drawing 2105 IMP01 Illustrative Masterplan appears to show an additional access onto Castle Way from a private drive located to the north of the approved access close to the roundabout. Additional junctions onto Castle Way, the main central loop road/bus route, will affect the free flow of traffic which is detrimental to highway safety and will be unacceptable.

Application 12/0886 provided planning approval for 1200 residential units, 1000m² A1 foodstore, a primary school and pub/hotel and the refurbishment of Mandrake House and the Drill Hall. The Transport Statement identifies that only 932 dwellings have been constructed. This application proposes an additional 50 dwellings which will increase the total 982 dwellings, 218 below the consented 1200 units. The currently proposed development will result in a reduction of 106 and 201 two way vehicle movements, in the AM and PM peak which will not impact upon the capacity of the local highway network and will be acceptable.

The application will remove the previously agreed Local Centre and Pub/Hotel which has been used across the wider Jubilee Park to achieve a reduction in parking standards under Appendix 5: Sustainability: Newport City Council SPG Parking Standards (August 2015) which becomes unacceptable when these facilities are replaced with additional housing. The applicant has consulted Newport City Council regarding this proposal and has been informed that the removal of facilities will effectively remove the sustainability points awarded under reserved matters to the completed phases of the development and that this matter should be addressed. The applicant has noted that a food store has been constructed on the adjacent former garage site, however, the award of sustainability points is based on walk distance to facilities and therefore many properties that may have received a reduction in parking may not have qualified if the local centre is not built on the site as originally approved. The applicant must therefore, as previously requested, address the reduction in parking provided to dwellings that were awarded sustainability points that cannot now be achieved.

The proposal to remove the Local Centre and Pub/Hotel is therefore unacceptable.

This application is outline with all matters reserved. The following comments are based on the layouts shown in the Illustrative Masterplan and are for information only.

The western site (Pub/Hotel) comprises a central access road and turning head serving private drives which is an acceptable form of layout. The southern site (Local Centre) provides an adoptable turning head serving private drives which is acceptable and an additional access which is not acceptable and should be removed.

The proposed layout has not been provided in detail, however, the applicant should note that shared surface streets are unlikely to be acceptable. Shared surfaces should

- encourage low vehicle speeds;

- create an environment in which pedestrians can walk, or stop and chat, without feeling intimidated by motor traffic;
- make it easier for people to move around
- promote social interaction

The Department for Transport has requested a pause on shared surface streets except for mews and cul de sacs with very low levels of traffic. Shared surface streets will therefore only be considered where they form cul de sacs and will require the submission and consideration of quality audits as detailed in Manual for Streets 3.7.3 which requires

- a review of how the streets will be used by the community;
- a road safety audit,
- including a risk assessment an access audit;
- a walking audit a cycle audit
- a non-motorised user audit

The applicant will need to provide evidence that a refuse vehicle can enter and leave the site in a forward gear. Reversing of such a vehicle is not acceptable beyond 12 metres (Manual for Streets). Swept path analysis will be required.

The site is located within Parking Zone 4 which will require that 1 parking space per bedroom (maximum 3) and 1 visitor space per 5 units is provided to comply with Newport City Council SPG Parking Standards (August 2015). Parking must be provided in accordance with the Newport City Council Parking standards, including the provision of visitor spaces.

Cycle parking should be provided in accordance with Newport City Council SPG Sustainable Travel (July 2020) which requires 1 secure and covered long term cycle parking space per 2 bedrooms is provided and that 1 visitor space which is obvious, easily accessed and close to the destination which it serves is provided per 20 bedrooms. The applicant should note that the SPG suggests that a secure 6'x4' garden shed or appropriately sized garage will be acceptable secure storage facilities for residential development, however, they must be identified as part of any planning application and then provided in accordance with the plans.

I would therefore offer an objection to this application on highway grounds and recommend refusal due to the removal of the pub/hotel and local centre, used to achieve parking reductions and reducing the sustainability across the wider Jubilee Park site.

- 5.2 HEAD OF CITY SERVICES (TREE OFFICER): There should be tree planting to the front of Mandrake House which can be incorporated into an ecological area. In addition, there should be strong structural planting adjacent to Tregwilym Road these trees could be sited in a linear open space and will add to the character of the site and provide an attractive boundary treatment to the road.

The red hatching added to the illustrative masterplan below shows these areas.



There should be strong structural tree planting within the verges (the verges being at least 2m wide), in line with “Trees, woodland, hedgerows and development sites supplementary planning guidance January 2017”.

Strong structural tree planting would give a unique sense of place and character and increase Newport’s green canopy cover, which is a primary objective and helps with efforts regarding climate change. This would remove the need for developers to place small trees in front gardens which are inevitably felled after a few years and which cannot be relied on to create an attractive street scene.

The following text is taken directly from the adopted Tree SPG and is relevant.

Planning Policy Wales

2.1 Planning Policy Wales (PPW) provides the national strategic guidance with regard to land use planning matters in Wales. Sustainable Development Principles are inherent to national planning policy which expects all those involved in the planning system to adhere to those SD Principles. Of particular relevance in this case is the need to ensure a long term perspective to safeguard the interest of future generations, to respect environmental limits so that the environment is not irreversibly damaged and to assist in tackling climate change. This can be achieved through good design of development which takes into account the relationship between the natural and built environment.

Technical Advice Note 12 Design (2016)

2.5 This advice note states the response to context should not be confined to architectural finishes. It is important to help integrate old and new development and reinforce hierarchy between spaces through the consideration of retaining existing landmarks, mature trees and hedgerows within housing areas as well as introducing new planting appropriate to the area. The guidance notes that opportunity should be taken when improving the public realm to protect and enhance biodiversity and assist pollution abatement through careful design, implementation and maintenance of planting. Planting, particularly large tree species can also be used to improve microclimate and reduce dust and the perception of noise through, shade, shelter and screening.

Local Development Plan

2.6 The Local Development Plan (LDP) policies relating to trees, woodlands and hedgerows are set out below: Policy GP5: General Development Principle, Natural Environment, Criterion vii): [development will be permitted where] the proposal includes appropriate tree planting.

Structural tree planting

6.9 This is the use of newly planted large trees in groups or lines to define a space or spaces. It is the overall effect that the trees have, as opposed to their species, which is important. Structural planting therefore informs the perception of a site and how it is used whilst also

helping to give an area its character. Trees planted in verges to form a boulevard are structural planting, as is planting used as a boundary, screen or to form a means of enclosure. Boulevard planting on main access and through routes on the site should be provided. Orange webbing used as protective fencing is not acceptable Heras fencing hasn't been secured and has been pushed over by the adjacent soil – this is not acceptable. Trees, Woodland and Hedgerows and Development Site SPG January 2017 12.6.10 Wherever possible the main roads entering and traversing the site will have verges and tree planting i.e. to create an avenue or boulevard. This will comprise a grass verge adjacent to the roads which will be a minimum of 2m in width and will be planted with appropriate species at a minimum size of 14/16 extra heavy standard.

- 5.3 HEAD OF CITY SERVICES (ECOLOGY OFFICER): no objections subject to the following conditions:

Condition 1

An ecological watching brief is provided to all contractors on site and is provided by a suitability qualified ecologist immediately prior to works commencing at the site. Proof that this has been undertaken (e.g toolbox talk signed and dated by all contractors) is to be submitted once this has been completed and sent (via email to the planning ecologist)
Reason: In the interests of ecology.

Condition 2

No development, to include demolition, 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:

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities
- noise mitigation measures
- details of temporary lighting
- details of enclosure of working areas
- a drainage strategy to operate setting out controls of contamination, including controls to surface water run off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures
- pollution prevention and contingency measures.

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

Reason: In the interests of ecology.

Condition 3

An enhancement plan is to be provided outlining the locations and specifications that the bird boxes will be located on site. I would also request that bat boxes are incorporated into the design, the locations and specifications are to be located on the enhancement plan.

Reason: In the interests of ecology.

Condition 4

A 5 year habitat management plan is required outlining the methods of habitat management to be undertaken post works, the frequency of this management and who will be responsible for the management.

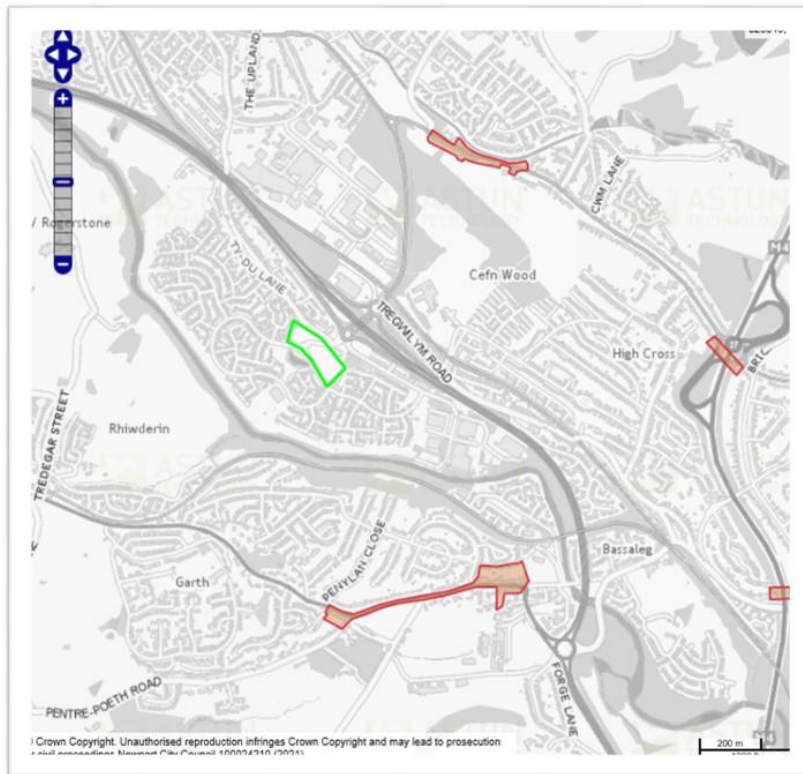
Reason: In the interests of ecology.

- 5.4 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION): The 2013 planning permission 12/0886 is noted as the extant basis of permitted development, however matters related to Air Quality and Contaminated Land need to be considered in the light of prevailing approaches and lines of evidence that the LPA needs to be provided with in order to be satisfied that current phases of development will be environmentally and sustainably acceptable.

Air Quality

The site of proposed development (shown in green on the mapping below) is within easy reach of 4 Air Quality Management Areas (marked by red polygons on mapping below) and

as such Environment & Protection would not wish to encourage development that could add significant levels of traffic emissions to a network of roads where we currently have breaches of the air quality objective for nitrogen dioxide.



Support for this application may be possible where an air quality assessment (AQA) is undertaken by a suitably qualified air quality consultant; which demonstrates the prevailing air quality in the locality of the site though a diffusion tube survey of at least three months and couples this with assessment of the potential impacts that internal combustion engine vehicles from this development would have upon the nearest two non-M4 based AQMAs.

Where it can be demonstrated in an AQA that impacts will be negligible, a mitigation plan must be submitted which evidences how measures within the design of the proposed development will contribute towards reducing vehicle emissions e.g. ultra low energy vehicle (ULEV) infrastructure, electric car share schemes, car free residential development that accesses active travel infrastructure. The relative level of traffic that would be associated compared with consented does not infer that air quality will be protected through this phase of development just because it is lower.

Evidence of the use of sustainable heating systems in the design of residential dwellings is also sought as this should feature as part of lower carbon design and reduction of emissions from this source.

The above must be provided prior to any planning decision being made as conditioning these matters could result in approving a phase of development which may have a deleterious effect upon current air quality in the locality which is already under pressure.

Contaminated Land

The site is within the footprint of a former aluminium works and abuts a former steel works. The submitted Geo-environmental & Geotechnical Assessment from Integral Geotechnique identifies the ground investigation works undertaken for the site as a whole and the formation level remedial works excluding gardens and any other residential related measures.

It is therefore important to have an agreed remedial strategy that applies specifically to Phases 1 & 2 of this application site with associated conditions relating to unforeseen contamination and verification of remedial works undertaken. NRW may also specify

conditions relating to contaminated land in respect of controlled waters and these should be retained as well.

A programme of post reclamation gas monitoring of the site has been identified with the submitted report and as such the phase of investigation that this represents needs to be fully completed and reported on. This warrants the imposition of a condition relating to completion of the identified investigation works.

The following contaminated land conditions are recommended:

No development, (other than demolition) shall commence until:

- a) An appropriate intrusive site investigation shall be undertaken as per report reference 11183/RB/21/LC1&LC2. After which a report containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- b) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

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

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

Contamination – Imported Material

Prior to import to site, soil material or aggregate used as clean fill or capping material, shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority. No other fill material shall be imported onto the site.

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.

- The submitted noise assessment examines construction noise, operational traffic noise and operational building services noise at sensitive receptor locations around the then proposed site.

- **Operational building services noise:**

- As the site is proposed to be developed for housing rather than for commercial uses, there should be less building services equipment than originally planned from the original application and therefore, there are no significant effects from operational building services noise.

- The external noise level emitted from any plant, machinery or equipment at the development should be lower than the typical existing background noise level by at least 10dBA, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. This is to ensure that the amenity of occupiers of the development site/ surrounding premises are not adversely affected by noise.

Construction Environmental Management Plan

Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality*, vibration, dust** and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

** The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

New occupants should be protected from external noise sources and the has to ensure that the design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35dB L_{Aeq} 16hrs daytime and of more than 30dB L_{Aeq} 8hrs in bedrooms at night.

- 5.5 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HOUSING MANAGER): A number of affordable homes have already been delivered on the Jubilee Park development. They have proved extremely popular with applicants on the local authority managed common housing waiting list and have made a significant contribution to meeting housing need in Newport. Despite this as of July 2021 there are still 1,226 households with active applications seeking rehousing in this area. If this were application were approved, we would request that the applicant makes contact with the Housing Strategy and Delivery team to ensure that any affordable units provided meet identified need.
-
- 5.6 HEAD OF CITY SERVICES (LANDSCAPE OFFICER): The following policies are applicable:
 - The proposal should meet the requirements of GP5 General Development Principles – Natural Environment vi: 'the proposal includes an appropriate landscape scheme...'
 - Development proposals should include ecological conservation and enhancements in line with the Environment (Wales) Act 2016 providing a net benefit for biodiversity (also referred to in PPW 2018).
 -
 - SUDS and drainage. This proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010 and may require SAB (SUDS Approval Body) consent in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. The SAB process is separate from planning, however, from recent experience, it is advised to check with NCC SAB team if the consent is required and provide a joined drainage-landscape strategy as part of the planning process to consider the compliance of the landscape scheme with Standards S4 (Amenity) and S5 (Biodiversity). Joined-up landscape and drainage strategy is recommended.
 -
 - Landscape scheme. An outline landscape scheme is provided. There is a substantial analysis behind the design proposal. The proposal acknowledges several important design factors. The green link (ref. 11) connecting the Central pond and Tregwilym castle area is not sufficiently reinforced and defined. It is advised to use some design measures such as avenue tree planting to formalise this pedestrian route.
- - Recommendations: In general, that landscape decision looks realistic and sufficiently developed to have the landscape matters reserved. The following information will be required at the reserved matters application submission:
 - 1. Site levels information and FFL of the proposed building.
 - 2. A professional tree survey to BS5837 may be required, including a clear constraints plan, impact assessment, protection plan, and potentially requiring a method statement

based on the submitted proposals and to include trees outside the site that may be affected by the proposals. The impacts should review the change of levels, the foundation runs, hard surfaces, drainage and other service run, visibility splay requirements.

- 3. Professional landscape architect input is recommended to identify site assets and constraints, including clearly demonstrated input to the layout and provision of landscape plans covering soft landscape elements to soften the building profile in line with the character of the area.
- 4. Planting, boundary and surface treatment should be appropriate to the landscape character.
- 5. Joined up landscape and drainage strategy is recommended.

5.7 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING OBLIGATIONS MANAGER):

05. Sustainability & Financial Viability

The viability of the wider Jubilee Park development (accommodating the agreed S106 infrastructure package, including education and leisure, and 10% affordable housing provision) was based upon the delivery of 925 market dwellings. The site has currently delivered 836 market dwellings. As such, it is logical to assume that the current infrastructure, delivered for the wider site, is sustainable and would accommodate the needs generated by this new proposal (of circa, 45 market dwellings), as the cumulative total (i.e. 881 market dwellings) does not exceed the aforementioned 925 market dwellings.

In addition, an updated 'open book' viability assessment has been undertaken, clarifying that the additional dwellings generated by this proposal would not increase the residual value of the development beyond that generated by the original 925 market dwellings limit. As such, no additional planning obligations are financially feasible.

2. Affordable Housing

The site lies within the Newport West Housing Target Area. As such, the Local Development Plan normally requires that 30% of the development would be affordable housing. However, based upon the financial viability assumptions in section 1, there would be a requirement for 10% on-site provision (mix and type to be agreed with the Housing Manager – Strategy)

Properties should be offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register and be TAN 2 compliant.

3. Education

Notwithstanding the financial viability reasoning for no additional education obligations, it is also worth noting the following:

- The principal S106 legal agreement (dated 06/08/13) clarifies that if the development exceeds 955 'open market' dwellings, additional primary education contributions could potentially be generated (given that 955 market dwellings generated a 315 pupil capacity primary school). The current proposal would only take the cumulative total to 881 'market' dwellings. i.e. the development of Jubilee Park Primary represented 'additionality' (over and above policy requirement);
- Jubilee Park Primary (capacity for 315 pupils) currently caters for 310 pupils (as at May 2021). Additionally, other local primary schools (i.e. Mount Pleasant, Rogerstone, High Cross and Pentrepoeth) have an aggregate capacity of 28 pupil places (as at May 2021);
- As part of the Welsh Government's 21st Century Schools programme Bassaleg High School is increasing overall capacity of the school from 1747 to 2050, with effect from

September 2023. As at May 2021, 1754 pupils attend the school, whilst the projected forecast for 2025 is 1890 pupils i.e. there is projected spare capacity.

4. Leisure

Notwithstanding the financial viability reasoning for no additional leisure obligations, it is also worth noting the following:

- The original permission provided an extensive range of leisure facilities, including play areas, a playing field, woodland, riverside park, the pond & community garden, school 3G pitch, other general open space, as well as the provision of the existing Drill Hall for community use. These facilities are maintained by Rogerstone Community Council and paid for from annual service charges of home owners. The on-site open spaces/amenity areas, within this current proposal, are also to be handed over to Rogerstone CC in line with what has happened for the main Jubilee Park site. Annual service charges will be paid by the new home owners to Rogerstone CC (in line with what the existing home owners are paying).

5. Aneurin Bevan Health Board

The Health Board have stated that, whilst the development of a medical centre on the site would not be feasible, a space for a district nurse to utilise would be useful. The Owner (Walters) currently owns the freehold of the Drill Hall (albeit, soon to be transferred to Rogerstone CC). Consequently, it is requested that the Owner keeps an offer open to the Health Board (for a period of 5 years) for a district nurse to access the Drill Hall. If they don't take up an offer in that timescale, the clause can expire. If they do, they would need to provide the space for the period required by the health board.

6. Administration Fee

In accordance with the Planning Obligations SPG (2020), a £1,288 administration fee is charged for the progression of s106 negotiations and subsequent monitoring of the S106 agreement. This is to be paid upon signing of the legal agreement.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted, a site notice displayed and a press notice published in South Wales Argus. The following comments have been received:

Object if these will be council homes or affordable housing but no objection to private homes like currently in the site.

There are insufficient resources, such as schools and health provisions to support further housing in the area. The small residential roads and roundabouts would also create further traffic issues in the local area.

Disappointment that the land which was to be used as a local centre including a doctors and dentist surgery, both of which are much needed in the area, is now to be developed for housing.

The nearest doctor's surgery is at Chapelwood on Tregwilym Road – however, this is now full and new residents are having to go to Wellspring in Risca, which is also struggling to accommodate them. There still is not a dentist surgery anywhere in Rogerstone, and the nearest one (having been a Rogerstone resident for many years) is in Bettws. The Planning Applicants claim that the local health board is not interested in making provision on this site, but if that really is the case, why was this not properly investigated and a firm commitment gained, prior to using it as one of the selling points for the Jubilee Park estate? Have any of the private practitioners or NHS contracted providers ever actually been contacted to identify

whether they were interested – as far I can establish, my local doctor’s surgery was not. Or is it the case that the price was deliberately set to deter interest from the health board?

Complaints from parents living on the estate, that their application for Jubilee Park primary school has not been granted because the school is full – where then is the logic in building another 60 family homes – the occupiers of which will generate in the region of at least 40 primary aged pupils within the next few years – where will those children go to school when Jubilee Park, Rogerstone Primary, High Cross and Mount Pleasant are all struggling to accommodate the pupils already generated ? Additionally, Bassaleg comprehensive, which is the catchment school, is already full to overflowing, in desperate need of investment and modernisation – where will those additional pupils go?

Building work during the pandemic has caused disruption including dirt, dust and noise. There is disappointment that this site will cause additional disruption.

Additional traffic and parking demand with safety concerns for children walking to school

The flats on Castle way would benefit a communal outdoor space for them to enjoy. Would this be an option for some of the land? I am sure the residents would be very grateful for this.

The land could be better used as a Community centre, outdoor communal area or surgery, car parking for the school drop off and pick up, or family pub/coffee shop/shops.

Jubilee Park is a wonderful place to live and thus far the development has been managed very well and largely to plan but to fall at the last hurdle is very disappointing.

- Loss of privacy.

- 6.2 COUNCILLORS: Cllr Forsey has requested that this case be called into the planning Committee. This land was originally set aside for much needed Health Services in Rogerstone and should not be let go for housing. There is also a considerable Leisure Facility deficit which should also take precedence over housing.

- 6.3 ROGERSTONE COMMUNITY COUNCIL: no comments received.

7. ASSESSMENT

7.1 Description of proposal

- 7.1.1 The application is submitted in outline for residential development with all matters reserved on two parcels of land which was proposed to provide a Local Centre at the Jubille Park site. The Design and Access Statement sets out expected height, scale and massing (paragraph 6.4). It indicates a possible mix of 2 and 3 storey housing, with a height to eaves varying between 6 and 10.5 metres plus 3 and 4 storey flats, with a height to eaves varying between 10 and 13 metres to eaves. The Design and Access Statement also proposes a density range of between 30 and 36 dwellings to the hectare.

7.2 Development Framework Plan

- 7.2.1 The application has been accompanied by a ‘Development Framework Plan which is shown below:



7.2.2 This sets out a number of principles, including:

- Residential development
- Access points via existing access points (albeit an additional access is proposed but this is not supported by the Highways Officer)
- Future bus stop on Castle Way
- Stars indicate possible focal buildings
- Key frontages, particularly along Castle Way and Jubilee Way
- Respecting privacy of existing neighbouring occupiers
- Pedestrian crossings and connections.

7.3 Illustrative Masterplan

7.3.1 The application has also been accompanied by an Illustrative Masterplan, which provides an illustrative layout, and this is shown below:



7.3.2 The illustrative masterplan sets out a number of urban design principles, under the headings of movement and access, environmental sustainability, community safety and character, and a number of these are summarised below:

- Access to each parcel via established accesses that currently serve these parcels (although a second is proposed off Castle Way, which would not be supported by highways)
- Links to surrounding open space and facilities
- Proximity to public transport with a future bus stop on Castle Way
- Provision of open space / attenuation areas
- Street planting
- A wildlife corridor
- Provision of focal buildings
- Provision of strong street frontages.

7.4 The application raises the following issues:

1. Planning history
2. Principle of development
3. Density of housing
4. Highway considerations
5. Noise
6. Flooding
7. Trees and landscaping
8. Ecology
9. Neighbouring residential amenities
10. Land Contamination
11. Air Quality
12. Archaeology
13. Planning contributions

7.5 **Planning history**

7.5.1 Outline planning permission 12/0886 for a comprehensive and mixed development at the site was granted on 6 August 2013, subject to conditions and a legal agreement.

7.5.2 The previous outline permission was approved on the basis of an Outline Masterplan (ref. G1280-4.1 rev D), which is shown below. This shows a possible pub / restaurant / hotel on the western parcel and a local shopping centre on the eastern parcel.

Outline Masterplan (12/0886)



7.5.3 Condition 4 of permission 12/0886 required the submission of a Site Wide Masterplan. This was submitted and approved as part of application ref. 13/0900, and this is shown below:

Site Wide Masterplan (12/0886)



KEY

- 2 The Local Centre
- 3 Mandrake House site
- 5 Central Pond
- 7 Tregwilym Castle
- 8 School
- 4 Drill Hall
- 11 Green Links

7.5.4 As part of the Site Wide Masterplan, a landscape strategy was proposed and approved, and an extract of this strategy is shown below:

Extract of Landscape Strategy (12/0886)



Site Gateway (12/0886)

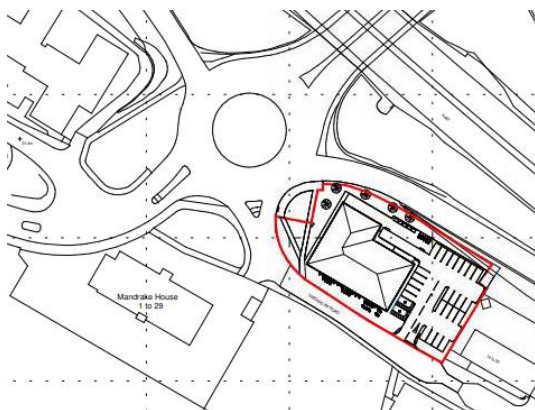


7.5.5 As part of the Landscape Strategy, the area allocated as a local centre was designated within the Site Wide Masterplan to become what the developer termed a 'Site Gateway'. This Site Gateway was to have the boundary edges of the Local Centre adjacent to the main carriageway to be landscaped with structure planting. An extract of the Site Gateway drawing is shown below.

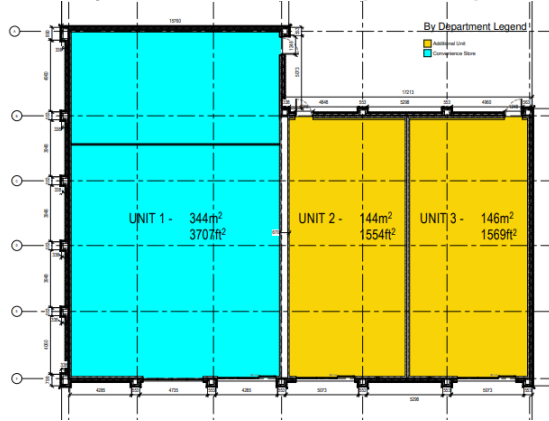
- 7.5.6 A Section 106 agreement was signed which required off-site highway improvements, provision of community facilities and open spaces, the setting up of a community management company, construction employment charter, contributions to education and affordable housing.
- 7.5.7 The planning statement submitted with the current application states that the Jubilee Park site, including the two parcels subject to this application, has now been fully remediated, the housing has been built and the infrastructure and open space has been completed. The school is open and 930 homes have been built.
- 7.6 Principle of development**
- 7.6.1 Outline planning permission 12/0886 proposed a local centre to be provided on the land subject to this application. The description of that application set out the uses proposed to comprise the Local Centre, as follows:
- shops (a1)
 - space for offices (b1)
 - community facilities (d1)
 - a clinic or surgery (d1)
 - pharmacy (a1)
 - health and leisure facilities (d2)
 - a restaurant and pub (a3)
 - a lodge or hotel (c1).
- 7.6.2 Condition 48 of permission 12/0886 limited the extent of retail floorspace to a maximum of 1000 square metres. This was to ensure that the proposed retailing provision would be of a limited scale proportionate to catering for the new neighbourhood, without providing excessive floorspace that would have an adverse impact upon existing local and district centres.
- 7.6.3 The Local Development Plan contains an allocation (LC19) for the local centre approved as part of the outline permission. The application is proposing to develop the site for housing and so whilst the local centre does not as present exist, the application has been considered in the light of Policy CF12 below, which deals with the protection of existing community facilities.
- 7.6.4 Policy CF12 'Protection of Existing Community Facilities' states:
- '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'.*
- 7.6.5 The applicant has submitted a planning statement, which sets out that there has been little interest from potential retailers or leisure operators, despite the site having been marketed since 2016. The health board has confirmed that it does not wish to operate a clinic, surgery or pharmacy within Jubilee Park. Planning permission was granted in 2019 to provide new retail provision on the Former Criddle Garage site on the northern side of Tregwilym Road.
- 7.6.6 Convenience store operators, supermarket operators active (or potentially active) in South Wales were targeted and approached as part of the marketing exercise. Marketing material was produced and adverts placed. Feedback received during the marketing phase was that the anticipated immediate population of the residential development would not be enough to support a convenience store. The marketing process revealed that operators believed that the proposed local centre would not provide the profile or accessibility required to the more established areas of Rogerstone. It is not visible from the nearby main road network, is screened from Tregwilym Road by Mandrake House, and is lower in height than Tregwilym Road.
- 7.6.7 National pub operators were also approached but the campaign discovered very weak local and national demand (even before the Pandemic).

- 7.6.8 No offers were received from any prospective retail or pub operators.
- 7.6.9 Alongside the marketing of the site, Walters approached the Aneurin Bevan University Health Board to understand whether they wish to deliver a medical facility within Jubilee Park. The Health Board has confirmed that there is no desire to deliver a medical centre at Jubilee Park due to the proximity to a number of existing facilities but that there may (and this is yet to be confirmed) be a desire for the District Nurse's visit once or twice a week. Walters is the owner of the Drill Hall within Jubilee Park which contains small offices which could be used in such an unlikely event. This could be controlled via a Section 106 contribution if Newport City Council consider it appropriate.
- 7.6.10 During the marketing phase, the applicant has advised that occupier demand became apparent for the former Criddle Garage site on the northern side of Tregwilym Road which is also under the ownership of Walters. This site is highly accessible to Jubilee Park but can also attract passing trade from Tregwilym Road and the nearby industrial estate.
- 7.6.11 Planning permission was granted (ref.19/1270) for the erection of 1no. class A1 food store and 2 no. flexible use retail units (Class A1 and/or class A3) with associated access, hardstanding, landscaping, car parking and ancillary works at the former Criddle Garage site. The applicant has put forward that the floorspace provided at the former Criddle Garage site will act as the local centre for Jubilee Park (with no retail floorspace provided within the development itself).
- 7.6.12 This scheme has now been implemented and the retail units were both occupied and trading at the time of the officer's site visit.
- 7.6.13 As part of permission 19/1270, a Deed of Variation was put in place with a clause which stated 'the owner shall not use more than 360 square metres of the floorspace of the Property, for a purpose contained within class A1', 'the Property' being the land subject to a proposed local centre at Jubilee Park. The reason for this legal provision was to ensure that the developer could not provide both the retail floorspace at the former Criddle Garage site and the 1000 square metres permitted by permission 12/0886, as this would have potentially had an adverse impact upon the viability of existing district and local centres.

Location of new retail store (19/1270)



Floor layout of retail store (19/1270)



7.6.14 With 640sqm allowed on the garage site, only 360sqm could be provided at Jubilee Park and the developer has stated that this makes it highly unlikely that any retail provision will be provided there.

7.6.15 It is considered that the applicant has successfully demonstrated that alternative retail provision is being provided at a location reasonably accessible to occupiers of the estate and that no demand exists to provide any of the other community type uses originally envisaged.

7.6.16 The site is located within the settlement boundary. It comprises previously developed land. The Jubilee estate is a housing allocation in the adopted Local Development Plan (H1(54), with a projected capacity of 1064 dwellings.

LDP Housing allocation

| LDP Ref | Site Name | Hectares | Total Capacity of the Site | Completions 2011 – 2013 | Under Construction @ 01/04/13 | Estimated Remaining Units to be delivered between 2013 – 2026 | Affordable Housing element of estimated remaining units within the Plan period | Site Status/Notes as @ 1 st April 2013 |
|---------|---------------------------------|----------|----------------------------|-------------------------|-------------------------------|---|--|---|
| H54 | Jubilee Park, Former Alcan Site | 40 | 1064 | 0 | 0 | 930 | 93 | Subject to S106 |

7.6.17 The outline planning permission allowed a maximum of 1200 units to be constructed at Jubilee Park. Reserved matters have been approved across the estate for a total of 934 units. It is proposed by this application that 50 units would be built, which would result in a total of 984 units at Jubilee Park. This is 216 units short of the maximum of 1200 units that the outline permission allowed to be built. The development of the site for housing purposes is acceptable in principle.

7.7 Density

7.7.1 Policy H3 'Housing Mix and Density' of the Local Development Plan states that: 'Residential development of 10 dwellings or more should be designed to provide a mix of housing to meet a range of needs and should be built at a density of at least 30 dwellings per hectare. A lower density will only be acceptable where it is demonstrated:

- i) physical or infrastructure constraints prevent the minimum density from being reached, or;
- ii) the minimum density would have an unacceptable impact on design/character of the surrounding area, or;
- iii) there is a particular lack of choice of housing types within a local community.

7.7.2 The site has an area of approximately 1.36 hectares. The Design and Access Statement mentions a density range of between 30 and 36 dwellings to the hectare, which would accord with the Local Development Plan. The documentation refers to the site being capable of providing approximately 50 No. dwellings. This density range would provide between approx. 40 and 50 dwellings.

7.7.3 However, it falls short of the target of 50 dwellings per hectare stated in Future Wales which would generate 68 dwellings. In response, the agent has stated that no distinction is made as to whether this target relates to town centres or more suburban locations such as this site. The site is subject to various constraints that have prevented the development achieving this target, including the irregular shape of the site, the location of the established access points, the steep retaining wall on the northern side of Parcel LC2, and the requirement for both Parcels LC1 and LC2 to address Jubilee Way and Castle Way. The density achieved is very much comparable to other phases of development within Jubilee Park.

7.7.4 The proposed density is considered acceptable and a condition is imposed to control the minimum and maximum density levels.

7.8 Highway considerations

7.8.1 A Transport Statement has been submitted with the application. The Statement has assumed that the proposed development would provide 50 units. The Statement acknowledges the reduction in the number of units actually provided in Jubilee Park (932 units) compared to the number that was proposed to be provided and assessed by the original outline (1200). The proposal would represent a reduction in the number of daily movements compared to what the transport assessment as part of the outline permission found to be acceptable.

Table 7: Trip Generation – Total Consented Scheme

| Land use | Weekday AM | | Weekday PM | | Daily | |
|---|------------|------------|------------|------------|--------------|--------------|
| | In | Out | In | Out | In | Out |
| 1,200 Residential Units | 135 | 494 | 372 | 229 | 2,462 | 2,686 |
| 1,000m ² Local retail Centre | 29 | 19 | 56 | 59 | 665 | 658 |
| 1,000m ² Pub/Restaurant | 0 | 0 | 30 | 19 | 244 | 240 |
| Primary School | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 164 | 513 | 458 | 307 | 3,371 | 3,584 |

Table 8: Trip Generation – Total Proposed Scheme

| Land use | Weekday AM | | Weekday PM | | Daily | |
|--------------------------|------------|------------|------------|------------|--------------|--------------|
| | In | Out | In | Out | In | Out |
| 932 Residential Units | 104 | 383 | 289 | 178 | 1,912 | 2,086 |
| Primary School | 0 | 0 | 0 | 0 | 0 | 0 |
| 636m ² Retail | 29 | 28 | 37 | 36 | 348 | 339 |
| 50 Residential Units | 6 | 21 | 15 | 10 | 103 | 112 |
| Total | 139 | 432 | 341 | 224 | 2,363 | 2,537 |

Table 9: Trip Generation - Net Difference (Consented – Proposed)

| Scenario | Weekday AM | | Weekday PM | | Daily | |
|----------------------------|------------|------------|-------------|------------|---------------|---------------|
| | In | Out | In | Out | In | Out |
| Total Consented Scheme (A) | 164 | 513 | 458 | 307 | 3,371 | 3,584 |
| Total Proposed Scheme (B) | 139 | 432 | 341 | 224 | 2,363 | 2,537 |
| Total (B-A) | -25 | -81 | -117 | -84 | -1,008 | -1,047 |

7.8.2 The Head of City Services (Highways) supports the proposed access arrangements apart from the additional access onto Castle Way from a proposed private drive shown on the

Illustrative Masterplan, which would affect the free flow of traffic and so would not be supported. A condition is imposed to make clear that this additional access is not supported.

- 7.8.3 Given the reduction in the number of traffic movements compared to the original scheme, the highways officer is not concerned about the impact of the application on the local highway network.
- 7.8.4 The Highways Officer has objected to the application to replace land allocated as a Local Centre and Pub/Hotel which has been used across the wider Jubilee Park to achieve a reduction in parking standards under Appendix 5: Sustainability: Newport City Council SPG Parking Standards (August 2015).
- 7.8.5 The concern of the highway officer is that there have been instances where the parking requirements for housing within the estate have been reduced on the grounds of sustainability, and a decision to not provide the local centre would reduce the sustainability credentials of the estate.
- 7.8.6 The highways officer is correct in stating that a sustainability appraisal was submitted in relation to reserved matters applications to justify a reduction in parking provision (example 14/0150). However, it is not considered that this concern can justify refusing the current application for the following reasons:
1. The local centre cannot be required to be built by the Council; the conditions / legal agreement don't require it because its provision relies on market forces (there would need to be a developer on board that wanted to build a shop).
 2. The Council cannot revisit reserved matters decisions on previous housing schemes; these decisions are final. Those dwellings are no longer owned by the applicant, but by individual householders.
 3. Even without the Local Centre, the site remains relatively sustainable with a primary school, a bus service on Tregwilym Road and access to cycle routes and railway stations within reasonable proximity. The retail premises provided in lieu of the local centre is situated relatively close to the estate. The Transport Statement submitted with this application provides a table which states that there is a school within 250 metres (2 points), the new Coop within 200 metres (3 points), a library within 300 metres (2 points), a bus stop within 200 metres (3 points), which totals 10 points, and so the justification to reduce parking remains in any case.
 4. Jubilee Way and Castle Way have been designed to accommodate an extended future bus service through the estate with a potential location for a bus stop identified adjacent to Parcel LC2. However, ultimately, whether a bus service goes through the site will be the decision of the bus operators.
 5. The highways officer has not demonstrated that there is a parking problem in the area.
- 7.8.7 The Highways Officer acknowledges that the application is in outline with all matters reserved and so has made a number of comments on the proposed layouts shown in the Illustrative Masterplan. However, these comments are for information only and are not part of the consideration of this outline application.

7.9 **Noise**

- 7.9.1 A noise addendum has been submitted with the application. The Transport Assessment shows a reduction in traffic relative to the local centre and houses will have less equipment than commercial buildings in a local centre. There are no concerns regarding the impact of noise from the proposed development.

7.10 **Flooding**

- 7.10.1 The site is located within Flood Risk Zone C1. The application has been accompanied by a 'Flood Note'. As part of the original development, flood modelling was carried out, resulting in the construction of flood mitigation works, which included the 1.6km long concrete wall, a lower level 20m wide linear park and lowering of ground to the north.

7.10.2 The applicant obtained updated flood information from Natural Resources Wales which demonstrates that the flood levels are less than previously assessed and the site remains flood free during a 1 in 100 year plus climate change event; parts of the sites flood during an extreme 1 in 1000 year event, but the flood depth is less than 600mm. The findings of the assessment are that the development adheres to the requirements of TAN 15.

7.10.3 Natural Resources Wales has no objection to the application.

7.11 **Trees and landscaping**

7.11.1 Both land parcels comprise vacant land albeit partly occupied by construction compounds. The eastern parcel is adjoined by a protected mixed deciduous woodland, but that is outside the site and at a higher level. A number of trees have been planted along the boundaries of the site adjacent to Jubilee Way and Castle Way.

-
- 7.11.2 This is an outline planning application and landscaping is a matter reserved for future consideration. However, it is important to have regard to proposed 'master planning' principles.
-

- 7.11.3 The original masterplan for the estate (approved as part of outline permission 12/0886) envisaged the area of the Local Centre to become a 'Site Gateway', with the intention of landscaping the boundary edges of the Local Centre adjacent to the main carriageway with structure planting.
-

- 7.11.4 As part of the original Masterplan, it was envisaged that a 'Green Link' would run along the eastern boundary of LC2, to provide a link from Castle Way to Tregwilym Castle open space.
-

- 7.11.5 The Development Management Framework and Illustrative Masterplan submitted as part of this application acknowledge the need for structural planting along Jubilee Way and Castle Way. However, the Green Link is no longer proposed, replaced by open space which would be provided in the south eastern corner of the site.
-

- 7.11.6 The Development Management Framework refers to a pedestrian desire line that would run centrally through the estate. The Illustrative Masterplan also provides for a link utilising the footpath network to provide a link from Central Pond and Tregwilym Castle.

7.11.7 The Council's tree officer has requested strategic tree planting as part of any development, to the south of Mandrake House, adjacent to Tregwilym Road, and within street verges. It is not considered that structural planting is necessary adjacent to Tregwilym Road, as this was not envisaged as part of the original masterplan and the remainder of development to the west of the application has not provided such structural planting.

7.12 **Ecology**

7.12.1 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.

7.12.2 the application has been accompanied by an Ecological Appraisal.

7.12.3 The Council's ecology officer has no objection to the application, subject to a number of conditions being imposed as follows:

- An ecological watching brief
- Construction Environmental Management Plan (CEMP)
- An enhancement plan is provided

- A 5 year habitat management plan.

Suitable conditions can be imposed.

7.12.4 Natural Resources Wales has stated that the proposals may affect the River Usk SAC and the Severn Estuary European Marine Site. It has advised that an assessment of likely significant effect under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 should be undertaken by the Council and advise that should the Council conclude that the proposed development is likely to have a significant effect on the European site, NRW would wish to be re-consulted.

7.13 **Appropriate assessment**

7.13.1 In accordance with The Conservation of Habitats and Species Regulations 2017, 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.

7.13.2 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 as 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.

7.13.3 The presence of watercourses of plain to montane 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*.

7.13.4 The site is located within 4.1km of the River Usk Special Area of Conservation (SAC) and within 5.4km of the Severn Estuary European Marine Site (SAC, Special Protection Area (SPA) and Ramsar site).

7.13.5 The Ecological Appraisal Report submitted as part of the planning application is considered sufficient to inform the Appropriate Assessment. This states that in respect of the application site, given its distance and spatial separation from the River Usk SAC and Severn Estuary SAC/SPA/Ramsar, combined with the localised scale/nature of proposed development, no likely significant effects arising from barriers to movement, abstraction, habitat loss, disturbance, air quality or coastal squeeze are anticipated.

7.13.6 However, indirect impacts associated with a deterioration in water quality and increase in suspended solids could occur during the construction phase, as a result of the discharge of contaminated run-off and deposition of material following periods of heavy rainfall into the Ebbw river situated 230m to the south of the Application Site, which could be transferred further downstream to the River Usk SAC and Severn Estuary SAC/SPA/Ramsar. Pollution incidents could also arise as a result of leaks and spills from construction activities, resulting in the introduction of hydrocarbons and other contaminants from demolition activities, site plant or of sediment loads arising from dust deposition or spoil movement.

7.13.7 Given the small scale of the development proposals, its spatial separation and distance from such designated sites, and in consideration of the existing drainage strategy previously implemented in respect of the wider Jubilee Park development within which the Application

Site sits, no significant effects are considered likely. Nevertheless, the implementation of appropriate pollution control measures and a sensitive drainage strategy specific to the Application Site throughout the construction phase is recommended, as further detailed below in respect of the Ebbw River SINC.

7.13.8 An assessment of the in-combination effects of the proposed development with other plans and projects reveals the following projects, which are in proximity to the River; and within 2km of the application site and with an extant planning permission:

| | | |
|---------|--|--------|
| 16/0798 | PROPOSED EXTENSION TO EXISTING PRODUCTION/PROCESSING FACILITY – 1 North Dock Road, Alexandra Docks | Extant |
| 18/0360 | ERECTION OF AN ASPHALT PLANT AND ASSOCIATED ANCILLARY DEVELOPMENT – 16 West Way Road, Alexandra Docks | Extant |
| 18/0973 | OUTLINE APPLICATION FOR MIXED USE DEVELOPMENT COMPRISING C2 RESIDENTIAL INSTITUTIONS AND C3 RESIDENTIAL AND DRIVE THRU COFFEE SHOP (A1/A3) ALONG WITH ASSOCIATED INFRASTRUCTURE AND FACILITIES – Land and Property Formerly Known as Robert Price Transport Yard, Corporation Road | Extant |
| 18/1169 | ERECTION OF 1NO. FIVE STOREY APARTMENT BLOCK AND 1NO. 6 STOREY APARTMENT BLOCK COMPRISING 76NO. ONE AND TWO BEDROOM DWELLINGS WITH CAR PARK AND ASSOCIATED WORK – Land To South Of Cyril Street, Coverack Road | Extant |
| 19/1206 | SECTION 73 APPLICATION TO EXTEND TIME FOR IMPLEMENTATION TO 21 ST SEPTEMBER 2022 UNDER CONDITION 01 OF APPLICATION 16/0789 FOR RESIDENTIAL DEVELOPMENT OF 93NO. UNITS – Car Park Adjacent Endeavour House, Usk Way | Extant |
| 19/1164 | REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE, PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES. DESIGN WORK INCLUDING THE ANALYSIS OF THE STRUCTURE AND THE SPECIFIC ACTION OF REPAIRS TO THE STRUCTURE AND ANCILLARY COMPONENTS. AFFECTING PUBLIC RIGHT OF WAY NEWPORT COASTAL PATH 403/2/1 – Transporter Bridge, Brunel Street | Extant |
| 20/0640 | OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR CIRCA 995 SQM OF FLEXIBLE FLOORSPACE OF EITHER OFFICE (CLASS B1)/ HOTEL (CLASS C1)/ EDUCATION (CLASS D1) OR LEISURE (CLASS D2) – Land To South East Of University Of Wales Newport City Campus, Usk Way | Extant |

7.13.9 Although the proposals could result in a cumulative impact, the above permissions have been subject to Appropriate Assessment under the Habitat and Species Regulations 2017, with exception of permissions 18/0360 and 16/0798 where no adverse impacts were identified; and concluded that, subject to conditions there would be no significant adverse impacts on the River Usk SAC. In this respect, it is concluded that there are no other developments, which would result in an adverse cumulative effects.

7.13.10 Natural Resources Wales have requested a condition to require a Construction Management Plan, and this condition has been imposed. It is considered that, subject to the imposition of a condition to require a CEMP and a drainage scheme, the proposed development would not have a significant impact on the designated European site in accordance with the Council's duty under The Conservation of Habitats and Species Regulations 2017 and the Local Planning Authority Adopted LDP policies, Technical Advice Note 5 and Supplementary Planning Guidance: Wildlife and Development (SPG: WD).

7.14 **Neighbouring residential amenities**

7.14.1 With regard to neighbouring impacts, the land parcels adjoins existing housing to the following boundaries:

1. Land parcel LC1

There are residential properties that border the western boundary (Obama Grove).

2. Land parcel LC2

Mandrake House is located to the northern boundary. This is a 4 storey building situated at a higher level than the application site and comprises over 55's accommodation. There is a 3 storey aptment building to the eastern boundary.

7.14.2 The New Dwellings SPG (Aug-2015) sets out tests in terms of assessing loss of light and privacy. However, this application is in outline and so the detailed layout of the proposed development has not been submitted at this stage.

7.14.3 The Development Management Framework has acknowledged these boundaries as being sensitive in terms of protecting residential amenities and the Illustrative Masterplan, which provides an indicative layout, takes this issue on board, in terms of position of estate road and open spaces.

7.15 **Land Contamination**

7.15.1 The site is part of a wider site which has undergone previous remediation. The Geoenvironmental & Geotechnical Assessment prepared by Integral Geotechnique, dated May 2021, has summarised the previous land uses and remediation completed on site. Section 5 of the report states that validation works will be completed once the site is cleared of the compound and a validation report will be provided.

7.15.2 Natural Resources Wales has no objection subject to the imposition of planning conditions dealing with a verification report, long term monitoring and a remediation strategy in the event that unsuspected contamination is found. The Public Protection Manager has raised no objection but has requested a condition to request a site investigation. These conditions have been imposed.

7.16 **Air Quality**

7.16.1 The application site is not located with an Air Quality Management Area, nor a buffer zone. The Air Quality SPG adopted February 2018 recommends that an Air Quality Assessment is required for major development.

7.16.2 No such assessment has been submitted with this application. However, the original application for the development of the wider site included an Air Quality Assessment.

7.16.3 The agent has set out that this previous Air Quality Assessment found that at construction stage, the main source was groundworks and remediation works which, through appropriate mitigation, could be minimised down to a "negligible" level which would be temporary. The application site has been subject to such works already and no further remediation is required as part of the development of this site. The Air Quality Assessment found that the proposed development, of 1,200 homes, the primary school, and local centre, once operational would have a "negligible" impact on NO2 levels. Not all of the development that the Air Quality Assessment accounted for will be delivered at Jubilee Park and therefore the impact once operational will be less than that found to be "negligible" (and acceptable) in the Air Quality Assessment.

7.16.3 In light of this, it is considered unreasonable to require any additional data in respect of air quality. However, in order to provide further mitigation towards improving air quality a condition is recommended requiring a scheme for electric vehicle charging points across the development.

7.17 **Archaeology**

- 7.17.1 An archaeological desk based assessment was undertaken for the entire Jubilee Park area in 2012, with archaeological field evaluation and excavation undertaken in certain areas. Given the proximity of Rogerstone Castle, originally a medieval castle, but later remodelled, Glamorgan Gwent Archaeological Trust (GGAT) originally commented that there is potential that archaeological deposits survive, which maybe encountered during work. The Trust recommended that an archaeological desk based assessment is undertaken, focused directly upon the current proposal and the remains of Rogerstone castle and mansion.
- 7.17.2 However, GGAT was asked whether this request still stood when taking into account that approval has previously been made in consultation with GGAT to discharge planning condition 38 of original permission 12/0886, which approved a written scheme of archaeological mitigation for the wider Jubilee Park site (15/0399). On the basis of this information, GGAT lifted its requirement for further information / mitigation to be provided as part of this current application.

7.18 Section 106 Planning Obligation matters

- 7.18.1 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.
- 7.18.2 The viability of the wider Jubilee Park development (accommodating the agreed S106 infrastructure package, including education and leisure, and 10% affordable housing provision) was based upon the delivery of 925 market dwellings. The site has currently delivered 836 market dwellings. As such, it is logical to assume that the current infrastructure, delivered for the wider site, is sustainable and would accommodate the needs generated by this new proposal (of circa, 45 market dwellings), as the cumulative total (i.e. 881 market dwellings) does not exceed the aforementioned 925 market dwellings.
- 7.18.3 In addition, an updated 'open book' viability assessment has been undertaken, clarifying that the additional dwellings generated by this proposal would not increase the residual value of the development beyond that generated by the original 925 market dwellings limit. As such, no additional planning obligations are financially feasible.

Affordable Housing

- 7.18.4 The site lies within the Newport West Housing Target Area. As such, the Local Development Plan normally requires that 30% of the development would be affordable housing. However, based upon the financial viability assumptions in section 1, there would be a requirement for **10% on-site provision** (mix and type to be agreed with the Housing Manager – Strategy).
- 7.18.5 Properties should be offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register and be TAN 2 compliant.

Education

- 7.18.6 Notwithstanding the financial viability reasoning for no additional education obligations, it is also worth noting the following:
- The principal S106 legal agreement (dated 06/08/13) clarifies that if the development exceeds 955 'open market' dwellings, additional primary education contributions could potentially be generated (given that 955 market dwellings generated a 315 pupil capacity primary school). The current proposal would only take the cumulative total to 881 'market' dwellings. i.e. the development of Jubilee Park Primary represented 'additionality' (over and above policy requirement);

- Jubilee Park Primary (capacity for 315 pupils) currently caters for 310 pupils (as at May 2021). Additionally, other local primary schools (i.e. Mount Pleasant, Rogerstone, High Cross and Pentrepoeth) have an aggregate capacity of 28 pupil places (as at May 2021);
- As part of the Welsh Government's 21st Century Schools programme, Bassaleg High School is increasing overall capacity of the school from 1747 to 2050, with effect from September 2023. As at May 2021, 1754 pupils attend the school, whilst the projected forecast for 2025 is 1890 pupils i.e. there is projected spare capacity.

Leisure

7.18.7 Notwithstanding the financial viability reasoning for no additional leisure obligations, it is also worth noting that the original permission provided an extensive range of leisure facilities, including play areas, a playing field, woodland, riverside park, the pond & community garden, school 3G pitch, other general open space, as well as the provision of the existing Drill Hall for community use. These facilities are maintained by Rogerstone Community Council and paid for from annual service charges of home owners. The on-site open spaces/amenity areas, within this current proposal, are also to be handed over to Rogerstone CC in line with what has happened for the main Jubilee Park site. Annual service charges will be paid by the new home owners to Rogerstone Community Council (in line with what the existing home owners are paying).

Aneurin Bevan Health Board

7.18.8 The Health Board have stated that, whilst the development of a medical centre on the site would not be feasible, a space for a district nurse to utilise would be useful. The Owner (Walters) currently owns the freehold of the Drill Hall (albeit, soon to be transferred to Rogerstone CC). Consequently, it is requested that the Owner keeps an offer open to the Health Board (for a period of 5 years) for a district nurse to access the Drill Hall. If they don't take up an offer in that timescale, the clause can expire. If they do, they would need to provide the space for the period required by the health board.

7.18.9 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 | Provide on-site affordable housing | 10% on site affordable housing | 10% on-site provision (mix and type to be agreed) | Yes |
| Aneurin Bevan Health Board | Local centre facility provision | Option for accommodation for a nurse at the Drill Hall | Offer to health board for accommodation for a nurse | Yes |

7.18.10 The applicant has agreed to these heads of terms.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

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

8.5 ***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.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 4 MONTHS OF A RESOLUTION TO GRANT PERMISSION

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

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

02 In pursuance of any reserved matters application, the details shall be accordance with the principles, parameters and objectives of the Development Framework Plan, Illustrative Masterplan and the Design and Access Statement hereby approved.

Reason: To clarify the scope of the outline planning permission and to ensure a comprehensive and coordinated development of the site.

03 Notwithstanding the details submitted, in pursuance of any reserved matters application, means of access shall be restricted to a single means of access for each land parcel (LC1 and LC2).

Reason: In the interests of highway safety.

04 In pursuance of any reserved matters application, the density of the development hereby approved shall achieve a quantum of development no less than 40 units and no greater than 50 units.

Reason: In the interests of sustainability and to ensure that the Local Planning Authority retains control over the development.

05 In pursuance of any reserved matters application, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed sequentially in accordance with the phasing plan approved.

Reason: To ensure an orderly form of development.

06 In pursuance of any reserved matters application, full details of all formal and informal recreation areas and open space, shall be submitted to and agreed in writing with the Local Planning Authority. These details shall include a management strategy for the maintenance of all areas of formal and informal open space. These areas of open space shall be completed in accordance with a timetable set out within the phasing plan and the Management Strategy shall be implemented in accordance with the approved details.

Reason: In the interests of the amenities of the site.

07 In pursuance of any reserved matters application, site level details including sections through the site shall be submitted to and approved in writing. The development shall be implemented in accordance with the approved details.

Reason: In the interests of the visual amenity of the site, the relationship to existing trees on the site to be retained, and the amenities of existing and prospective residents of the proposed development.

08 The reserved matters referred to in condition 01 shall include, where relevant to the proposed residential units, a detailed noise assessment and mitigation measures relating to relevant (depending on the nature and location of the reserved matters application) noise sources pertaining to the particular reserved matters application including, where relevant, the industrial estate adjacent to the south-eastern end of the site, proposed non-residential uses on the outline planning application site, and roads within and adjacent to the outline planning application site together with a noise assessment where relevant relating to impact from proposed non-residential uses on the site on any completed residential units within the outline planning application site, which shall be submitted to and approved in writing by the local planning authority. The approved mitigation measures shall be implemented in accordance with the approved details prior to first occupation of any dwelling to which the measures apply.

Reason: In the interests of residential amenity.

09 Pursuant to the approval of the reserved matters relating to layout and appearance, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the maximum day time noise level in outdoor living areas exposed to external road traffic noise shall not exceed 50 dBA Leq 16 hour [free field]. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected.

10 Pursuant to the approval of the reserved matters, a footpath link on LC2 shall be provided to link with the adjacent footpath on the development to the east of the site.

Reason: In the interests of active travel and sustainability.

11 The reserved matters referred to in condition 01 shall include details of all street lighting and lighting of any parking areas, including the trigger times for implementation, which shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall

be implemented in accordance with the approved details.

Reason: In the interests of residential amenity, highway and pedestrian safety and the security of the site.

Pre- commencement conditions

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

- 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;
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures;
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use;
- 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.

13 No development, (other than demolition) shall commence until:

- a) An appropriate intrusive site investigation shall be undertaken as per report reference 11183/RB/21/LC1&LC2. After which a report containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- b) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

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

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

14 Prior to the commencement of development, a landscaping and tree planting scheme indicating the number, species, heights on planting and positions of all trees and shrubs scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

15 No development, other than demolition, shall commence until full details of the foul and surface water drainage systems has been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented fully in accordance with the approved scheme prior to the occupation of any dwelling.

Reason: To ensure adequate drainage is provided.

16 Prior to commencement of any development, an ecological enhancement and habitat management plan shall be submitted to and agreed in writing with the Local Planning Authority. This plan shall include:

- locations and specifications of bird boxes and bat boxes
- frequency of management
- Who will be responsible for the management.

The enhancement measures shall be fully implemented prior to beneficial occupation of any dwelling.

Reason: In the interests of ecology.

Pre-construction / installation

17 Prior to construction, details/samples of materials and finishes to be used on the external surfaces of the buildings and hardsurfacing for that parcel have been submitted to and approved in writing by the Local Planning Authority. The development of that parcel shall then be carried out using the agreed materials.

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

18 Prior to import to site, soil material or aggregate used as clean fill or capping material, shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority. No other fill material shall be imported onto the site.

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.

19 Prior to construction of any dwellings, a scheme for electric vehicle charging points across the development shall be submitted to and agreed in writing with the Local Planning Authority. The charging points shall be installed in accordance with the details approved.

Reason: To encourage use of electric vehicles in the interests of sustainability and improving air quality.

20 Prior to construction, details of boundary treatments for that parcel have been submitted to and approved in writing by the Local Planning Authority. In relation to any dwelling or building the details shall be implemented in accordance with the approved scheme prior to first occupation of that dwelling or building and shall be maintained as such thereafter.

Reason: To ensure adequate security and privacy and that the scheme is completed in a compatible manner to its surroundings.

Pre-occupation conditions

21 Prior to the occupation of the development, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Reason: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been

remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22 Prior to the occupation of the development, a long term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority.

The long term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken
- Timescales for the long term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for 3 years)
- Timescales for submission of monitoring reports to the LPA e.g. annually
- Details of any necessary contingency and remedial actions and timescales for actions
- Details confirming that the contingency and remedial actions have been carried out.

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Reason: A land contamination long term monitoring plan should be submitted prior to occupation to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on controlled waters.

General conditions

23 Any garages or parking spaces associated with residential uses on the site shall be used for the parking of domestic vehicles only and for no other purposes including, in the case of the garages, additional living accommodation.

Reason: To ensure the retention of adequate parking in the interest of highway safety.

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

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

25 An ecological watching brief is provided to all contractors on site and is provided by a suitability qualified ecologist immediately prior to works commencing at the site. Proof that this has been undertaken (e.g toolbox talk signed and dated by all contractors) is to be submitted once this has been completed and sent (via email to the planning ecologist).

Reason: In the interests of ecology.

NOTE TO APPLICANT

01 The development shall be implemented in accordance with the following plans and documents: site location plan SLP 01, Transport Statement 14 June 2021 Ove Arup and Partners, Planning Statement Savills, Pre-application Consultation Report, Noise Assessment Addendum to Chapter 11 (Noise and Vibration) of Jubilee Park Environmental Statement, Geo-environmental and Geotechnical assessment Integral Geotechnique May 2021, Flood Note 17 June 2021 Arup, Ecological Appraisal June 2021 edp, Drainage Strategy 17 June 2021 Arup, Illustrative Masterplan IMP 01, Development Framework Plan, Design and Access Statement Parts 1 and 2, Excavation and Evaluation Report 2015.

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

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

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

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

05 No construction work shall be carried out on the site other than between the hours of 8.00 am – 6.00 pm (8.00 am – 5.00 pm for works involving piling) Monday-Friday and 8.00 am – 1.00 pm Saturdays (but no work on Saturday involving piling) unless otherwise first agreed in writing by the Local Planning Authority. No construction or piling works shall take place on Sundays or Bank Holidays unless otherwise first agreed in writing by the Local Planning Authority.

APPENDIX A

CONSERVATION OBJECTIVES OF THE RIVER USK SAC

Background to Conservation Objectives:

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

(b) Format of the conservation objectives

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

Each conservation objective consists of the following two elements:

1 Vision for the feature

2 Performance indicators

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

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

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

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

4.1 Conservation Objective for the water course

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.2 Conservation Objective for Features 1-5:

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

Vision for features 1-5

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

| FCS component | Supporting information/current knowledge |
|--|--|
| <p>The conservation objective for the water course as defined in 4.1 above must be met</p> <p>The population of the feature in the SAC is stable or increasing over the long term.</p> | <p>Refer to Sections 5.1 to 5.5 for current assessments of feature populations</p> <p>Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates.</p> <p>Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of disease.</p> |
| <p>The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms eg. Suitable flows to allow upstream migration.</p> | <p>Some reaches of the Usk SAC are more suitable for some features than others eg the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in Section 3.2. Further details of feature habitat suitability are given in Section 5. In general,</p> |

| FCS component | Supporting information/current knowledge |
|---|--|
| <p>depth of water and substrate type at spawning sites, and ecosystem structure and functions eg. Food supply (as described in Sections 2.2 and 5). Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4</p> <p>There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.</p> | <p>management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.</p> <p>The characteristic channel morphology provides the diversity of water depths, current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches eg through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.</p> <p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p> <p>Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.</p> <p>Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.</p> |

Performance indicators for features 1-5

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

| Attribute | Specified Limits | Comments | Relevant Unit[s] |
|---|--|--|------------------|
| Sea lamprey <i>Petromyzon marinus</i> : | | | |
| Performance indicators for feature condition | | | |
| (a) Distribution within catchment | Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> . | This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered over time. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable. | 1 – 5 |
| (b) Ammocoete density | Ammocoetes should be present in at least four sampling sites each not less than 5km apart. | This standard CSM attribute establishes a minimum occupied spawning range, within any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute. | 2 – 5 |
| | Overall catchment mean >0.1m ⁻² (Harvey & Cowx 2003) ¹ | Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes m ⁻² in suitable habitat ² , therefore | |

| Attribute | Specified Limits | Comments | Relevant Unit[s] |
|--|---|--|------------------|
| | | 0.1 m ⁻² is a conservative threshold value for unfavourable condition. | |
| Brook lamprey <i>Lampetra planeri</i> and River lamprey <i>Lampetra fluviatilis</i> : | | | |
| Performance indicators for feature condition | | | |
| (a) Age/size structure of ammocoete population | Samples < 50 ammocoetes ~ 2 size classes Samples > 50 ammocoetes ~ at least 3 size classes | This gives an indication of recruitment to the population over the several years preceding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment. | 2 – 10 |
| (b) Distribution of ammocoetes within catchment | Present at not less than 2/3 of sites surveyed within natural range | The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit ie all except unit 1. | 2 -10 |
| © Ammocoete density | Optimal habitat: >10m ⁻² Overall catchment mean: >5m ⁻² | Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment. Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment. Optimal habitat comprises beds of stable fine sediment or sand ≥15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate. | 2 – 10 |
| Twaite shad <i>Alosa fallax</i> and Allis shad <i>Alosa alosa</i> : | | | |
| Performance indicators for feature condition | | | |
| (a) Spawning distribution | No decline in spawning distribution | Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment. | 1 – 5 |
| Performance indicators for factors affecting the feature | | | |
| (a) Flow | Targets are set in relation to river/reach type(s) | Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period. | 1 – 5 |
| Atlantic salmon <i>Salmo salar</i>: | | | |
| Performance indicators for feature condition | | | |
| (a) Adult run size | Conservation Limit complied with at least four years in five (see 5.4) | CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-sea-winter component. | All |
| | | As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further | |

| Attribute | Specified Limits | Comments | Relevant Unit[s] |
|---|--|---|------------------|
| | | details can be found in the EA Usk Salmon Action Plan. | |
| (b) Juvenile densities | Expected densities for each sample site using HABSCORE | CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality. | 6 – 10 |
| | | Assessed using electro fishing data. | |
| Performance indicators for factors affecting the feature | | | |
| Water quality | | | |
| (a) Biological quality | Biological GQA class A | This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature. | 6 – 10 |
| (b) Chemical quality | RE1 | It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3]. | All |
| Hydromorphology | | | |
| (a) Flow | Targets are set in relation to river/reach type(s) | Targets equate to those levels agreed and used in the Review of Consents [see Annex 1]. | All |
| <hr/> | | | |
| Bullhead <i>Cottus gobio</i> : | | | |
| Performance indicators for feature condition | | | |
| (a) Adult densities | No less than 0.2 m ⁻² in sampled reaches | CSM guidance states that densities should be no less than 0.2 m ⁻² in upland rivers (source altitude >100m) and 0.5 m ⁻² in lowland rivers (source altitude <100m). A significant reduction in densities may also lead to an unfavourable condition assessment. | 2 – 10 |
| (b) Distribution | Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current | Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by on-going monitoring will result in an unfavourable condition assessment. | 2 – 10 |
| © Reproduction/age structure | Young-of-year fish should occur at densities at least equal to adults | This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment. | 2 – 10 |

4.3 Conservation Objective for Feature 6:

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

Vision for feature 6

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

| FCS component | Supporting information/current knowledge |
|---|--|
| The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour. | Refer to Section 5.9 for current assessment of feature population |
| The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole area of the Usk SAC is considered to form potentially suitable breeding habitat for otters. The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability | Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance. The decline in eel populations may be having an effect on the population of otters in the Usk. |

| FCS component | Supporting information/current knowledge |
|--|---|
| <p>suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No other breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed. The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc at road bridges and other artificial barriers.</p> | <p>Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.</p> |

Performance indicators for feature 6

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

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

3.

APPLICATION DETAILS

No: 21/0893 **Ward:** Stow Hill

Type: Full (Major)

Expiry Date: 18th October 2021

Applicant: *Newport City Council*

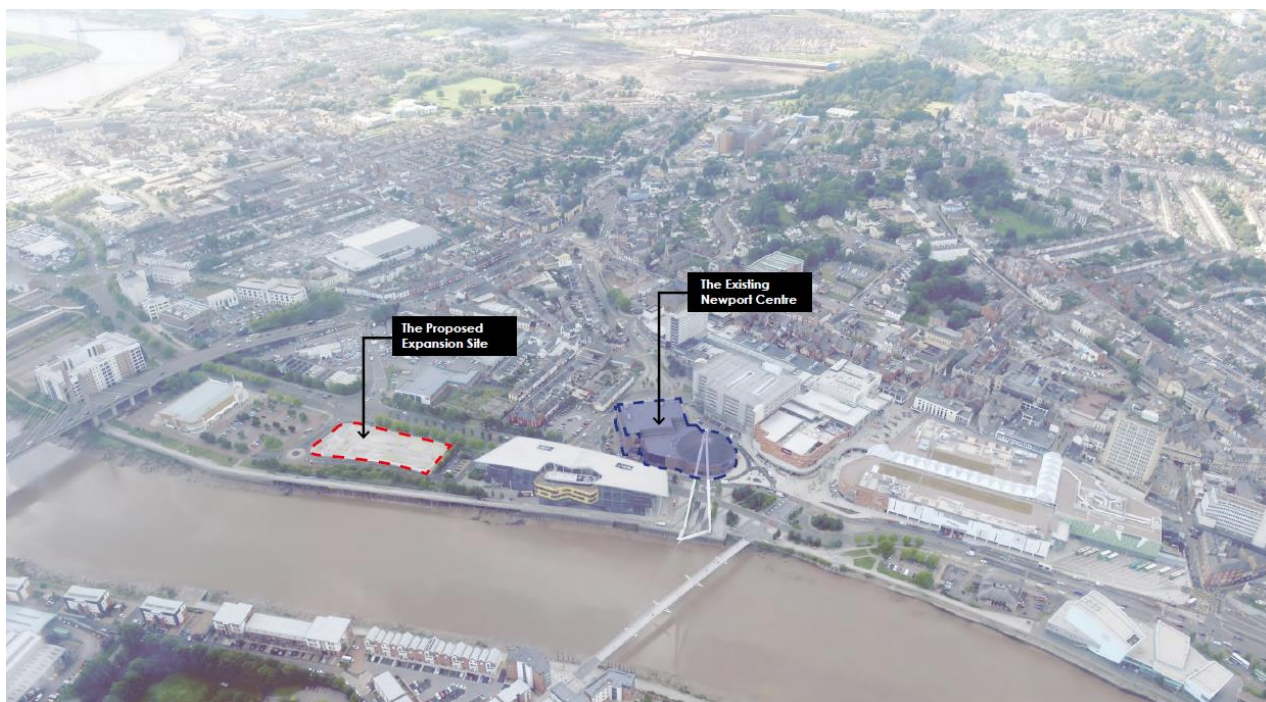
Site: *Land To South East Of University Of Wales Newport City Campus Usk Way Newport South Wales*

Proposal: CONSTRUCTION OF A NEW LEISURE CENTRE (D2) AND COMMUNITY HEALTH AND WELLBEING CENTRE (D1), INCLUDING A SWIMMING POOL HALL

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

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the construction of a new leisure centre (Class D2) and a community health and wellbeing centre (Class D1), including a pool hall.
- 1.2 Outline planning permission was granted in October 2020, which secured the principle of developing the site for a range of Uses, including office (Class B1), hotel (Class C1), education (Class D1) or leisure (Class D2).
- 1.3 The application site is vacant land which is located adjacent to the 81iability81 of Wales Newport City Campus building on Usk Way. The parcel of land sits in between Usk Way and an access road which serves the university building; beyond this is the riverside walkway and the River Usk.



- 1.4 The application is accompanied with drawings which provide a detailed layout and design of the building and the associated development. A number of reports and assessments are also submitted with the application, including a Design and Access Statement, a Preliminary Ecological Appraisal, Pre-Application Consultant report, Site Investigation, Transport Statement, Travel Plan, vehicle tracking, Acoustic report, Archaeological Watching Brief, Drainage Strategy, Fire Strategy, Flood Consequence Assessment, Heritage Assessment, Landscaping scheme, lighting strategy, Sustainability report, tree assessment, Air Quality Assessment and Planning Statement.

05. RELEVANT SITE HISTORY

| | | |
|---------|---|-------------------------|
| 99/0461 | ERECTION OF A LEISURE DEVELOPMENT INCORPORATING IMAX/MULTIPLEX CINEMA CAR PARK RESTAURANTS AND OTHER COMPLIMENTARY LEISURE USES (outline) | Granted with conditions |
| 05/0731 | USE OF LAND FOR PUBLIC CAR PARK AND THE PROVISION OF SECURITY FENCING AND LIGHTING | Granted with conditions |
| 07/1164 | CONSTRUCTION OF UNIVERSITY CAMPUS (PHASES 1, 2 AND 3) (OUTLINE APPLICATION) | Granted with conditions |
| 20/0640 | OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR CIRCA 995 SQM OF FLEXIBLE FLOORSFACE OF EITHER OFFICE (CLASS B1)/ HOTEL (CLASS C1)/ EDUCATION (CLASS D1) OR LEISURE (CLASS D2) | 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 **SP4 Water Resources** favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.2 The following Supplementary Planning Guidance is also relevant:

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

3.3 National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable

development and contributes to the Wales well-being goals. The following chapters and sections are of particular relevance in the assessment of this planning application:

- Achieving a sustainable marine economy –
 - Contribute to a thriving Welsh economy by encouraging economically productive activities and profitable and sustainable businesses that create long term employment at all skill levels.
 - Provide space to support existing and future economic activity through managing multiple uses, encouraging the coexistence of compatible activities, the mitigation of conflicts between users and, where possible, by reducing the displacement of existing activities.
 - Recognise the significant value of coastal tourism and recreation to the Welsh economy and well-being and ensure such activity and potential for future growth are appropriately safeguarded.
- Ensuring a strong, healthy and just society
 - Contribute to supporting the development of vibrant, more equitable, culturally and linguistically distinct, cohesive and resilient coastal communities.
 - Support enjoyment and stewardship of our coasts and seas and their resources by encouraging equitable and safe access to a resilient marine environment, whilst protecting and promoting valuable landscapes, seascapes and historic assets.
 - Improve understanding and enable action supporting climate change adaptation and mitigation.
- Living within environmental limits
 - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
 - Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
- Promoting Good Governance
 - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led, precautionary, risk-based and adaptive approach to managing Welsh seas.
- Using Sound Science Responsibly
 - Develop a shared, accessible marine evidence base to support use of sound evidence and provide a mechanism for the unique characteristics and opportunities of the Welsh Marine Area to be better understood.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES: To be reported as a late representation if received.

4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The proposal is located in an area of high archaeological potential. A desk-based assessment has been compiled by Archaeology Wales. It is apparent that the site was occupied by Powell's Town Wharf from at least 1883 to the 1920s, and by motor repair works between 1965 and 2001. Its location on the bank of the River Usk indicates that the associated alluvial clays could provide excellent conditions for the preservation of organic remains. An archaeological watching brief conducted in 2008 immediately to the north of the current application recorded structures dating to the 19th century, as well as the remains of the Ebbw Vale Wharf. Furthermore, a watching brief was conducted on trial pits for the current proposal (Archaeology Wales report no. 1979, dated

May 2021). The trial pits contained multiple timbers, brick coursing, railway tracks and concrete floors.

- 4.2.1 As a result, there is the potential for encountering archaeologically significant remains during the proposal. Therefore, it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted.
- 4.3 DWR CYMRU – WELSH WATER: We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.
- 4.3.1 The proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in pre-application consultation with the Local Authority, as the relevant SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, 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.
- 4.4 REGIONAL AMBULANCE OFFICER: No response.
- 4.5 HEDDLU – GWENT POLICE (ARCHITECTURAL LIAISON): No response.
- 4.6 SOUTH WALES FIRE AND RESCUE SERVICE: 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.
- 4.7 NEWPORT ACCES GROUP: No response.
- 4.8 NEWPORT CIVIC SOCIETY: No response.
- 4.9 WILDLIFE IN NEWPORT GROUP: No response.
- 4.10 SPORTS COUNCIL FOR WALES: No response.
- 4.11 WESTERN POWER DISTRIBUTION: Provides standard advice regarding on-site and surrounding apparatus.
- 4.12 WALES AND WEST UTILITIES: Provide standard advice regarding on-site and surrounding apparatus.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF CITY SERVICES (ECOLOGY): Provides input to the Habitats Regulations Assessment and confirms their support for the methodology and conclusions of that assessment.
- 5.1.1 Agrees with the recommended mitigation and compensation measures set out in section 5.31 of the Preliminary Environmental Assessment (PEA_ and advise that they be secured by a suitably worded condition in compliance with LDP policy GP5.

- 5.1.2 A planning condition should be used to secure an Ecological Enhancement Plan or similar document to set out in detail the specific measures which will be employed to secure ecological enhancement, above and beyond the mitigation / compensation measures referred to. This should be based upon the proposed measures in PEA section 6.2 and the submitted Landscape Strategy. Where features such as bat and bird boxes and green roofs / walls, or sensitive lighting are incorporated into the structure of the new building, these should be clearly represented in any design / layout plans.
- 5.2 HEAD OF CITY SERVICES (LANDSCAPE): The submitted landscape strategy covers only the layout of the green roof garden. Further planting detail is required for the green roof garden along with a 5 year maintenance and management plan. Detail for landscape elements (both planting and hard landscape) to ground level public realm have not been submitted.
- 5.2.1 The following information is required and could be conditioned:
1. A soft landscape plan is required to include species, size, layout, topsoil/subsoil, tree pit volumes for the green roof garden, and public realm planting of hedges, trees, planters.
 2. The proposed green living wall is a specialist element – proposed species along with maintenance and management should be provided as part of full planning.
 3. A five year planting maintenance and management plan is required
 4. A hard landscape plan is required to include street furniture, planter detail, surfacing, levels etc.
- 5.3 HEAD OF CITY SERVICES (TREES): The potential for pollarding (*the London plan trees*) has been discussed with the Arboricultural Officer and he has agreed that this should be done as early as possible to these and other plane trees across the city, to ensure that we do not get into a situation like we have on Clytha park road and Edward VII avenue, where the trees are now too mature to withstand hard pruning.
- 5.3.1 Fortunately these trees here are still relatively young, less than 20 years, therefore it is my recommendation that we do pollard this winter, to give the trees time to re-grow while the development is underway and then manage over subsequent years, to retain a canopy that will adjust to the spatial constraints.
- 5.3.2 In terms of the rationale behind the choice of tree it was considered to be a bold choice, by the then tree officer. However it was recognised even then that management would be required, but would be an investment in a species worthy of a city boulevard. Therefore I agree with the recommendations of the landscape architect for the retention and management of the Planes, as these were original features of the Newport Public Realm works. I agree with the point about maintaining and increasing canopy cover within the city however, there are a number of options within the streetscape of the Usk Way and over the coming years these will be explored and implemented.
- 5.4 HEAD OF CITY SERVICES (PUBLIC RIGHTS OF WAY): In the absence of information about staffing numbers no response can be given.
- 5.5 HEAD OF CITY SERVICES (ACTIVE TRAVEL): In the absence of information about staffing numbers no response can be given.
- 5.6 HEAD OF CITY SERVICES (HIGHWAYS): Vehicular access to the site is gained from the university access road which is considered acceptable for the anticipated level of use that the development will generate.

- 5.6.1 The site is located within Parking Zone 1 which requires that 1 commercial vehicle space is provided for the development. The Transport Statement 4.2.7 states '*Servicing will be from the kerbside on the riverside access road. This is considered appropriate and acceptable given the light volume of other traffic using the access road, which only serves the development's 6 wheelchair accessible spaces and a similar number of parking spaces to be retained by the university*' which will be acceptable given the low level of parking provided on the site, however, swept path analysis of an HGV entering and leaving the site will be required.
- 5.6.2 Any additional existing redundant accesses to the site will need to be returned to footway.
- 5.7 HEAD OF CITY SERVICES (DRAINAGE): No response.
- 5.8 HEAD OF CITY SERVICES (WASTE): No response.
- 5.9 HEAD OF CITY SERVICES (LEISURE): No response.
- 5.10 HEAD OF LAW AND REGULATION (ENV. HEALTH – NOISE): I have reviewed the acoustic report submitted with the application, the purpose of which is to set out the acoustic issues to be addressed in developing the design for the development, to set out suggested acoustic criteria to be met and to discuss and set out acoustic design considerations. The report contains a background noise survey on which acoustic criteria are based.
- 5.10.1 I am broadly in agreement with the report, however, I would recommend a condition requiring a further detailed acoustic report to be submitted for approval prior to commencement of development. This will allow the final choice of plant and equipment to be included in the assessment, together with the full range of activities which have potential to have an adverse noise impact on residents e.g. fitness classes, events, amplified music, sports activities, café use etc. Full details of any sound attenuation/insulation measures and other controls to be incorporated, to prevent any unacceptable impact upon residential dwellings, must also be submitted for approval and constructed/installed/implemented prior to first beneficial use of the development.
- 5.10.2 I would also recommend a condition separate to but linked with the above recommended condition, requiring full details of all external plant and equipment to be submitted for approval, prior to commencement of development.
- 5.10.3 Additional conditions are also recommended:
- Opening hours of the café
 - Opening hours of the leisure centre
 - Details of any floodlighting
 - Details of fume extraction for the café
 - Regular maintenance of any fume extraction equipment
 - Construction Environmental Management Plan
- 5.11 HEAD OF LAW AND REGAULTION (ENV. HEALTH – AIR QUALITY AND CONTAMINATION):
Contamination
I have looked at the Integral Geotechnique Site Investigation Report 12858/JJ/21/SI submitted and note former uses of the site as a railway/tramway land, a wharf, a vehicle

repair site, a scrap yard, a substation and a site compound. These potentially contaminative former uses warrant contaminated land conditions.

- 5.11.1 The report goes on to identify how the presence of asbestos at the site can be dealt with and that ground gas protection and protected water supply pipe will be required. This should all be presented in a remedial strategy in accordance with land contamination conditions.

Air Quality

- 5.11.2 No objection. I am supportive of the findings of the Air Quality Assessment. I welcome the fact that the development will be car free and that traffic generation from the site will be less than the current Kingsway car park. The addition of zero emission building design features is further supported e.g. air source heat pumps, provided they utilise green electricity ideally. The provision of pocket parks and hedging between the proposed building and existing Usk Way road traffic may afford some protection from prevailing noise and air pollutants even where this is likely to be below actionable levels as suggested in the report. Where back up boilers have been necessary as part of the design these appear to be of a low NO_x design which is welcomed.
- 5.11.3 It is understood that EV charging points will feature within the site however this does not appear to be reflected within the report and confirmation of this is sought?
- 5.11.4 It is accepted that in view of the above a quantitative air quality assessment is not warranted.
- 5.11.5 The routing of construction traffic associated with the proposed construction phase must be specified such that it does not travel through any of Newport's AQMAs where at all possible unless the vehicles in question are zero emission. To this extent a routing plan should be provided by the applicant and may be requested by condition. This is not only important from an air quality perspective but one of reducing traffic congestion in AQMAs.
- 5.11.6 Evidence that support's the statement in the AQA that traffic consultants Cambria, have confirmed that the Proposed Development will not generate new traffic of any significance will need to be provided in support of the AQA and application.
- 5.12 HISTORIC BUILDINGS AND CONSERVATION OFFICER: Given the minor nature of the impact on heritage assets, I consider that they would be mitigated by the economic and social benefits of the proposals and the opportunity to enhance the communal values of the grade II* listed George Street Bridge, as well as the wider townscape by creating new opportunities for public views. I am therefore happy to support these proposals.
- 5.13 REGENERATION MANAGER: From an economic development and regeneration perspective, the impact of the proposed development of the new leisure centre, on the long-disused brownfield site adjacent to the university, cannot be underestimated. In the post-pandemic world, the city centre will stand or fall on the diversification and quality of its offer to visitors, residents and workers. The new leisure provision will clearly benefit these aims in addition to the benefits delivered in terms of local health, wellbeing and access to services.
- 5.13.1 Diversification of activity, introducing more varied, flexible and quality spaces to enjoy positive experiences near to home and the workplace, has been at the core of policy solutions to the decline of town and city centres for many years, and will remain a hallmark of successful urban centres in the post-pandemic years. As the pandemic has accelerated the core challenges around changing retail habits that has driven the increasing marginalisation of secondary centres, it is critical that projects such as the leisure centre are delivered to fill the gap left by the traditional retail offer.

- 5.13.2 The new leisure centre is premised on providing a space for people to improve their physical and mental health, bringing communities closer and providing opportunities for many people; and can be regarded as an exemplary project under the city's wider Well Being of Future Generation Act goals. There is a clearly defined inter-relationship between health, wellbeing and economic opportunity. As well as attracting new visitors to the city centre, the new leisure centre will serve an immediate demographic that includes a diverse range of ages, abilities and backgrounds, including communities which evidence some of the greatest relative deprivation in Wales. The location of the proposed site benefits from strong connectivity to the adjacent wards and their communities, and the access to this new state of the art facility will encourage greater diversity of participation, activity and interaction.
- 5.13.3 The increased footfall from the new development will benefit the hospitality, service and prominent retail offer within the city centre, with key regeneration sites such as Friars Walk and Chartist Tower just across the road from the proposed brownfield site.
- 5.13.4 Finally, the relocation of the leisure provision to a new home on the riverside will enable the redevelopment of the existing Newport Centre site as the Newport Knowledge Quarter, relocating the largest further education college campuses in Wales into the heart of the city centre. The 20,000 square metre campus will further diversify the offer in the city centre and significantly boost footfall and usage. The extensive space required to achieve this ambitious goal means that the Newport Centre site is the only realistic option capable of hosting the new further education college whilst concentrating the city's further and higher education facilities into the Newport Knowledge Quarter. There are significant value-adds and multiplier effects inherent to enabling this further city centre development.
- 5.13.5 It is for these reasons that the project is a flagship scheme within the Council's City Centre Masterplan and can be whole-heartedly supported from an economic development and regeneration perspective.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (two properties), a site notice displayed and a press notice published in South Wales Argus. Five representations were received raising the following:
- The proposed site along the bank of the river can be very windy. Concerned that the external surface construction and cladding will be prone to wind damage, and in any event involve unnecessary extra expense in construction, cleaning and repair. The exterior design needs to be reviewed/rethought, with more weight given to functionality, weather resistance (and climate change proofing) and reducing the cost of upkeep.
 - Newport has the opportunity to compete with Cardiff and Pontypool, regarding splash zone and slides for the pool area. Newport council please don't scrimp and save and cut the funding to this project, make it as attractive as possible with lots of many different activities with things to do.
 - The proposed plans do not allow for any form of live music concerns to take place at the new facility. Realise that concerts have not been held at the Newport centre for some time but with Cardiff and Swansea building large arena's there will be a 'gap in the market' for a smaller venue similar to the existing Newport centre. Not including concert facilities in the new facility will rob the residents of Newport with the chance of local live music.
 - If the proposal development goes ahead the images of the new facility look so boring compared to the university building. The light grey cladding just makes it look so bland.

- The design is completely out of keeping with the style of architecture used in Newport. We need stylish, contemporary designs, like those used for housing. Newport need to become more upmarket, not a clash of ugly styles.
- The proposed building does not sit well with its surrounding, the area needs a more practical building not a whimsical fancy. The town centre is already littered with developments that are mismatched and are already looking dated.

6.2 COUNCILLORS AL NUAIMI AND THOMAS: No response.

05. ASSESSMENT

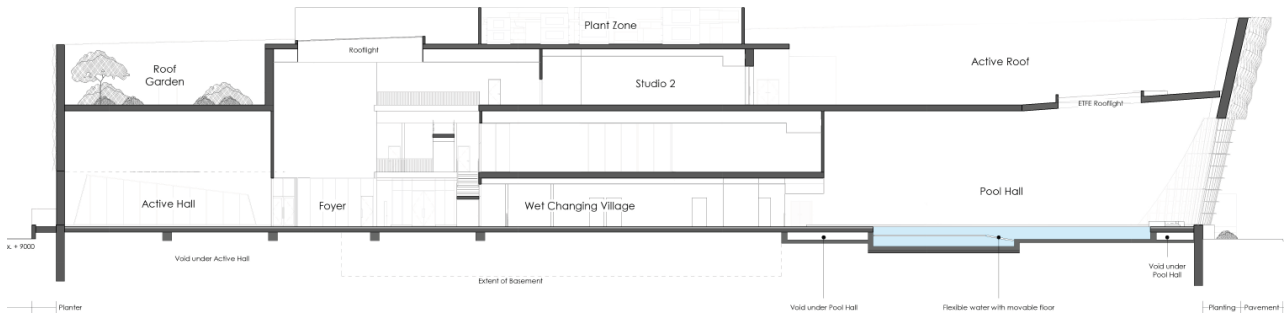
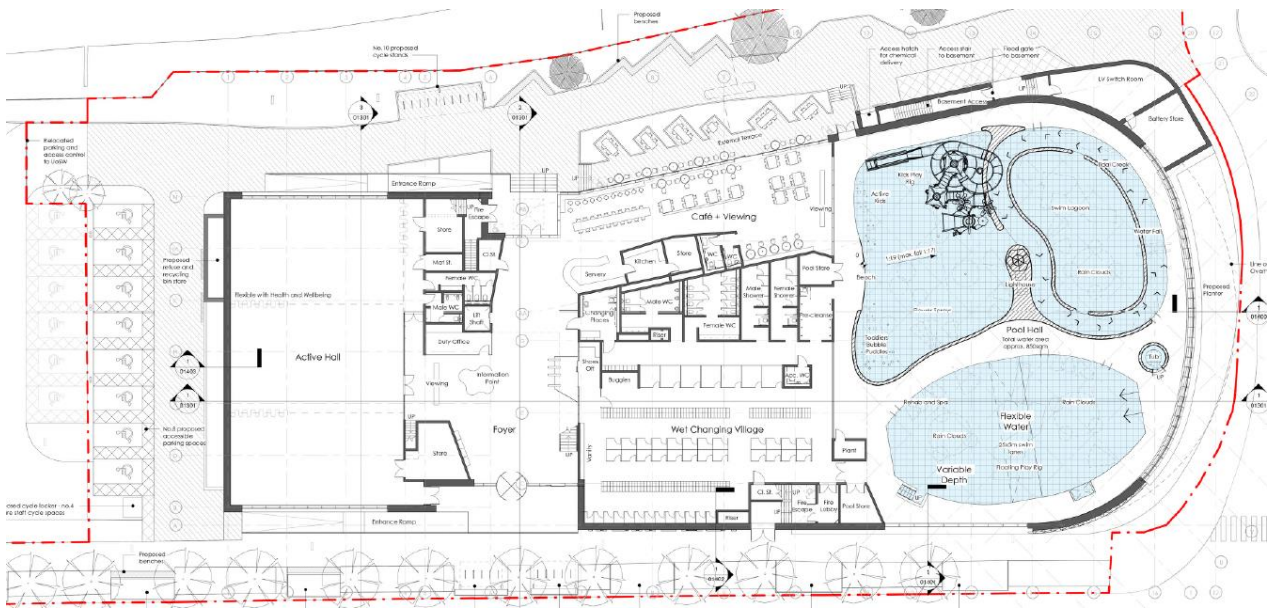
7.1 Application site

- 7.1.1 The application site is around 0.6 hectares and is a roughly rectangular plot of land which lies in between an access road serving the University of South Wales (USW) and Usk Way. To the north east is the River Usk, Castle Bingo to the south east, Usk Way and Lidl to the south west and the University of South Wales, Newport Campus to the north west. The River Usk runs parallel to the eastern site boundary, approximately 17 m from the application site. The nearest residential properties are 15c Caroline Street and 30-33 (inclusive) Canal Parade (50m away); and Cambria House and Britannia House, Rodney Road on the opposite side of the river (160m away).
- 7.1.2 The application site predominantly comprises extensive areas of hard-standing in the form of tarmac as well as loose asphalt – the latter of which has been colonised to varying degrees by short perennial vegetation and/or grass species. Similarly, the application site contains numerous refuse piles which have also become partially or completely vegetated by short perennial, scrub and/or grass species. Scattered scrub is present, most notably along the northern boundary.
- 7.1.3 Historically, between 1883 and 1902 the site was occupied by tramways/railways and some small building associated with Powells Town Wharf. This infrastructure disappeared by the 1950s and the site left vacant. Between 1965 and 2001, the site is annotated to be occupied by a large building in the north, central and east portion, identified as a Motor Repair Works. A scrap metal yard is shown in the south portion. After this time, the site is shown to be partially or fully vacant with the exception of having been used a construction compound for the USW from 2009 to 2013.
- 7.1.4 Outline planning permission was granted in January 2008, which involved three phases of development relating to the University campus. The campus building as built was phase 1 of the development and this application site included phases 2 and 3. These phases were not pursued further.
- 7.1.5 Outline planning permission was granted in October 2020, which secured the principle of developing the site for a range of Uses, including office (Class B1), hotel (Class C1), education (Class D1) or leisure (Class D2).
- 7.1.6 The application site is part of the City Centre as defined by the Newport Local Development Plan and it is within an Archaeologically Sensitive Area. It lies in close proximity to the River Usk (divided only by an access road to the University campus and a strip of scrub vegetation), which is designated as a Special Landscape Area, a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The Severn Estuary SAC, SPA, Ramsar is approximately 3.6 km south of the site. The application site lies opposite the Lower Dock Street Conservation Area (which terminates at the end of Caroline Street) and is in proximity to the grade II* listed George Street Bridge.

7.2 The proposals

7.2.1 The application seeks full planning permission for the construction of a building to accommodate a new leisure centre. The leisure centre would be set out over three floors, creating 6,623 square metres of floor space and would provide:

- Pool Hall
 - Wet changing rooms and sanitary facilities
 - - Café and viewing area
 - Foyer
 - Active Hall
- } Ground floor
- Fitness suite
- } First floor
- Changing rooms
 - Fitness Studios (x 4)
- } Second floor/roof top
- Changing rooms
 - Green Roof
 - Active roof zone



7.2.2 The proposed building would occupy the majority of the site. It would be shaped by the road and the river; bounded by car parks and set opposite a tall University building. The building isn't a linear shape, but it roughly measures 100m long, 41m wide and 18m high (the adjacent University building is around 26m high). The ground floor would be set 1m above the existing ground level, with a plinth wrapping around the building, finished in a stone cladding. Ramps from Usk Way and the river side access road would provide public access into the building. The building would have a dual frontage to both Usk Way and the river side.

7.2.3 As the building rises up it would have a mix of glazed terracotta or ceramic tiles along the river side elevation. There would be glazed curtain walling to the foyer, café, pool hall and active hall, and elsewhere the building would be covered in a perforated aluminium rainscreen cladding, fitted in a series of triangular segments, providing a geometric and textured effect, so the building has an undulating surface.



7.2.4 The external components of the development comprise:

- An access road, following the line of the existing access road to the University building;
- Raised café terrace (River Usk facing elevation);
- Benches and cycle stands adjacent to the River Usk;
- Benches, planters and cycle stands (Usk Way side); and
- Substation in between the access roads and the riverside walkway.

7.3 Principle of development, regeneration and economic impact

7.3.1 The application site is a brownfield site, located in the settlement boundary and it has been vacant for some time. Usk Way is a principle route through the city and as such the site, surrounded by hoardings, does not positively contribute to the surrounding area, which has seen significant regeneration. Policy SP18 favours proposals which assist the regeneration of the urban area, particularly where they contribute to the vitality, viability and quality of the environment of the city centre, where they reuse vacant land and where they encourage the development of community uses.

7.3.2 The proposed leisure centre would replace the existing Newport Leisure Centre, which no longer offers any swimming facilities due to unviable repair costs. The relocation of leisure centre facilities to the application site would not only allow for state of the art new facilities but it would also unlock the existing site for future redevelopment, to the benefit of the viability and vitality of the City Centre. It is considered that a leisure centre use in this location would be appropriate in a city centre location and it would compliment the surrounding uses. This prominent vacant site has the opportunity to provide real regeneration benefits to the city centre and the proposed use would provide significant contribution to the vitality, viability

and quality of the environment of the city centre; and as such policy SP18 provides support for the proposal. As outlined by the Councils Regeneration Manager (paragraph 5.13) the proposal would have significant regeneration benefits, allowing for diversification and complimentary facilities to the City Centre, which like most retailing centres, has seen changing retail habits, accelerated by the pandemic. In addition new leisure facilities would bring positive impacts to health, wellbeing and access to services.

7.3.3 The application site is relatively small and the whole of the site would be used for development, this is considered to be an efficient use of brownfield land. Overall it is considered that the principle of the proposed uses would be acceptable and in accordance with policies SP1, SP2, SP12, SP18, CE1 and CF8.

7.4 Design

7.4.1 From a planning and placemaking perspective the important design factors for this building, in this place, is to create a building which:

- Responds to both Usk Way and the river (dual frontage);
- A quality of design and materials which are durable, functional and visually rich;
- A building which is permeable and welcoming to the users; and
- A building which respects both its urban context and its river frontage setting.

7.4.2 The application site is also adjacent to the River Usk, which is designated a Special Landscape Area. Policy SP8 requires that proposals “contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area’s special features”. Policy CE2 (Waterfront Development) states that “development in a waterside location should integrate with the waterway and not turn its back on it, and should take account of the interests of regeneration, leisure, navigation, water quality and flow, and nature conservation”.

7.4.3 The proposed building occupies the majority of the site, it curves as the road bends around the corner and it could be described as having a front and rear elevation. The front being where the large, glazed curtain walling curves around the corner, which provides a wealth of natural light into the pool hall. This “elevation” is highly prominent in the surrounding street scene and is considered to provide that visually rich address to its surroundings. The rear of the building could be described as the elevation which faces towards the University building. This elevation does not have any glazing and instead has taller tile rainscreen cladding. This end of the building provides the active hall at ground floor level which is well served by large glazing units on the Usk Way and river sides. Whilst this may be considered the back of the building it would not convey a “dead frontage”. The Usk Way and river side elevations provide the entrance points to the building. They are accessed by ramps and/or steps and the building is considered to provide a clear, legible point of entry, which are defined by tall glazing. Glazing is plentiful along both the Usk Way and river side elevations and the perforated aluminium cladding is cut and sliced at angles towards the rear of the building, this is considered to provide striking elevations to both the road and river. It is considered that the building not only achieves active and attractive frontages to the road and river, it also achieves this at points around the building, creating a 360 degree active frontage.

7.4.4 The curtain walling glazing and tiled rainscreen cladding are considered to be good quality and durable materials. The perforated aluminium rainscreen cladding sets the most striking visual impact. The applicants Design and Access Statement states that the materials have been selected for their robustness and maintenance considerations in providing a high quality, long life, refined and elegant building. They state that the rainscreen cladding would be fixed back to an insulated composite panel, which offers construction benefits in terms of

programme, lower u-values, improved air tightness and building tolerances. It is considered that the proposed materials would be both durable and functional; along with providing a visually rich and exciting external finish to the proposed building.

- 7.4.5 The applicants Design and Access Statement notes that the proposed building is “not a building just for sport. It is not a building just for fun. It is a multiplicity and complex building that in its softness of design is flexible, welcoming and encouraging to all who come. It is therefore a safe and open building; transparent and permeable; vibrant yet calm”. It is considered that this statement is true, through the layout of the building, it’s clear and legible entrance points and its wealth of glazing, it would provide a welcoming public building.
- 7.4.6 The proposed building would provide a roof top garden. Whilst it is a roof top, it would be set within and contained behind a parapet, so that it can provide a safe and usable space. Along with planting and wet features, a boardwalk path and seating would be provided within the garden. Whilst green roofs have been features of new buildings more recently, none have provided this real usability for both people and biodiversity. It is considered that this ecological benefit responds to the natural environment which the building sits alongside, thereby respecting its river side setting.
- 7.4.7 Overall, it is considered that the proposed building would provide a visually striking building, which would respond positively to its urban and river side settings. The proposed materials would be durable, functional and attractive. The building would create a good sense of place, which would provide an open and welcoming environment for all of its users. It is considered to be in accordance with policies SP8, GP2, GP6 and CE2.

7.5 Ecology

- 7.5.1 A Preliminary Ecological Appraisal Report (PEA) has been submitted with the application. It has identified that the site is of low ecological value, comprising mostly of hardstanding with some areas of ephemeral/short perennial vegetation. The site has limited potential to support protected or priority species, but the ruderal vegetation is likely to be important habitat for invertebrates. Whilst the quantity of habitat does not qualify it as Biodiveristy Action Plan (BAP) habitat, its removal would see a reduction in the overall ecological value of the application site, particularly from the perspective of invertebrates.
- 7.5.3 There are a number of statutory designated sites within the potential zone of influence of the application site. The closest of these is the River Usk SSSI/SAC, approximately 17 m north-east of the application site, designated for the habitats and associated dependent species it supports. The proposed development has the potential to negatively impact the SSSI/SAC, primarily through acting as a potential source of pollution and through disturbance related issues through noise, vibration and sources of artificial lighting.

Mitigation/Compensation

- 7.5.2 It is proposed to provide a green roof garden, which includes a bog garden, hedge planting, raised planter and planting beds and climbing wall plants. It is considered that this new habitat creation should adequately mitigate the loss of the small area of habitat present within the site and will provide a range of opportunities for more mobile species including birds, bats and invertebrates. The Councils Ecology Officer supports this mitigation measure.
- 7.5.3 An assessment of the proposal as required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, is required in order to ensure no adverse effects on the sites’ integrity. This is called an Appropriate Assessment, which is summarised in section 7.6.

- 7.5.4 Regulation 63(3) states “The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies”. This means that Natural Resources Wales must be consulted on the content and outcome of the Appropriate Assessment and regard must be given to any comments made by them.
- 7.5.5 The Appropriate Assessment concludes that with the imposition of conditions, which control pollution prevention methodology, piling methodology and timing restrictions, external lighting and the remediation of any unforeseen contamination, the impacts of the proposed development can be suitably controlled and would not result in an adverse impact on the integrity of the River Usk SAC. Natural Resources Wales has not provided comments on the Appropriate Assessment yet. However, it is the Officers recommendation that, if Committee are satisfied that they could approve the development in principle, they should defer authority to Officers to grant planning permission following agreement from Natural Resources Wales that they are satisfied with the content and outcome of the Appropriate Assessment. In the instance that the Appropriate Assessment is not adequate and NRW raise an objection, which could result in changes to the scheme, the application would be brought back to the next committee for determination.
- 7.5.6 The Councils Ecology Officer is satisfied with the proposed mitigation measures and supports the outcome of the Appropriate Assessment. A compliance condition is recommended to secure the mitigation measures in respect of the green roof garden.

Enhancement

- 7.5.7 A statutory duty as set out in section 6 of the Environment (Wales) Act 2016 has been introduced which requires public bodies such as Newport Council to seek to maintain and enhance biodiversity, and in doing so to promote the resilience of ecosystems, in the exercise of their functions.
- 7.5.8 The submitted PEA sets out a number of hypothetical measures to improve the diversity of habitats within the site. Whilst the Councils Ecology Officer is broadly supportive of the measures they recommend the imposition of a condition to secure an Ecological Enhancement Plan to set out in detail the specific measures which would be employed to secure ecological enhancement, above and beyond the mitigation / compensation measures.

7.6 Appropriate Assessment

- 7.6.1 The full Appropriate Assessment is provided in Appendix A. It is informed by a shadow Habitats Regulations Assessment (sHRA) produced by the Landmark Practice, which has been adopted by the Authority. In summary the Appropriate Assessment identifies impacts on the qualifying features of the River Usk SAC from noise and vibration during construction, pollution during the construction and operational phases and external lighting during the operational phase.
- 7.6.2 The Appropriate Assessment concludes that with the inclusion and full implementation of conditions which require and secure a Construction Environmental Management Plan and Pollution Prevention Plan, a sensitive lighting strategy, a piling methodology and timing restrictions and the remediation of any unforeseen contamination; there would be no adverse effect on integrity to the River Usk SAC either alone or in-combination with other relevant projects. As set out in paragraph 7.5.5 it is the Officers recommendation that, if Committee are satisfied that they could approve the development in principle, they should defer authority to Officers to grant planning permission following agreement from Natural Resources Wales that they are satisfied with the content and outcome of the Appropriate Assessment. In the

instance that the Appropriate Assessment is not adequate and NRW raise an objection, which could result in changes to the scheme, the application would be brought back to the next committee for determination.

7.7 **Landscape**

7.7.1 The River Usk is designated as a Special Landscape Area (SLA). Policies SP8 and CE2 (as set out in paragraph 7.4.2) are relevant and it is considered that the proposed building is of an appropriate design, which compliments the SLA and integrates itself with the river frontage.

7.7.2 A landscape strategy has been submitted which covers the layout of the green roof garden. The submitted layout plan indicates that other soft and hard landscaping is proposed along the river frontage, Usk Way and the front elevation; and a green living wall on the rear elevation. These precise detailing of those elements have not been provided. The Councils Landscape Officer has no objection to the proposals subject to conditions requiring a soft landscape plan (including species, size, layout, topsoil/subsoil, tree pit volumes for the green roof garden, and public realm planting of hedges, trees, planters), details of the green living wall (species along with maintenance and management), a five year planting maintenance and management plan and a hard landscape plan (including street furniture, planter detail, surfacing, levels).

7.8 **Trees**

7.8.1 The pavement adjacent to Usk Way and within the application site is 5.4m wide and has five planting beds (2.5m wide x 10.0m long) immediately adjacent to the highway. Each bed contains 2no. London plane trees at either end with a central ground cover of dwarf cherry laurel. The trees are 10 – 12m high with a radial canopy spread of approximately 4.0m (but can extend up to 5.0m east over the vacant site). They are positioned within Council owned land and are the maintenance responsibility of the Council.

7.8.2 A Tree Assessment has been submitted with the application. It notes that the proposed building may encroach to within 4.0m of the London plane trees. However, the 'nominal' root protection areas of these trees are all below 4.0m and the existing paving would act as ground protection and as such it recommends that all trees can be retained. The canopy spread of some of the trees marginally overhang the site boundary and would require trimming back to allow adequate clearance to the proposed built structure. Adequate clearance to the building façade would require ongoing management, with the canopies of the trees requiring to be pruned back at regular intervals (every 2-3 years) in order to maintain a radial canopy spread below 4.0m on the eastern side of the trees.

7.8.3 The Councils Tree Officer considers it appropriate to pollard these trees over the coming winter. This would allow the trees to re-grow during the construction phase and then manage the canopies over the subsequent years, to retain a canopy that would adjust to the spatial constraints. These works are agreed and would be undertaken by the Councils City Services department. A condition to secure these works is unnecessary.

7.9 **Heritage**

7.9.1 The application site is not within a Conservation Area but it sits around 40m from the Lower Dock Street Conservation Area. It is also located around 180m from George Street Bridge which is listed at grade II*, as a major civil engineering structure, the first cable-stayed cantilever bridge in Britain.

7.9.2 A Heritage Impact Statement has been submitted, which considers George Street Bridge and the Lower Dock Street Conservation Area. The Historic Buildings and Conservation Officer

considers that the Statement should also consider how the development would affect views of the townscape from other locations and in turn how these views contribute to the setting of historic assets. However, the Historic Buildings and Conservation Officer has been able to make their own assessment of the proposals.

- 7.9.3 The Historic Buildings and Conservation Officer notes that whilst views towards the river are limited from within the conservation area, from the riverside, and in particular from the eastern bank, it is possible to see some the buildings of the conservation area and to appreciate aspects of the history of the area as one that developed to serve the former docks along the river. The development would restrict some of these views. However, given the limited nature of these views and the extent of modern development already long the riverside, they do not consider this impact to be any more than very minor.
- 7.9.4 The Heritage Statement suggests that the impact of the loss of certain views of the Grade II* listed George Street bridge would be outweighed by the impact on other views. Whilst the Historic Buildings and Conservation does not agree that all of the views identified would be enhanced, they consider that there would be enhanced views of the bridge by virtue of the proposed use as a public building and in particular those views offered by the proposed roof spaces. The Officers considers that this would enhance the communal values of the bridge and result in a positive impact.
- 7.9.5 The Officer also considers that the proposed development would restrict views from the riverside towards the St. Woolos Conservation Area, which contains a number of listed buildings including the grade I listed Cathedral. These views help to understand the significance of this area, the setting of the Cathedral, and its part in the early development of Newport. However, similar views would still be available from other points along the riverside and as such this impact would be minor. Similarly, the development would have an impact on views from the St Woolos area, which contains a number of listed 19th century houses designed to take advantage of these views. However, given the distance from the development site, these impacts would be very minor or indeed negligible. Additionally, the proposed public roof spaces would offer opportunities for the appreciation of the St Woolos area as well as the wider historic townscape and potentially enhance its communal values.
- 7.9.6 Overall, given the minor nature of the impact on heritage assets, the Historic Buildings and Conservation Officer considers that they would be mitigated by the economic and social benefits of the proposals and the opportunity to enhance the communal values of the grade II* listed George Street Bridge, as well as the wider townscape by creating new opportunities for public views. The Officer offers support to the proposals.

7.10 **Archaeology**

- 7.10.1 The application site is located within an Archaeological Sensitive Area. The Glamorgan Gwent Archaeological Trust (GGAT) notes that the area has high archaeological potential. GGAT comment that the site was occupied by Powell's Town Wharf from at least 1883 to the 1920s, and by motor repair works between 1965 and 2001. Its location on the bank of the River Usk indicates that the associated alluvial clays could provide excellent conditions for the preservation of organic remains. An archaeological watching brief conducted in 2008 immediately to the north of the current application recorded structures dating to the 19th century, as well as the remains of the Ebbw Vale Wharf. A watching brief was also conducted on trial pits for the current proposal, which contained multiple timbers, brick coursing, railway tracks and concrete floors. GGAT consider that there is the potential for encountering archaeologically significant remains during the proposal.

7.10.2 GGAT recommend that a condition is imposed that requires the submission of a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource. They envisage that this programme of work would take the form of a watching brief during the groundworks required for the development, with detailed contingency arrangements including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results.

7.11 Highways

7.10.1 The application site is located in a sustainable location. It is accessible to pedestrians from Usk Way and the riverside walkway, which in turn link to other parts of the City. In particular it is accessible to pedestrians from nearby public car parks and public transport. The development is proposed to be car-free except for the provision of 8 wheelchair accessible spaces. These spaces would be provided to the rear of the site, adjacent to spaces which serve the University building. Access would be from the existing access road to the University building, utilising an existing access point. This access road would be modified to create a shared surface, which favours the pedestrian or cyclist, although it would also provide access for servicing and refuse/recycling collection. The Councils Highways Officer is satisfied with the use of the existing access road.

7.10.2 Servicing would take place off the riverside access using a designated drop-off area. Refuse/recycling collection would take place to the rear of the building. It is anticipated that vehicle trips associated with these activities would be light. The applicant has also commented that the servicing area or the accessible parking area can also be utilised for drop off by those with special needs, who are unable to travel to the site by car and are not able to walk from public transport connections. This design has been developed with engagement from those who represent special needs groups.

7.10.3 Swept path analysis of an HGV entering and leaving the site has been provided and the comments of the Councils Highways Officer will be reported as a late representation.

7.10.4 It is proposed to provide 20 cycle stands around the building. This would cater for up to 40 bicycles. The Sustainable Travel SPG requires 1 cycle space per 4 staff (long term provision) and 1 cycle space per 10 staff (short term provision). The precise number of staff is not yet known and as such a condition is recommended to secure the appropriate number of cycle stands.

7.11 Air quality

7.11.1 An Air Quality Assessment has been submitted with the application and reviewed by the Councils Scientific Officer. The Officer supports the findings of the assessment and welcomes that the proposed development would be car free (except for accessible spaces) and that traffic generation from the site would be less than the current Kingsway car park. The assessment details a zero emission building, along with the provision of pocket parks and hedging/trees between the proposed building and Usk Way.

7.11.2 The assessment states that each car parking bay would include an electric vehicle charging point. This is not shown on the submitted plans and therefore a condition is recommended to secure a scheme for electric vehicle charging points.

7.11.3 The Scientific Officer recommends that the routing of construction traffic associated with the proposed construction phase should be specified such that it does not travel through any of Newport's Air Quality Management Areas (AQMAs) where at all possible unless the vehicles

in question are zero emission. The Officer recommends that a routing plan is secured through a condition. This is incorporated within the Construction Environmental Management Plan condition, along with a dust management plan, which is also a recommendation of the Air Quality Assessment.

7.11.4 The Officer requires evidence that the proposed development would not generate any new traffic of significance to support this application. A Transport Statement is submitted with the application which uses the TRICS database, which is an industry standard for calculating trip rates. The statement concludes that the proposed development would not generate a significant amount of new trips. This assessment is taken in good faith and further evidence is considered unnecessary.

7.12 **General Amenity**

7.12.1 The nearest residential properties are located around 50m away. They are properties on Canal Terrace and Caroline Street. These properties are roughly opposite the application site but separated by Usk Way, which is a busy principle route through the city centre. The area is characterised by a mix of commercial, education, leisure and residential uses. A number of these commercial, education and leisure uses are already in close proximity to these houses.

7.12.2 An acoustic report has been submitted with the application. It considers the noise impact of the various components of the building. The Councils Environmental Health Officer is in broad agreement with the conclusions of the acoustic report however, it is recommended that a further detailed acoustic report is secured through a condition. This would allow the final choice of plant and equipment to be included in the assessment, together with the full range of activities which have potential to have an adverse noise impact on residents e.g. fitness classes, events, amplified music, sports activities, café use etc. The Environmental Health Officer also requires additional conditions relating to mitigation measures, plant and equipment, opening hours, floodlighting, fume extraction and a Construction Environmental Management Plan (as listed in paragraph section 5.10).

7.13 **Contamination**

7.13.1 A Site Investigation report is submitted with the application. It notes the former uses of the site as a railway/tramway land, a wharf, a vehicle repair site, a scrap yard, a substation and a site compound. The Councils Scientific Officer considers that these potentially contaminative former uses warrant further investigation and remediation. The Officer recommends a number of contaminated land conditions to secure this.

7.14 **Flood Risk**

7.14.1 The application site is located in flood zone B. Section 10 of TAN15 recognises that when considering development in Zone B, it is not expected that an assessment of the consequences be undertaken. Notwithstanding this, the applicant has prepared a Flood Consequences Assessment Report (FCA), which assesses the risk from tidal inundation from the River Usk over the lifetime of the development (100 years) to take account of sea level rise due to climate change.

7.14.2 The FCA shows that the risks and consequences of flooding are manageable to an acceptable level. The FCA makes the following conclusions:

- Based on current site levels, the development site is predicted to be inundated during the 0.5% (1 in 200 year) plus climate change and 0.1% (1 in 1000 year) plus climate change tidal flood events.
- Based on a finished floor level of 10.0m AOD, the proposed building is predicted to be flood free during the 0.5% plus climate change tidal flood event.

- Based on a finished floor level of 10.0m AOD, the proposed building is predicted to be flood free during the 0.1% plus climate change tidal flood event.
- The FCA has carried out sensitivity tests to future flood risk by applying the 97.5% confidence levels, which would result in a flood depth of 0.6m for the 0.1% plus climate change event.

7.14.3 The FCA also proposes the management of any residual flood risk be recommending flood resistance and resilience measures be incorporated into the design of the development and the production of an evacuation plan.

7.14.4 Natural Resources Wales note that FCA states that “the development is not adversely affecting the floodplain since it is tidal and not fluvial”. NRW do not accept this statement because the site is adjacent to a tidal river reach as opposed to on the open coast, and therefore loss of flood plain may result in increased flooding elsewhere, as would be the case in a fluvial situation. However, notwithstanding this Natural Resources Wales has no objection to the proposal and it is noted that TAN 15 advises that in Zone B a precautionary approach should be taken to check site levels against the extreme (0.1%) flood level. The TAN states that if site levels are greater than the flood levels used to define the adjacent extreme flood outline then there is no need to consider flood risk further. As set out in paragraph 7.14.2 the finished floor level would be flood free during the 0.1% (plus climate change), as such it is considered that flood risk has been adequately considered and is acceptable.

7.15 **Drainage**

7.15.1 It is proposed to connect foul drainage with the public sewerage network. Welsh Water confirm that there is capacity in the network to receive those foul flows. They also confirm that a water supply can be made available to service the development.

7.15.2 The proposed development would require a separate agreement for sustainable drainage. This is a consenting regime separate to the planning process. No further work is required as part of this application.

7.16 **Other matters**

7.16.1 Some concerns have been raised by Newport residents over the design of the proposed building. The consideration of the buildings design and materials is set out in paragraphs 7.4.1 to 7.4.7.

7.16.2 A further concerns is raised that the proposed development will not provide an facilities for live music, as was once the case in the current Newport leisure centre. The absence of a live music venue is noted however, this 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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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 a positive 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, SP4, SP8, SP9, SP12, SP18, GP1, GP2, GP4, GP5, GP6, GP7, CE1, CE2, CE6, CE7, T4, T5, CF4 and CF8 of the Newport Local Development Plan.

9.2 It is considered that the proposal would have significant regeneration benefits, allowing for diversification and complimentary facilities to the City Centre. Furthermore, new leisure facilities would bring positive impacts to health, wellbeing and access to services

9.3 It is considered that the proposed building would provide a visually striking building, which would respond positively to its urban and river side settings. The proposed materials would be durable, functional and attractive. The building would create a good sense of place, which would provide an open and welcoming environment for all of its users.

- 9.4 It is considered that with the imposition of conditions to protect the integrity of the River Usk SAC, residential amenity, archaeological resources, public health and safety; and to provide sustainable development, ecological mitigation and enhancement and appropriate hard and soft landscaping; the proposed development is acceptable.
- 9.5 It is recommended that planning permission is granted with conditions, subject to no adverse representation from Natural Resources Wales in relation to the Appropriate Assessment.

10. RECOMMENDATION

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

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

| | |
|---|---------------------------------|
| 1909 – LAA – XX – XX – DR – A – 01002 P04 | Proposed Location Plan |
| 1909 – LAA – XX – XX – DR – A – 01022 P08 | Site Plan |
| 1909 – LAA – XX – B1 – DR – A – 01100 P04 | Proposed Basement Plan |
| 1909 – LAA – XX – 00 – DR – A – 01101 P04 | Proposed Ground Floor Plan |
| 1909 – LAA – XX – 01 – DR – A – 01102 P03 | Proposed First Floor |
| 1909 – LAA – XX – 02 – DR – A – 01103 P03 | Proposed Second Floor |
| 1909 – LAA – XX – RF – DR – A – 01104 P04 | Proposed Roof Plan |
| 1909 – LAA – XX – XX – DR – A – 01200 P06 | Proposed Elevations |
| 1909 – LAA – XX – XX – DR – A – 01301 P04 | Proposed Sections |
| 1909 – LAA – XX – XX – DR – A – 01400 P01 | Detailed Section & Elevation 01 |
| 1909 – LAA – XX – XX – DR – A – 01401 P01 | Detailed Section & Elevation 02 |
| 1909 – LAA – XX – XX – DR – A – 01402 P01 | Detailed Section & Elevation 03 |
| 1909 – LAA – XX – XX – DR – A – 01403 P01 | Detailed Section & Elevation 04 |
| 1909 – LAA – XX – XX – DR – A – E0003 P03 | Existing Location Plan |
| 1909 – LAA – XX – XX – DR – A – E0020 P03 | Existing Site Plan |

CC2072 – CAM – ZZ – XX – SK – C – 001 – P01 Vehicle Tracking – Masterplan
 CC2072 – CAM – ZZ – XX – SK – C – 002 – P01 Vehicle Tracking – Refuse Vehicle
 CC2072 – CAM – ZZ – XX – SK – C – 003 – P01 Vehicle Tracking – Rigid Lorry

21-14-PL-205 rev A – Landscaping Strategy

Design and Access Statement (LA Architects, August 2021)
 Flood Consequence Assessment (PHG Consulting Engineers, July 2021)
 Site Investigation Report (Integral Geotechnique, August 2021)
 Transport Statement (Cambria, August 2021)
 Travel Plan (Cambria, August 2021)
 Acoustic Report (Hoare Lea, July 2021)
 Preliminary Ecological Appraisal (The Landmark Practice, October 2021)
 Shadow Habitats Regulations Assessment (The Landmark Practice, October 2021)
 Archaeological Desk Based Assessment (Archaeology Wales, October 2019)
 Archaeological Watching Brief (Archaeology Wales, July 2021)
 Heritage Impact Statement (Kew Planning, July 2021)
 Lighting Strategy (Hoare Lea, July 2021)

Tree Survey and Arboricultural Impact Assessment (Mackley Davies Associates, September 2020)

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

Pre-commencement conditions

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

- a) Construction methods: details of materials, how waste generated will be managed;
- b) 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;
- c) Biodiversity Management: details protection of retained habitats; invasive species management; species protection, avoidance and mitigation measures;
- d) Soil Management: details of topsoil strip, storage and amelioration for re-use;
- e) CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures;
- f) Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures**; measures to control light spill and the conservation of dark skies;
- g) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use;
- h) Traffic Management: details of site deliveries, plant on site, wheel wash facilities and a routing plan for construction vehicles to avoid Air Quality Management Areas and avoid vehicle idling ;
- i) Pollution Prevention Plan: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan;
- j) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- k) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;
- l) Site map detailing all controlled water receptors, all possible pathways to them and suitable mitigation for those pathways;
- m) Silt run off from the site should be prevented by incorporating the following action: Silt traps, or other appropriate method of silt containment, should be used to prevent silt from the construction works entering surface water drainage and the watercourse.

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

** The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: In the interests of residential amenity, human health and air quality. To prevent pollution of the water environment, to protect the ecological interests of the area and in the

interests of safeguarding the features of the River Usk SAC, in accordance with policies SP9, GP2, GP5 and GP7 of the Adopted LDP and the Wales Marine Plan.

03 Prior to the commencement of development a piling method statement shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall detail the type of piling and the timing, duration and frequency of that piling method. The development shall take place in accordance with the approved method statement.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

04 Notwithstanding the approved drawings, prior to the commencement of development a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:

- a) A soft landscape plan to include species, size, layout, topsoil/subsoil, tree pit volumes for the green roof garden, and public realm planting of hedges, trees and planters;
- b) Details of the green living wall;
- c) A hard landscape plan to include street furniture, planter details, surfacing and levels; and
- d) A five year planting maintenance and management plan.

The landscaping scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the associated development. Thereafter, the trees and shrubs shall be adequately maintained in accordance with the approved maintenance and management plan, any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition a full planting season shall mean the period from October to April.

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

05 No development shall commence until:

- a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.
- b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the beneficial use of development:

- 05) Following remediation, 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.

06 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter,

the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource, in accordance with policy CE6.

07 Prior to the commencement of development an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall be based upon the proposed measures in Preliminary Ecological Appraisal (Version 4, The Landmark Practice, October 2021) and drawing 21-14-PL-205 rev A - Landscape Strategy and it shall detail measures to secure ecological enhancement, above and beyond the mitigation/compensation measures referred to in the Preliminary Ecological Appraisal.

The ecological enhancement measures shall be provided in accordance with the approved details prior to the beneficial use of the building and retained thereafter.

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

08 Notwithstanding the approved reports, prior to the commencement of development a detailed acoustic report shall be submitted to and approved in writing by the Local Planning Authority. The acoustic report shall detail the final choice of plant and equipment; and include an assessment of the full range of activities which have potential to have an adverse noise impact on residential receptors. The report shall also include details of any sound attenuation/insulation measures and other controls to be incorporated, to prevent any unacceptable impact upon residential receptors. The development, plant and equipment; and sound attenuation/insulation measures shall be constructed/installed/implemented prior to first beneficial use of the development and retained and maintained thereafter.

Reason: In the interests of residential amenity in accordance with policies GP2 and GP7.

09 Notwithstanding the approved reports, prior to the commencement of development, details of all external plant and equipment shall be submitted to and approved in writing by the Local Planning Authority. The external plant and equipment shall be installed in accordance with the approved details and maintained thereafter.

Reason: In the interests of residential amenity in accordance with policies GP2 and GP7.

Pre – construction conditions

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

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

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

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

Prior to installation conditions

12 Prior to the installation of any external lighting a sensitive lighting strategy shall first be submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall demonstrate, through a lux contour plan, that there will be no light spill from the proposed development onto the adjacent river. The lighting shall be provided in accordance with the approved lighting strategy and maintained as such thereafter.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

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

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

Prior to beneficial use conditions

14 Prior to first beneficial use of the development hereby approved, details of opening hours of the leisure centre and the I shall be submitted to and approved in writing by the Local Planning Authority. The use shall operate in accordance with the approved hours.

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

15 Prior to the first beneficial use of the development hereby approved, cycle parking shall be provided in accordance with the Sustainable Travel Supplementary Planning Guidance (adopted July 2020) and in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be retained thereafter.

Reason: In the interests of sustainable development and travel, in accordance with policies SP1 and GP4.

16 There shall be no beneficial use of the development until electric vehicle charging points have been provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority and they shall be retained and operated in perpetuity.

Reason: In the interests of air quality and sustainability, and to ensure compliance with policies SP1 and GP7.

General conditions

17 The development shall take place in accordance with the mitigation and compensation measures identified in section 5.34 of the Preliminary Ecological Appraisal (Version 4, The Landmark Practice, October 2021).

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

18 Unless otherwise agreed by condition 3, no piling shall be undertaken during the period from 1 March to 30 June inclusive.

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

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

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

20 Prior to import to site, soil material or aggregate used as clean fill or capping material, shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority. No other fill material shall be imported onto the site.

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.

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

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

22 The extraction equipment shall be regularly maintained in order to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning authority.

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

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP4, SP8, SP9, SP12, SP18, GP1, GP2, GP4, GP5, GP6, GP7, CE1, CE2, CE6, CE7, T4, T5, CF4 and CF8 were relevant to the determination of this application.

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

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

LATE REPRESENTATION REPORT

APPLICATION DETAILS

No: 21/0893 Ward: **Stow Hill**

Type: Full (Major)

Expiry Date: 18TH OCTOBER 2021

Applicant: **NEWPORT CITY COUNCIL C/O AGENT**

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

Proposal: **CONSTRUCTION OF A NEW LEISURE CENTRE (D2) AND COMMUNITY HEALTH AND WELLBEING CENTRE (D1), INCLUDING A SWIMMING POOL HALL**

1. LATE REPRESENTATIONS

- 1.1 COUNCILLOR AL NUAIMI: A new Leisure Centre in Newport City centre is very welcome. Many facilities to be provided by the new building are satisfactory and fit for purpose. I'm however very concerned that the swimming pools are more intended as fun pools catering mainly for relatively very young swimmers rather than also for those more experienced swimmers, e.g. swimming clubs and people using swimming as a form of regular exercise and to improve their physical and mental fitness. It has been suggested to me that the reason for the pool design may be dictated by the fact that the footprint of the new Leisure Centre is considerably smaller than the one occupied by the present Newport Leisure Centre.
- 1.1.1 Another important point is that the proposed Leisure Centre does not appear to provide a set down and collection parking point for users arriving in mini-buses or dropped by cars. The current Newport Centre have this facility and it's used extensively by people with physical disabilities, as well as families dropping children. I strongly recommend that such a parking facility is provided in the new Centre.
- 1.2 HEAD OF CITY SERVICES (HIGHWAYS): The applicant has submitted Drawing CC2072 CAM ZZ XX SK C 0002 Vehicle Tracking - Refuse Vehicle which shows the swept path for a 10.2m refuse vehicle and will be acceptable. No objection.
- 1.3 NATURAL RESOURCES WALES: We have reviewed the Appropriate Assessment by Newport Council '*Appropriate Assessment – Application 21/0893, Construction of a New Leisure Centre (D2) and Community Health and Wellbeing Centre (D1), Including a Pool Hall, Land to South East of University of Wales, Newport City Campus, Usk Way, Newport*' dated 12/10/21.
- 1.3.1 We are satisfied you can conclude, subject to the inclusion and full implementation of the identified conditions/measures, there would be no adverse effect on integrity to the River Usk SAC, either alone or in-combination with other relevant projects. The conditions required are those set out within the document *Appropriate Assessment – Application 21/0893, Construction of a New Leisure Centre (D2) and Community Health and Wellbeing Centre (D1), Including a Pool Hall, Land to South East of University of Wales, Newport City Campus, Usk Way, Newport*' by Newport Council dated 12/10/21.
- 1.3.2 These conditions must be secured in the planning consent to be certain that there will be no adverse effects on the site's integrity. We would object to the planning application if these requirements/conditions are not secured.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 The comments of Councillor Al Nuaimi are noted. In terms of the internal design of the swimming pools, this is not a matter which would determine whether the proposals are acceptable or not in planning terms. In terms of the set down and collection parking points

the applicants have indicated that the areas next to the accessible parking bays and near to the café on the river side could be used as set down and collection parking points. They also comment that the design has been developed with engagement from those who represent special needs groups.

2.2 The comments of the Highways Officer are noted.

2.3 The comments of Natural Resources Wales are noted. The conditions referred to in the Appropriate Assessment are listed as conditions 2, 3, 12, 18 and 21 in the Committee Report.

3. OFFICER RECOMMENDATION

3.1 In light of the comments received from Natural Resources WaLes the officer recommendation is changed to: **GRANTED WITH CONDITIONS**

APPENDIX A

Ask for/Gofynnwch Gail Parkhouse
am

Our Ref/Eidd Cyf 21/0893
Your Ref/Eidd Cyf

Tel/Ffôn 01493 656656

Direct Dial/Rhif 01493 210092

DX 9068 Newport (Gwent) 3

E-Mail/E-Bost planning@newport.gov.uk



Regeneration, Investment and Housing Adfywio, Buddsoddi a Thai

Civic Centre/Canolfan Ddinesig
Newport/Casnewydd
South Wales/De Cymru
NP20 4UR

APPROPRIATE ASSESSMENT – APPLICATION 21/0893

CONSTRUCTION OF A NEW LEISURE CENTRE (D2) AND COMMUNITY HEALTH AND WELLBEING CENTRE (D1), INCLUDING A POOL HALL

Land To South East Of University Of Wales Newport City Campus, Usk Way, Newport

Planning history

| | | |
|---------|---|-------------------------|
| 99/0461 | ERECTION OF A LEISURE DEVELOPMENT INCORPORATING IMAX/MULTIPLEX CINEMA CAR PARK RESTAURANTS AND OTHER COMPLIMENTARY LEISURE USES (outline) | Granted with conditions |
| 05/0731 | USE OF LAND FOR PUBLIC CAR PARK AND THE PROVISION OF SECURITY FENCING AND LIGHTING | Granted with conditions |
| 07/1164 | CONSTRUCTION OF UNIVERSITY CAMPUS (PHASES 1, 2 AND 3) (OUTLINE APPLICATION) | Granted with conditions |
| 20/0640 | OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR CIRCA 995 SQM OF FLEXIBLE FLOORSFACE OF EITHER OFFICE (CLASS B1)/ HOTEL (CLASS C1)/ EDUCATION (CLASS D1) OR LEISURE (CLASS D2) | Granted with conditions |

The application site is around 0.6 hectares and is a roughly rectangular plot of land which lies in between an access road serving the University of South Wales and Usk Way. To the north east is the River Usk, Castle Bingo to the south east, Usk Way and Lidl to the south west and the University of South Wales, Newport Campus to the north west.

The River Usk runs parallel to the eastern site boundary, approximately 17 m from the application site. The River Usk is designated as a Special Landscape Area, a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The Severn Estuary SAC, SPA, Ramsar is approximately 3.6 km south of the site.

The application site predominantly comprises extensive areas of hard-standing in the form of tarmac as well as loose asphalt – the latter of which has been colonised to varying degrees by short perennial vegetation and/or grass species. Similarly, the application site contains numerous refuse piles which have also become partially or completely vegetated by short perennial, scrub and/or grass species. Scattered scrub is present, most notably along the northern boundary. This largely consists of Buddleja. The application site also contains several self-seeded goat willows, still of young age.

Historically, between 1883 and 1902 the site was occupied by tramways/railways and some small building associated with Powells Town Wharf. This infrastructure disappeared by the 1950s and the site left vacant. Between 1965 and 2001, the site is annotated to be occupied by a large building in the north, central and east portion, identified as a Motor Repair Works. A scrap metal yard is shown in the south portion. After this time, the site is shown to be partially or fully vacant with the exception of having been used a construction compound for the USW from 2009 to 2013.

Description of development

It is proposed to construct a building which has a floorspace of 6623 sqm over three floors. It would provide a pool hall, changing rooms, sanitary facilities, foyer, café, fitness suites and studios; and active roof and a green roof garden. The building occupies the majority of the site and it would measure roughly 100m long, 41m wide and 27m high.

External components comprise:

- An access road, following the line of the existing access road to the University building;
- Raised café terrace (River Usk facing elevation);
- Benches and cycle stands adjacent to the River Usk;
- Benches, planters and cycle stands (Usk Way side); and
- Substation in between the access roads and the riverside walkway.

Screening

A shadow Habitats Regulations Assessment (sHRA) has been carried out and is attached. The sHRA identifies a zone of influence 20 km for internationally designated sites, which includes the River Usk SAC (immediately adjacent) and Severn Estuary SAC, SPA and Ramsar (3.6 km south).

Severn Estuary

The sHRA concludes that the proposed development is not predicted to result in Likely Significant Effects (LSE) upon the Severn Estuary SAC/SPA/Ramsar due to intervening and characteristics/disturbance of nearby habitat. The Severn Estuary SAC/SPA/Ramsar is therefore Screened out of further assessment.

River Usk

The River Usk is designated as a Special Area of Conservation (SAC). It is designated a SAC as it supports the species of Allis Shad, Twaite Shad, Bullhead, River Lamprey, Brook Lamprey, Sea Lamprey, Atlantic Salmon and Otter.

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

The conservation objectives of the SAC are contained within the attached sHRA.

The sHRA identifies that in the absence of mitigation, the proposed development has the potential to result in Likely Significant Effects (LSE) upon the River Usk SAC as a result of disturbance impacts on aquatic species and otter, potential risk of injury to otter and potential pollution incidents affecting qualifying habitats and the species that depend on them and direct killing/injury of aquatic fauna during construction.

The sHRA identifies the qualifying features of the River Usk SAC which have the potential to be affected and identifies that the impacts from the following factors should be taken forward to Appropriate Assessment:

- Noise and vibration during the construction phase;
- Pollution/surface water run-off during construction and operation; and
- External lighting during the operational phase.

Appropriate Assessment

Noise and vibration during the construction phase

Migratory fish

It is not proposed to undertake any direct construction works within the River Usk and as such no noise would be generated as a result of piling directly within the marine environment. However, piling works for the building foundations would be undertaken within the immediate vicinity of the river and as such there is potential to transmit noise through the ground to the water column of the estuarine environment. This has the potential to affect the migratory fish species listed as features of the River Usk SAC (Twaite and Allis Shad, Atlantic Salmon, Sea and River Lamprey). Construction activities would take place during daylight hours, although some piling activities may occur after dark, subject to time of year (i.e. potential for piling to occur after dusk during winter months).

The impacts of noise on fish can broadly be split into lethal and physical injury, auditory injury and behavioural response. Hearing loss can be permanent or comprise a temporary reduction in hearing sensitivity (i.e., temporary threshold shift (TTS)). Permanent hearing loss may be mitigated by the addition over time of new hair cells and for TTS, normal hearing often returns after cessation of the sound causing the TTS. At sound levels lower than those that may cause physical injury or mortality, noise may cause behavioural effects on a species, for example, avoidance of an area or changes in swimming speed. This may be significant if it causes, for example, a migratory species to be delayed or diverted from their course, although it is noted that

any potential behavioural effects on fish species is likely to depend on a range of factors including the type of fish, its sex, age and condition as well as other stressors which the fish may have been exposed to. The response of the fish will also depend on the reasons or drivers for being in the area, with spawning migration likely to be a strong motivation for the species being considered.

Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.

Piling is the only construction activity considered to have the potential to impact fish in the River Usk by causing high levels of noise or vibration. The exact method of piling has not been specified within the application and it is understood that it is currently undecided.

To avoid any impacts on migratory fish all piling activities would be restricted to avoid the 1st of March to 30th June fish migration period. A condition is recommended to secure this (condition 4).

The sHRA identifies that if piling operations are required during the core adult shad migration period (1st March to 30th June inclusive) then this would be Continuous Flight Auger (CFA) piling, where this approach is technically feasible – as vibration levels generated by auger piling are much lower than that generated by driven/percussive piling and unlikely to disturb migratory fish.

The sHRA also identifies that if driven/percussive piling is required during the core adult shad migration period this will be restricted to limited periods of the tide when the risk of disturbance to migratory fish is minimised (when shad and other migratory fish are unlikely to be migrating). Specifically, driven piling works would only be undertaken during the falling tide of the river (high tide plus one hour and low tide minus one hour), when shad are unlikely to be migrating.

As the method of piling is not yet known a condition is recommended requiring a method statement detailing the type of piling and to secure the timing restrictions set out above. The condition would require discharge before the commencement of development (condition 3).

Otter

The sHRA identifies that no holts of otters are known to be present within close proximity of the application site, however otters will be travelling up and down that section of the River Usk. Field signs of otters have been recorded 150m north-east of the application site (the opposite bank of the River Usk) and comprise field signs (fresh prints) of otter activity recorded as recently as 2018. The remaining record references a possible holt, recorded 750 m north of the application site on the western bank of the River Usk in 2015.

The proposed development is within the centre of Newport and any otters present will already be habituated to certain levels of human disturbance. It is considered that the potential holt is such a distance from the application site that no direct disturbance to otters using this will occur.

Otters are able to tolerate some levels of artificial light, however as nocturnal species, a well-lit environment is not optimal, and there are recorded impacts of light on aquatic prey items.

Potential impacts on Otters could occur from disturbance from noise, lighting and vibration during the construction phase. Noise and vibration can be caused by piling and therefore all piling works must be undertaken during daylight hours to prevent the risk of otters being disturbed whilst foraging and commuting adjacent to the site (at night). Condition 3 is recommended to secure the method and timings of any piling works. **Page 119**

Pollution/surface water run-off during construction and operation

A key conservation objective measure identified for the River Usk is risk from development pressures in Newport leading to increased disturbance and pollution risk during either construction or operation. Habitat connectivity is an important property of river ecosystem structure and function. Many of the fish that spawn in the river are migratory, depending on the maintenance of suitable conditions on their migration routes to allow the adults to reach available spawning habitat and juvenile fish to migrate downstream. For resident species, dispersal to new areas, or the prevention of dispersal causing isolated populations to become genetically distinct, may be important factors. In addition, reaches subject to depleted flow levels, pollution, or disturbance due to noise, vibration or light, can all inhibit the movement of sensitive species.

Potential impacts on qualifying habitats and fish species are pollution incidences causing direct mortality of fish species or degradation in qualifying habitats or isolation of fish movements through the catchment with specific note to the sensitivities of bull head to pollution events and movement.

To avoid pollution to the River Usk during the construction phase a condition is recommended which requires the submission of a Construction Environmental Management Plan (CEMP) and Pollution Prevention Plan (PPP) (condition 1).

The Ground contamination Site Investigation Report prepared (Intégral Géotechnique, August 2021), confirms that groundwater samples have returned results that indicate a low risk to controlled waters. Therefore no impacts are anticipated from ground contamination during construction. If, during development, contamination not previously identified is found to be present at the application site then no further development shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be addressed is agreed with Newport City Council (condition 5).

There is a risk that the proposed development could affect the hydrology of the application site and drainage rates into the nearby River Usk. As most of the site will be covered by the proposed building, most of the site runoff will emerge from the roof. The River Usk is the receiving water body for the surface water runoff from the site. A Drainage Strategy is submitted with the application however, drainage would need to be undertaken in accordance with the SuDS Standards and agreed with the SuDS Approval Body (SAB), which is separate to planning permission. A Pollution Prevention Plan would be secured through condition 1.

In terms of foul water, a private pumping station is proposed that would discharge to the Welsh Water public sewer. Welsh Water has confirmed that the sewer has capacity. Therefore no discharge of foul water into the River Usk would occur.

Lighting and construction – Otters

The sHRA notes that the application site contains highly sub-optimal habitat for otters, but that there is still a low risk that otters could enter the site during the night. The perimeter fence decreases the site's permeability to otters, though limited access points do exist. The predominantly urban landscape surrounding the application site further decreases the likelihood that otters are using the site – but this cannot be ruled out.

To protect otters potentially present during construction activities, it is recommended that any excavations should be backfilled or covered overnight, to prevent otters getting trapped. If

trenches are to be left exposed overnight, inclined ends, or an inclined wooden plank at least 30 cm wide should be put in place to allow otters (and other animals) a means to escape. Timing constraints to working hours would also be required and no-night working (between sunset and sunrise) cannot be undertaken. These measures would be secured through the CEMP and PPP (condition 1).

As the application site is situated within an urban landscape, it is currently subject to a certain level of light pollution including from existing street lighting along Usk Way and the access road for the University car park, which runs parallel to the Riverside Walk, as well as some lighting along the Riverside Walk itself. The sHRA notes that additional lighting anticipated from the building itself is unlikely to increase the levels significantly. However, measures would be required to ensure that the river and vegetated corridor are kept as dark as possible to prevent impacts on light sensitive species.

An external lighting strategy and lighting contour plan has been submitted with the application. However, whilst lighting has been tested through simple modelling it has not been fully tested and cannot be until the detailed design stage (RIBA Stage4). It is recommended that a condition secures a sensitive lighting strategy, which must demonstrate no light spill from the proposed development onto the adjacent river, via provision of a lux contour plan (Condition 2).

In-combination effects

The sHRA identifies two potential projects for in-combination effects:

- Jack's Pill, Newport (planning ref 21/0983) – a planning application for 122 dwellings, two commercial units, and associated works including landscaping, sustainable drainage, car and cycle parking.

A sHRA is submitted with that application. It concludes that subject to the implementation of identified mitigation measures, the proposed development would not result in an Adverse Effect on Integrity of the River Usk SAC either alone or in-combination with other projects. The sHRA concludes that all effects will be *'fully avoided with a high degree of certainty, with the mitigation measures implemented as described'*. As impacts would be avoided altogether therefore no further analysis in combination is needed.

- Land On The South West Side Of East Dock Road, Newport (planning ref 20/1225) – a planning application for residential development for no.149 units, landscaping, car parking, drainage arrangements and associated works.

This proposed development is around 600 m south-east of the proposed development. This planning application did not include a HRA assessment and so is not considered further.

Conclusion

The sHRA produced by The Landmark Practice (October 2021) is adopted by this Authority and it is considered that with the inclusion and full implementation of the identified conditions, there would be no adverse effect on integrity to the River Usk SAC either alone or in-combination with other relevant projects.

Please note: the numbering of the conditions may change when the appropriate assessment is incorporated into the final officers' report which addresses the entire application.

Conditions

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

- a) Construction methods: details of materials, how waste generated will be managed;
- b) 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;
- c) Biodiversity Management: details protection of retained habitats; invasive species management; species protection, avoidance and mitigation measures;
- d) Soil Management: details of topsoil strip, storage and amelioration for re-use;
- e) CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures;
- f) Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies;
- g) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use;
- h) Traffic Management: details of site deliveries, plant on site, wheel wash facilities;
- i) Pollution Prevention Plan: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan;
- j) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- k) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;
- l) Site map detailing all controlled water receptors, all possible pathways to them and suitable mitigation for those pathways;
- m) Silt run off from the site should be prevented by incorporating the following action: Silt traps, or other appropriate method of silt containment, should be used to prevent silt from the construction works entering surface water drainage and the watercourse.

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

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

02 Prior to the installation of any external lighting a sensitive lighting strategy shall first be submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall demonstrate, through a lux contour plan, that there will be no light spill from the proposed development onto the adjacent river. The lighting shall be provided in accordance with the approved lighting strategy and maintained as such thereafter.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

03 Prior to the commencement of development a piling method statement shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall detail the type piling and the timing, duration and frequency of that piling method. The development shall take place in accordance with the approved method statement.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

04 Unless otherwise agreed by condition 4, no piling shall be undertaken during the period from 1 March to 30 June inclusive.

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

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

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

Gail Parkhouse

Senior Planning Officer/*Uwch Swyddog Cynllunio*

Regeneration, Investment and Housing / *Adfywio, Buddsoddi a Thai*

Newport City Council/ *Cyngor Dinas Casnewydd*

12th October 2021

4.

APPLICATION DETAILS

No: 21/0718 **Ward:** Liswerry

Type: Full (Major)

Expiry Date: 2nd September 2021

Applicant: E. Neville

Site: *Land South Of Coronation Park Known As Flood Defence Scheme
Stephenson Street Newport South Wales*

Proposal: **CONSTRUCTION OF THE STEPHENSON FLOOD DEFENCE SCHEME, INCORPORATING THE CONSTRUCTION OF 6NO. FLOOD WALLS (CONCRETE AND SHEET PILE) REFURBISHED EMBANKMENTS AND PATHS INCLUDING THE WALES COASTAL PATH, A HIGHWAY FLOOD GATE, A NEW 0.7KM ROAD, LOCALISED GROUND RAISING AND CULVERT ENHANCEMENTS TO REDUCE THE CHANCE OF TIDAL FLOOD RISK FROM THE RIVER USK AND LANDSCAPING WORKS ALONG THE ROUTE AND AT CORONATION PARK, NEWPORT AFFECTING PUBLIC RIGHTS OF WAY 386/5/1, 401/4/1 AND 386/4/1**

Recommendation: GRANTED WITH CONDITIONS IN RELATION TO THE FLOOD DEFENCE WORKS

REFUSED IN RELATION TO THE ROAD east of 332470E 185648N other than in relation to the East Bank Road turning head.

1. INTRODUCTION

1.1 The applicant describes the development as:

The construction of the Stephenson Street Flood Defence Scheme, incorporating the construction of 6no. flood walls (concrete and sheet pile), refurbished embankments and paths including the Wales Coast Path, a highway flood gate, a new 0.7km road, localised ground raising and culvert enhancements to reduce the chance of tidal flood risk from the River Usk and landscaping works along the route and at Coronation Park, Newport.

The proposal will see the following works undertaken:

- Raising of the existing flood bund at three locations north of the Transporter Bridge adjacent to Kingfisher Walk, the retained Orb Electrical Steel site and immediately north of the Transporter Bridge.
- Minor raising of Stephenson Street adjacent to the Transporter Bridge and minor highway modifications partly to facilitate vehicular access to the foreshore for maintenance purposes.
- Raising and widening of the flood bund south of the Transporter Bridge adjacent to Coronation Park to include the provision of enhancements to the Wales Coastal Path (WCP) and planting and footpath creation within the park to include street furniture and interpretative boards.
- A sheet pile wall south of Coronation Park to the Hanson conveyor along the crest of the existing flood bund.
- A Reinforced Concrete Flood Wall in the Felnex Industrial Estate that will tie into the existing railway embankment and upgrades to the surfacing of the Wales Coastal Path and new steps over the Hanson Conveyor.

- Installation of a flood gate immediately south west of the Corporation Road railway overbridge which will tie into the railway embankment and prevent floodwaters from the river moving east of the railway embankment. Steps around the gate will be provided.
- Widening of the existing Wales Coastal Path south east of Bird Port and provision of a short stretch of new track and construction of a concrete floodwall (including culvert with a non-return valve) between the railway embankment and the raised sludge beds.
- New access track and flood wall north west of the Nash Waste Water Treatment Works to provide a second flood wall between the railway embankment and the raised sludge beds.
- Works to two existing culverts under the railway embankment to provide none return valves.
- Works to provide a culvert through the new flood defence and culvert Headwalls on the river bank in order to drain the new road.
- 0.7Km of new road between the Marshall's Site Entrance and East Bank Road including new surface water drainage features to provide alternative access when the flood gate is closed and there is a low risk of tidal inundation.

The plan extract below summarises the proposals and shows the location of the various works.

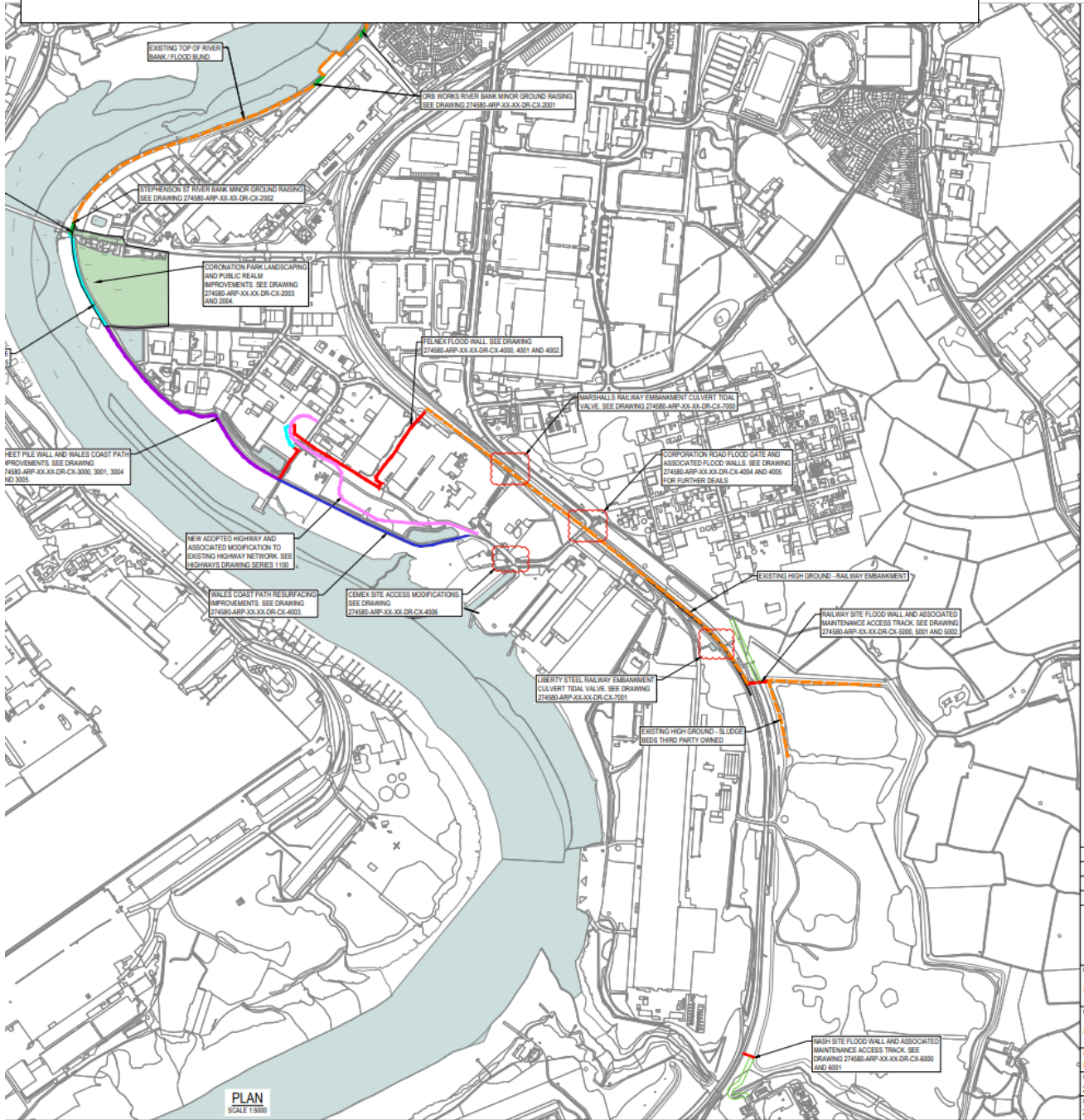
1.2 The applicant advises that:

Assuming a breach were to occur today some 192 residential and 620 non-residential properties in Spytty have greater than a 1 in 200 chance of tidal flooding in any given year. The predicted speed and depth of inundation is hazardous, extending some 2.5km from the embankment. Some 209 properties (including 1 residential) are predicted to flood during an event with a 1 in 10 chance in any year. Sea level rise due to climate change increases the predicted risk in 50 years significantly to 1,117 residential and 1,016 non-residential properties.

The proposals are estimated to reduce flood risk to people and property equating to present value benefits (flood damages avoided) of £178 million over the 100- year appraisal period. The proposals support the Severn Estuary Shoreline Management Plan (SMP2) and the Severn Estuary Flood Risk Management Strategy (SEFRMS) policy to "hold the line" by delivering a tidal defence Standard of Protection of 1 in 200 chance in any year (0.5% AEP) with allowance for 50 years of sea level rise.

1.3 In effect the proposal will protect properties behind the proposed defence from a 1 in 200 year tidal flood over the lifetime of the development (50 years). The current level of protection is significantly below this threshold with a one in thirty-year event capable of overtopping the existing defence. Near miss events are reported for January 2014 (flooding on the Somerset Levels) and March 2020.

Extract from Drawing 274580 ARP XX XX DR CX 2000 P03 – Scheme Key Plan



DOCUMENTS NOTIFY THE PROJECT DISCREPANCIES.

- ALL DIMENSIONS IN MILLIMETERS ABOVE ORDNANCE DATUM UNLESS STATED OTHERWISE.
- DO NOT SCALE FROM DRAWING.

LEGEND:

- EXISTING HIGH GROUND
- GROUND RAISING
- BUND
- SHEET PILE WALL
- REINFORCED WALL
- WALES COAST PATH
- MAINTENANCE
- ADOPTED HIGH GROUND
- LANDSCAPING ENHANCEMENT

Scale 1:5000

| | |
|------------------------|-------------|
| PROJ FOR PLANNING | |
| PROJ FOR PLANNING | |
| PROJ DRAFT FOR COMMENT | |
| Rev | Description |

Cyfoeth Naturiol Cymru Natural Resources Wales

Project Name: STEPHENSON ST FLOOD DEFENCE

Drawing Title: SCHEME KEY PLAN

Category: FOR PLANNING

Internal Project Number: 274580

Drawing Number: 274580-ARP-XX-XX-DR-CX-2000

2. RELEVANT SITE HISTORY

| Ref. No. | Description | Decision & Date |
|----------|---|--|
| 20/0305 | EIA SCREENING FOR IMPROVMENT WORKS TO FLOOD DEFENCE EMBANKMENT | ES not required May 2020 (This application) |
| 18/0532 | SCREENING OPINION FOR FLOOD WORKS CONSISTING OF BUND RAISING AND SHEET PILING | ES not required 25.07.20218 |
| 16/0171 | SCREENING OPINION FOR FLOOD DEFENCE WORKS CONSISTING OF BUND RAISING AND SHEET PILING BETWEEN THE TRANSPORTER BRIDGE AND BIRD PORT (EAST BANK OF THE USK) | ES not required March 2016 |

3. POLICY CONTEXT

3.1 Future Wales (FW)

Future Wales is the highest tier of development plan, focussing on issues and challenges at a national scale leaving the Local Development Plan (LDP) to identify local constraints and proposals. The policy objectives of FW are reflected in Planning Policy Wales (PPW) and the Newport LDP including the need for sound place making, ecological enhancement, positive connectivity for active travel and green infrastructure all being essential and integral component of all new developments at all scales. This proposal is not considered to have a larger than local impact and that the application can be considered by the policy framework set out in Planning Policy Wales and the Local Development Plan.

3.2 National Planning Policy

National Planning Policy recognises that managing flooding is an important part of contributing towards achieving sustainable development. Relevant sustainable development considerations from the flooding perspective include:

- Making provision for future changes in flood risk, for example taking account of climate change, where they can be anticipated; and
- Bearing in mind measures within Catchment Flood Management Plans or Shoreline Management Plans.

The proposal is doing just that, taking into account the SMP policy objective for this area: 'hold the line', as well as taking the climate change information into account where modelling has shown the current situation to be below standard. The proposed scheme would contribute towards sustainable development by providing flood management benefits to the existing communities within that area.

3.3 Marine Plan

The location adjacent to the River Usk means that Marine Plan for Wales should be screened to ensure that the proposal does not impact on the marine environment.

3.4 Local Planning Policy

Newport Local Development Plan 2011 – 2026 (Adopted January 2015). There are a number of relevant policies to this proposal, including:

- SP1 – Sustainability
- SP3 – Flood Risk
- SP4 – Water Resources
- SP8 – Special Landscape Areas (Note: the proposed site is adjacent to a SLA)
- SP9 – Conservation of the Natural, Historic and Built Environment
- GP1 – Climate Change
- GP2 – General Amenity
- GP3 – Service Infrastructure
- GP4 – Highways and Accessibility
- GP5 – Natural Environment (potential impact on agricultural land)
- GP6 – Quality of Design

- GP7- Environmental Protection and Public Health
- CE2 – Waterfront Developments
- CE3 – Environmental Space
- CE6 – Archaeology
- CE8 – Locally Designated Nature Conservation and Geological Sites
- CE9 – Coastal Zone
- T2 – Heavy Commercial Vehicle Movements
- T3 – Road Hierarchy
- T7 – Public Right of Way and new Development
- T8 – All Wales Coastal Path
- CF1 – Protection of playing fields, land and buildings used for leisure, sport, recreation and play.
- CF4 – Riverfront Access
- M4 – Wharves and Rail

3.5 Relevant Adopted SPGs

- Archaeology and Archaeologically Sensitive Areas
- Wildlife and Development
- Sustainable Travel
- Air Quality

4. **CONSULTATIONS**

- 4.1 HEALTH & SAFETY EXECUTIVE (EXPLOSIVES): No comment.
- 4.2 HEALTH & SAFETY EXECUTIVE (PIPELINES / MAJOR HAZARDS): Do not advise against.
- 4.3 NATIONAL GRID: No objection.
- 4.4 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.
- 4.5 WALES & WEST UTILITIES: Confirm presence of equipment and advise of safe working practices in the proximity of their infrastructure.
- 4.6 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW):

We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:

- Unsuspected land contamination
- No infiltration of Surface Water
- Piling Methodology
- Construction and Environmental Management Plan

CNC/NRW also advise that works are carried out as specified in submitted documents in order to protect the interests of European Protected Species, namely Water Vole, Great Crested Newt, Otter and Bats.

CNC/NRW also confirms that it is in agreement with the conclusion of the submitted Habitat Regulations Assessment and that the proposal is unlikely to have a significant effect on the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and RAMSAR sites.

- 4.7 DWR CYMRU / WELSH WATER (DCWW):

ASSET PROTECTION

Firstly, we would advise that the proposed development site is crossed by a 675mm surface water sewer, a 230mm foul only sewer, a 230mm combined sewer, a 400mm combined

sewer, a 180mm and a 150mm watermain with the approximate positions being marked on the attached Statutory Public Sewer Record and Statutory Public Watermain Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No operational development including the raising or lowering of ground levels will be permitted within 3 meters either side of the centreline of the 230mm foul sewer, 300mm combined sewer, and the 180/150mm watermain; 4 metres either side of the centreline of the 400mm combined sewer; and 7 metres either side of the centreline of the 675mm surface water sewer.

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as a Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). 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.

Please ensure easement of 7.7m, 3.85m either side of the centre line of the main to all watermains crossed by, or at the boundary of, this proposed development.

DCWW note the potential requirement for SAB approval and that there would be no connection to the foul drainage system.

4.8 NETWORK RAIL

In addition to comments made on 20/04/2021, Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

The applicant should continue to engage with Asset Protection on this proposal (assetprotectionwales@networkrail.co.uk).

In regards to Marshall's culvert (our ref: EUB 1 78.75) and Liberty Steel culvert (our ref: EUB 2 32) - these are being discussed with Network Rail through Asset Protection in regards to the works to be undertaken.

LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

Permitted:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebrina"

Not Permitted:

Alder (Alnus Glutinosa), Aspen – Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

DRAINAGE

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near to or within 5 metres of Network Rail's boundary or at any

point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway. Drainage is not to show up on Buried service checks.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY):

I have reviewed the documents outlining the substantial amount of ecology surveys undertaken over the years since 2015, and reviewed the Habitat Regulations Assessment and Environmental Action Plan documents also. I am happy that the surveys have been undertaken following the appropriate guidelines, by experienced ecologists. The recommendations outlined in all of the Preliminary Ecological Appraisals and Ecological Assessment reports are considered acceptable. I have no objections to the application but would request that the following conditions are added:

- Pre-Commencement Site Meeting and new Ecology Survey
- Construction & Environmental Management Plan
- Invasive Species Management Plan
- 5 Year Habitat Management Plan
- Vegetation Clearance Management Plan
- Ecological Enhancement Plan

5.2 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS):

In regard to the submitted information I would comment as follows:

A condition is required stating that no structures or planting, above a height of 600mm above carriageway level, will be permitted within any visibility splays.

Stephenson Street

- The applicant has confirmed that the vehicular gate off Stephenson Street to the Riverside is existing and would be retained in its current form. They have also confirmed that the gate will not open over the highway.
- I would offer no objection to the principal of the works on Stephenson Street. The applicant is however aware that any works will require a S.111 agreement and that no works can be undertaken until the agreement is in place and final approval has been granted by the highways authority.

New Access Road

- It is noted that there will be encroachment into the adopted highway (drawing 274580-ARP-XX-XX-DR-CX-4000). The applicant has however confirmed that there will be no above ground encroachment as it will only involve the foundations of the flood defence. The full design details, include AIP's should be conditioned. Should the application be approved the applicant must contact City Services as any works affecting the adopted highway will require approval and the formation of the necessary legal agreement.

Safety Audit – outstanding matters

2.3 - Obscured forward visibility on downhill bend.

The applicant has undertaken further discussion with the Road Safety auditor however the auditor has determined that in the direction of travel away from the junction on the carousel, the proposed 30m stopping sight distance is not acceptable. I would agree with the auditor

in this regard. The applicant has stated that a change will be undertaken as part of the detailed design and agreed with NCC as part of a S.38 process. The adoption of the proposed access road is yet to be agreed and should not be relied upon as it falls outside the control of the planning process. Safety matters such as this must therefore be resolved at planning stage.

2.4 Lack of transition curves for super elevation.
Accepted

2.6 Poor forward visibility on crest curve.
See comments in relation to 2.3.

2.7 Lighting column in front of vehicle restraint barrier.
In the event that the road is not adopted, this should be conditioned.

2.8 Flat spot at access.
Agreed – the applicant must however note that full consideration towards materials proposed for adoption will only be considered as part of any S.38 process.

2.9 Insufficient turning space, pond access.
The applicant has confirmed that the vehicle used in the swept path analysis is the maximum size vehicle which will require access.

2.10 Lack of Crossing facilities
Accepted

2.11 Poor visibility at lay by
Widening of the layby is accepted.

2.13 Long pedestrian crossing at bell mouth
The applicant has proposed a change in surfacing material (drawing 274580-ARP-XX-XX-DR-CX-1120) to highlight the crossing point. It's not considered that this is sufficient to overcome the issue raised and therefore this matter remains unresolved.

2.15 Insufficient access width, Hanson access to Marshalls.
It's not considered that the installation of a "Give way to oncoming vehicles" sign (drawing 274580-ARP-XX-XX-DR-CX-1110) is sufficient to overcome this concern. This matter therefore remains unresolved.

2.17 Swale and basin unprotected
Accepted - The safety auditor has accepted the designers justification in regard to why a road restraint system (RRS) is not required due to vehicle speeds.

2.18 Lack of culvert protection
It's unclear whether the auditor considered the lack of culvert protection when considering whether a RRS was required in this location. This should be clarified.

2.19 Inadequate queuing length
The gates are outside the control of the applicant and therefore this therefore remains unresolved.

2.20 Insufficient turning space, accesses to Marshalls site and aggregate store
The suitability of the junction design cannot be reliant on future potential changes to the Marshalls compound which are outside the control of the applicant. This matter remains unresolved.

A number of the points raised in the safety have not been addressed and I would suggest in some circumstances can't be due to the required alterations having to take place on land outside of their control. In summary the outstanding unresolved matters identified as part of the stage 1 safety audit are as follows:

- 2.3 Obscured forward visibility on downhill bend.

- 2.6 Poor forward visibility on crest curve.
- 2.13 Long pedestrian crossing at bell mouth
- 2.15 Insufficient access width, Hanson access to Marshalls
- 2.18 Lack of culvert protection
- 2.19 Inadequate queuing length
- 2.20 Insufficient turning space, accesses to Marshals site and aggregate store

I would offer no objection to the proposed flood defence scheme however I must object to the proposed alternative access road due to the above issues which are considered detrimental to the highway safety and the free flow of traffic.

5.3 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING):

There are some inconsistencies and omissions which should be concluded for the public record as follows:

Landscape and Visual Assessment

- The photos remain in draft format with no title, location etc.
- The proposed Transporter Bridge Visitor Centre is not mentioned and should be identified in the section on landscape receptors; this will be a fixed viewpoint for thousands of visitors looking towards the flood defences on the opposite bank

Tree size

The size proposed in the planting schedule (Planting Schedule 274580-ARP-XX-XX-DR-CX-8000) is 10- 12cmg with 35-45L for the pines, this will be too small to cope with the public realm. The Park Plan (Coronation Park Plan 274580-ARP-XX-XX-DR-CX-2003) shows 18-20cmg with 25-30cmg for the pines. Can the proposed tree size be confirmed and relevant document amended.

Plant details

The Planting Schedule shows species and size, but not density, the Park Plan does not show the species location, this is relevant to:

- S3 reedbed planting mix
- O1 ornamental shrubs and grasses
- P1 perennials, wildflowers

The planting detail could be conditioned.

Landscape maintenance and management plan

No written maintenance/management plan for the landscape proposals has been submitted. The proposed landscape has a number of landscape types each of which will require a specific Management & Maintenance (M&M) regime. This could be conditioned and should cover the initial 5 year establishment period along with clarity on who is responsible for delivery as success of the landscape for public use will depend on M&M.

5.4 HEAD OF STREETSCENE & CITY SERVICES (TREES): No objection subject to the application of conditions relating to:

- Pre-commencement Site meeting
- Tree Protection Plan
- Protection of Root Protection Areas
- Provision of Arboricultural method Statement
- Appointment of Arboriculturist
- Hand planting within root protection areas

5.5 PUBLIC PROTECTION MANAGER (NOISE):

The works cover a considerable area and has the potential for adverse impacts from noise, vibration and dust. In order to control such environmental impacts a very detailed CEMP will

be required. I do not have any objections to the application and suggest the following conditions:

- Construction & Environmental Management Plan

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

Site context

Located in the Lliswerry ward, the proposal lies on the east bank of the River Usk directly south of the Transporter Bridge.

Site constraints

- The proposed site is within the settlement boundary;
- The site is within an Archaeologically Sensitive Area and has Historic Environment Records within or near the red line;
- The site is within the Developed Coastal Zone;
- The northern part of the site is within Environmental Space (Coronation Park);
- Part of the site is designated as a SINC – Court Wood (Ancient semi-natural woodland);
- The site is directly adjacent to and impacts on the Special Landscape Area – River Usk.
- There are mineral wharves within the site area which are safeguarded by policy;
- The site is immediately adjacent to and has the potential to impact on the setting of the Transporter Bridge a Grade I Listed Building.
- The site is within Zones C1 and C2 of the Development Advice Map produced by Welsh Government;
- The site is immediately adjacent and has the potential to impact on the Special Area of Conservation and Site of Special Scientific Interest which is the River Usk.

It is understood that the current embankment is not fit for current standards and works are required to improve the flood management of the area. The principle of the scheme, providing flood protection to a large area of existing commercial and industrial investment is considered acceptable.

The key concerns with the scheme relate directly with the known constraints of the site, i.e. Ecology, Heritage, Public Right of Way, landscape impacts, potential for contaminated land and continuation of the mineral wharves. Each of these will be considered separately in the following section.

Ecology

The site is within a highly sensitive area of ecological value. The international and national level of protection afforded to the River Usk will result in the need for a Habitat Regulations Assessment to be undertaken. In addition there is a local designated Site of Interest Nature Conservation (SINC) LLS6 – Mosaic neutral grassland and post-industrial wetland. Detailed comments will be provided by the Council's ecologist.

Heritage

The site is located adjacent to the Transporter Bridge a Grade I listed building, including its eastern anchor house. The site is also recognised as having potential for archaeological interest with its designation as an Archaeologically Sensitive Area and identification of a few Historic Environment Records. Comments regarding the impact to the Listed Building will be provided by the Council's conservation officer. Comments regarding the impact on archaeology will be provided by the Council's specialists in the field of archaeology – The Glamorgan Gwent Archaeological Trust.

Access

The current embankment has a public right of way which has clearly been taken into account when designing the scheme. The continuation of the route is welcomed and comments concerning the impact on PROWs will be provided by the Council's Right of Way Officer.

Safeguarding Wharves

As part of the South Wales Regional Technical Statement Newport is required to safeguard those existing wharves and rail that can transport mineral resources in a sustainable manner. One such wharf is located within the red line area but the plans indicate that discussions are

being held with the owners to ensure the scheme does not have an impact. If the proposed scheme was to have a negative impact e.g. a solution could not be reached, then an objection would be raised against the scheme.

Special Landscape Area

Although not directly located within the River Usk Special Landscape Area the scheme has the potential to impact on the setting of this unique landscape. This designation does not halt development but requires schemes to reflect and protect the special nature of that landscape. In this case the proposed scheme will result in a very natural finish which is considered appropriate. Detailed comments will be provided by the Council's Landscape Officer.

Potential for Contaminated Land

The historic nature of this land for industrial use raises its potential for land contamination. Detailed comments concerning the need for investigations etc. will be provided by the Environmental Health section of the Council.

As a major application the proposal should also meet the requirements of the Air Quality SPG to ensure that the scheme doesn't have any detrimental impact on Air Quality.

CONCLUSION

The proposal is considered acceptable in principle due to the flood management benefit to the existing industrial and commercial uses. There are many environmental constraints on the space which will need to be dealt with through the design. There are no direct objections (subject to the continued use of the wharf) to the proposal subject to satisfactory comments from the relevant consultees.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 100m of the application site were consulted (143 properties), 04 no. site notices were displayed, and a press notice published in the South Wales Argus.

3 Representations were received:

Air Products, Object:

We write to lodge our objection to the subject planning application. In summary, it has the potential to severely impact upon pipeline infrastructure owned by Air Products.

By way of background information, Air Products is a New York Stock Exchange listed specialist gases company with over 20,000 employees in approximately 50 countries.

The Air Products Llanwern facility, which is located on Queensway (A4810) approximately 4 kilometres east of the application site, has been in operation for over 30 years. It is a significant employer and important contributor to the local economy. The plant supplies gases, notably oxygen, hydrogen and nitrogen to various business/ industries in the Newport/ Llanwern area. These gases are delivered via an extensive pipeline network, part of which interfaces with the proposed development.

We have been actively engaged with the applicant's advisers since May 2019 when Arup initially made contact to glean information on Air Products' infrastructure in areas where it was anticipated there might be a conflict with the proposed flood defence scheme. Information and drawings were duly provided and it therefore comes as a surprise to learn that some 2 years later an application has been submitted without due regard or mitigation to Air Products' pipeline infrastructure.

The proposed development has the potential to render 3 separate pipelines - hydrogen, oxygen and nitrogen – redundant, which in turn has the potential to severely affect both Air Products' business and those of its customers in the Newport area. We therefore object in the strongest terms.

Marshalls, Object;

It is understood that the need for this scheme has arisen from the existing flood bund along the River Usk between Stephenson Street and Corporation Road no longer being fit for purpose. Without intervention, it is estimated that a flood could overtop the existing bund and cause significant damage to homes and businesses in the future.

In relation to Marshalls' Newport site, several elements are proposed which have a direct impact on existing and proposed operations. These can be summarised as:

A new flood wall along East Bank Road, which will sever existing and proposed accesses into the site; The installation of a new flood gate for Corporation Road; and A new flood relief road connecting Corporation Road to East Bank Road, which runs through land within Marshalls' ownership.

The proposed flood defence scheme increases the flood risk on Marshalls' site and provides no flood protection for the site in the future, despite the objective of the scheme seeking to ensure protection for existing communities and businesses. The proposed new flood wall along East Bank Road significantly impacts operations by severing existing and proposed accesses.

The nature of Marshalls' operations means that HGV stacking currently takes place along the section of Corporation Road falling within the ownership of Marshalls. However, the design of the proposed flood relief road connecting Corporation Road to East Bank Road makes no provision for such stacking. Without design amendments the vehicles associated with Marshalls' operations could block the new relief road which would not be acceptable.

To address such issues, Marshalls have suggested alternative design solutions that could be made. However, as noted within the supporting Pre-Application Consultation Report, dated 5 July 2021, NRW have dismissed such alternatives based on a) the increase in cost and b) the delay to programme arising from further assessments, consultation and a comprehensive design amendment.

Further discussion is ongoing with NRW and there is recognition that additional design amendments to the scheme are likely. However, due to project timescales such amendments are likely to be after planning permission has been granted (if approved). This therefore leaves Marshalls in a difficult position, as clearly there is no guarantee that such amendments to the permission would come forward or indeed that the Council would approve them at a later date.

Operational Impacts

As noted, the Newport site is a longstanding, strategic site within Marshalls' portfolio, employing approximately 70 staff. It is also the subject to ongoing redevelopment plans to increase production at the site, with the potential to deliver further inward investment and job creation.

The proposed new flood wall along East Bank Road significantly impacts operations by severing existing and proposed accesses into the site. This has the potential to prejudice planned investment for the site, thereby adversely impacting investment and jobs. Alternative amendments have been suggested to NRW to reduce this impact.

Alongside the above, the design of the proposed flood relief road makes no provision for HGV stacking. As previously noted, this currently takes place along the section of Corporation Road falling within the ownership of Marshalls. Without design amendments, there is a risk that HGV stacking could restrict access to the new relief road (although Marshalls would seek to minimise such risk), thereby negating a safe and alternative means of access and escape in the eventuality of highway flood gate closures. This would not accord with local or national planning policy in relation to managing the risks of flooding.

It should be noted that the above risk could be effectively mitigated by amending the design of the relief road and ensuring that the adoptable area extends along Corporation Road to include Marshalls' land. This suggestion has been put forward to NRW previously.

Flood Risk Impacts

Part of NRW's strategic aim for the project is to protect businesses within the surrounding industrial estate. However, as designed the flood defence scheme provides no protection for the site, despite Marshalls being a key contributor to both employment and the economy in the local area.

In addition, the enclosed letter from NRW, dated 29 March 2021, confirms that the proposed flood defence scheme increases the risk of flooding at the site. This not only adversely impacts the existing and planned operations, but it is also contrary local and national planning policy which seeks to ensure development does not increase the risk of flooding. For example, Planning Policy Wales states at paragraph 6.6.25 that: *“Development should reduce, and must not increase, flood risk arising from river and/or coastal flooding on and off the development site itself.”*

As noted previously, Marshalls have suggested alternative designs to NRW that could address this flood risk issue by bringing Marshalls' site within the flood risk protection area. The response to date from NRW that such proposals would increase cost and programme time are not considered to be material factors outweighing the conflict with planning policy.

I must stress that this is a holding objection only at the point in time. Marshalls supports NRW's wider objective of reducing flood risk within the area for communities and businesses but feel that design amendments are required in order to make this a suitable proposal. Should the scheme be appropriately amended following further discussion with NRW and the Council, Marshalls would look to remove this objection.

Other Representations:

One other representation regarding maintenance of existing drainage easements was received.

6.2 COUNCILLORS: No comments received.

6.3 NASH COMMUNITY COUNCIL: No comment received.

7. ASSESSMENT

7.1 The key issues relevant to the determination of this application are:

- Flooding - benefits & detriment
- Surface water drainage
- Tree Loss & Tree Planting
- Highways issues
- All Wales Coastal Path
- Loss of public open space
- Appropriate Assessment (HRA)

Minor issues are:

- Marine Plan compliance
- Path diversion
- Listed Building – Transporter Bridge
- Impact on SSSI – culvert opening
- Ecological Net benefit
- Easements and Infrastructure
- Protected Species
- Impact on SSSI – culvert outlets
- Explosives Interest (HSE)

7.1 Flooding - benefits & detriment

7.1.1 In broad terms the proposed scheme is highly beneficial to Newport in terms of upgrading the levels of protection provided by the defences on the east bank of the Usk south of the SDR Bridge. The submitted Flood consequences Assessment (FCA) is clear that the current

defences are sub-standard and would currently be overwhelmed by a 1 in 30 year flood event which would cause localised flooding around East Bank Road and up to Stephenson's Street.

7.1.2 Floods of greater magnitude would be worse in their impact. A 1 in 200 year tidal flood would currently flood large areas of urban Lliswerry and the associated parts of the Gwent Levels. The current 1 in 1000 year flood (extreme event) would flood 1856 properties but that would reduce to 102 properties if the scheme were to proceed. In terms of the 1 in 30 year flood, 56 properties would flood falling to 29 if the defence is completed. In terms of highly vulnerable (residential properties) the submitted documents (Environmental Constraints and Opportunities Record – Executive Summary) conclude the following:

Assuming a breach was to occur today, some 192 residential and 620 non-residential properties in Spytty have greater than a 1 in 200 risk of tidal flooding in any given year. Sea level rise due to climate change increases the predicted risk significantly to 1,117 residential and 1,016 non-residential properties. The predicted speed and depth of inundation is hazardous, extending some 2.5km from the embankment.

7.1.3 As such the scheme confers clear benefits in terms of flood protection. However the new defence will not enclose all properties within it. Some commercial (less vulnerable) properties will be left beyond the new defence and will not benefit from its protection. Primarily these businesses are:

- Cemex Readymix
- SIMEC Birdport
- Liberty Steel (Alpha Steel)
- Marshalls, Newport
- Hanson (Newport Wharf)

7.1.4 In effect these businesses will suffer flood detriment since the containing of the flood waters by the new defence will worsen the flooding on their site. Other properties elsewhere in Newport would be subject to the same effect. Significant flood detriment is where:

- *the property is predicted to move into a higher flood risk band based on the low, medium and high risk categories; or (low risk = a risk of being flooded between 1 in 100 and 1 in 1000 in any given year; medium risk = a risk between 1 in 100 and 1 in 30 in any given year and high risk = a chance of greater than 1 in 30 of being flooded in any given year).*
- *the predicted detriment causes the property to flood when it was not flooded before; or*
- *the predicted detriment causes the flood depth to exceed 0.60m when this value was not exceeded before, this value being representative of the threshold at which typical property risks experiencing structural issues retaining water.*

Any detriment which isn't the above is not considered significant i.e. the flood may be worse but not very much worse.

7.1.5 The Flood Consequences Assessment identifies 27 properties at risk of detriment under the above criteria. The FCA notes that 10 of these are industrial buildings in the area left unprotected by the defence (but excluding Liberty Steel because this was already at risk of very significant flooding and the worsening was consequently relatively minor).

7.1.6 The remaining 17 addresses experiencing detriment were comprised in 12 buildings. Further examination of these addresses led to the conclusion that only 5 of these addresses were genuinely at risk of detriment. These being:

- 1 residential property would experience material detriment in the 1 in 30 annual chance flood in 2069 – 19 Church Street – flood depth increases by 4mm.
- 4 non-residential properties (also in Pillgwenlly) would experience material detriment through increased flood depth in the 1 in 30 annual chance flood in 2069.

7.1.7 Overall it was concluded the worsening for these 5 addresses was outweighed by the clear overall benefits to eastern Newport that the defence would bring. CNC/NRW has contacted the affected addresses which are now aware of the implications of this proposed scheme.

- 7.1.8 In terms of National Flood Policy TAN 15 (Flooding) of July 2004 remains relevant to this decision notwithstanding the publication of the new TAN in September 2021 becoming effective in December 2021.
- 7.1.9 Associated Ministerial Guidance made it clear that new development should not worsen flood events offsite, by for example reducing flood storage capacity that other communities relied upon to absorb floodwaters. In this case the development will effectively do that. However it should be acknowledged that the area of 'flood storage' in this case is in effect inadequately defended and developed floodplain deemed worthy of enhanced protection by CNC/NRW. As such the detriment which is slight must be balanced out against the very significant benefits of the proposal which will give enhanced protection to 1754 properties currently at risk in the event of 1 in 1000 year extreme event flood. When the identified flood detriment is balanced against the overall benefits of the scheme Officers conclude that the scheme's advantages heavily outweigh its detriments. Therefore the harm to national flood policy is seen as slight in terms of the defence per se.
- 7.1.10 The proposed flood defence works are justified by the enhanced protection they will provide to south east Newport and the failure to fully comply with Policy SP3 (flood risk) which requires that flood risk is not increased elsewhere is seen as a minor harm overall and very much outweighed by the enhanced protection the proposal is offering. By extension harm to Policies GP1 (Amenity) and GP7 (Environmental protection & Public Health) are equally slight and outweighed by the overall benefit of the scheme.
- 7.1.11 In terms the proposed 0.7Km road, that will link the lower part of Corporation Road (west of the railway over-bridge) to East Bank Road. It will provide an alternative route when the flood gate at the overbridge is shut.
- 7.1.12 However the new road will have a variable deck height but will generally be below 8m AOD and it will be located in part immediately adjacent to the existing and inadequate flood defence. This is to say it will flood more frequently than the 1 in 200 year tidal flood specified in national policy (TAN 15). Additionally the applicant has not specified what the flood criteria for the road would be in the extreme 1 in 1000 year event. National policy accepts that in such an event development may flood but only within certain criteria in terms of speed of inundation, depth of water and speed of flood water. This is to say that a flood event is inevitable and must be manageable. The applicant has provided no information within the FCA to address these points. However it is known that the road will not be dry in the 1 in 200 year flood as it should be and given its location next to the existing flood defence it would flood quickly and in all probability to depths and speeds that would constitute 'danger for all'. It is quite clear that the road will not be operable in all conditions. It is not a flood relief road as the applicant initially described it since it will not be operable in a flood event. It is clear the intention was for the new road to allow business continuity when the Corporation Road floodgate was shut.
- 7.1.13 The applicant has subsequently clarified that the road will not operate as a flood relief road but is to operate as an alternative access when the flood gate is closed and there is no risk of a flood event. Such instances will be rare but the gate will need to be tested, maintained or repaired from time to time. The applicant explains that in such times the new road will allow the businesses beyond the gate to continue normal operations by using the new road. The applicant further explains that the periods of low risk will also occur either side of the high tide when operational concerns mean that the gate may be closed early or opened late due to the requirement of CNC/NRW staff to deploy various flood defence measures across the Gwent area. This means that the gate may still be closed before the final flood warning has been issued or after it has been rescinded and so the road will be capable of safe use during these periods minimising the impact of the closure of Corporation road on these businesses.
- 7.1.14 It is the intention of CNC/NRW that the road will be adopted. They explain that they can build the road on third party land under their powers but that the land in question will continue to be owned by Marshalls (concrete products). The Planning Section is advised that for the road to be adopted that the landowner would have to agree to that process. Currently Marshalls have objected to this application and so may not be co-operative in that process. This means the land may never be dedicated as highway and the consequent rights to pass and repass

may not accrue. However since the road is not a flood relief road and is not an essential part of the flood defence which will function perfectly well whether the road is built or not (other than the raised section that ties into East Bank Road which is essential to the flood defence) then this is not a particular concern. It is clear that the proposal will block the non-adopted sections of Corporation road south west of the railway overbridge when the proposed flood gate is closed. This means that limited number of businesses that operate beyond the gate could potentially be cut off from the road network for 5 times per year (rising over the years with sea level changes) when the flood risk is high and the gate is shut without recourse to the alternative road which would also need to be shut to mitigate flood risk at times when flood warnings are in place.

- 7.1.15 The applicant explains that since tidal flooding is predictable the limited number of businesses beyond the gate can be informed of the closure well in advance and take appropriate precautions to move staff and moveable assets off-site before the closures take effect. The applicant notes that the closures will in effect fall to the Council's Highways Section to control in terms of advanced signage and traffic management. CNC/NRW note that there is a precedent for this with the process of closing Caerleon Road with a similar flood gate at times of high risk. In short it will fall to the Council to close the new road in the event it is adopted and to manage traffic in Corporation Road when the flood gate is shut. This can be achieved under a suitable planning condition.
- 7.1.16 If the new road is not adopted and without the co-operation of Marshalls it will not be, then the increased 'harm' to the businesses seaward of the gate is that they would lose road access not only at times of high flood risk but also at times when the gate was closed for other reasons (testing, maintenance, training or repair) but these will be limited.
- 7.1.17 As such in terms of the flood risk the road offers some mitigation for the times when Corporation road is shut and flood risk is low and presuming the road is adopted and available for all. The road is within the urban area where the principle of development is acceptable and permission should only be refused where any benefits of the scheme proposed are outweighed by other material considerations. However in this case the Highways Section has objected to the road and this objection is addressed below.

7.2 Surface water drainage

- 7.2.1 The site currently has various existing drainage easements. These will be incorporated into the new defence so that existing drainage will not be curtailed.
- 7.2.2 The proposal also requires works to existing culverts beneath the railway embankment. The works are to build new headwalls and provide flap valves so that flood waters cannot flow through the culverts and beyond the railway embankment into the protected areas. One culvert is on the Marshalls site and another on the Liberty (Alpha) steel site. These works are minor and uncontentious and will not interrupt the existing drainage system.
- 7.2.3 The scheme also requires provision of drainage to the new road element, should that be found acceptable. The road will primarily drain to existing watercourses which themselves drain to the tidal river. This will necessitate some storage since high tides 'lock' the outfalls. The new road will be served by ponds and swales that will provide this storage. One of the proposed ponds will be drained via a new outfall to the river that will lie within the SAC boundary (Rover Usk) but will have negligible impact upon the river environment.
- 7.2.4 In terms of the rest of the proposal drainage impacts are negligible. Officers conclude that the proposed surface water drainage arrangements are acceptable and Policies SP4ii (runoff), GP1i (flooding) and GP5ii (sites protected for their bio-diversity).

7.3 Tree Loss & Tree Planting

- 7.3.1 The proposal requires certain works of tree clearance. These are primarily:
- Clearance of scrub to facilitate the road construction – approximately 0.9Ha
 - Minor works of removal to facilitate works to the culvert headwalls

- Minor works of removal to facilitate construction of the floodwalls adjacent the railway embankment.
- Minor works of removal to facilitate works to raise the existing flood bund north of the Transporter Bridge.

7.3.2 The Arboricultural Impact Assessment indicates an area in size similar to the area of clearance will be replanted in Coronation Park where screen planting to the dog pound is proposed and a new area of 'urban forest' with a circular walk linking into the all Wales Coastal Path is proposed. The Ecological Constraints & Opportunities Record submitted with the application confirms that approximately 650 trees will need to be removed but they will be replaced by 1600 trees primarily in the park area. This will meet the Wildlife & Development SPG's requirement to replace at a ratio of at least 1:1.5.

7.3.3 The Tree Officer does not object to the proposal subject to a raft of conditions as reported. In ecological terms the areas of scrub to be removed have some value and it will be necessary to control the removal of the scrubby areas in the interests of bio-diversity. The tree removal and replacement planting has not attracted any criticism from the Ecology Officer who supports the proposal subject to a suitable conditional regime.

7.3.4 Subject to suitable conditions the proposal is acceptable in terms of tree loss and replacement subject to application of suitable conditions. Policy GP5vii (Tree planting & Tree Retention) is complied with. Policy GPii (compensation for bio-diversity) is complied with.

7.4 All Wales Coastal Path / Loss of public open space / Heritage (Transporter Bridge)

7.4.1 The tree planting and enhancements to the park and the area around the eastern platform of the Transporter Bridge will include:

- New footways in Coronation Park and areas of seating and an improved (formalised) link from Coronation Park into the All Wales Coastal Path.
- Provision of areas of reedbed and wildflower planting in the Park.
- Improved disability Access to the all Wales Coastal Path (AWCP) & Resurfacing.
- New seating and interpretation areas on the riverbank offering views to the river and Transporter Bridge.

7.4.2 The proposals offer significant enhancement of the AWCP offering improved access by changes to gating and surfacing to allow wider access over what is currently possible. The design of the defence accounts for pedestrian access with safety railing proposed as required (embankment at Coronation Park) and elsewhere where a fall risk exists. The proposed sheet pile wall will be engineered at such a height as views over it to the river are maintained for pedestrians including wheelchair users (1.245m).

7.4.3 In terms of Coronation Park the revised bund will extend eastwards and will primarily impact on the exercise area of the dog pound and the enclosing fence will need to be relocated to accommodate the revised flood bund. However the loss of dog exercise space will be minimal.

7.4.4 An area of mown grassland within the Park will be lost to the area of tree planting, reedbed and wildflower planting. This will not impact on the football pitches within the Park and the switch from one form of planting to more diverse and ecologically beneficial types is seen as a positive change.

7.4.5 The impact of the proposal on the Transporter Bridge will be minimal. There would be no direct effect but the scheme will be visible in views of the Transporter Bridge from various locations. The submitted Landscape & Visual impact Assessment for the scheme notes that there will be a large negative effect on views of the Transporter Bridge during construction but these will be mitigated by planting and the passage of time and will be negligible by the end of Year 5 post completion with the permanent changes being some tree planting and the raising of the existing embankment in the vicinity of the eastern gate to the Bridge. The impact of the scheme on views of the Transporter Bridge will ultimately be almost nil and acceptable in planning terms. Policy SP9 (Conservation of the Natural, Historic & Built Environment) is complied with. Policy GP2ii (visual quality, character of the area) and Policy SP8 (Special

Landscape Areas) are complied with since the proposal will contribute positively to the area through design, materials and appropriate mitigation which can be secured under condition.

7.5 Highways issues

7.5.1 The Head of Streetscene (Highways) has objected to the proposed road but not to the flood defence elements of the scheme.

7.5.2 The objection to the road lies with the following points which have not been resolved:

- Obscured forward visibility on downhill bend (carousel).
- Poor forward visibility on crest curve (carousel).
- Long pedestrian crossing at bell mouth
- Insufficient access width, Hanson access to Marshalls
- Lack of culvert protection – potentially could be controlled by condition.
- Inadequate queuing length – no control over the position of gates
- Insufficient turning space, accesses to Marshal's site and aggregate store

7.5.3 In effect most of these matters cannot be addressed within the scope of the application. It would still be open to the decision maker to override these objections but in combination they are significant and the Head of Streetscene concludes the proposed road would be detrimental to highway safety and the free flow of traffic.

7.5.4 The road is not compliant with Policy GP4vii (Highway & Pedestrian Safety). However the road is in effect a separable part of the scheme and can be refused without prejudicing the delivery of the wider flood defence other than in regard to the raised section that ties into East Bank Road and completes the defence. Should the road not be completed the defence will not be invalidated. However it does mean that the businesses that would rely on the road for periods when the Corporation Road gate is shut would no longer be able to do so. They would face an increase in the time that their sites were inaccessible and would by necessity have to close down and move offsite well before the gate was closed as opposed to well before high tide. As noted these events might be several hours apart. In effect this would be a clear harm to those businesses but they are limited in number and failure to complete the wider defence would be a great deal more harmful to the wider public interest. As such the limitation of the operation of these businesses would be increased if the road is not provided and this would need to be balanced against the risk to highway safety should the road go ahead. In effect the decision maker would need to consider whether the risk to highway safety and potentially to the free flow of traffic outweighs the benefits the road would confer on the four businesses beyond the Corporation Road flood gate. On balance Officers conclude that the road element should be refused due to the safety implications that have been identified concluding that these outweigh the benefits of the road which have been outlined. However this is a judgement and it is open to the Committee to arrive at an alternative conclusion on this point.

7.6 Appropriate Assessment (HRA)

7.6.1 Section 63 of The Conservation of Habitats and Species Regulations 2017 requires any competent authority to undertake an appropriate assessment before it approves any plan or project that is:

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,

7.6.2 In this case the proposal has the potential to significantly affect the River Usk Special Area of Conservation (SAC) and so it is necessary to undertake an appropriate assessment.

7.6.3 The applicant has provided their own Habitat Regulations Assessment (May 2021) which has been endorsed by CNC/NRW as a consultee. This HRA concludes that the proposal will not have a significant adverse impact on the River Usk SAC subject to appropriate controls during the construction process to limit environmental impacts on the river and upon the wider environment. In terms of operation the assessment notes that compliance with Sustainable

Urban Drainage Criteria required for the scheme (primarily the road) will act to protect water quality and the integrity of the River Usk SAC which will receive the drainage from the road. As a Consultee Cyfoeth Naturiol Cymru / Natural Resources Wales advise:

We can also confirm that we are in agreement with the conclusion of the HRA and that the activity is unlikely to have a significant effect on The Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and RAMSAR sites.

- 7.6.4 Having reviewed the submitted Habitat Regulations Assessment, Planning Officers see no reason to disagree with the content of the assessment or the conclusions of CNC/NRW and consequently the submitted Assessment can be adopted as an Appropriate Assessment for the purposes of the above Regulations by the Council. The Assessment is available on the Council's website:

[B9B5C287F0A741A9B56B178883F0ED18 \(2\).pdf](#)

Minor issues are:

7.7 Marine Plan compliance

- 7.7.1 The Welsh National Marine Plan provides a policy framework for Marine developments in Wales. No part of the proposed scheme will be below mean high water and therefore there is no direct application of the Marine Plan.

- 7.7.2 Policy SOC_05 requires that impacts on Historic Assets be avoided, minimised or mitigated for. The impact of the proposal on the Newport Transporter Bridge has already been assessed and found to be negligible in the medium term. This Policy is complied with.

- 7.7.3 Policy SOC_06: Designated landscapes and Policy SOC_07 Seascapes requires avoidance, minimisation and mitigation of landscape impacts in protected environments. The River Usk is a Special Landscape Area. The submitted Landscape & Visual Assessment confirms that impacts will be:

At year 5, when the mitigation measures would have been fully established, the expected effects on the landscape and visual receptors are either negligible or result in a slight beneficial effect.

- 7.7.4 As such subject to control over the implementation of the planting associated with the scheme the Landscape & Visual impacts will be negligible in terms of harm or potentially beneficial in some areas of the scheme. These Policies are complied with there being minimal impact on land and seascapes.

7.8 Path diversion

- 7.8.1 The All Wales Coastal Path (AWCP) runs along the river front from the Transporter Bridge south to Bird Port and then eastward beneath the railway bridge and then south easterly towards the sludge beds at Liberty Steel. The works on the river front will directly impact on the route of the AWCP as will the proposed access to the new flood wall at the northern end of the sludge beds.

- 7.8.2 Consequently it will be necessary to close and divert the AWCP during the construction works but this will be achieved under the appropriate footpath legislation. Ultimately the completion of the works will see an overall enhancement to the AWCP as described at Paragraph 7.4. Policy T6 (Public Rights of Way Improvement) is complied with since the All Wales Coastal Path will be enhanced and overall accessibility will be improved.

7.9 Impact on the River Usk SSSI / SAC

- 7.9.1 Some small parts of the proposed scheme lie within the boundary of the River Usk Special Area of Conservation (SAC) / Lower Usk SSSI. These elements are:

- Enhancements to the existing All Wales Coastal Path would include the stepped and seating areas with associated landscaping along the embankment crest with variable crest widths

and slope planting. Located partly within the River Usk SAC boundary but within the footprint of the existing flood defence structure.

- Access Ramp: formalised gated emergency / maintenance access from Stephenson Street adjacent to the Transporter Bridge. Existing access will be upgraded to include a formal access for emergency services and maintenance activities (removal of debris from SAC habitat). Localised to an area of circa 100m² of degraded grassland.
- Surface water drainage for flood relief road via swales to outfall into SAC boundary. Located partly within the River Usk SAC boundary but within the footprint of the existing flood defence structure. Minor encroachment required to install a small headwall and outfall within the existing embankment.

7.9.2 The direct impacts on the SAC are small being minor works of a very spatially limited scale. Subject to appropriate CEMP controls the works will not have any adverse impact on the SAC during the construction phase. In terms of operation the main risk to the SAC would be from contaminated water entering the river from the outfall. The outfall serves a small section of the proposed road and there will be surface water interception to swales and a small pond. This means discharge will be subject to biological action to clean it of potential hydrocarbon pollution from the road deck and settlement of solids in the pond environment. As such operational impacts on the SAC will be minimal from the outfall.

7.9.3 Policy SP9 (Conservation of the Natural Historic and Built Environment) requires conservation or enhancement of recognised sites. Policy GP5 (Natural Environment) requires that there are no significant adverse effects on protected habitats. The proposed works within the SAC / SSSI and the wider scheme will conserve the SAC interests (see Appropriate Assessment) and will have no adverse operational effect (the outfall) nor any unacceptable impact during construction subject to conditions and are therefore acceptable.

7.10 Ecological Net benefit

7.10.1 The scheme proposes the following bio-diversity enhancements:

- Reedbed and forest habitat creation in Coronation Park
- Further tree planting to encourage ecological connectivity – Coronation Park and Stephenson Street embankment.
- Wildflower planting
- Improved management of the saltmarsh on the riverside of the defence via improved access.
- Control of non-native Invasive Species
- Provision of an otter holt
- 5 no. bat boxes
- 5 types of bird boxes
- 3 no refugia for reptiles / amphibians
- Improved management of scrub habitats
- Planting to the specific benefit of the shrill carder bee.

7.10.2 Some of the above proposal cannot be seen as enhancement since it is in fact compensation for the loss of scrub habitat (trees) that are to be removed. However the rest of the proposed enhancements are clearly beneficial to bio-diversity and can be secured through the conditional regime.

7.10.3 The scheme provides Ecological net-benefit as required under national policy and comply with Policy GP5i since they encourage biodiversity and ecological connectivity.

7.11 Easements and Infrastructure (Wharf)

7.11.1 The area of the proposed scheme is rich in infrastructure serving this part of urban / industrial Newport. Key issues arise from:

- Overhead power lines (National Grid)
- Railway Infrastructure
- Gas Pipelines (Air Products)
- Dwr Cymru / Welsh Water
- Hanson's Wharf (conveyor)

- 7.11.2 Utility providers advise of equipment in the area and safe working practices but do not object to the proposal.
- 7.11.3 However Air Products also have private pipelines in the area serving their plant on Queensway (the Eastern Distributor Road) and they have objected to the proposal saying that the scheme will prejudice the operation of the pipelines. However Air Products have not substantiated the application and explained why the proposal is likely to sever or prejudice the operation of these pipelines. There seems to be no inherent reason why the pipelines would be at risk of severance or reduction in their operation if the proposal were to go ahead. This scheme is for the provision of flood infrastructure, primarily banks, sheet piling and concrete flood walls as well as a length of road. There seems no obvious reason why the operation of these private pipelines would be jeopardised by for example introducing vulnerable land uses, residential for example into danger areas or by building occupied buildings across easements. CNC/NRW advise that they are in consultation with Air Products to prepare an 'asset protection' agreement which is likely to result in the withdrawal of the objection. That aside on the substance of the objection there is no reason to withhold permission. It should be noted that a grant of planning permission will not invalidate other legal protections for privately owned infrastructure. Without other necessary permissions in place the development will not be able to proceed and that is not a planning matter.
- 7.11.4 Overall there is no reason to think that there is a significant or unmanageable risk to infrastructure in the area if the project is to proceed.
- 7.11.5 The principle impact on the Hanson's Wharf is in relation to the conveyor. A new bridge will be provided over the conveyor to maintain the integrity of the All Wales Coastal Path and the useability of the conveyor. There will be no impact on the operation of the wharf. Policy M4 (wharves & rail) is complied with.

7.12 Protected Species

- 7.12.1 CNC/NRW have commented on the risk to European protected species, those being:

- Water Vole
- Great Crested Newt
- Otter
- Bats

And are satisfied that the proposal will have no adverse impact on these species subject to control over works one tree that has a Potential bat roost feature which cannot be examined due to the condition and location of the tree. A condition can be applied to secure this.

- 7.12.2 The proposal will not cause any unacceptable harm to the interests of protected species and Policy GP5ii (Protected Species) is complied with.

7.13 Explosives hazard

- 7.13.1 Part of the scheme has attracted interest from the Health & Safety Executive since it is in an explosives zone. The risk is from Liberty (Alpha) Steel to the flood wall proposed at the southern extreme of the scheme. That development is a flood wall to be built between the raised sludge beds and the railway embankment just north of the Nash Waste Water Treatment Works. By its nature the wall is a low-risk feature protected from any explosion hazard by the embankment. It is very likely that there will be no objection from the HSE reflecting its stance on the bund raising at the northern end of the scheme which lies inside an explosion hazard zone for Orb Electrical Steels. As such the concern is given little weight.

7.14 Planning Balance

- 7.14.1 The key benefit of the proposal is the provision of upgraded flood protection to substantial parts of south east Newport over the next 50 years. The current defence is currently inadequate and does not deliver flood protection to the current TAN15 standards. This is a very significant benefit that attracts a great deal of weight. The scheme will produce a small

amount of detriment in flood terms to a limited number of properties in Pill only one of which is residential. This is a harm but it is significantly outweighed in the view of Officers.

- 7.14.2 The principle disadvantage of the scheme is the closure of Corporation Road and the adverse impacts on business continuity that this would have. This could have been mitigated to some extent by the new road but it should be noted that the new road itself would be unavailable at times when a flood warning is in place but could have otherwise operated when the gate was shut but no flood warning was extant.
- 7.14.3 The Highways Officer advises the road is not acceptable in highway terms and permission should be refused for this element of the scheme. As noted this must be balanced out against the utility of the road in providing on going road connection for the businesses beyond the gate when the gate is shut. Officers conclude this utility is outweighed by the Highway safety risk which is to say the road element should, for the main part be refused permission. As noted the flood defence elements could proceed and those very clear public benefits could still accrue without the road.
- 7.14.4 In terms of protected species conditions can protect bat interest in regard to the one potential bat feature that has been identified (single tree) and other species are not expected to be affected. Control over vegetation clearance will protect other species and re-planting will compensate for habitat loss.
- 7.14.5 Enhancements to the All Wales Coastal Path are welcome and formalisation of links to Coronation Park are a further benefit. The future integrity of the path is assured.
- 7.14.6 Impact on infrastructure is considered acceptable and in any event other controls exist to protect those assets and the issue of planning permission will not undermine those protections. The Air Products objection has not been substantiated despite the Council seeking further explanation from Air Products and is given little weight in this assessment.
- 7.14.7 Surface water drainage has been adequately dealt with and is acceptable. Bio-diversity issues have been addressed and net-benefit can be achieved.
- 7.14.8 On balance Officers conclude the proposal is acceptable, other than the road element and conditional permission should be granted.

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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a requirement, when making strategic decisions, to have due regard to the need to reduce the

inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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 Subject to an appropriate conditional regime should be approved, other than the road element which is unacceptable by reason of harm to highway safety and the free flow of traffic.

10. RECOMMENDATION

GRANTED WITH CONDITIONS IN RELATION TO THE FLOOD DEFENCE WORKS

REFUSED IN RELATION TO THE ROAD east of 332470E 185648N other than in relation to the East Bank Road turning head.

Reason 01: Reason 01: the proposed road section that does not form part of the flood defence would cause an unacceptable risk to highway safety and the free flow of traffic with these harms not being outweighed by the business continuity benefits the road would confer. This is contrary to Policy GP4 (Highways) of the adopted Newport Local Development Plan 2011-2026.

NOTE TO APPLICANT

Additional Conditions

01 This decision relates to plan Nos:

- 274580-ARP-XX-XX-DR-CX-1104 P03 – East Bank Road, Site Clearance, Sheet 2 of 2
- 274580-ARP-XX-XX-DR-CX-1103 P03 - East Bank Road, Site Clearance, Sheet 1 of 2
- 274580-ARP-XX-XX-DR-CX-1102 P03 - East Bank Road, General Arrangement and Existing Utilities Plan, Sheet 2 of 2
- 24580-ARP-XX-XX-DR-CX-1101 P03 - East Bank Road, General Arrangement and Existing Utilities Plan, Sheet 1 of 2
- 274580-ARP-XX-XX-DR-CX-1000 P02 – Highway Key Plan

274580-ARP-XX-XX-DR-CX-1240 P01 - Stephenson Street, Swept Path Analysis
 274580-ARP-XX-XX-DR-CX-1230 P03 - Stephenson Street, Proposed Highway Drainage
 274580-ARP-XX-XX-DR-CX-1220 P03 - Stephenson Street, Highway Construction Finishes
 274580-ARP-XX-XX-DR-CX-1210 P03 - Stephenson Street, Highway Contours, Kerbing, Fencing & Cross Section
 274580-ARP-XX-XX-DR-CX-1202 P03 - Stephenson Street, Site Clearance
 274580-ARP-XX-XX-DR-CX-1201 P03 - Stephenson Street, General Arrangement & Existing Utilities Plan
 274580-ARP-XX-XX-DR-CX-1154 P03 – East Bank Road, Proposed Drainage Details, Sheet 2 of 2
 274580-ARP-XX-XX-DR-CX-1153 P02 - East Bank Road, Proposed Drainage Details, Sheet 1 of 2
 274580-ARP-XX-XX-DR-CX-1152 P03 - East Bank Road, Proposed Drainage Catchements
 274580-ARP-XX-XX-DR-CX-1151 P03 - East Bank Road, Proposed Highway Drainage, Sheet 2 of 2
 274580-ARP-XX-XX-DR-CX-1150 P03 - East Bank Road, Proposed Highway Drainage, Sheet 1 of 2
 274580-ARP-XX-XX-DR-CX-1140 P02 - East Bank Road, Highway Long Section
 274580-ARP-XX-XX-DR-CX-1131 P02 - East Bank Road, Swept Path Analysis, Sheet 2 of 2
 274580-ARP-XX-XX-DR-CX-1130 P03 - East Bank Road, Swept Path Analysis, Sheet 1 of 2
 274580-ARP-XX-XX-DR-CX-1122 P02 - East Bank Road, Highway Construction Details
 274580-ARP-XX-XX-DR-CX-1110 P03 - East Bank Road, Highway Contours, Kerbing & Fencing, Sheet 1 of 2
 274580-ARP-XX-XX-DR-CX-1111 P03 - East Bank Road, Highway Contours, Kerbing & Fencing, Sheet 2 of 21210
 274580-APR-XX-XX-DR-CX-1121 - Highway Construction Finishes (Sheet 2 of 2)
 274580-APR-XX-XX-DR-CX-4000 - Felnex Flood Wall Plan 1
 274580-APR-XX-XX-DR-PL-1000 - Application Plan Sheet 1 of 6
 274580-APR-XX-XX-DR-PL-1002 - Application Plan Sheet 3 of 6
 274580-APR-XX-XX-DR-PL-1003 - Application Plan Sheet 4 of 6
 274580-APR-XX-XX-DR-PL-1001 - Application Plan Sheet 2 of 6
 274580-APR-XX-XX-DR-PL-1004 - Application Plan Sheet 5 of 6
 274580-APR-XX-XX-DR-PL-1005 - Application Plan Sheet 6 of 6
 274580-APR-XX-XX-DR-CX-2000 - Scheme Key Plan (Site Layout)
 274580-APR-XX-XX-DR-CX-2001 - Orb Work River Bank Minor Ground Raising
 274580-APR-XX-XX-DR-CX-2002 - Stephenson St River Bank Minor Ground Raising
 274580-APR-XX-XX-DR-CX-2003 - Corporation Park Plan
 274580-APR-XX-XX-DR-CX-2004 - Corporation Park Landscaping Details
 274580-APR-XX-XX-DR-CX-2005 - Corporation Park Cross and Long Sections
 274580-APR-XX-XX-DR-CX-3000 - Proposed Sheet Pile Wall Plan (Sheet 1 of 2)
 274580-APR-XX-XX-DR-CX-3001 - Proposed Sheet Pile Wall Plan (Sheet 2 of 2)
 274580-APR-XX-XX-DR-CX-3004 - Sheet Pile Wall Cross Sections
 274580-APR-XX-XX-DR-CX-3005 - Sheet Pile Wall Long Section

 274580-APR-XX-XX-DR-CX-4001 - Felnex Flood Wall Plan 2
 274580-APR-XX-XX-DR-CX-4002 - Felnex Flood Wall Sections and Details
 274580-APR-XX-XX-DR-CX-4003 - Wales Coast Path Resurfacing
 274580-APR-XX-XX-DR-CX-4004 - Corporation Road Flood Gate Plan
 274580-APR-XX-XX-DR-CX-4005 - Corporation Road Flood Gate L Sections and Sections
 274580-APR-XX-XX-DR-CX-4006 - Cemex Site Entrance Alterations
 274580-APR-XX-XX-DR-CX-5000 - Railway Site Flood Wall, Plan, Sections and Details
 274580-APR-XX-XX-DR-CX-5001 - Railway Wall Access Track (Sheet 1 of 2)
 274580-APR-XX-XX-DR-CX-5002 - Railway Wall Access Track (Sheet 2 of 2)
 274580-APR-XX-XX-DR-CX-6000 - Nash Retaining Wall Plan Layout and Sections
 274580-APR-XX-XX-DR-CX-6001 - Nash Site Access Route
 274580-APR-XX-XX-DR-CX-7000 - Marshall Railway Embankment Culvert
 274580-APR-XX-XX-DR-CX-7001 - Liberty Steel Railway Embankment Culvert
 Application Plan Sheet 1 of 6 - 274580-ARP-XX-XX-DR-PL-1000
 Application Plan Sheet 2 of 6 - 274580-ARP-XX-XX-DR-PL-1001
 Application Plan Sheet 3 of 6 - 274580-ARP-XX-XX-DR-PL-1002

Application Plan Sheet 4 of 6 - 274580-ARP-XX-XX-DR-PL-1003

Application Plan Sheet 5 of 6 - 274580-ARP-XX-XX-DR-PL-1004

Application Plan Sheet 6 of 6 - 274580-ARP-XX-XX-DR-PL-1005

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

CEMP – consider conditioning Environmental Action Plan

02 No works shall commence until details of a Construction Environmental Management Plan (CEMP) have been submitted to the Council. Following the Council's written agreement all works shall be undertaken in accordance with the agreed CEMP. The proposed CEMP shall include details of:

- Dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- noise mitigation measures;
- details of temporary lighting including hours of operation
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including
- controls to surface water run off, water pumping, storage of fuels and hazardous
- materials, spill response plans and pollution control measures.
- pollution prevention and contingency measures.
- Details of the site compound including its location and layout including details of any semi-permanent plant such as concrete silos and any demountable buildings
- Details of storage areas for materials, waste and temporary spoil heaps including the maximum height of storage
- Details of haul roads, their location and construction

Reason: To protect the amenities of nearby residents and in the interests of ecology including European protected species and in the interest of safeguarding the features of the Severn Estuary European sites and SSSI and the River Usk SAC and SSSI. Policies GP2, GP5 & GP7.

Clearance & Nesting Birds / Bats / Otters

03 Prior to the removal of any scrub vegetation or trees a method statement shall be provided in relation to the clearance of vegetation in order to prevent or minimise the impact on nesting birds and other species. Following the Council's written agreement all trees and scrub shall be removed in strict accordance with the agreed method statement.

Reason to protect nesting birds and other animals in including European Protected Species (bats and otters). Policy GP5.

Tree Protection Plan

04 No development, to include demolition, shall commence until the Tree Protection Plan (in accordance with BS 5837:2012) has been implemented in accordance with Arboricultural Impact Assessment as submitted by Treework Environmental Practice Reference: 210309-1.3-AIA-NRWSSFD-MW 9 March 2021 .

The development shall be carried out in accordance with the approved Tree Protection Plan. Reason: To protect important landscape features within the site. Policy GP5.

Root Protection Barrier

05 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.

Erect all weather notices on Heras fencing, 1 per 10 panels, stating 'CONSTRUCTION EXCLUSION ZONE NO ACCESS'

The fencing shall be retained for the full duration of the development and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site. Policy GP5.

Arboricultural Method Statement

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 within the development, until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall include full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
- (b) Construction exclusion zones;
 - Ground protection;
- (c) Service positions;
- (d) Highway construction through areas of trees/woodlands
- (e) Special engineering requirements including 'no dig construction';
- (f) Pre construction tree works;

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

Reason: To protect important landscape features within the site. Policy GP5.

Arboriculturalist

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 .
- (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. Policy GP5.

Pre – construction conditions

Cladding of flood walls

08 Prior to the construction of any sheet piled wall or the Felnex wall (reinforced concrete wall coloured red in drawing 274580-ARP-XX-XX-DR-CX-2000 P03) full details shall be provided of the finishing materials for the walls. The approved materials shall be used to clad / complete the walls within 6 months of the completion of the wall or any given section of wall in the event the completion is phased.

Reason: to ensure the walls are finished to a high standard in areas of public access thereby maintaining visual amenity and reflecting the high utility of the location (All Wales Coastal Path). Policies GP2 & GP6.

Surface treatment for Paths & Tracks

09 Prior to the construction or resurfacing of any path or tracks full details shall be provided of the finishing materials. Thereafter the path or track shall be completed with the agreed materials within 6 months of the completion of the flood defence works or any part of those works should the completion be phased.

Reason: to ensure the walls are finished to a high standard in areas of public access thereby maintaining visual amenity and reflecting the high utility of the location (All Wales Coastal Path). Policies GP2, GP6, T6, T7 & T8.

New Road

10 Prior to its construction details shall be provided of a mechanism to close off the approved road section from East Bank Road and details of how surface water shall be drained from the road shall be provided in writing to the Council. Following the Council's written agreement the road shall be constructed in accordance with those details and the means of closure provided within 1 month of the road's completion.

Reason: to ensure the road is appropriately drained and to prevent unauthorised vehicular access to the area. Policy GP4.

Flood Wall Foundations

11 Where the proposed reinforced concrete flood wall abuts the adopted highway details shall be provided of the wall's foundation design prior to its construction. Thereafter the wall shall be constructed in accordance with the approved details.

Reason: to protect the integrity of the public highway. Policy GP4.

Means of Enclosure

12 No new fencing, railings or other means of enclosure shall be provided on the site until full details of the location, dimensions, style and finish of the means of enclosure has been agreed in writing by the Council. Thereafter the means of enclosure shall be installed as agreed within 1 month of the completion of the related sections of the flood defence or in accordance with a timetable to be provided by the applicant or any successor in title.

Reason: to ensure the development is completed to a high standard of visual amenity and to protect public safety. Policies GP2, GP4 & GP7.

Imported materials – chemical suitability

13 Prior to the incorporation of any site won soils / spoil / rubble or similar imported materials into the flood defence proof of the chemical suitability of the material in relation to the proposed end use and proximity of the site to the River Usk SAC/ SSSI shall be provided in writing to the Council. Following the Council's written agreement the approved materials shall be incorporated into the flood defence and no other materials shall be used.

Reason: to protect public health, wider environmental protection and specifically the special interests of the River Usk SAC / SSSI. Policies GP5 & GP7.

Ecological Enhancement plan

14 An ecological enhancement plan shall be provided to the Council in writing prior to construction activities commencing. The plan will outline the number & specification and proposed locations of all bat and bird boxes, reptile habitat & hibernacula and the otter holt to be installed and a timetable for their installation and management for a period of 5 years following their installation. Following the Council's written approval the plan will be implemented as agreed.

Reason: in the interests of bio-diversity and to secure ecological net-benefit. Policy GP5.

Other Conditions requiring the submission of information

Replanting scheme

15 Prior to the new planting in Coronation Park full details of the planting scheme including species, size of stock and planting density and a management scheme for minimally 5 years after planting shall be provided to the Council in writing. Following the Council's written agreement the planting, management plan and associated features (paths and seating) in Coronation Park shall be provided by the end of the first full planting season following the completion of the flood defence works adjacent to the park.

Reason: to secure mitigation for tree loss and to ensure ecological net-benefit. Policy GP5.

Unsuspected Contamination

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

Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of

contamination and this condition ensures that contamination during the development phase is dealt with appropriately. Policies GP5 and GP7.

Pre –use conditions

Gate Closure – Traffic Management

17 Prior to the first use of the approved flood gate on Corporation Road a scheme shall be provided in writing to the Council describing:

- the procedure for closing the road
- a traffic management scheme for when the road is closed
- how the businesses and persons beyond the gate will be informed of the gate closure in advance
- how the road will be re-opened and the traffic management scheme ended.

Reason: to ensure the safe operation of the highway and to protect public safety. Policy GP4.

General conditions

All Wales Coastal Path

18 The upgrades to the All Wales Coastal Path including the links to Coronation Park, the provision of seating and the provision of interpretive signage shall be completed within 6 months of the completion of the immediately associated flood defence works.

Reason: to secure the upgrades in the All Wales Coastal Path. Policies T6, T7 & T8.

Construction Traffic Management Plan

19 The development shall proceed in accordance with the submitted Construction traffic Management Plan unless superseded by discharges to other conditions.

Reason: to control vehicle movements in the interest of residential amenity and the efficient operation of the highway network. Policies GP2 & GP4.

Piling methodology

20 Hydraulic piling as specified in the Environment Action Plan shall be used to provide the scheme. No other piling types shall be used.

Reason: to protect nature conservation interests and wider amenity. Policies GP2, GP5 & GP7.

Surface Water Drainage

21 No infiltration of surface water drainage into the ground site is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution. Policies GP5 & GP7.

Tree removal as per Arboricultural Impact Assessment

22 No trees or scrub shall be removed or worked upon other than as identified in the Arboricultural Impact Assessment (March 2021).

Reason: to protect tree features on the site. Policies GP2 & GP5.

Landscaping

23 No mechanical cultivation (e.g. rotovators or harrows) is to take place within the Root Protection Areas (RPAs) of any existing trees. All grass seeding cultivation is to be carried out by hand is to be overseen by the appointed Tree Consultant as part of their watching brief.

Reason: to avoid ground compaction and root damage to the existing trees. Policy GP5.

NOTE TO APPLICANT

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

- To be confirmed

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP4, SP8, SP9, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE2, CE3, CE6, CE8, CE9, T2, T3, T5, T7, T8, CF1, CF4, & M4 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.

LATE REPRESENTATIONS REPORT

APPLICATION DETAILS

No: 21/0718 **Ward:** Liswerry

Type: Full (Major)

Expiry Date: 2nd September 2021

Applicant: E. Neville

Site: *Land South Of Coronation Park Known As Flood Defence Scheme
Stephenson Street Newport South Wales*

Proposal: **CONSTRUCTION OF THE STEPHENSON FLOOD DEFENCE SCHEME, INCORPORATING THE CONSTRUCTION OF 6NO. FLOOD WALLS (CONCRETE AND SHEET PILE) REFURBISHED EMBANKMENTS AND PATHS INCLUDING THE WALES COASTAL PATH, A HIGHWAY FLOOD GATE, A NEW 0.7KM ROAD, LOCALISED GROUND RAISING AND CULVERT ENHANCEMENTS TO REDUCE THE CHANCE OF TIDAL FLOOD RISK FROM THE RIVER USK AND LANDSCAPING WORKS ALONG THE ROUTE AND AT CORONATION PARK, NEWPORT AFFECTING PUBLIC RIGHTS OF WAY 386/5/1, 401/4/1 AND 386/4/1**

Recommendation:

GRANTED WITH CONDITIONS IN RELATION TO THE FLOOD DEFENCE WORKS

REFUSED IN RELATION TO THE ROAD east of 332470E 185648N other than in relation to the East Bank Road turning head.

1. LATE REPRESENTATIONS

HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS)

1.1 The Highways Officer has objected to the road aspect of the scheme for the following reasons:

- Obscured forward visibility on the road ahead.

- *Poor forward visibility on crest curve.*
- *Long pedestrian crossing at bell mouth*
- *Insufficient access width, Hanson access to Marshalls*
- *Lack of culvert protection*
- *Inadequate queuing length*
- *Insufficient turning space, accesses to Marshals site and aggregate store*

1.2 The applicant has made further representations in an effort to overcome these issues and the Highways Officer has commented as follows:

- *Obscured forward visibility on downhill bend* – revised information is accepted and the objection falls away.
- *Poor forward visibility on crest curve* – revised information is accepted and the objection falls away.
- *Long pedestrian crossing at bell mouth* - whilst its accepted that the access is exiting, the provision and opening of the new road must make adequate provision for pedestrians taking into consideration their priority when it comes to design. This matter therefore remains unresolved.
- *Insufficient access width, Hanson access to Marshalls* - this is not considered sufficient to address the concerns raised.
- *Lack of culvert protection* - if this is accepted by the auditor then I would consider this matter resolved.
- *Inadequate queuing length* - whilst this may be an existing issue, it will clearly impact on the new road which and therefore mitigating measures need to be provide to avoid the detrimental impact on highway safety and the free flow of traffic. This matter is unresolved.
- *Insufficient turning space, accesses to Marshals site and aggregate store* - the applicant has no control of the use of this access and it would be reasonable to expect there to be times when there would be vehicle conflict due to vehicle looking to enter the site whilst another is leaving. Whilst its stated that the traffic volumes using the junction would be low, no information has been submitted to demonstrate that this would be the case. This matter remains unresolved.

AIR PRODUCTS

1.3 Air Products withdraw their initial objection following the completion of an 'Asset Protection' agreement with Cyfoeth Naturiol Cymru / Natural Resources Wales.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 Although some of the issues that prompted the objection by the Head of Streetscene have been suitably addressed others remain unresolved and his objection remains in place.

2.2 Given the on-going objection Officer's remain of the view that the road element of the proposal is unacceptable and permission should be refused for this element.

3. OFFICER RECOMMENDATION

3.1 The recommendation to part grant part refuse the application remains unchanged.

5.

APPLICATION DETAILS

No: 21/0928 **Ward:** St Julians

Type: Full Application

Expiry Date: 8th November 2021

Applicant: M Taylor

Site: 69 Morden Road Newport NP19 7ET

Proposal: **CHANGE OF USE FROM A DWELLING TO A 5 BEDROOM HOUSE IN MULTIPLE OCCUPATION (C4 USE)**

Recommendation: **Granted with Conditions**

1. INTRODUCTION

- 1.1 This application seeks consent for the change of use of property from a dwelling to a five bedroom house in multiple occupation (HMO). A house in multiple occupation is a house occupied by people who are usually unrelated and have private bedrooms but shared facilities such as kitchens and bathrooms. A HMO for up to five people is a C4 Use Class.
- 1.2 The property is a mid-terrace property in the St Julian's Ward of Newport.
- 1.3 The application is reported to Committee at the request of Councillors Townsend and Hourahine.

2. RELEVANT SITE HISTORY

None.

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 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 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.

4. CONSULTATIONS

- 4.1 DWR CYMRU - WELSH WATER: We would request that if you are minded to grant Planning Consent for the above development that the advisory notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE With regards to foul water we have no objection in terms of capacity concerns, however advise that any existing drainage shall be utilised where possible to avoid the need to make any new connections to the public sewerage system. **Surface Water Drainage** 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.

- 4.2 ARCHITECTURAL LIAISON OFFICER (GWENT POLICE): No response received.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): I refer to the above planning application ref 21/0928 which was received on 14 September 2021 and re-consultation received on 13 October 2021.

The site is located on Morden Road, a residential road with a 30mph speed limit. The site has no off-street parking and therefore no vehicular access.

The site is located in Parking Zone 3 which will require that 1 parking space per bedroom and 1 visitor space per 5 units is provided to comply with Newport City Council SPG Parking Standards (August 2015) a total of 6 parking spaces.

The existing dwelling has 3 bedrooms generating a parking demand of 3 spaces and therefore there is a parking shortfall of 3 parking spaces. The Planning Statement 2.1 states that parking is available on surrounding streets but does not provide further details.

The applicant has provided a Parking Survey in accordance with the Lambeth Methodology which demonstrates that there is sufficient on street parking within 200m of the site to mitigate the shortfall of 3 parking spaces created by the development which will be acceptable.

The applicant will be required to provide cycle parking in accordance with Newport City Council SPG Sustainable Travel (July 2020) which requires that 1 secure and covered cycle parking space is provided per 2 bedrooms. A total of 3 cycle spaces will be required which should be shown on a drawing and submitted for approval.

I would therefore be unlikely to offer an objection to this application on highway grounds subject to the applicant providing revised drawings showing 3 cycle spaces with access from the adopted highway.

- 5.2 HEAD OF CITY SERVICES (WASTE MANAGER): The occupants would be entitled to one larger wheelie bin (180l capacity instead of 120l) and standard recycling boxes.
- 5.3 PUBLIC PROTECTION MANAGER (LICENSING): No response.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50 metres were consulted (69no dwellings) and a site notice was displayed. 24no objection received from 21 persons summarised below:

- There are already too many HMOs in the street which are having a detrimental impact on the character of the area;
- The proposals will result in increased noise levels;
- The police have recently been called due to a disturbance involving a resident of one of the HMOs in the street;
- There is insufficient parking and existing residents already have to park in neighbouring streets as people using the shops park on Morden Road.
- The proposed change of use will result in increased rubbish and antisocial behaviour;
- The character of the area is changing with so many HMOs and the property will never return to a family home if the change of use is permitted;
- The proposals will have a negative impact on property value;
- There are similar parking issues in neighbouring streets
- Internet access will be made worse with a greater number of people using it;
- Neighbours are regularly woken up to people from the HMOs fighting in the street;
- We have had to install CCTV and see drug taking and fighting taking place;
- There is no evidence that HMO occupants are less likely to have cars;
- The range of shops on Caerleon Road is not comprehensive and residents have to walk 800m up a steep hill to return home;
- Residents of HMOs rarely meet recycling requirements which results in rubbish piling up and attracts vermin;
- Whilst Policy H8 requires noise insulation to be provided most noise disturbance to residents comes from loud music from open windows;
- Granting this application will set a precedent;
- The proposals are not in line with local or national planning policy;
- The proposals are not sustainable because it takes a perfectly functional family home and unnecessarily converts it into a block of flats, which would be much better served by a purpose built unit.
- The area should be a conservation zone;
- There is already a shortage of 3-4 bedroom homes;
- Whilst this proposal does not push the concentration within a 50m radius beyond the 15% threshold, this absolutely would result in an over concentration on Morden Road.
- There is insufficient space to store all the bins required;
- Newport is one of the few areas in Britain where housing is still just about affordable. Prices are rising as developers who scoop up properties.
- The change of use will generate financial benefit for residents of Winchester at the sacrifice of Newport residents.
- The planning statement incorrectly refers to the property as two flats;
- The parking survey is not in accordance with the Lambeth Methodology and incorrectly refers to a garage;
- The parking survey is a complete fabrication and does not represent a true picture. Complying a survey when residents are out is not a true representation of the situation.
- This change has the potential to cause the community negative impacts including fewer social contacts between community members leading to a breakdown in social cohesion. This breakdown is then likely to increase demand on local services which are already under strain from the impacts of two years of the pandemic;
- The conversion from a move in ready family home to a five bedroom multi occupancy with fewer communal family space will permanently lower the stock of good sized, affordable family home available to local families;
- The addition of five adults in a house that would normally have two at most will put a strain on local services provided in particular, water pressure which can already be low, and internet coverage which has become both increasingly vital and unreliable as more and more people work/study from home;
- Regardless of the results of the published parking survey, anyone who lives in Morden Road and the surrounding areas will tell you from lived experience that parking is absolutely an issue and likely to get much worse with 12 new single occupants in total and a return to a pre pandemic way of life including having visitors. It was quite common pre COVID to see double parking and need to park a significant way from your home;
- Concerns can arise with the management of HMOs because of the transient nature of many tenancies, with many residents on low incomes and/or from vulnerable groups,

A petition in objection to the proposals signed by 82 people has also been received. The following comments are included with the petition.

Neighbourhood

As in the other roads leading in a south-easterly direction from Caerleon Road between St Julians Road and Duckpool Road, Morden Road consists of terraced housing built along both sides of fairly narrow roads. There is no rear access to most, if not all, of these properties.

There are at least five existing HMOs in that part of the road between Caerleon Road and Ronald Road.

Parking

Parking in the road — and, indeed, adjacent roads, is already extremely difficult. SI 2.1 claims that parking is available on surrounding streets; this is disingenuous since, although there are no parking restrictions on surrounding streets, they too are generally full of parked cars and the reality of the situation is that such parking is not readily available. It makes parking for anybody with even a mild mobility issue a real difficulty and what space there is is taken by residents (some houses have more than one vehicle), leaving little space available for any visitors, including members of the medical profession visiting patients.

SI 6.11 admits a shortfall in parking demand of four spaces. Any evening when four spaces are available in the road is a rare day indeed. It also states that HMO occupants are less likely to have cars. This is an opinion not based on evidence and, indeed, is at variance with visual evidence of the situation at other HMOs.

SI 6.13 suggests that the proximity to a "range of local services" somehow justifies the absence of off-street parking. Quite how this conclusion is reached is not obvious. The range of shops on Caerleon Road is not comprehensive and a more distant journey would certainly be the first choice of most. SI 6.16 seeks to reinforce the initial suggestion by considering that an 800m walk is easy; indeed it might be if one is going to the shops with empty bags, but a return walk with a load of shopping to a property situated on a steep hill is not quite as easy.

Experience of life in the road with reference to the other HMOs

Recycling requirements in the HMOs are rarely met. This results in overflowing bins and rubbish being dumped in front gardens or, even worse, on the pavements, making walking past treacherous. Consequently, vermin infestations are an ongoing problem. The provision of bin and recycling facilities at the rear of the property is hardly likely to improve this situation as somebody will have to assume responsibility for bringing everything through the property on the appropriate day. Given the experience of other HMOs where rubbish simply gathers outside this is, on the balance of probabilities, unlikely to occur.

Existing HMOs cause social problems, particularly noise. Policy H8 (SI 6.4) requires adequate noise insulation to be provided, but much of the problem which already exists comes as a result of loud music and shouting from open windows and unruly and anti-social behaviour in the road at anti-social hours. This behaviour is totally unacceptable and previous occurrences have required police intervention. Wall insulation cannot prevent this.

Neighbour Amenity

Proposals should not have a detrimental impact on the amenity of neighbouring properties. (Policy GP2 and H8 of the LDP). SI 6.9 states that

"There is no evidence to suggest that the use of the property as an HMO would have any impact on neighbour amenity and would not undermine the amenity of the neighbouring properties through any increase in noise and disturbance". We would suggest that there is ample evidence of the problems experienced as a result of the existing HMOs and the addition of yet another could only add to these problems.

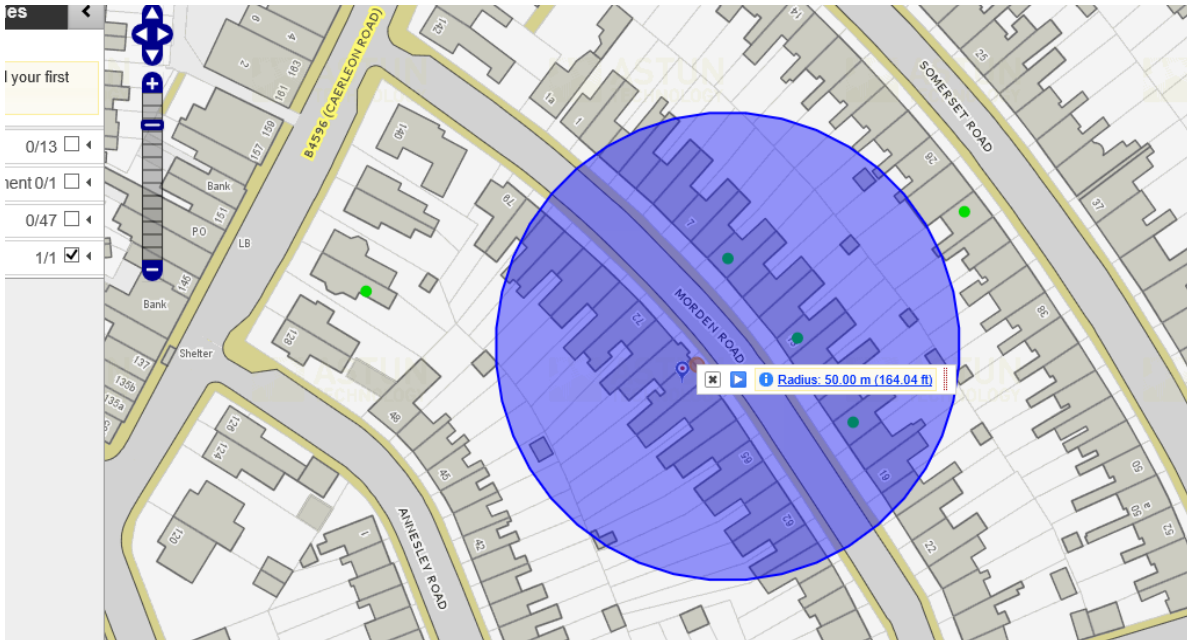
The existing issues are having a very detrimental effect on the neighbourhood and property prices are already being affected. There is a

breakdown in community. This is changing the fundamental nature of the road. The Council's decision on the planning application must be taken in accordance with the development plan unless material considerations indicate otherwise (SI 7.4). We maintain that material considerations do indicate otherwise and we respectfully requested that planning permission be declined.

- 6.2 COUNCILLOR TOWNSEND: Morden road is a terraced street, like several which have had HMO permissions in the recent past. It is narrow; there are endless, ongoing problems with parking; there is the potential problem with too many bins and recycling receptacles; litter; the potential for anti-social behaviour (drug taking is rife in the Caerleon Road corridor) and a poor bus service. A family house is lost to the area. But parking is by far the most compelling reason to think again. The whole area has reached a tipping point here. Although we are told that individuals living in HMOs tend to not have cars, this isn't borne out by evidence. St Julians ward has had a number of these applications - all approved - and once a precedent is set it will be hard to refuse future applications.

7. ASSESSMENT

- 7.1 The area is characterised by predominantly residential properties of a dense terrace nature in a linear form. The application property has a small front garden with low boundary wall and a good size back garden that all residents of the HMO would have access to. The proposed layout of the property would comprise two bedrooms and a communal kitchen and lounge at ground floor and three bedrooms at first floor. All bedrooms would have en-suite bathrooms.
- 7.2 The main considerations of this application are the potential impacts of the change of use on parking provision and highway safety as well as the impact on the character and amenity of the surrounding area and neighbouring properties.
- 7.3 No external alterations are proposed other than a small bin store to the front of the property. The bedrooms would range in size from 8.64m² to 13.5m². The Council's Waste officers confirm that as one household the occupants would be entitled to one larger wheelie bin (180l capacity instead of 120l) and standard recycling boxes.
- 7.4 The Newport City Council Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015, updated January 2017) seeks to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity. It also states that the council will not support a planning application that would take the number of HMOs above 15% within defined areas, measured within a 50 metre radius of the application property. A 50m radius captures 35no properties and there are three existing HMOs. This would equate to just over 11% including the proposed HMO. The proposals would therefore not conflict with the Council's guidance. There would need to be 6 HMOs within the radius to take the percentage of HMOs over the 15% stated in SPG, i.e. 6 out of 35 properties.



7.5 Whilst not contrary to the Council's SPG it is necessary to identify any harm that would occur as a result of the proposals. A planning application (Ref.16/0968, 12 Llanthewy Road) seeking to change the use to a house in multiple occupation was refused on 10 November 2016 for the reason that the proposal would result in an over-concentration of HMOs to the detriment of the character of the area and residential amenity. A subsequent appeal (APP/G6935/A/17/3168984) was allowed and planning permission granted by the Planning Inspectorate on 23 May 2017. In that case, the proportion of HMOs would have risen to 23.5%. The Inspector stated that an exceedance of the threshold was not sufficient to refuse a scheme; it was also necessary to demonstrate harm. In that case, the Inspector was not convinced that there was much physical evidence of problems associated with HMOs, such as inadequate refuse storage arrangements or poorly maintained frontages, or quantified evidence of impacts on community cohesion. As noted above, in this instance the proposals would not exceed the threshold.

7.6 As noted above, the property has the benefit of a small front forecourt which provides sufficient space for recycling boxes and waste bins, as well as a rear garden which would enable residents to sit out in and dry clothes etc. The façade of the property and small front forecourt appears to be in a good state of repair with no obvious signs of neglect. Whilst no formal comments have been received in response to the application, as previously stated the Council's Waste officers confirm that as one household the occupants would be entitled to one larger wheelie bin (180l capacity instead of 120l) and standard recycling boxes. There is ample space within the small front forecourt for storage of these bins.

7.7 The Council's HMO SPG does not specify minimum room sizes. However, notwithstanding that all of the rooms appear to be of an adequate size and it is not considered that the use of the property as a five bed HMO would be overly intensive.

7.8 In response to the proposed change of use the Head of City Services (Highways) offers the following comments:

I refer to the above planning application ref 21/0928 which was received on 14 September 2021 and reconsultation received on 13 October 2021.

The site is located on Morden Road, a residential road with a 30mph speed limit. The site has no off-street parking and therefore no vehicular access.

The site is located in Parking Zone 3 which will require that 1 parking space per bedroom and 1 visitor space per 5 units is provided to comply with Newport City Council SPG Parking Standards (August 2015) a total of 6 parking spaces.

The existing dwelling has 3 bedrooms generating a parking demand of 3 spaces and therefore there is a parking shortfall of 3 parking spaces. The Planning Statement 2.1 states that parking is available on surrounding streets but does not provide further details.

The applicant has provided a Parking Survey in accordance with the Lambeth Methodology which demonstrates that there is sufficient on street parking within 200m of the site to mitigate the shortfall of 3 parking spaces created by the development which will be acceptable.

The applicant will be required to provide cycle parking in accordance with Newport City Council SPG Sustainable Travel (July 2020) which requires that 1 secure and covered cycle parking space is provided per 2 bedrooms. A total of 3 cycle spaces will be required which should be shown on a drawing and submitted for approval.

I would therefore be unlikely to offer an objection to this application on highway grounds subject to the applicant providing revised drawings showing 3 cycle spaces with access from the adopted highway.

- 7.9 The Council's Parking SPG recognises that a reduction in parking provision should be applied in sustainable areas. Where the number of parking spaces cannot be reduced below one space per bedroom, a robust parking assessment will also be considered. Local context must be given due consideration such as the existence of resident only parking restrictions. The availability of parking on neighbouring streets will be taken into consideration as part of such surveys. Such a parking survey should include at least two separate visits to the site at times of the day when the parking demand is likely to be at its greatest, such as the early hours of the morning.
- 7.10 The applicant has undertaken a parking survey which details that "*Caerleon Road District Centre, which has a number of local services and amenities including a convenience store, pharmacy, post office and dentist is located within 200 metres. Within 250 metres there are also bus stops on Caerleon Road, which cater for travel in both directions, including to Newport City Centre. The bus service enjoys a regular frequency.... The survey was undertaken of the streets surrounding the property (extent of survey area is produced at Appendix A) in the early hours of 6th and 7th October 2021. The survey method was to visit the area when it is assumed that most residents would be home and the residential parking demand therefore would be at its greatest. The survey covered the streets within some 200m / 2 minutes walk of the application site as this was considered a reasonable distance within which future residents/visitors of the proposed development would look for a parking space.*" On street parking capacity has been measured in accordance with the Lambeth methodology with driveway entrances etc not included. The findings are shown in the table below.

| Street | Available kerbside parking - Length (m) | Available kerbside parking spaces - Parking Spaces Number | 6 th October 2021 at 00:30 No of cars (% occupied) | 7 th October 2021 at 00:30 No of cars (% occupied) |
|----------------------------------|---|---|---|---|
| Morden Road (east side) | 177 | 29 | 25(86%) | 26(89%) |
| Morden Road (west side) | 195 | 32 | 30 (94%) | 29 (91%) |
| Caerleon Road (north side) | 130 | 21 | 15(71%) | 14 (67%) |
| Caerleon Road (south side) (CPZ) | 94 | 15 | 11(73%) | 12 (80%) |
| Ronald Road (North side) | 75 | 6 | 5 (83%) | 5(83%) |
| Ronald Road (south side) | 51 | 6 | 5(83%) | 6(100%) |
| TOTAL | 722 | 109 | 91 (83%) | 92(84%) |

7.11 The Council's Highways officer has examined the survey and considers that it demonstrates that there is sufficient on street parking within 200m of the site to mitigate the shortfall of 3 parking spaces created by the development. Subject to the provision of cycle storage no objection is offered. The applicant advises that bike storage will be provided at the rear of the property and this can be secured by way of condition. It is appreciated that the above parking survey is a snapshot of parking availability at any one time and inevitably there will be periods when less on-street parking is available and residents will have first hand experience of this. During a recent site visit officers observed numerous on-street parking availability in the street including two on-street spaces directly to the front of the property. This was mid-morning on a week day when undoubtedly some residents will be out at work. Again, it is recognised that this parking availability will not always be the case. However, it is considered likely that even when there is no parking directly outside the property, there will be some available on surrounding streets as reflected in the applicant's parking survey. Further visits were carried out by officers at 7pm on a Thursday evening and on a Saturday morning at 9.15 when more residents are likely to be at home and demand for on street parking is greater. Officers observed on the Thursday evening there were several spaces on Morden Road in vicinity of the application property including just outside. Further south on Morden Road there was less availability but then several spaces available on Ronald Road and Leicester Road. Parking availability was lower on the Saturday morning although there was one space in close proximity to the application property. There was also some availability further south along Morden Road and stretches of availability for 2-3 vehicles on Ronald Road. As noted above, it is appreciated that the visits represent a snapshot of parking availability at any one time and inevitably there will be periods when less on-street parking is available. However, it is considered that the Council would struggle to show demonstrable harm as a result on the proposals and the findings of the applicant's survey and officer site visits.

7.12 The applicant considers that further justification for a reduced level of parking for the proposals is that people who live in shared accommodation are less likely to own private vehicles. However, this is out of the control of the applicant and the LPA and it is quite plausible that each occupant could own a vehicle. Irrespective of this, it has been demonstrated that there is sufficient on-street parking availability to accommodate the increased parking demand generated by the proposals. As noted above the Council's Parking SPG allows for a reduction in parking where it has been demonstrated through a parking survey that this is justified. Whilst it is guidance, the Parking SPG is a legal document that has undergone public consultation and has been formally adopted by the Council. It must be afforded significant weight in the decision making process.

- 7.13 The applicant states there have been a plethora of appeal decisions where a parking survey had been submitted and in all cases, the Inspectors accepted that the availability of on-street parking meant that there would not be a harmful impact on highway and pedestrian safety. Further to this and crucially in all cases, the Inspectors attached significant weight to the sustainability of the sites. One such example of this is appeal decision APP/G6935/A/19/3237023 relating to 27 Maindee Parade which was determined in 2019. In that instance the application resulted in a shortfall of three spaces and Planning Committee refused the application against officer recommendation. The Inspector noted that *“Having regard to the response of the Head of Services (Highways) and the SPG requirements there would only be a shortfall of 3 No. parking spaces from the existing residential use and the proposed HMO. It is also likely that future residents would rely on the fact that the property is within a very sustainable location with local facilities being accessible by walking and cycling, and having a frequent local bus service linking the site to wider transport links and employment opportunities. Overall, I see no reason to believe that the appeal scheme would result in a material increase in parking demand from the existing use of the property and would lead to indiscriminate parking in the area.... I am content that sufficient on-street car parking capacity exists within the Appellant’s survey area to accommodate the increased demand generated by the proposed development. In addition, given that the site is located in a sustainable location close to shops, services and public transport availability, I consider that the proposal would not have an adverse impact on highway safety or be contrary to the objectives of Policies GP2, GP4, T4 and H8 of the LDP”*. This appeal decision is a material consideration that must be afforded significant weight by the LPA in the decision making process, particularly given the similarities of the two sites which relate to terrace properties in sustainable areas with the same parking shortfall.
- 7.14 A significant number of objections have been received from neighbouring residents as reported above, as well as a petition in opposition to the proposals. The comments are duly noted and have largely been addressed in this report. However, it should be noted that property devaluation and the profit of developers are not material planning considerations. Comments have been received regarding the potential personal circumstances of the residents of the proposed HMO. However, the Council’s decision making process must be policy lead and should not be based on assumptions about the circumstances and character of the occupants of the HMO.
- 7.15 Conditions relating to surface drainage are not considered warranted given that no external works are proposed and there will be no increased run-off.
- 7.16 Given that the HMO would be served by standard refuse bin and recycling boxes in the same way that a single household would be it is not considered necessary to impose a condition requiring a waste management plan. However, a condition requiring the provision of waste storage in accordance with details already provided is recommended.

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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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

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

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

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

9. CONCLUSION

9.1 The proposed change of use would not result in an exceedance of the threshold set out in the Council's Guidance and it is not considered that the proposals would result in a demonstrable impact to the character of the area.

9.2 Whilst the proposals would result in an increased demand for parking, the site is located within a sustainable location within close proximity to shops and services with good transport links. Furthermore, the applicant has provided information to demonstrate that the parking associated with the development can be accommodated on street. As such, it is not considered that the proposals would result in an adverse impact to highway safety or neighbouring amenity.

9.3 It is therefore 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: 3937.PL.04, 3937.PL.02 Revision A.

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

Pre –occupation conditions

02 Prior to the first occupation of the property as a house in multiple occupation, secure cycle storage for a minimum of three bicycles shall be provided within the rear garden of

the property and shall be permanently retained for use by the occupants of the property.
Reason: In the interests of highways safety and sustainability in accordance with Policy SP1 off the NLDP.

03 Prior to the first occupation of the property as a house in multiple occupation, bin storage shall be provided within the front garden of the property in accordance with the approved details and shall be permanently retained for use by the occupants of the property.

Reason: To ensure the occupants of the HMO have sufficient waste storage in accordance with Policy W3 off the NLDP.

General conditions

04 The property shall have a maximum of five bedrooms and no more than five occupants.
Reason: To protect the amenity of adjoining occupiers and highway safety and amenity in accordance with Policies GP2 and GP4 Off the NLDP.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Planning Statement August 2021, Parking Survey October 2021.

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

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

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

LATE REPRESENTATIONS REPORT

APPLICATION DETAILS

No: 21/0928 Ward: **St Julians**

Type: Full Application

Expiry Date: 8TH NOVEMBER 2021

Applicant: **M TAYLOR TF PROPERTY GROUP LTD 26 GREENACRES DRIVE
OTTERBOURNE WINCHESTER,**

Site: **69 Morden Road Newport NP19 7ET**

Proposal: **CHANGE OF USE FROM A DWELLING TO A 5 BEDROOM HOUSE IN
MULTIPLE OCCUPATION (C4 USE)**

1. LATE REPRESENTATIONS

1.1 PUBLIC PROTECTION MANAGER (LICENSING):

I refer to the above application passed to Environmental Health Housing for any comments. I can confirm that provided the property achieves the standards expected for a house in multiple occupation licenced by Newport City Council (attached), I would have no objection to the property becoming a house in multiple occupation. However, please note my comments below;

- The ensembles will require suitable mechanical ventilation where there is no openable window within the room itself.
- All rooms including ensembles must be provided with a suitable fixed form of heating.
- Appropriate fire safety precautions must be present.
- Suitable waste management arrangements must be in place upon occupation as a HMO.

If it is intended for the dwelling to be converted into a House in Multiple Occupation under the Housing Act 2004, Part 2, where it will be occupied by more than two households, the most appropriate person (usually the landlord/owner of the property) should apply to the Environmental Health Housing Team on 01633 656656 or hmo@newport.gov.uk for a HMO licence.

In addition to HMO Licensing, private landlords are required by the Housing (Wales) Act 2014 to be registered. Also private landlords who undertake letting and management activities or their managing agents, will need to obtain a licence from Rent Smart Wales and undergo training. For further information contact the Licensing Authority; Cardiff City Council, Rent Smart Wales, PO Box 1106, Cardiff CF11 1UA, Tel No: 03000 133344, website www.rentsmartwales.gov.wales

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 It is noted that the Public Protection Manager advises that the property achieves the standards required and raises no objections to the proposed change of use. The applicant/landlord is required to apply to Licensing to be registered. This is a separate process to planning.
- 2.2 The Licensing response does not raise any additional concerns relevant to the planning application above those already considered.

3. OFFICER RECOMMENDATION

- 3.1 Granted with Conditions
-

6.

APPLICATION DETAILS

No: 21/0882 **Ward:** Liswerry
Type: Full Application
Expiry Date: 17th November 2021
Applicant: D Pisani
Site: Liswerry Primary School Nash Road Newport NP19 4NG
Proposal: **INSTALLATION OF 4NO. FREE STANDING CANOPY SYSTEMS IN VARIOUS LOCATIONS AROUND THE PRIMARY SCHOOL**

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 This application seeks consent for the installation of 4no freestanding canopies in various locations around Liswerry Primary School.

2. RELEVANT SITE HISTORY

| | | |
|---------|---|-------------------------|
| 99/1299 | EXTENSIONS TO CLASSROOMS | GRANTED |
| 00/0085 | VARIOUS EXTENSIONS TO CLASSROOMS (PHASE 2) | GRANTED WITH CONDITIONS |
| 00/0844 | THE ERECTION OF 2.4M HIGH PALISADE BOUNDARY FENCE | GRANTED WITH CONDITIONS |
| 03/0049 | ERECTION OF 2NO. SINGLE STOREY CLASSROOM EXTENSIONS | GRANTED WITH CONDITIONS |
| 07/1436 | ERECTION OF A 3M HIGH FENCE AROUND YARD FACING NASH ROAD | GRANTED WITH CONDITIONS |
| 08/1296 | SITING OF 2NO. STEEL CONTAINERS | GRANTED |
| 08/1352 | ERECTION OF 2NO. MONO-PITCHED LEAN-TO CANOPIES TO NURSERY BUILDING AND RECEPTION CLASSROOM | GRANTED WITH CONDITIONS |
| 10/0185 | PROVISION OF A SINGLE STOREY LINK CORRIDOR EXTENSION TO CONNECT THE EXISTING INFANT AND JUNIOR SCHOOLS | GRANTED WITH CONDITIONS |
| 13/1261 | NEW EXTERNAL CANOPIES FOR OUTDOOR PLAY AND TEACHING | GRANTED |
| 14/1049 | CONSTRUCTION OF SINGLE STOREY FLAT ROOF CLASSROOM EXTENSION TO SCHOOL WITH ASSOCIATED CANOPY AND ADDITIONAL CANOPIES IN COURTYARD | GRANTED WITH CONDITIONS |

3. POLICY CONTEXT

3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES (NRW): No objection.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF EDUCATION: No comments received.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties with a common boundary and opposite the application site were consulted (40no properties). No comments were received.

7. ASSESSMENT

7.1 There are 4no canopies proposed in total, each located in a different location around the school grounds. There is one canopy located to the east of the school building measuring a width of 9m, depth of 6m, eaves height of 2.5m and maximum height of 3.1m. There are two canopies located to the south of the building measuring a width of 11m, a depth of 4m, an eaves height of 2.6m and a maximum height of 3m. The other canopy to the south measures a width of 11.3m, a depth of 3m, an eaves height of 2.5m and a maximum height of 3.25m. The final canopy would be located to the north of the site within the playground and measures a width of 9.5m, a depth of 6m, an eaves height of 2.4m and a maximum height of 3m. The canopies are to be used as all weather outside play/teaching areas for the pupils.

7.2 The canopy to the east of the building is located on the elevation of the school that faces onto Nash Road. Whilst the canopy would be visible from the highway, it would be set back approximately 48m. Therefore, owing to the scale of the canopy and it being set well within the site, it is not considered that this canopy would result in a harmful impact on visual amenity. The other 3no canopies would not be readily visible from public vantage points. Overall it is considered that the canopies would be small additions to this large school site and owing to their location within the school grounds would not result in a detrimental impact on visual amenity or detract from the character and appearance of the building and wider streetscape

7.3 The nearest neighbouring properties to the proposed canopies are located at a distance of at least 30m. Owing to the use, scale and location of the canopies it is not considered that they would generate or facilitate noise impacts over and above the existing noise levels generated from the school and its grounds.

7.4 The planning application proposes highly vulnerable development (4 free standing canopy systems associated with an education facility). Our Flood Risk Map confirms the site to be entirely within Zone C1 of the Development Advice Map (DAM) as contained in TAN15. An FCA was submitted alongside the application however it does not provide any technical information for comparison with the TAN15 requirements. NRW has confirmed that recognising the nature of the application and that the highly vulnerable educational use already exists and will not be intensified as a consequence of the development, in this instance there is no objection to the application as submitted.

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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a

requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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 By reason of their location, scale and design it is considered that the proposed canopies would not result in a harmful impact on visual and residential amenity and accord with the aforementioned policies.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Lliswerry Primary School Elevation Plans, Front View and Roof Top View with Building, Cross Section View and Isometric View, Product Detail and Block Plan.

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

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan, Lliswerry Primary School Elevation Plans, Front View and Roof Top View with Building, Cross Section View and Isometric View, Product Detail, Existing Drawings, Block Plan and Flood Consequence Assessment Ref.AEG0167_NP20_Newport.

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

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

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

7.

APPLICATION DETAILS

No: 21/0964 **Ward:** Gaer

Type: Full Application

Expiry Date: 9th November 2021

Applicant: S Habib

Site: 10 Cae Brynton Road Newport NP20 3FY

Proposal: TWO STOREY SIDE AND REAR EXTENSION, REAR SINGLE STOREY EXTENSION, REAR FLAT ROOF DORMER EXTENSION AND FRONT PORCH (RESUBMISSION OF 21/0194)

Recommendation: REFUSED

1. INTRODUCTION

1.1 This application seeks permission for the retention of a single storey rear extension and flat roof dormer and completion of a two storey side and rear extension and front porch at the semi-detached property in the Gaer ward.

2. RELEVANT SITE HISTORY

| | | |
|----------|--|----------------------------|
| 16/1017 | PROPOSED SINGLE STOREY REAR EXTENSION, EXTENSION TO PATIO, TWO STOREY SIDE EXTENSION, NEW PITCHED ROOF, STORM PORCH AND WORKS TO FRONT AND REAR GARDEN | GRANTED WITH CONDITIONS |
| 19/0643 | TWO STOREY SIDE AND REAR EXTENSION, SINGLE STOREY REAR EXTENSION AND PORCH TO FRONT | GRANTED WITH CONDITIONS |
| 19/1127 | TWO STOREY SIDE AND REAR EXTENSION, REAR SINGLE STOREY EXTENSION, REAR FLAT ROOF DORMER EXTENSION AND FRONT PORCH | REFUSED – APPEAL DISMISSED |
| 20/0361 | TWO STOREY SIDE AND REAR EXTENSION, REAR SINGLE STOREY EXTENSION, REAR FLAT ROOF DORMER EXTENSION AND FRONT PORCH (RESUBMISSION OF REFUSAL 19/1127) | REFUSED |
| 21/0194 | TWO STOREY SIDE AND REAR EXTENSION, REAR SINGLE STOREY EXTENSION, REAR FLAT ROOF DORMER EXTENSION AND FRONT STORM PORCH (RESUBMISSION FOLLOWING REFUSAL 20/0361) | REFUSED |
| E19/0333 | ENFORCEMENT NOTICE SERVED TO SECURE REMOVAL OF UNAUTHORISED EXTENSION | |

3. POLICY CONTEXT

- 3.1 Newport Local Development Plan 2011-2026 (Adopted January 2015)
Policy GP2 (General Amenity)
Policy GP6 (Quality of Design)

- 3.2 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted January 2020)

4. CONSULTATIONS

- 4.1 None.

5. INTERNAL COUNCIL ADVICE

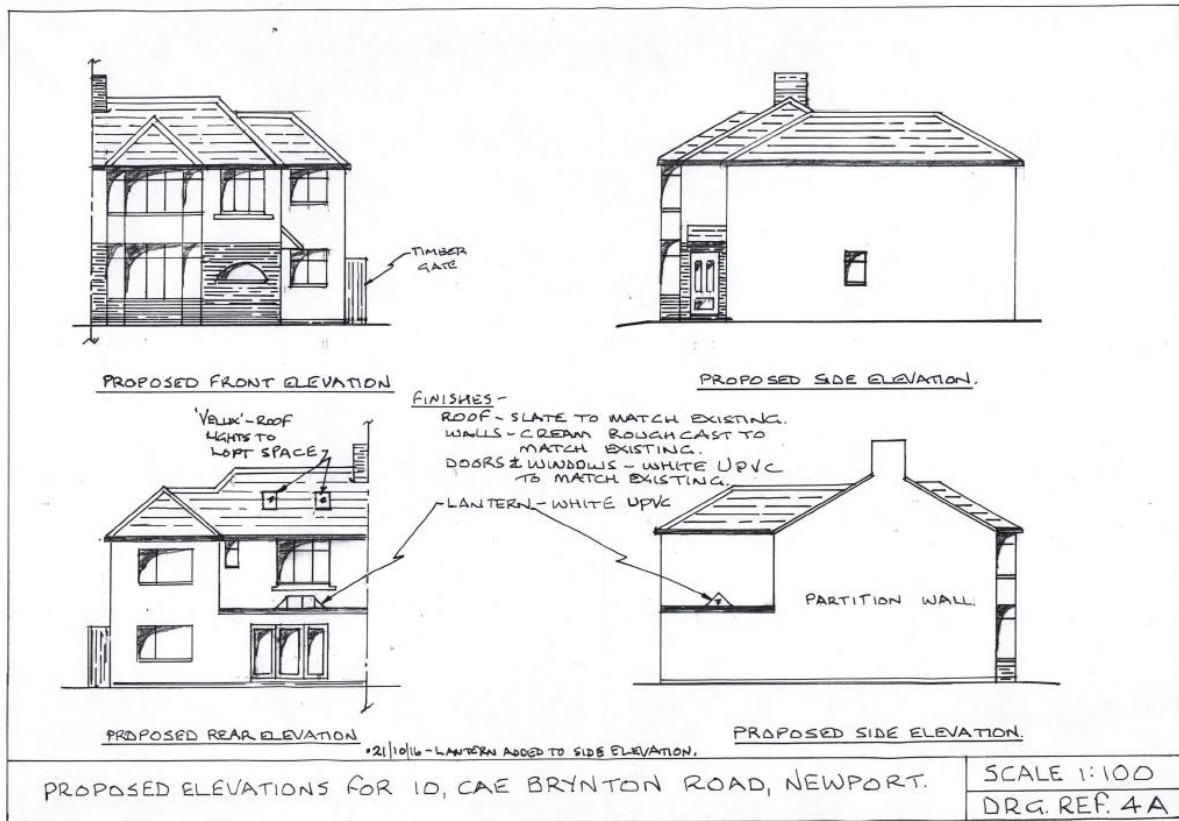
- 5.1 None.

6. REPRESENTATIONS

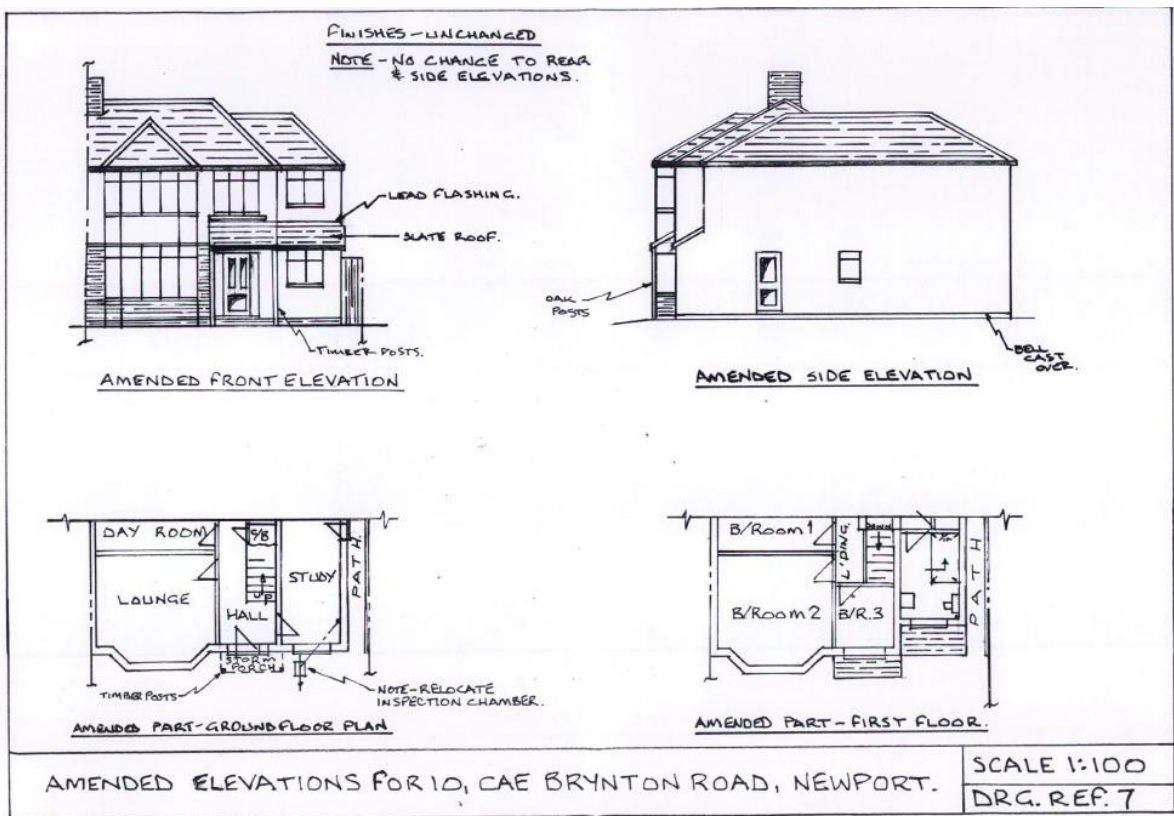
- 6.1 NEIGHBOURS: Nine addresses were consulted. No representations were received.
- 6.2 COUNCILLORS: Councillors Marshall, Whitcutt and Wilcox were consulted. Councillor Marshall requested that the application be determined by planning committee if recommended for approval.

7. ASSESSMENT

- 7.1 Planning permission was initially granted to construct a two storey side extension, single storey rear extension and porch in 2016 (Ref. 16/1017).

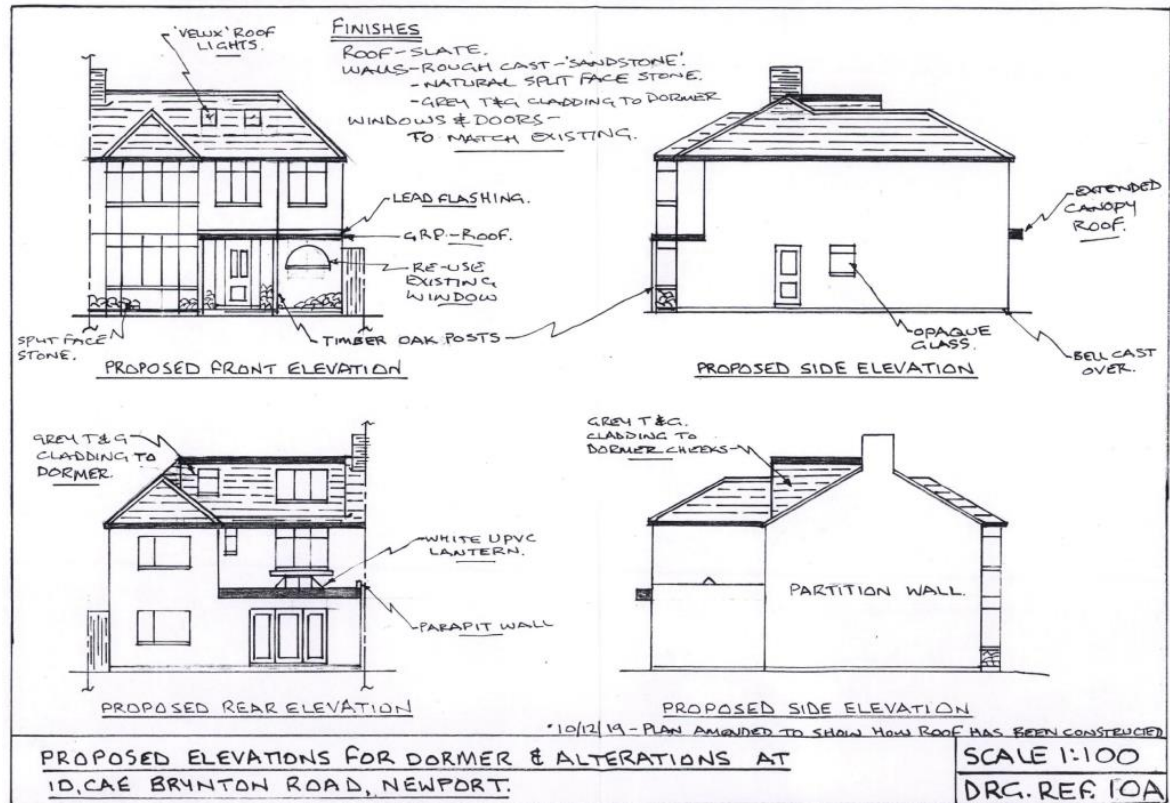


7.2 However, the scheme implemented on site did not accord with the approved plans, with the side extension not being set back from the principal elevation at ground floor and a dormer being constructed on the rear elevation, which was not shown on the approved plans. Following an enforcement investigation, a new planning application (Ref. 19/0643) was submitted, as shown on the drawings below. This application was granted, but the plans did not reflect what had been built on site; they just represent an acceptable alternative to



permission 16/1017.

7.3 A further application (Ref.19/1127) was then submitted which sought to regularise what had actually been constructed. These plans are shown below:



7.4 This application was refused for the following reason:

It is considered that the extensions would result in an unacceptable impact on the scale and character of the existing dwelling causing an imbalance in the pair of semi-detached dwellings, resulting in an incongruous form of development that is out of character with the existing street scene. The proposal is considered to be contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

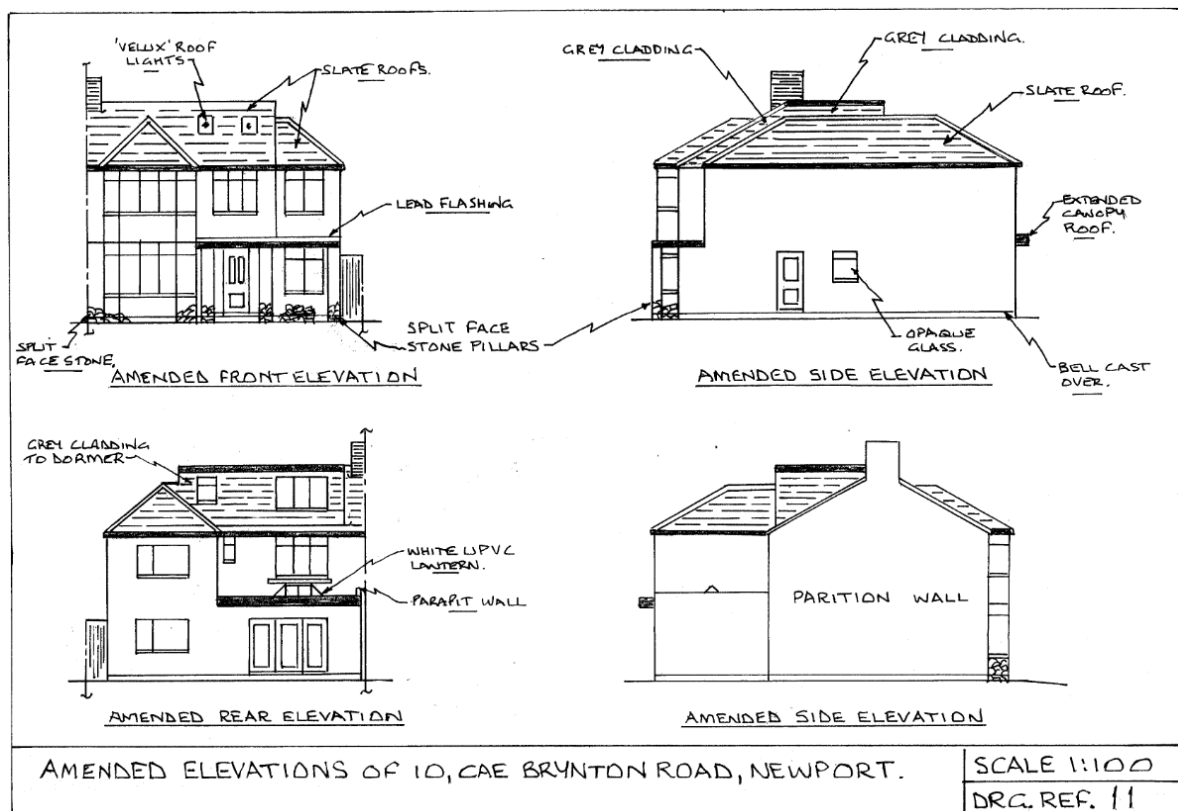
7.5 This was reiterated by the inspector who dismissed the appeal stating that “there is a tangible consistency of scale and massing to the dwellings which contributes positively to the area’s character and appearance... the appeal development conflicts with the objectives of policies GP2 and GP6 of the Newport Local Development Plan, which seek to avoid detriment to the character or appearance of the surrounding area and secure development which appropriately reflects the scale of adjacent townscape.”

7.6 The Inspector considered that, “In common with the fall-back scheme, the side extension subject to this appeal is flush with the dwelling’s principal elevation at ground floor level and recessed at its first floor. The constructed side extension is, however, taller than that permitted, with a ridge height and roof plane matching that of the main roof. Consequently the recessed first floor is overhung significantly by the eaves of the extended roof.

8. In common with the permitted scheme the side extension results in an asymmetry between the appeal property and the adjoining semi-detached dwelling. The apparent gap between the appeal dwelling and No 8 would be little different in visual terms to the fall-back scheme. However, the continuation of the main roof plane above the side extension counteracts the reduction in massing achieved via the permitted scheme's combination of a recessed first floor and set-down roof ridge. Consequently the front elevation of the extended dwelling appears substantially wider and bulkier than the semi-detached dwellings immediately adjacent to it.

9. Whilst the dwelling's elevation relative to the roadway reduces the prominence of the uniform ridge height, it amplifies the dominance of the extended dwelling's ungainly front elevation and exposes the underside of the side extension's awkward overhanging eaves. These features draw the eye in several nearby views, harming the character and appearance of the immediate area."

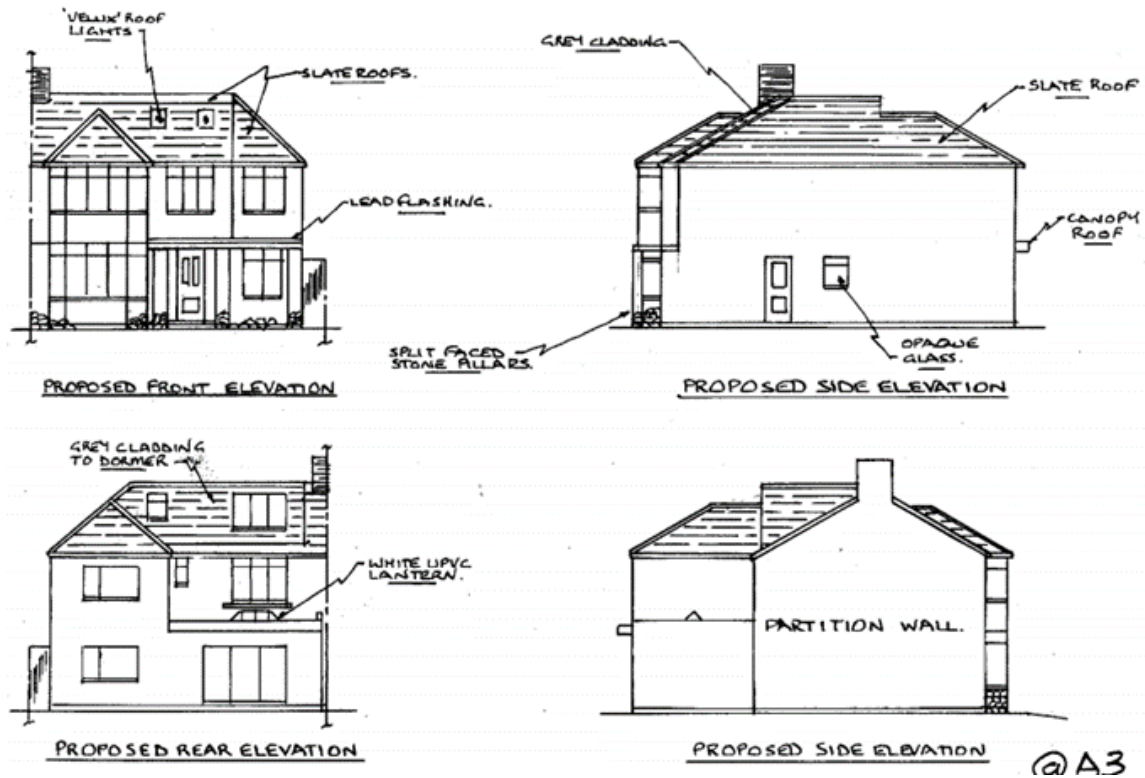
7.7 A further application was submitted (ref 20/0361) proposed to amend the scheme including removing the large overhanging eaves and creating a hipped roof to the side extension with a set down and set back (see below). The dormer would be retained and partially obscured by the roof of the side extension. The main roof would have a gable end rather than a hipped roof as originally approved.



7.8 This application was refused for the following reason:

Hipping the roof of the extension whilst providing a gable to the main roof results in the proposals having an awkward and incongruous visual appearance which would be to the detriment of the appearance of the resultant dwelling and unbalance the symmetry of the semi-detached pair. The mix of roof styles is not sympathetic to the design and form of the pair of semi-detached properties and results in an unbalanced and incongruous form of development. The proposal is considered to be contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

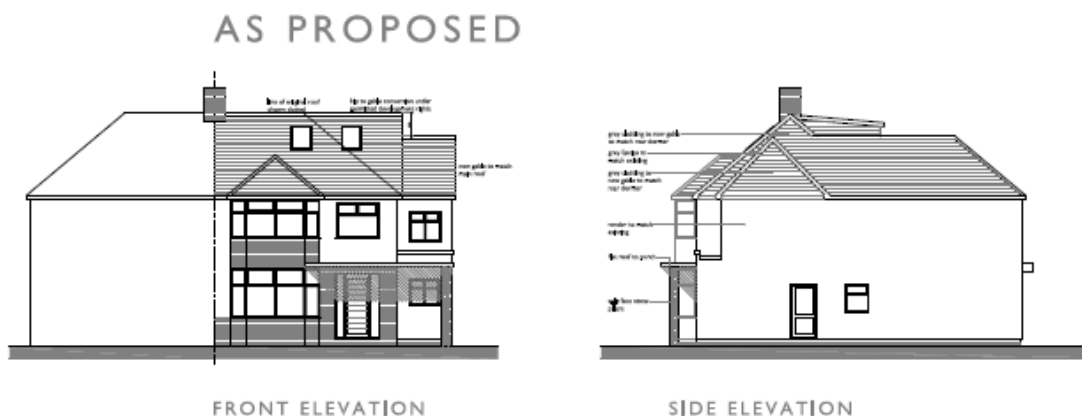
7.9 A further application was submitted (ref 21/0194).



7.10 This application was also refused (by Planning Committee) for the following reason:

The development would result in an unacceptable impact on the scale and character of the existing dwelling causing an imbalance in the pair of semi-detached dwellings, resulting in an incongruous form of development that is out of character with the existing street scene. The proposal is considered to be contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

7.11 This application proposes a gable to both the existing roof and side extension, together with the removal of the existing overhanging eaves to the front elevation. The extension would be set down and set back and also include grey cladding to the side elevation gables.





7.12 The SPG requires two storey side extensions to be set down and set back from the main dwelling. This is to ensure the proposal appears subservient and to avoid unbalancing the pair of semi-detached properties. Whilst this has been included in the amended proposal, it is considered that the use of gabled roofs to both the main dwelling and the extension would have an unacceptable contrast to the hipped roof of the adjoining and neighbouring property and would therefore appear incongruous within the street scene. The scheme would have an unbalancing impact upon the symmetry of the semi-detached pair. It is considered that the proposal would fail to comply with policy GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

7.13 The impact on residential amenity has been considered to be acceptable on the previous submissions. This proposal differs as the pitched roof would have a greater impact on the neighbouring property of No. 8 as it does not slope away as with the hipped roof proposals. However, there are no habitable room windows in the side elevation of no. 8 and therefore there is not considered to be an adverse impact in terms of residential amenity.

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.

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

8.4 The above duties have 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. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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 development would result in an unacceptable impact on the character of the existing dwelling due to the pitched roofs, causing an imbalance in the pair of semi-detached dwellings, resulting in an incongruous form of development that is out of character with the existing street scene. The proposal is considered to be contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

10. RECOMMENDATION

REFUSED

01 The development would result in an unacceptable impact on the character of the existing dwelling and cause an imbalance in the symmetry of the pair of semi-detached dwellings, resulting in an incongruous form of development that is out of character with the existing street scene. The proposal is considered to be contrary to policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and the House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Existing and Proposed Floor Plans and Elevations - 2021.250_PL01

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

03 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted January 2020) was relevant to the determination of this application.

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

Report

Appeal Decisions

Part 1

Date: 3rd November 2021

Subject Appeal Decisions

Purpose To record the outcome of recent planning appeals

Author Head of Regeneration, Investment and Housing

Wards Bettws

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

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

Action by Development and Regeneration Manager

Timetable Not applicable

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

Background

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

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

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

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where an application is refused against Officer advice, during this interim arrangement, the Acting Head of Regeneration, Investment and Housing, along with the Chair/Deputy Chair of Planning Committee will be required to assist in defending their decision at appeal.

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

Financial Summary

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

Risks

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

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

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

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

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

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

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

Options Available

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

Preferred Option and Why

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

Comments of Chief Financial Officer

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

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

Comments of Monitoring Officer

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

Staffing Implications: Comments of Head of People and Business Change

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

Local issues

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

Equalities Impact Assessment and the Equalities Act 2010

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

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

Children and Families (Wales) Measure

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

Consultation

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

Background Papers

Not applicable

Dated: 1st November 2021

Planning Application Appeal

| | |
|--------------------|---|
| Reference | 20/1162 |
| Address | 68 Wye Crescent, Bettws, Newport NP20 7TR |
| Development | Change of use of land to residential, construction of hardstanding for parking and erection of boundary fence |
| Appellant | Mr D Barton |
| Officer Decision | Refuse |
| Committee Decision | Refused |
| Appeal Decision | Dismissed |

This page is intentionally left blank