

Agenda



Planning Committee

Date: Wednesday, 2 November 2022

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors M Spencer (Chair), M Linton (Deputy Chair), T Watkins, Jones, Howells, R Mogford, T Harvey, Jenkins, B Perkins, Reynolds and J Jordan

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Part 1

Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 5 October 2022</u> (Pages 3 - 6)	
4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 78)	
5. <u>Appeal Decisions</u> (Pages 79 - 84)	

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Date of Issue: Wednesday, 26 October 2022

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Draft Minutes

Planning Committee

Date: 5 October 2022

Time: 10.00 am

Present: Councillors M Spencer (Chair), M Linton (Deputy Chair), M. Howells, R Mogford, T Harvey, D. Jenkins, and J Jordan

In Attendance: Andrew Ferguson (Planning and Development Manager), Stephen Williams (West Area Development Manager), Joanne Evans (Senior Solicitor- Planning & Land), Gail Parkhouse (Principal Planning Officer), Grant Hawkins (Senior Planning Officer),

Pamela Tasker (Governance Support Officer), Emily Mayger (Governance Support Officer), Taylor Strange (Governance Support Officer).

Apologies: Councillors J. Jones, T. Watkins, B. Perkins, J. Reynolds

1. **Declarations of Interest**

None

2. **Minutes of the meeting held on 7 September 2022**

The minutes of the meeting held on 7 September 2022 were submitted.

Resolved

That the minutes of the meeting held on 7 September 2022 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 Planning and Development Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached.

4. **Appeals**

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

The meeting terminated at 10:52am

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Draft Appendix A
 PLANNING COMMITTEE – 5 10 2022
 DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
22/0624	<p>Site: 21 Gaer Road, Newport</p> <p>Proposal: Retention of garden room</p> <p>Recommendation: Granted with conditions</p>	Gaer	<p>Presented to Committee at the request of Councillor Marshall.</p> <p>Mr Sean Barringer (Applicant) spoke in support of the application.</p>	Granted with Conditions
22/0814	<p>Site: Newport Centre, Kingsway, Newport</p> <p>Proposal: Outline application for the demolition and redevelopment of the site for circa 54,000 square metres of flexible floorspace for educational use, or any other use within use classes A1 (shops), A2 (financial and professional services), A3 (food and drink), B1 (business), C1 (hotels), D1 (non-residential institutions) and D2 (assembly and leisure), with all matters reserved</p> <p>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.</p>	Stow Hill	Presented to Committee as it relates to major development.	Granted with Conditions

22/0814

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Report

Planning Committee – Hybrid Meeting

Part 1

Date: 2nd November 2022

Subject Planning Application Schedule

Purpose To take decisions on items presented on the attached schedule

Author Head of Regeneration and Economic Development

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, Policy and Transformation

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: 21/1134 **Ward:** Liswerry

Type: Full (Major)

Expiry Date: 22nd February 2023

Applicant: T Smale

Site: Land North Of 51 Orb Drive Newport South Wales

Proposal: **DEVELOPMENT OF 18 RESIDENTIAL DWELLINGS ALONG WITH ASSOCIATED PARKING AND LANDSCAPING**

Recommendation: **GRANTED WITH CONDITIONS AND SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED AUTHORITY TO HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT TO USE DISCRETION TO REFUSE IF NOT SIGNED WITHIN 3 MONTHS OF A RESOLUTION**

1. INTRODUCTION

1.1 This application seeks full planning permission for 18 dwellings and associated works on a site that benefits from planning permission for residential development already via outline planning permission and subsequent reserved matters 09/0850 for the erection of 176no dwellings, apartments and associated works. The site is allocated for housing development in the adopted Local Development Plan and is known as Lysaghts Parc (H1(45)). The site is only part of this larger development which was subject to completion of early phases several years ago and then appeared to stall. Early phases were 100% affordable and consequently the affordable housing percentage for the entire development has been exceeded and none is required or proposed as part of this phase.

1.2 This site forms part of the latter phases that are now being developed by a different housebuilder and consequently have been subject to a number of applications to change aspects of the original permission in terms of layout and unit types for example. Overall unit numbers remain consistent. The current situation is as follows: Phase 1A (built), 1B (under construction), 2 (under construction), phase 3 (subject to application 21/0895 recently granted subject to legal agreement) and phase 4 subject of this application. It is noted that the unilateral undertaking that forms part of decision 21.0895 on the adjoining phase removes the permission for 4 dwellings in the northern section of this phase/application site. This was due to the fact that the adjoining phase 3 had 4 additional houses proposed compared to the original permission. Additional houses would trigger a new legal agreement and associated commuted sums as well as other material considerations and the applicant has been keen to avoid increasing unit numbers across the whole site compared to the 176 units originally approved. This means that the fallback position on this phase 4 site is for 18 units, the same number of units as is proposed. To secure the standard education and leisure contributions, a Unilateral Undertaking has been prepared in accordance with agreed Heads of Terms but at time of writing this Undertaking is yet to be completed.



Figure 4: Orb Drive - Land Phasing Plan



Extract from Design and Access Statement

- 1.3 The proposed changes in this application compared to the previous submission are most notably to remove flatted development altogether and exclusively build houses. Policies SP1 (Sustainability), SP3 (Flood Risk), SP9 (Conservation of the Historic, Natural and Built Environment), SP18 (Urban Regeneration), GP1 (Climate Change), GP2 (Amenity), GP4 (Highways and Accessibility), GP5 (Natural Environment), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), T4 (Parking), T5 (Walking and Cycling) and W3 (Waste Provision) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application.

2. RELEVANT SITE HISTORY

04/1173 DEVELOPMENT OF 350-450 RESIDENTIAL UNITS INCLUDING A MIX OF 1, 2, 3 AND 4 BED FLATS AND HOUSES AND REDEVELOPMENT/RE-USE OF LYSAGHT INSTITUTE FOR EITHER A3 (FOOD AND DRINK) USE, C2 (RESIDENTIAL INSTITUTIONS), C3 (DWELLINGHOUSES) OR D1 (NON-RESIDENTIAL INSTITUTIONS) AND ASSOCIATED ACCESS AFFECTING PUBLIC RIGHT OF WAY 395/7 LISWERRY (OUTLINE) - GRANTED WITH CONDITIONS

09/0180 VARIATION OF STANDARD CONDITION (C) OF PERMISSION 04/1173 FOR DEVELOPMENT OF 250- 450 RESIDENTIAL UNITS AND REDEVELOPMENT/RE-USE OF LYSAGHT INSTITUTE IN ORDER TO ALLOW PHASED DEVELOPMENT OF SITE, AFFECTING PUBLIC RIGHT OF WAY 395/7 LISWERRY- GRANTED WITH CONDITIONS

09/0850 ERECTION OF 176NO. DWELLINGS, APARTMENTS AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHTS OF WAY 395/7 LLISWERRY (RESERVED MATTERS) - APPROVED WITH CONDITIONS

20/0216 NON-MATERIAL AMENDMENT TO RESERVED MATTERS 09/0850 FOR THE ERECTION OF 176NO. DWELLINGS, APARTMENTS AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHTS OF WAY 395/7 LLISWERRY. NON-MATERIAL AMENDMENT TO IMPOSE INFORMATIVE 1 AS A PLANNING CONDITION - APPROVED WITH CONDITIONS

21/0895 S73 APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) OF NMA APPLICATION 20/0216 TO RESERVED MATTERS 09/0850 FOR THE ERECTION OF 176NO. DWELLINGS, APARTMENTS AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHTS OF WAY 395/7 LLISWERRY. AMENDMENTS INCLUDE CHANGES TO HOUSETYPES TO CREATE ADDITIONAL 4NO. PLOTS, REVISED LANDSCAPING, CAR PARKING AND PEDESTRIAN ACCESS ARRANGEMENT – GRANTED WITH CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT

3. POLICY CONTEXT

3.1 Future Wales

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

The growth and regeneration of towns and cities should positively contribute towards building sustainable places that support active and healthy lives, with urban neighbourhoods that are compact and walkable, organised around mixed-use centres and public transport, and integrated with green infrastructure. Urban growth and regeneration should be based on the following strategic placemaking principles:

- creating a rich mix of uses;
- providing a variety of housing types and tenures;
- building places at a walkable scale, with homes, local facilities and public transport within walking distance of each other;
- increasing population density, with development built at urban densities that can support public transport and local facilities;
- establishing a permeable network of streets, with a hierarchy that informs the nature of development;
- promoting a plot-based approach to development, which provides opportunities for the development of small plots, including for custom and self-builders; and
- integrating green infrastructure, informed by the planning authority's Green Infrastructure Assessment.

Planning authorities should use development plans to establish a vision for each town and city. This should be supported by a spatial framework that guides growth and regeneration, and establishes a structure within which towns and cities can grow, evolve, diversify and flourish over time.

Planning Policy Wales Edition 11 (PPW11)

“Placemaking” is a holistic approach to the planning and design of development and spaces, focused on positive outcomes. It draws upon an area's potential to create high quality development and public spaces that promote people's prosperity, health, happiness, and well being in the widest sense.

Placemaking considers the context, function and relationships between a development site and its wider surroundings. This will be true for major developments creating new places as well as small developments created within a wider place.

Placemaking should not add additional cost to a development, but will require smart, multi-dimensional and innovative thinking to implement and should be considered at the earliest possible stage. Placemaking adds social, economic, environmental and cultural value to development proposals resulting in benefits which go beyond a physical development boundary and embed wider resilience into planning decisions.

2.23 Building Better Places recognises the pivotal role that planners play in shaping our society for the future. They must plan for our priorities around placemaking, decarbonisation and well-being.

3.23 Green infrastructure can be an effective means of enhancing health and well-being, through linking dwellings, workplaces and community facilities and providing high quality, accessible green spaces. In all development and in public spaces especially, there should be sensitive management of light, and exposure to airborne pollution should be kept as low as reasonably practicable.

3.55 Previously developed (also referred to as brownfield) land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In settlements, such land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome. It is recognised, however, that not all previously developed land is suitable for development.

4.0.3 This theme aims to ensure new development is located and designed in a way which minimises the need to travel, reduces dependency on the private car and enables sustainable access to employment, local services and community facilities. This will be achieved through integrating development with sustainable transport infrastructure and designing schemes in a way which maximises provision and use of sustainable forms of travel, including prioritising these modes over the private car.

Sustainable Transport

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

Active Travel

4.1.26 Walking and cycling are good for our health and well-being. They support valuable social and recreational opportunities and are integral to placemaking, creating life and activity in public places and providing the opportunity to meet people. Sustainable places invite people to walk and cycle as part of their everyday routine.

Ultra Low Emission Vehicles

4.1.40 To encourage the use of Ultra Low Emission Vehicles (ULEVs), the planning system should encourage and support the provision of ULEV charging points as part of new development.

4.2.25 A community's need for affordable housing is a material planning consideration which must be taken into account in formulating development plan policies and determining relevant planning applications. Affordable housing for the purposes of the land use planning system is housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

4.5 Recreational Spaces

4.5.1 Recreational spaces are vital for our health, well-being and amenity, and can contribute to an area's green infrastructure. They provide a place for play, sport, healthy physical activity and a place to relax often in the presence of nature, and they contribute to our quality of life. Networks of high quality, accessible green spaces and recreation spaces will also promote nature conservation, biodiversity and provide enjoyable opportunities for residents and visitors to participate in a wide range of physical activities. These activities are important for the well-being of children and adults and for the social, environmental, cultural and economic life of Wales.

4.5.3 Formal and informal open green spaces should be protected from development, particularly in urban areas where they fulfil multiple purposes. As well as enhancing quality

of life, they contribute to biodiversity, the conservation of the historic environment, nature and landscape, better air quality, the protection of groundwater and as places of tranquillity

4.5.4 All playing fields whether owned by public, private or voluntary organisations, should be protected from development except where:

- facilities can best be retained and enhanced through the redevelopment of a small part of the site;
- alternative provision of equivalent community benefit is made available locally, avoiding any temporary loss of provision; or
- there is an excess of such provision in the area.

6.4.24 Trees, woodlands, copses and hedgerows are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make a valuable wider contribution to landscape character, sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade and shelter, a sustainable energy source and building materials. The particular role, siting and design requirements of urban trees in providing health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking.

Adopted Newport Local Development Plan 2011-2026

SP1 – Sustainability
SP9 – Conservation of the Natural, Historic & Built Environment
SP10 – House Building Requirement
SP12 – Community Facilities
SP13 – Planning Obligations
SP18 – Urban Regeneration
GP1 – Climate Change
GP2 – General Amenity
GP4 – Highways & Accessibility
GP5 – Natural Environment
GP7 – Environmental Protection & Public Health
H1 – New Housing sites
H2 – Housing standards
H3 – Housing Mix & Density
H4 – Affordable Housing
T3 – Road Hierarchy
T4 – Parking
T5 – Walking & Cycling
CF2 – Outdoor Play Space Requirements
W3 – Provision for Waste Management Facilities in Development

Relevant adopted Supplementary Planning Guidance is:

- Parking Standards
- Affordable Housing
- Sustainable Travel
- Planning Obligations
- New Dwellings
- Waste Storage & Collection
- Outdoor Play Space Provision
- Trees, Woodland, Hedgerows & Development Sites
- Air Quality
- Noise

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES:

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:

Condition 1: Flood Risk – Secure Implementation of Submitted Document Conditions

2 - 4: Land Contamination

Please note, without the inclusion of these conditions, we would object to this planning application.

Further details are provided below.

Flood Risk

The planning applications proposes highly vulnerable development (residential). Our Flood Risk Map confirms the site to be entirely within Zone C1 of the Development Advice Map (DAM) as contained in TAN15. The Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls into Flood Zone 3 (Rivers and Sea). Section 6 of TAN15 requires the Local Planning 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 a Flood Consequences Assessment (FCA), that the potential consequences of flooding can be managed to an acceptable level.

We have reviewed the amended FCA undertaken by Jessop Reynolds, revision TN02D, dated 08/08/2022, submitted in support of the above application. The FCA shows that the risks and consequences of flooding could be managed to an acceptable level for the following reasons.

Advice on TAN15 A1.14

Criteria Section 6 of the FCA confirms that the proposed finished floor levels (FFLs) of the dwellings are 7.7m AOD and the access road and footpath levels range between 7.2m – 7.55m AOD. Based on these FFLs, the FCA confirms:

- During a 0.5% (1 in 200 year) plus climate change allowance (year 2122) annual probability tidal flood event, the predicted flood level is 7.62m AOD. Therefore, the proposed dwellings are predicted to be flood free during this event. This meets the requirements of A1.14 of TAN15 which states all residential development should be flood free during this event.
- During the same event the access road and footpath may experience flooding in the range of 420mm - 700mm.
- For completeness, during a 1% (1 in 100 year) plus climate change allowance annual probability fluvial flood event, the predicted flood level is 6.55m AOD. Therefore, the entire development is designed to be flood free during this event.

Advice on TAN15 A1.15 Criteria

- During a 0.1% (1 in 1000 year) plus climate change allowance (year 2122) annual probability tidal flood event, the predicted flood level is 8.53m AOD. Therefore, the proposed dwellings are predicted to flood to a maximum depth of 830mm. This is beyond the tolerable limits of A1.15 criteria.
- During the same event the access road and footpath may experience flooding in the range of 980mm – 1030mm.
- During a 0.1% (1 in 1000 year) plus climate change allowance annual probability fluvial flood event, the predicted flood depth is 6.85m AOD. Therefore, the entire development is predicted to be flood free during this event. Thus, the development meets the requirements of A1.15 of TAN15 in relation to fluvial flood risk.

Advice on TAN15 A1.12 Criteria

The FCA concludes that tidal flood plain loss is considered low in the context of the water volumes involved for the tidal scenarios. Given that the development would flood from all directions during extreme tidal flood events, and that the entire area surrounding the site is also flooded, we are satisfied that the land raising to achieve flood free dwellings would not cause an impact to conveyance routes. Section 9 of the FCA proposes the management of flood risk by recommending the occupiers sign up to the NRW Early Flood Warnings System but acknowledges possible evacuation routes may be subject to flooding.

Taking the above into consideration, we consider the FCA has demonstrated the risks and consequences of flooding can be managed to an acceptable level, subject to the document identified below is included in the approved plans and documents condition on the decision notice:

'Flood Risk Assessment', prepared by Jessop Reynolds, document reference 20019.TN02D, dated 08/08/2022.

Further Advice

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 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.

Land Contamination

We have reviewed the 'Supplemental Geoenvironmental Site Investigation Report', prepared by Integral Geotechnique, reference 12185/JJ/19/SI, dated May 2019. Based on the information submitted thus far, we would request the following conditions be imposed on any planning permission granted by your Planning Authority.

Condition 1: Unsuspected Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by 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. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Condition 2: Surface Water Drainage

No infiltration of surface water drainage into the ground 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 from historic contamination to controlled waters. The development shall be carried out in accordance with the approval details.

Justification

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.

Condition 3: Piling

No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Justification

Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

European Protected Species

We note the 'Ecology Summary Note', prepared by Soltys Brewster Ecology, dated November 30, 2020, has identified that European Protected Species were not using the application site. We therefore have no comments to make on the application as submitted, in relation to European Protected Species.

REGIONAL AMBULANCE OFFICER: no response.

GWENT POLICE: no response.

SENIOR FIRE PREVENTION OFFICER: no response.

NEWPORT ACCESS GROUP: no response.

WILDLIFE IN NEWPORT GROUP: no response.

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.

However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

Surface Water Drainage

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.

Conditions

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water shall be allowed to connect directly or indirectly with the public sewerage system.

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

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.

SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (HIGHWAYS):

Initial Comments

The site is located on Orb Drive a main access route serving residential developments and retail warehouses. Orb Drive forms a junction with Corporation Road, a classified road, which leads onwards to A48 Southern Distributor Road and M4.

This application comprises Phase 4 of the Orb Drive development and proposes to provide 18 x 2 bedroom houses which will replace the previously approved scheme. The proposed

development will therefore provide less residential units which will generate less vehicle movements than the previously approved development and will therefore provide a lower impact upon highway capacity on the local highway network which will be acceptable.

The site will be accessed from the approved access road through the site and provides 2 cul de sacs. The southern cul de sac which serve Plots 13-18 is a 5.5m shared surface private drive providing access to residential and visitor parking spaces which will be acceptable. The northern cul de sac serves plots 1-12 and forms a turning head to the rear of Plot 25 leading to a 6m shared surface. The layout is generally acceptable, however, the footway around the turning head reduces in width across the access to the private drive and adjacent to the rear of Plot 25 which should be amended to provide a 2m footway width around the entire turning head. Visibility from both access onto the previously approved access road will be acceptable.

The applicant has submitted a Transport Note which includes a swept path analysis for a 10.2m refuse vehicle and a standard size car which will be acceptable.

The site is located in Parking Zone 4 which require that 1 parking space per bedroom is provided to comply with Newport City Council SPG Parking Standards (August 2015). The application proposes to provide 2 parking spaces per dwelling which is an acceptable level of parking for a 2 bedroom dwelling, however, it should be noted that the number of bedrooms in the Tetford and Tatlow design houses is given as 2+attic which is ambiguous. The attic is shown as a work/study area on the floor plans but this area could be used as a third bedroom which would generate an additional parking need and requirement for additional parking spaces. The Tetford and Tatlow units are therefore considered to be 3 bedroom units, however, a reduction in parking has previously been approved across the development so the provision of 2 parking spaces per unit will therefore be acceptable on this occasion.

Drawing 1712 P4 5001 Proposed Site Plan shows 4 visitor parking spaces which will be acceptable.

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. A secure 6'x4' garden shed is an acceptable cycle storage facility for residential development, however, the sheds must be identified as part of any planning application and then provided in accordance with the plans.

I would therefore be unlikely to offer an objection to this application on highway grounds subject to the amendment of the footway around the turning head and the provision of secure cycle parking.

Final Comments

The highway authority's comments of 29 March 2022 were as follows:

"The Proposed Site Plan drawing P4-5001 Rev D notes the footway around the turning head referred to above has been widened to 2.0 metres but this is not reflected on the drawing.

Vehicle tracking for access to individual parking spaces as indicated in the Transport Note appears incorrect as overrunning of adjacent parking spaces and land is shown. However, parking spaces and manoeuvring areas conform to minimum standards.

Secure cycle parking for individual plots is shown on the Proposed Site Plan but a reference should be added on the drawing legend.

The applicant should be requested to address the above requirements."

The applicant has now addressed the footway width and included the reference regarding cycle parking on the application plans

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

5.2 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE):

A minor reduction in planting to frontage of Plots 1 and 2 is proposed. No issues arise.

1. A soft landscape maintenance and management plan for five years to cover new planting and SUDs planting until established, and to include any existing site trees within the land ownership should be conditioned.

5.3 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (TREES):

Initial Comments

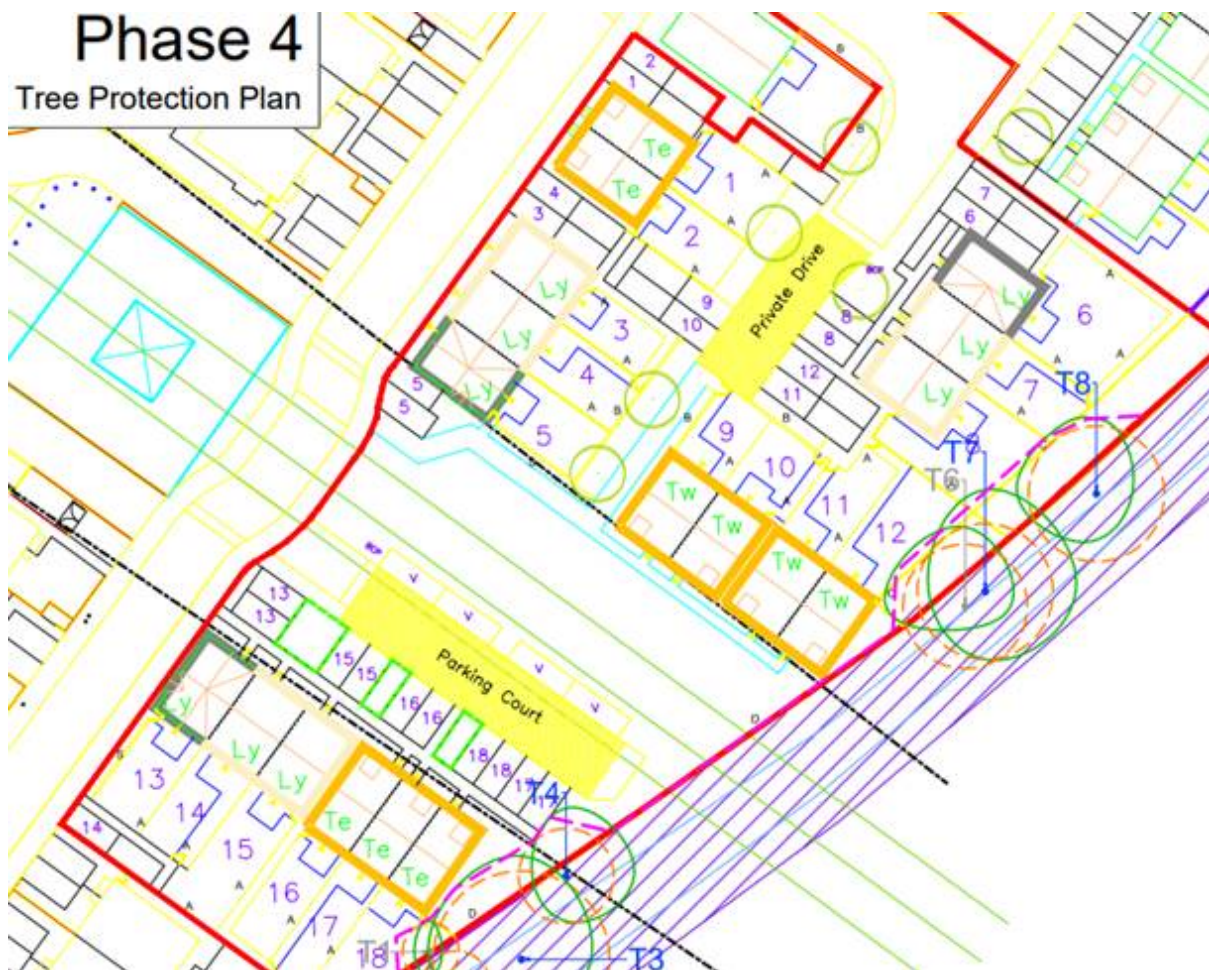
There are objections to this application.

The trees to the southern boundary of the site form a woodland corridor and therefore there should be at least 5m between the canopy and the curtilage of the properties (SPG trees and Development adopted January 2017)

Plot 18 is far too close to a good quality oak tree as one of the car parking spaces for plot 17 and the plots are also too close to trees T6, T7 and T8

In addition, there is no consideration of above ground tree constraints :-

BS5837:2012 Above Ground Constraints posed by existing trees (in relation to existing trees and woodlands) 5.2 Eg the current and ultimate height and spread of the tree. Tree species, foliage density, aphid exudate, branch drop etc. Effect of shading from trees. 5.2.3 Working and access space needs consideration “ the requirement to protect the overhanging canopies of trees where they could be damaged by machinery, vehicles, barriers or scaffolding where it will be necessary to increase the extent of the tree protection barriers to contain the canopy “ ie by increasing the RPAs 5.2.4 “particular care is needed regarding the retention of large, mature, over mature or veteran treesadequate space should be allowed for their long term physical retention and future maintenance”



Soft landscaping plan

The soft landscape plan shows hedgehog highways which is good, but how are they to connect to the adjacent land outside the red line by plot 18? They appear to be in isolation where do they go to and from and how are they to be maintained?

The native hedging indicated by "H2" is a very thin strip next to visitor parking. The native hedge will not be able to establish as such as it will form an issue next to the parked cars, it will have to be clipped hard back and thereby negates its intended purpose.

The native hedging should form a strong structural element (see adopted SPCG Trees and Development) and provide connectivity to adjacent wildlife corridors eg to the boundary planting outside the site

The areas of ornamental shrub planting by car parking bays are not appropriate or practical (it never works) and so it is better to boost the native hedging and dramatically reduce the ornamental hedging For the same reason the single tree by parking bay 8 is not appropriate.

The meadow planting will not flourish by the trees due to lack of water and shade.

There should be an indication of where the SUDs measures are going ie well away from the tree edge.

Final Comments

No objections – conditions as below.

Tree Retention

Except where otherwise agreed in writing by the Local Planning Authority, no existing trees shall be felled, topped or lopped.

Reason: To protect existing landscape features on the site.

Tree Protection Plan

No development, to include demolition, shall commence until the accurate Tree Protection Plan (in accordance with BS 5837:2012) has been implemented by of means the security fence as indicated by the Arboricultural Implication Assessment (AIA) submitted by Treescene March 2022 .

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

Reason: To protect important landscape features within the site.

Root Protection Barrier

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 EXCUSION 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.

Arboriculturalist

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 in the correct location and is fit for purpose .
- (c) Oversee working within any Root Protection Area;

- d) Reporting to the Local Planning Authority;
- e) 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.

5.4 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ECOLOGY):

I have considered the Ecology Summary Note dated November 30th 2020 submitted in support of this application, and have the following comments on that document and the application in general

Reptiles – I do not accept that a destructive search during the winter months is an acceptable form of mitigation. Whilst I recognise that previously a 'low' population of Common Lizards was detected, it seems that the choice of mitigation method is driven by the applicant's timetables rather than by how best to reasonably avoid harm to this and any other reptile species which may be present. If it can be demonstrated that there are suitable permanent retained habitats nearby, it would be acceptable to use sensitive habitat clearance and manipulation to persuade any reptiles present to leave the development site in favour of those retained habitats. However this would need to take place during the reptiles' active season, and I recognise that this may cause conflict with the nesting bird season. It should be possible to undertake the first vegetation cut prior to the bird nesting season, and then complete the second lower cut once the reptiles are active, for example. Therefore I would like to see a brief vegetation clearance strategy, required and implemented by planning condition, which sets out how vegetation clearance and manipulation can secure avoidance of harm to reptiles whilst also avoiding harm to nesting birds. The alternative would be to repeat the reptile survey to assess whether there have been changes in the species and numbers of reptiles at this site in the 12 years since the last survey.

Hedgehog movement plan – we should require by planning condition that the applicant submits a hedgehog movement plan, which demonstrates how hedgehogs and other wildlife species can move between gardens, and from gardens to open space or semi-natural habitats nearby.

I note the comments made by our colleague Shona Carle in relation to trees, and I welcome that the line of trees along the southern boundary of this site will be protected.

Enhancements

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.

Furthermore, section 6.4.3 of Planning Policy Wales states that:- *'The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement.'*

In his letter to Heads of Planning of 23/10/19, the Chief Planner emphasised this point with the following:-

*'Planning Policy Wales (PPW) 10 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and **must provide a net benefit for biodiversity**" (para 6.4.5 refers).'*

In terms of specific enhancement features, nesting or roosting opportunities for birds and bats should be incorporated into new build in accordance with the advice given in 'Designing for Biodiversity: A Technical Guide for New and Existing Buildings, Second Edition. RIBA Publishing, London. Gunnell, K. et al., 2013', or most recent subsequent edition thereof. More specific details of appropriate levels of provision of nesting/roosting opportunities are given in the TCPA's 'Biodiversity Positive: Eco-towns Biodiversity Worksheet 2009'. With

these documents in mind, I would say that an appropriate level of enhancement provision across the whole of this development would be:-

- 4 x bat boxes for crevice-dwelling bats, and
- 4 x Swift nest boxes,

The applicant's ecologist can advise on the make and model and suitable positioning of these features. Bat / bird boxes such as these are readily available commercially, are inexpensive, and can be tailored to the style and colour of the finish of the buildings. Features which are integrated into the buildings rather than attached to the outside are preferable as they are more secure in the long-term and less prone to interference by the public. The implementation of these measures should be secured by planning condition.

5.5 HEAD OF CITY SERVICES (ACTIVE TRAVEL):

The site is located close to key cycle links with access to the City Centre and other places of employment and recreation. Therefore there is a high potential cycling to be used as a primary transport option. Given the nature of the development and low traffic flows through the site and adjoining existing developments it is reasonable to expect cyclist to safely share the highway with motorists.

Cycle Storage

No details of cycle storage has been found within the application documents. Providing adequate storage space for cycles is an important part of encouraging sustainable travel. The provision of appropriate storage and parking will assist in getting more people to use a cycle to travel and help reduce car dependency. Newport City Council's Sustainable Travel SPG details the cycle parking requirements for new developments; long stay 1 space per 2 bedrooms, short stay 1 space per 20 bedrooms. Long stay provision should be secure and covered and short stay spaces should be obvious, easily accessed and close to destination. The house designs do not appear to have accounted for cycle storage within them and therefore external storage options should be developed such as a secure 6'x4' garden shed, ideally with and internal, fixed Sheffield stand for additional security. These 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 due to the lack of information relating to cycle storage.

Travel plan

The proposal falls just below the threshold requirement for a site specific travel plan (> 20 dwellings) however the production of a travel plan is encouraged and would be welcomed to promote more sustainable means of transport from the development.

HEAD OF CITY SERVICES (DRAINAGE/SAB): A SAB application has already been submitted for this development.

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (WASTE): no response.

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENVIRONMENTAL HEALTH): Eighteen residential dwellings are proposed as part of the Phase 4 parcel of land development at Orb Drive, Newport.

Measurements have been made of the prevailing noise climate at the proposed site for residential development at the Phase 4 parcel of land at Orb Drive, Newport.

The measured levels have been assessed against the relevant guidance documents including World Health Organisation Guidelines for Community Noise (1999) and BS8233:2014 Guidance on sound insulation and noise reduction for buildings, to consider whether the site is suitable for its proposed residential use.

The submitted acoustic assessment has found that the parcel of land is suitable for residential development. Mitigation measures including boundary fencing, acoustically specified thermal double glazing and ventilators, have been proposed in the submitted acoustic assessment.

Measured levels of vibration have been found to be within acceptable limits, with reference to BS6473-1:2008 *Guide to evaluation of human exposure to vibration in buildings*.

I do not offer any objections to the application and suggest the following should you be mindful to grant the application.

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.

No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s^(1.75) 16 hour day-time nor 0.26 m/s^(1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

6. REPRESENTATIONS

6.1 NEIGHBOURS: all properties within 50m were consulted (28 properties), a site notice and press notice – no responses received.

6.2 COUNCILLORS MORRIS, HOWELLS, PETERSON AND STERRY: no comments received.

7. ASSESSMENT

7.1 The principle of residential development is established and acceptable. An extant permission exists on the site and its development for residential has policy support via the adopted LDP. This application has merit and therefore the key issues to be considered are the impact upon site constraints such as trees and landscape and associated ecology, flood risk factors having regard to up to date maps and guidance, highway safety and related matters in relation to revisions to unit type and layout, visual and residential amenity and placemaking generally.

7.2 Layout and Design

Phase 4 is located to the south east of the development site. The approved layout pre dates modern placemaking objectives and it seems unlikely that the current developer would want to develop this out as it appears to favour apartments rather than houses. Both Planning Policy Wales (PPW) and Future Wales put placemaking at the heart of the planning system. Places should be attractive, sociable, accessible, welcoming and secure. PPW 11 states that placemaking considers the context, function and relationships between a development site and its wider surroundings. The proposed amendments to the layout see communal open space and parking with associated landscaping under the electricity lines that traverse the site. This feature offers a focal point in the wider development site and is of usable arrangement and size with associated footpaths and landscaping offering a space that future residents can enjoy both as a pleasant open space but also for informal recreational opportunities. Formal recreational space is located adjacent to the wider site at Black Ash Park/Lliswerry recreational ground where sports pitches and formal open space is provided. A public right of way link exists between the wider development site and the recreational grounds. Parking spaces are sufficiently close to the houses they serve and whilst located within a court, this court is open to surveillance with pedestrian access through it and landscaping around it. It is a functional space that makes best use of constrained land. The site has the benefit of peripheral existing landscaping and this has been subject to much discussion during the course of consideration in terms of ensuring the development has an acceptable impact upon these features and does not unduly prejudice their longer term retention. Such existing features offer a ready made “greening” of the development that would otherwise take a long time to establish and the retention of existing features is considered important. The layout has been adapted a number of times to deal with concerns raised by tree and landscape consultees and the layout now successfully avoids direct impact on the most valuable features. Some plots will experience a degree of shadowing during some parts of the day but this is balanced against the merits that established landscaping has on outlook and wellbeing and the degree of overshadowing is not considered to be of demonstrable harm to the amenities of future occupiers or the long term retention of the trees themselves. The plan below shows plots 7 and 8 most affected and the shadowing is intended to show the range of shadow cast through an entire day as the sun moves from east to west. The gardens will not experience permanent shadow but will have a shadow

cast across part of the garden throughout the day. This may be considered a positive. In any event there is no apparent scope to mitigate such shadowing of rear gardens without reducing unit numbers which in itself then gives rise to additional factors such as viability. Importantly, the landscape and tree officers are both satisfied with the revised proposals and raise no objections and in amenity terms the units affected will offer an acceptable standard of overall amenity to their future occupiers.



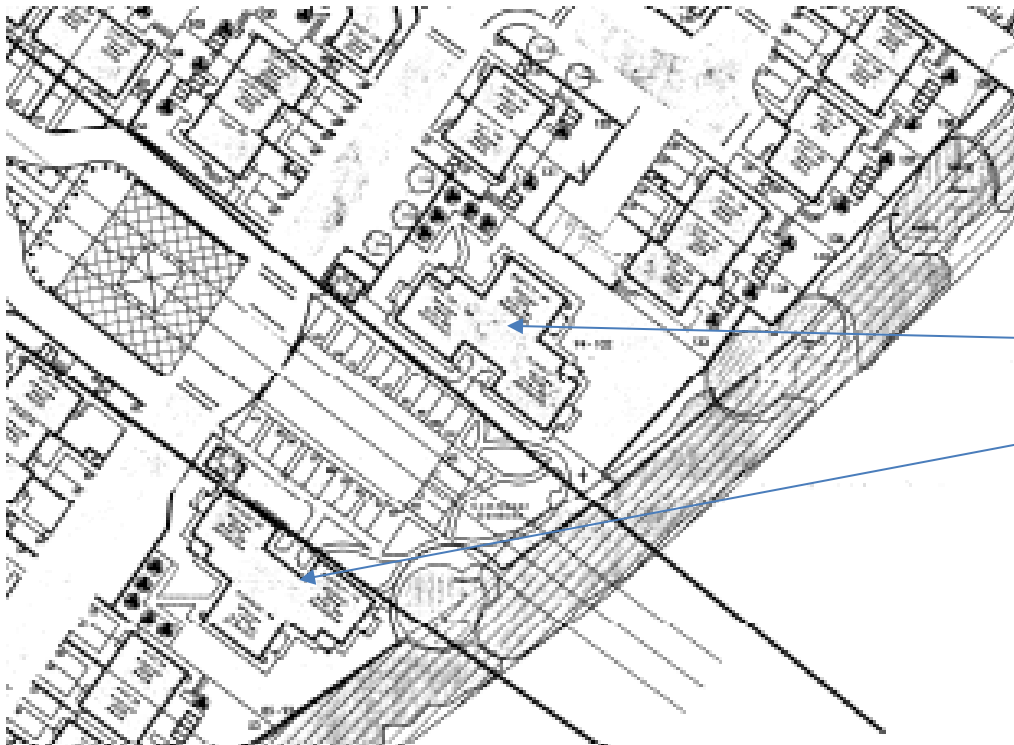
Extract from Tree shade drawing provided by applicant [NB. Layout in other respects has subsequently been updated]

7.3 Footpath links offer permeability through the site which is beneficial and these along with the open spaces introduce a sense of openness. The new layout sits well amongst the wider development with permeability to adjoining phases. Concerns were raised during consideration regarding the potential dominance of parking in the private drive area and the applicant has rearranged this to break up the off road parking and intersperse planted verges. The latter have other beneficial effects as avoid the dominance of high boundary enclosures to rear gardens and soften the impact of these on key spaces such as the footway through from the private drive to the parking court and open space. Whilst the long term retention of such spaces is often moot in areas where parking is in high demand (as occupiers park on verges or planted areas when parking spaces are full), the applicant has confirmed that such spaces will be privately managed and not within the demise of individual unit curtilages. The private management of such areas forms part of the legal agreement. Furthermore, whilst parking may occur in the private drive area or across verges or planted area in practice, this will erode valuable landscaped features that add to the appearance of the small street and may inhibit the manoeuvres of occupiers from dedicated spaces etc. None of this will likely be tolerated in practice by residents and in any event the private street serves only a small number of properties and is superior in layout terms to the approved scheme (see extract of approved layout below).

7.3 In design terms the houses are 2 or 2.5 storey and of traditional finish, scale and appearance. They are compatible with changes made to adjoining phases and will offer a pleasant streetscene. Architecturally, finishing materials appear traditional and robust in terms of long term weathering and fenestration such as windows and doors appear to offer a vertical emphasis. The variation in material palette and height along with features on corner turning units, offers interest and value to the appearance of the street scenes. Gaps and spaces between groups or semis also ensures that the scheme does not appear cramped or overly developed. Design features are limited but acceptable with small flat roof dormers offering visual interest at roof level and simple canopies over front doors offering relief on front elevations. Some units appear to offer “surrounds” to openings on the front elevation that add further interest. Overall, the proposed design is considered acceptable and preferable to the scheme previously consented in this regard.



Proposed Streetscenes drawing provided by applicant



Previously approved flatted blocks – 18 units total

Extract from approved layout 09/0850

7.4 Overall, the layout of this phase has been subject to much negotiation and is considered acceptable in both amenity and placemaking terms. It offers a layout commensurate with the updates made to phase 3 and whilst clearly constrained by a number of factors, it offers an acceptable level of amenity to future occupiers with each house benefitting from usable private rear gardens that are of SPG minimum depths and off road parking spaces of acceptable size with the site as a whole also benefitting from communal paths and open space with the benefit of both existing and proposed landscaping. The site does not benefit from on site equipped area of play and neither did the extant scheme. The larger development area is immediately south of the large open space known as Black Ash Park and the legal agreement secures contributions to enhance off site equipped play area at Somerton Park. The new proposal has regard to the sustainable transport hierarchy and offers greater opportunity for walking routes within the phase and linked to neighbouring phases along with a more usable open space area with the benefit of structural planting. The site as a whole is within walking or cycling distance of some local schools, local supermarket and existing active travel routes, including those along the riverside. The new layout offers a number of benefits over the scheme previously approved and is considered a superior layout of the phase overall, however, it is considered that whilst the site does benefit from an

extant permission for 2 apartment blocks and therefore this must be considered a fall back position and material consideration, the weight that can be applied is moderate as the likelihood of the approved scheme being developed is affected by its dated design and layout. That said the consent is extant and economic or other circumstances would likely mean that if consent was refused for this scheme for any reason, the extant scheme would be developed out.

7.5 Highways

The proposal raises no concerns in relation to the capacity of the local highway network. The site will be accessed from the approved access road which leads off the junction of Corporation Road and past the Lysaght Institute. As the site has the benefit of planning permission for 18 units already and the overall development unit numbers will be unchanged, the impact upon the wider highway network is of no concern. With regard to parking demand, the application proposes to provide 2no parking spaces per dwelling. This accords with the level of parking required in order to comply with the Council's Parking Standards SPG for 2no. bedroom dwellings. Some of these are in a tandem arrangement which is common practice. The site is located in Parking Zone 4: Suburban or Near Urban which requires that 1no parking space per 5no units is provided for visitors to meet the parking standards which should take into account the needs of the disabled and should be clearly identifiable. The site provides 18 units. A total of 4no visitor spaces have been shown which will be acceptable. Initial comments from the Head of City Services raised issues relating to the turning head and footpath widths along with issues of cycle storage. All of these have been addressed, cycle storage will be provided for each property and no highway objections are raised. Furthermore, opportunities for waste collection points at the northern turning area and parking court area have been shown and appear acceptable. All units will have rear access for storage of waste receptacles in private areas and therefore no reason for these to be stored in more visible public areas to fronts of units.



Extract from proposed site layout drawing noting 2m wide footpath around turning head north of site, increased width of footway connecting northern and southern parts of the site and individual cycle storage sheds for each unit.

7.6 Landscaping

This has been discussed under the layout section of this report. Subject to conditions set out in the responses of the tree and landscape officers, this matter is considered acceptable. The Ecology officer has raised linked concern regarding clearance of existing vegetation and

reptile mitigation in particular but the case officer site visit in the last 6 months confirmed that the site is significantly disturbed and on site activity has taken place. Consequently, this is not a pristine undisturbed site and whilst habitat associated with green corridors and retained vegetation has been safeguarded and will be retained, the remainder of the site has been significantly changed by material movement and clearance. That said, sensitive management of retained green spaces will be required but the adjoining ditch is not within the control of the applicant and cannot be subject to any management strategy linked to this decision. It is considered that a condition that achieves acceptable retention and management of the buffer next to the south eastern boundary is entirely reasonable. The ecology officers note regarding conditions relating to ecological enhancement and hedgehog movement can also be applied reasonably.

7.7 Flood Risk

This is a key issue to be addressed and a Flood Consequences Assessment has been provided. The Development Advice Map shows the site as being in Zone C1.

TAN15 requires that developments in Zone C are justified as follows (Paragraph 6.2 tests):

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement¹; or,*
- ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,*
- iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,*
- iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.*

As an allocated housing site (H1(45) Lysaghts Parc) test i is met and there can be no doubt the land is Previously Developed Land. However part iv must be shown to be met by an appropriate Flood Consequences Assessment (FCA) for the lifetime of the development and including the impacts of climate change. The FCA must show that the site will flood within tolerable levels and that access routes remain available at all times or failing that, that any containment is of a suitably limited duration. There should be no adverse offsite impact.

It is noted that for the most recent application on the adjoining phase 3, no concerns were raised by NRW. This appears to be linked to the fact that the site has an extant consent and the proposal to vary the layout of phase 3 via a s73 submission would not increase the number of units on the overall development site and therefore would not increase risk over and above a fall back position. The situation is slightly different for this application. Whilst the number of units does not increase and the site does have an extant permission, the proposals in this case are to alter the unit type from apartments to houses and consequently this is not a section 73 application but a full submission. As this is a new scheme, it is reasonable to consider the risks of flooding afresh and with regard to up to date flood risk information and technical guidance. As part of a wider planning assessment, it is also reasonable to consider issues of fallback (ie what could reasonably be done if this application is refused and how does this compare with flood risk to the proposed scheme). However, we must first clarify what the current risk to the site is for its lifetime of development (i.e. 100 years) and may reasonably expect risk to be greater than when the previous outline application for the whole site was evaluated as at this time a 50 year lifetime of development was applied in respect of flood risk considerations.

7.8 TAN 15 Assessment

- 7.9 TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas. It maintains that there should be minimal risk to life, disruption and damage to property. Development should only be permitted in Zone C1 if it can be demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region; and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

7.10 Where development is justified the assessment can be used to establish whether suitable mitigation measures can be incorporated within the design to ensure that development is as safe as possible and there is minimal risk, damage and disruption.

7.11 For the purposes of this report, criterion (i) to (iii) are referred to as Test 1 as this relates to the site justification and criterion (iv) which has a number of tests is referred to as Tests 2 to 12.

Test 1 – Justification

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

The site is located within the urban settlement on land with an extant planning permission and meets this test.

7.13 It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 4.4)

PPW defines previously developed land as:

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage...of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal...where provision for restoration has not been made through development management procedures.

7.14 The site is a former industrial land with extant residential planning permission and meets the definition of previously developed land.

Tests 2 to 12 – Consequences of Flooding

7.15 Criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered. These are referred to as tests 2 to 12 below.

7.16 Test 2 - Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a 1 in 1000 chance of occurring in any year).

Flood defences exist along the east bank of the River Usk and these were designed to safeguard existing and approved settlements at the time of their design. Planned or proposed development must be subject to flood risk assessment regardless as such defences may not serve to protect new development for its lifetime. In this case, there is no dispute over the structural adequacy of the defences. The issue is whether the defences will safeguard the development for its lifetime having regard to current flood advice maps with added climate change allowances.

7.17 Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales.

Flood defences are off site and maintained by NRW.

7.18 Test 4 - The developer must ensure that future occupiers of the development are aware of the flooding risks and consequences.

This is normally achieved via a Flood Evacuation Plan or similar and via occupier registration for NRW flood risk warnings. This is not a matter reasonably within the control of the LPA.

7.19 Test 5 - Effective flood warnings are provided at the site.

This is not a matter for the LPA but it is expected that occupiers could register for such warnings with NRW.

7.20 Test 6 - Escape/evacuation routes are shown by the developer to be operational under all conditions.

During a 0.5% (1 in 200 year) plus climate change allowance (year 2122) annual probability tidal flood event, the predicted flood level is 7.62m AOD.

During the same event the access road and footpath may experience flooding in the range of 420mm - 700mm.

During a 1% (1 in 100 year) plus climate change allowance annual probability fluvial flood event, the predicted flood level is 6.55m AOD. Therefore, the entire development is designed to be flood free during this event. No objection is raised by NRW on this basis having regard to A1.14 of TAN15.

During a 0.1% (1 in 1000 year) plus climate change allowance (year 2122) annual probability tidal flood event, the predicted flood level is 8.53m AOD.

During the same event the access road and footpath may experience flooding in the range of 980mm – 1030mm. The development does not therefore meet the requirements of A1.15 of TAN15 in relation to tidal flood risk as the escape/evacuation routes will be flooded above tolerable limits.

During a 0.1% (1 in 1000 year) plus climate change allowance annual probability fluvial flood event, the predicted flood depth is 6.85m AOD. Therefore, the entire development is predicted to be flood free during this event. Thus, the development meets the requirements of A1.15 of TAN15 in relation to fluvial flood risk only.

7.21 Test 7 - Flood emergency plans and procedures produced by the developer must be in place

7.22 Strategic emergency planning in the event of a flood is not a planning matter and on private housing sites where properties will be sold on the private market, it is unreasonable to expect the developer or the LPA to monitor or enforce individual occupier reactions to flood warnings or events. The key question is whether a flood event will be manageable and what risks may arise to life and property.

7.23 Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters.

The proposed dwellings have been shown to be flood free during predicted 1 in 100 and 1 in 1000 year fluvial flood events and 1 in 200 tidal flood events. In the event of a 1 in 1000 year tidal flood, the ground floor of units will potentially flood to 830mm but allowing for a modest reduction in chartered lifetime of development to 94 years, the tolerable limit of 600mm of floodwaters during this worst case flood event are met. Potential movement of possessions to upper floor (s) is possible.

7.24 Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.

As above.

7.25 Test 10 - No flooding elsewhere.

The FCA concludes that tidal flood plain loss is considered low in the context of the water volumes involved for the tidal scenarios. Given that the development would flood from all directions during extreme tidal flood events, and that the entire area surrounding the site is also flooded, we are satisfied that the land raising to achieve flood free dwellings would not cause an impact to conveyance routes.

7.26 Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.5) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.

This test is met in relation to proposed dwellings but it has been shown that the site will flood in parts and this may inhibit movement along access roads in some scenarios, notably during tidal flood events. NRW does not raise objection in this regard.

7.27 Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 600mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour.

Section 6 of the FCA confirms that the access road and footpath levels range between 7.2m – 7.55m AOD. Based on these FFLs, the FCA confirms:

- During a 0.1% (1 in 1000 year) plus climate change allowance (year 2122) annual probability tidal flood event, the predicted flood level is 8.53m AOD.
- During the same event the access road and footpath may experience flooding in the range of 980mm – 1030mm.
- During a 0.1% (1 in 1000 year) plus climate change allowance annual probability fluvial flood event, the predicted flood depth is 6.85m AOD. Therefore, the entire development is predicted to be flood free during this event. Thus, the development meets the requirements of A1.15 of TAN15 in relation to fluvial flood risk but not in relation to tidal flood risk.

7.28 We know that properties will be flood free in most scenarios but will flood during the 1 in 1000yr tidal flood should this occur. Tests 6 and 12 are not met. Flood depths during a most severe 1 in 1000yr tidal flood event will exceed the specified tolerable limits of 600mm but only beyond 94 years lifetime of development (we are required to assess 100 yr lifetime). Such flood risk does not occur during a 1 in 1000yr fluvial event. Flood depths during the most severe tidal flood event would be above tolerable limits at approximately 830mm based on 100 yr lifetime (only exceeding the 600mm tolerance level at the end of this period) and above tolerable velocity at 1.17m/s. Access roads will experience flooding above tolerable limits during a tidal flood event but not during a fluvial event. The primary risk in this severe flood risk scenario is tidal waters entering site from the south east mixed with a breach of the River Usk bank further north. This has regard to the influence of climate change and a lifetime of development of 100years. Part A1.15 of TAN15 is not met. In fact the submitted FCA confirms the charted mechanism for flooding at the site as follows:

Until 2072 flood water enters the site from the River Usk. Flood water overtops around Stephenson Street and flows in northerly direction towards the site. Flood water crosses the railway line at Corporation Road before also flowing in a northly direction towards the site.

By 2072 the site has started to flood, both from the flood water from Stephenson Street and from the Corporation Road flood water to the east via the A48. The proposed Stephenson Street FAS is expected to address flooding from this direction up to 2092.

From 2102 flood water to the east of the development site flows on to Nash Road, flooding the area to the north of the development site. Flood water propagates during the following events until the 2112 event where flood water also approaches the site from the north.

In short the flood risk situation is not straightforward. For the next 50 years the site is expected to be flood free. Whilst the proposed Stephenson Street flood alleviation scheme has planning permission and is expected to be completed, we cannot rely on it for our assessment and neither can the applicant in their FCA. However, they anticipate its affects will extend the flood free period of the site from 50 to 70 years from 2022. It will significantly influence the risk and flow of flood waters from the south east of Stephenson Street area. Beyond this, the site is charted to flood further, flood waters inundating large areas north of the site via a River breach.

7.28 The site is in a flood risk area but benefits from an extant planning permission for residential development as part of a larger redevelopment site and consequently is not considered a departure application despite its failure to satisfy all TAN tests. NRW does not object to the scheme subject to specified conditions being imposed and in relation to flood risk it is satisfied that the risks and consequences of flooding can be acceptably managed subject to all measures and information set out in the submitted FCA. Dwellings will be flood free in the 1 in 100 and 1 in 200 year scenarios but the site will be subject to flooding in other areas during tidal flood scenarios. This is no different to the situation with the extant consented scheme and is arguably better than it as the latter included ground floor flatted accommodation where the potential for movement of goods beyond flooding levels was more constrained. In this case it is considered that whilst some tests in the TAN are not met, the site history and information in the submitted FCA are significant material considerations and flood risk has been shown to be capable of acceptable management and limited risk. Whilst containment would be required during the most serious tidal flood scenario, as the risk is tidal (not fluvial) the containment period will be likely be linked to the tidal cycle and occupiers will have safe refuge at upper floors that will prevent need to attempt exit along flooding accessways. The risk of flooding beyond the tolerable 1 in 1000 year limits set in TAN15 only occurs beyond the 94 year life of the development and some improvement of conditions can reasonably be expected as a consequence of ongoing flood alleviation works that are consented but yet to be completed. Such works have been designed to protect existing development, not current proposals or future development to be applied for. However, as this scheme is on an allocated site and has the benefit of detailed planning permission, it has significant policy support and forms part of a larger, partially completed and occupied residential development site. On balance, the scheme has wider merit and the failure to comply with some tests in the TAN is not reason to refuse permission in this case and NRW has not objected or raised overriding concerns either.

Section 106 Planning Obligation matters

Summary

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

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
<i>Education</i>	<i>To mitigate lack of capacity for pupils generated by the development at Llisbury High School</i>	<i>A contribution of £29,741 is required for provision and/or improvement of facilities and services at Llisbury High School</i>	<i>A contribution of £29,741 for provision and/or improvement of facilities and services at Llisbury High School</i>	<i>No</i>
<i>Head of City Services and Leisure Services</i>	<i>To mitigate impact of additional demand upon off site equipped play space at Somerton Park</i>	<i>The proposed development generates a commuted sum of £24,978 to provide/upgrade and maintain Equipped Play provision</i>	<i>A commuted sum of £24,978 to provide/upgrade and maintain Equipped Play provision .</i>	<i>No</i>

Heads of Terms Agreed by Applicant

1. Introduction

Based upon a development of 18 x 2 bed market houses, the following S106 planning obligations are required to mitigate the impact of the development.

2. Affordable Housing

The site lies within the Housing Target Area of Newport East, where there is normally a requirement for 20% of the development to be affordable dwellings. The original planning consent (Ref: 04/1173) required 20% affordable dwelling provision. This would equate to circa 35 dwellings across the whole development. However, 120 affordable dwellings will be provided within the whole development (comprising 84 units in the first phase of the development and a further 36 units which will be handed over to Linc Cymru Developments during the course of this year on the adjacent Edenstone phase 1B). As such, the requirement for affordable housing for this location has already been over-delivered, representing significant 'additionality'.

As a consequence, the requirement for 20% affordable housing on phase 4 should be considered in the context of the wider development already providing significant 'additionality', thereby negating the need for further affordable dwelling provision.

3. Education

School Capacity' is calculated taking account of current school capacities, demand generated by extant permissions and/or Joint Housing Land Availability supply, as well as future pupil number projections over the lifetime of the related planning permission.

Primary

The development is served by Lliswerry Primary School. Taking into account the scale and type of development and 'School Capacity', no contribution is required

Secondary

The development is served by Lliswerry High School. Taking into account the scale and type of development and 'School Capacity', a contribution of £29,741 is required for provision and/or improvement of facilities and services at Lliswerry High School.

All Education Sums will be index linked to the BCIS and paid prior to occupation of the 9th dwelling

4. Leisure

There is a deficit of 'Equipped' and 'Informal' play in the Lliswerry ward.

The proposed development generates a commuted sum of £24,978 to provide/upgrade and maintain Equipped Play provision. On site open space will be subject to private management.

All Leisure Sums will be index linked to the Retail Price Index and paid prior to occupation of the 9th dwelling

5. Administration Fee

In accordance with the Planning Obligations SPG (2020), a £1,656 administration fee is charged for monitoring the S106 agreement. This is to be paid upon signing of the legal agreement.

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 scheme is another phase of a larger consented project and will see an updated and improved layout and design over the extant scheme. It does not increase the number of units compared to the extant permission but does provide 100% houses rather than the previous flatted/house mix. The site has a number of constraints but the applicant has, during the consideration of the application, adapted the scheme and provided additional information to address these constraints and queries raised by consultees. No objections are now outstanding and the scheme is welcomed in principle as will facilitate the continual build out of this urban development site. It needs to be subject to a legal agreement for reasons set out above and this may require a separate adjustment to the original legal agreement to avoid over payments, however this can be dealt with separately as necessary. It is recommended that permission be granted subject to conditions and a legal agreement.

10. RECOMMENDATION

GRANTED WITH CONDITIONS AND SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED AUTHORITY TO HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT TO USE DISCRETION TO REFUSE IF NOT SIGNED WITHIN 3 MONTHS OF A RESOLUTION

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

P4 – 5000A, 5001G, 5002F, 5003E, 5004B, 5006, 5008, 5008_1; and

P4 – 100, 101, 102A, 103B, 104A, 105A, 106A, 107A, 110, 111A; and

Soft Landscape Plan 102-PL11, Tree Pit Section Detail 201-PL01, Tree Pit Section Detail (Swale) 202-PL01, Tree Constraints Plan by TreeScene, Arboricultural Impact Assessment Plan (March 2022), Tree Protection Plan (March 2022) and Tree Shadow Plan (March 2022); and

Levels and Drainage Plan 900-P5, SAB Design Intent Details 20019-800P3; and

Phase I Habitat Plan E2099001A and Phase 1 Habitat Survey Plan E0916901(1); and

Flood Risk Assessment by Jessop Reynolds 20019.TN02D, dated 08/08/2022; and

Ecology Summary Note by Soltys Brewster, Notes and Site Photographs; and

Tree Survey by Treescene 11/2020, Tree Survey 26/11/21, Arboricultural Impact Assessment and Method Statement; and

EMF Assessment Report by EMF Comp; and

Transport Note by Vectos; and

Noise and Vibration Impact Assessment by Clarke Saunders

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 commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority.

The piling/foundation designs shall be implemented in accordance with the approved details.

Reason: Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

03 No development shall commence until a foul water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water shall be allowed to connect directly or indirectly with the public sewerage system.

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

04 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 EXCUSION 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.

05 No development, to include demolition, shall commence until Julian Wilkes of Treescene is appointed as Arboriculturalist (in accordance with the email dated 25th October 2022 from the agent), 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 in the correct location and is fit for purpose .

- c) Oversee working within any Root Protection Area;
- d) Reporting to the Local Planning Authority following site inspections by the Arboriculturalist to check on Arboricultural matters as set out in the approved AIA;
- e) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed in writing by the local planning authority.

Reason: To protect important landscape features within the site.

06 No infiltration of surface water drainage into the ground 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 from historic contamination to controlled waters. The development shall be carried out in accordance with the approved 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.

Pre – development above finished floor slab level conditions

07 Prior any development above finished floor slab level, and notwithstanding the details submitted to date, a hedgehog movement plan, which demonstrates how hedgehogs and other wildlife species can move between gardens, and from gardens to open space or semi-natural habitats nearby, shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented in accordance with the approved details thereafter.

Reason: In the interests of ecology and ecological habitat.

08 Prior to any development above finished floor slab level, full details of bird and bat boxes to be incorporated into buildings on site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include as a minimum the timing of implementation and the location and details of such boxes to include:

- 4 x bat boxes for crevice-dwelling bats, and
- 4 x Swift nest boxes,

The details shall be installed as approved in accordance with the implementation timetable and retained thereafter for the lifetime of the development.

Reason: To ensure ecological enhancement is secured on site.

09 No road, parking area, shared surface or private lane shall be completed beyond base course level until details of their final finishes have been provided to and approved in writing by the Council. Thereafter the roads shall be completed as approved prior to first beneficial occupation of any dwelling which they serve.

Reason: to ensure these surfaces are completed in an appropriate and legible form having regard to placemaking and road hierarchy. Policies GP4 & T4.

10 Prior to construction/development above finished floor slab level, a timetable for implementation of the scheme of landscaping and tree planting shall be submitted to and approved in writing by the Local Planning Authority. Landscaping and tree planting shall be completed in accordance with the approved timetable and thereafter the trees and shrubs shall be maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purpose of this condition, a full planting season shall mean the period from October to April.

Reason: To secure the satisfactory implementation of the proposal.

Pre –occupation conditions

11 Secure cycle storage shall be provided in accordance with the approved details prior to first occupation of the unit it serves and shall be retained thereafter for the lifetime of the development.

Reason: To ensure adequate cycle storage is provided in accordance with the Council's Newport City Council SPG Sustainable Travel (July 2020).

12 The open space shall be provided and available for use as approved prior to the occupation of any of the following units: plots 9-18 inclusive unless an alternative timetable for its completion is approved in writing by the Local Planning Authority prior to the commencement of construction on any of these plots.

Reason: to ensure open space is provided in a timely way in the interests of recreation, health, socialisation and general amenity. Policies SP2, GP2, GP5 & GP6.

13 The car parking space(s) as shown on the approved site layout plan shall be provided in accordance with the approved details prior to the first beneficial use of the dwellings to which it relates and shall be kept available for such use at all times thereafter.

General conditions

14 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by 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 encountered during the development phase is dealt with appropriately.

15 The development shall be completed in accordance with the approved Noise and Vibration Impact Assessment by Clarke Saunders and 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.

Reason: To ensure an acceptable level of amenity for future occupiers in accordance with policy GP6 of the Adopted LDP.

16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 2, Class A, no wall, fence, gate, hedge or other means of enclosure shall be erected or planted forward of the front wall of the dwelling(s) hereby permitted without the prior written permission of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, Classes A and E, no buildings or enlargements/extensions shall be erected at plots 12 or 18 as shown on the approved site layout drawing hereby approved without the prior written permission of the Local Planning Authority.

Reason: Extensions to these units as significant potential to adversely impact upon valuable retained tree features and in the interest of visual amenity.

18 Finished floor levels of all properties hereby approved shall be minimum 7.7m AOD in accordance with Part 6 of the approved Flood Consequences Assessment.

Reason: To safeguard future occupiers from flood risk.

NOTE TO APPLICANT

01 This decision relates to the plans and documents set out at condition 01.

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

SP1 – Sustainability

SP9 – Conservation of the Natural, Historic & Built Environment
SP10 – House Building Requirement
SP12 – Community Facilities
SP13 – Planning Obligations
SP18 – Urban Regeneration
GP1 – Climate Change
GP2 – General Amenity
GP4 – Highways & Accessibility
GP5 – Natural Environment
GP7 – Environmental Protection & Public Health
H1 – New Housing sites
H2 – Housing standards
H3 – Housing Mix & Density
H4 – Affordable Housing
T3 – Road Hierarchy
T4 – Parking
T5 – Walking & Cycling
CF2 – Outdoor Play Space Requirements
W3 – Provision for Waste Management Facilities in Development

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 This is subject to a legal agreement.

06 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.

2.

APPLICATION DETAILS

No: 22/0551 **Ward:** Marshfield And Tredegar Park

Type: Full (Major)

Expiry Date: 9th November 2022

Applicant: Maloney

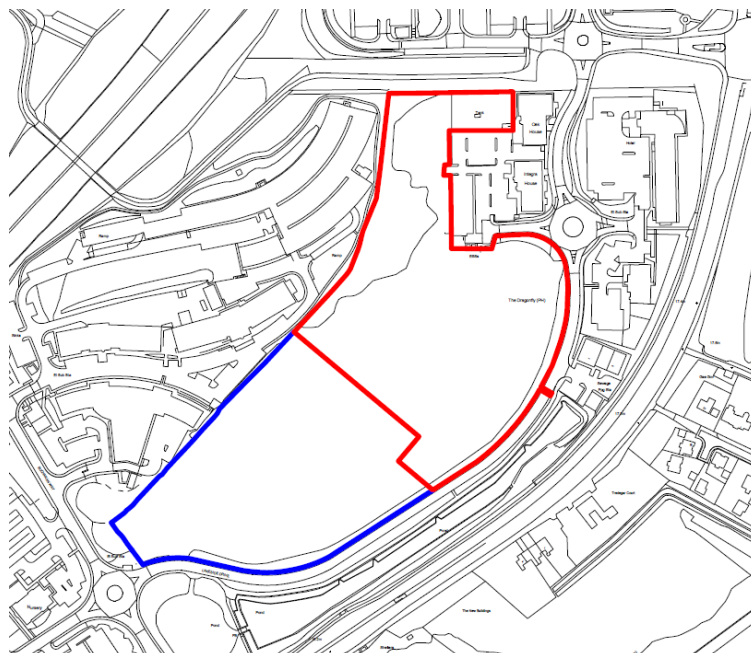
Site: Land On The North Side Of Lakeside Drive Coedkernew Newport South Wales

Proposal: ERECTION OF PORSCHE CENTRE, 1NO. SATELLITE SHOWROOM, 1NO. SATELLITE SERVICE CENTRE (SUI GENERIS USE) AND ASSOCIATED WORKS

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the construction of a Porsche Centre, a satellite showroom and a satellite service centre and associated works. The development would have a Sui Generis Use.
- 1.2 The site is a vacant parcel of land with an area of 3.2 hectares. It is located to the west of Lakeside Drive and is partly allocated for employment use in the Newport Local Development Plan. The site is partly within a Site of Importance for Nature Conservation (SINC) owing to its mosaic habitat.



- 1.3 The application is accompanied with drawings which provide a detailed layout and design of the buildings 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 Consultation report, Site Investigation, Transport Assessment, Travel Plan, Archaeological Written Scheme of Investigation, Sequential Assessment, Flood Risk and Drainage Strategy, Arboricultural Impact Assessment and a Planning Statement.

1.4 The application is brought before Planning Committee as it represents major development.

2. RELEVANT SITE HISTORY

96/0992	DEVELOPMENT FOR MULTI USE LEISURE ANCILLARY RETAIL RESTAURANT COMPLEX GROUPED AROUND A MULTIPLEX CINEMA AND HOTEL WITH ASSOCIATED CAR PARKING SERVICING AND LANDSCAPING (USE CLASSES D2 A1 A3 C1) - AMENDED SCHEME	Refused Secretary of State	– of
00/0899	OUTLINE APPLICATION FOR B1 (BUSINESS) AND C1 (HOTEL) DEVELOPMENT	Granted conditions	with
01/0404	CONSTRUCTION OF PRIMARY ESTATE ROAD, ASSOCIATED LANDSCAPING AND STORM WATER DETENTION AREAS	Approved conditions	with
08/0284	OFFICE BUILDING WITH GROUND AND MULTI-STOREY PARKING AND COVERED STORAGE, OPEN COMPOUND FOR ASSOCIATED UTILITIES EQUIPMENT STORAGE	Granted conditions	with
14/0204	RESIDENTIAL DEVELOPMENT TOGETHER WITH ASSOCIATED VEHICULAR AND PEDESTRIAN ACCESSES, CAR PARKING, LANDSCAPING AND ANCILLARY DEVELOPMENT: SITE PREPARATION, CLEARANCE, TREATMENT, RE-PROFILING AND THE INSTALLATION OF NEW SERVICES AND INFRASTRUCTURE (OUTLINE)	Refused	

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 **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 **SP17 Employment Land** allocates 172 hectares of employment land for the plan period.

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

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

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

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

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

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

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

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

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

Policy **CE8 Locally Designated Nature Conservation and Geological Sites** includes the protection of Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNRs) and Regionally Important Geological/Geomorphological Sites (RIGS). The policy limits development affecting these sites unless there would be no significant impact or appropriate mitigation/compensation can be agreed.

Policy **EM1 Employment Land Allocations** allocates sites as employment land.

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

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

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

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

3.2 The following Supplementary Planning Guidance is also relevant:

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

4. CONSULTATIONS

- 4.1 REGIONAL AMBULANCE OFFICER: No response.
- 4.2 HEDDLU – GWENT POLICE: No response.
- 4.3 SOUTH WALES FIRE AND RESCUE: Changes to our climate and weather patterns will have a significant impact on the well-being of both current and future generations. In line with the Well-being of Future Generations (Wales) Act 2015 and the Future Wales – the national plan 2040 framework document, the following areas should be considered early in the planning process:
- 4.3.1 The climate emergency is likely to increase the risk of flooding as a result of sealevel rises, more frequent severe weather systems and more intense rainfall. Planning authorities should adopt a precautionary approach of positive avoidance of building developments in areas of flooding from the sea or from rivers. Surface water flooding will affect the choice of location and the layout and design of schemes and these factors should be considered at an early stage in formulating any development proposals.
- 4.3.2 Wildfires are a significant potential threat particularly in populated areas adjoining green spaces such as mountains or forestry. Therefore, it is critical that new developments are designed with this in mind. Where a new development is proposed in an area which is at risk of a wildfire, consideration should be given on how to mitigate the spread of wildfires. For example, sustainable land management could assist with prevention measures.
- 4.3.3 The site plan/s of the above proposal has been examined and the Fire and Rescue Authority would wish the following comments to be brought to the attention of the planning committee/applicant. It is important that these matters are dealt with early on in any proposed development:
- 4.3.4 The Fire Authority has no objection to the proposed development and refers the Local Planning Authority to any current standing advice by the Fire Authority about the consultation.
- 4.3.5 The developer should also consider the need for the provision of:-
a. adequate water supplies on the site for firefighting purposes; and
b. access for emergency firefighting appliances.
- 4.4 DWR CYMRU – WELSH WATER: The proposed development is crossed by a non-operational watermain and 160mm public water main with the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). We advise that both water mains are located and marked out prior to commencing any development, if any does fall within the current protection zone of the sewers please contact us. These Water mains may be able to be diverted under Section 185 of the Water Industry Act 1991.
- 4.4.1 Due to the strategic nature of these assets, we would not allow any 3rd party traces to be carried out on these watermain. We would therefore recommend the applicant to contact us on 0800 917 2652 to arrange trace on these water main assets.
- 4.4.2 Drawing reference 0034-101 C shows the proposed development in close proximity of the non-operational water main and the proposed attenuation pond within close proximity of the 160mm watermain to the south of the site, we would therefore request that a holding objection is placed on this application at this time until the water mains have been located and revised plans have been submitted to take into account these assets.
- 4.5 NEWPORT ACCESS GROUP: No response.
- 4.6 NEWPORT CIVIC SOCIETY: No response.
- 4.7 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: Information in the Historic Environment Record indicates the presence of a flint blade within the proposed development area and a flint flake just to the north of the site. Gwern y Cleppa Burial Chamber, a

Scheduled Monument (Cadw ref. MM022) is located approximately 360m to the west. Whilst a review of historic Ordnance Survey mapping indicates no significant structures or features, the proposal is located within the extent of Tredegar Estate parklands and likely the medieval Gwern-y-Cleppa Deer park. Due to the known medieval and Post-medieval estates, and the intense human activity since the Neolithic period, we have previously made numerous recommendations for previous developments in the vicinity. Such works includes desk-based assessments, evaluation trenching and watching briefs. The results of this previous work suggests that it is unlikely nationally important remains are located in the site, although there is the possibility that archaeological material may be encountered during the course of the proposal.

4.7.1 As a result, and in accordance with our response to the pre-application consultation, a Written Scheme of Investigation (Black Mountains Archaeology, Report no. 258, dated June 2022) has been submitted. The Scheme sets out the scope and methodology for an archaeological watching brief during all requisite ground intrusion works. The Scheme and proposed mitigation is appropriate.

4.7.2 To ensure adherence to the stated mitigation strategy we recommend that a condition should be attached to any consent granted by your Members and be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014:

No development shall take place until the applicant, or their agents or successors in title, has secured implementation of a programme of archaeological work in accordance with that outlined in "Land at Lakeside Avenue, Celtic Springs Business Park, Newport Written Scheme of Investigation" (Black Mountains Archaeology Report no. 258, dated June 2022).

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.

4.7.3 We also recommend that a note should be attached to the planning consent explaining that: *The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member.*

4.8 NATIONAL GRID ELECTRICITY: Advise of any apparatus in the area.

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

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ECOLOGY): In terms of compensation for the loss of open mosaic / grassland habitats, I can see that in Revision G of the Site Plan the Applicant has made an effort to increase the area of this habitat compared to previous versions. If it is the case that this is the maximum extent feasible, then I would not have grounds to object to this scheme on that basis.

5.2 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE): Sections have now been submitted and confirm the issue previously raised that customer car parking is elevated and will be very visible at the site frontage. Section A shows two retaining walls and a very steep narrow shrub bed is required to fit in the layout. The slope appears to be around 1 in 1 and will require an engineering solution.

5.2.1 As previously commented the proposal will dominate views for all estate users including visibility from users of the nearby pub and hotel. I had thought this may be to aid car sales, but the site plan indicates this is for public parking. Planting is of insufficient height to break-up or soften views of the cars or building, or the retaining wall with glass balustrade at the top of the slope, and creates a gap in the Green Infrastructure. An alternative landscape treatment is required although without a layout change it is difficult to see how this could be achieved.

5.2.2 The revised Landscape Plan LANDP001 rev 008 PDF is barely legible. Only boundary retaining wall runs and heights are shown on the landscape plan. Only the finish for the customer parking wall is confirmed by Ashri. The Landscape Plan shows a new 1.8m chain

link fence from A to B along the north boundary, is this in addition to palisade fencing and razor wire around the car park?

- 5.2.2 Although Asbri state 'fencing is far removed from the public realm' my view is that the car park razor wire fence line, high retaining wall and staff car parking will be visible from the north road. Hedge planting formerly proposed has been removed in order to protect the existing trees, but hedge planting could be set back outside the tree RPA's in order to provide some softening of the boundary treatment. It is still not clear why staff parking requires the level of security provided by 2.4m high palisade fence with 3 strands of razor wire.
- 5.2.3 Normal practice is for a 5 year maintenance and management plan which is site specific rather than providing generic elements separately, this makes it easier for planning to review in the future. Based on what has been submitted, there are still no clear objectives for maintenance of the native hedging, is this to provide some screening? If cutting back every 2 years to what height. No maintenance objectives are provided for the attenuation basin. Usual objectives may include area of open water, clearance of marginals on 3 year rotation etc. No M&M objectives or regime has been submitted for trees and hedges, to be retained.
- 5.2.4 A soil resource plan to ensure all reusable topsoil and subsoil resources are identified, recovered and protected as part of the development planning process is required. Increasingly the soil resource is seen as an important element of carbon storage. The applicant is to confirm imported soil will be professionally tested and recommendations implemented to ensure successful establishment of planting. A soil resource plan could be conditioned.
- 5.3 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (TREES): Objection.
- 5.3.1 The TPO'd trees should be clearly labelled on all layout plans. The existing trees should be shown on all plans and cross referenced with the TPO Gwent 104 – A3 – shown as T11g & T12g and the submitted tree information. (All tree information should be shown as an overlay on layout plans for consistency as stated at pre application stage e.g. tree canopy extent and RPAs on the landscaping plan).
- 5.3.2 A schedule of proposed tree works is required.
- 5.3.3 The car parking bays are far too close to the TPO'd trees and will compromise the amenity of the TPO'd trees, these are mature trees and need space and their setting is part of their amenity value. Which is negated by the proposal to place the parking bays so close to them. There will be increased applications for work to the TPO'd trees if parking is placed as proposed. This will be due to a perceived danger from the tree due to storm damage (which are increasing with frequency and strength due to climate change). Plus general debris from the tree including leaf fall and general debris. There is plenty of historical evidence throughout Newport to support this.
- 5.3.4 The British standard is very clear : BS5837:2012 Constraints posed by existing trees (in relation to existing trees and woodlands). E.g. the current and ultimate height and spread of the tree. Tree species, foliage density, aphid exudate, branch drop etc. Effect of shading from trees. – a shading plan should be submitted.
- 5.3.5 Working and access space needs consideration *'the requirement to protect the overhanging canopies of trees where they could be damaged by machinery, vehicles, barriers or scaffolding where it will be necessary to increase the extent of the tree protection barriers to contain the canopy'* i.e. by increasing the RPAs.
- 5.3.6 *'particular care is needed regarding the retention of large, mature, over mature or veteran trees...adequate space should be allowed for their long term physical retention and future maintenance'*
- 5.3.7 Sudden summer branch drop (which horse chestnut trees and oaks are prone to) is also a major issue associated with climate change and this has not been considered. This was stated at pre app "In addition "summer branch drop", due to climate change is now frequent and additional space should be given to highly susceptible tree species "

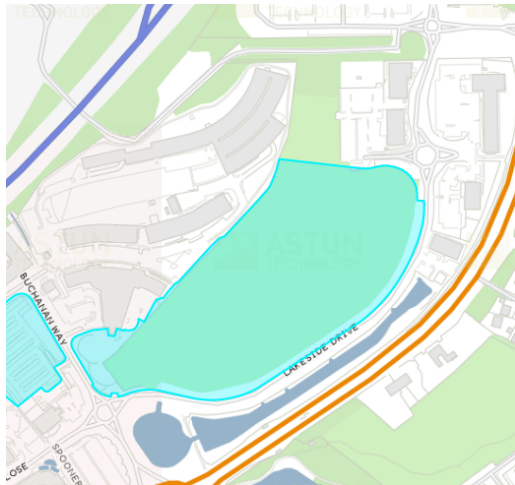
- 5.3.8 To reiterate the existing trees should inform the design layout and not vice versa, all potential conflicts between the proposed buildings and the trees should be designed out. The health, safety and longevity of the trees should not be compromised by a development.
- 5.3.9 All of which will put continued pressure on the trees to be trimmed on a frequent basis – thereby compromising the aesthetic and amenity value of the legally protected tree. This is contrary to the whole principle of TPO'd trees and the Town and Country Planning Act under which TPOs are made. This principle has been successfully upheld at Planning Appeals.
- 5.3.10 Trees are potentially affected by the proposed visibility splays but this tree information is not submitted as part of the Arboricultural submission and it needs to be. What are the impacts on these posed by the visibility splays?
- 5.3.11 Landscaping: No landscaping, mechanical landscaping operations, tree or shrub/hedge planting should take place within the RPAs of the trees – the landscaping plans should be amended to reflect this.
- 5.3.12 The following policies /statements/acts are relevant:
- 5.3.13 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.
- 5.3.14 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.
- 5.3.15 Newport City Council's Climate Change Emergency declared: "in November (2021) Newport Council declared an ecological and climate emergency that recognised the need to protect Newport's local environments and reduce carbon emissions across the City. The motion would ensure that all future decisions and policies made by Newport Council would be integrated across all areas of Council activity and the Council would lead by example through partnership working
- 5.3.16 Local Development Plan 2011-2026: GP5 -Natural Environment vii" unacceptable loss or harm to trees, woodland or hedgerows that have wildlife or amenity value" – is relevant
GP2 General Development Principles " there will not be an adverse effect on local amenity" - is relevant.
- 5.4 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENV. HEALTH): No objection subject to conditions requiring a Construction Environmental Management Plan, a restriction on working hours, the submission of a noise assessment, a restriction on advertisement illumination, details of any floodlighting and details of opening hours.
- 5.5 HEAD OF CITY SERVICES (HIGHWAYS): No objection subject to the following three points being satisfactorily addressed:
- 5.5.1 1. It is proposed to construct a new priority junction to accommodate staff and service vehicles. The proposed new site access arrangement is seen on plan 0034-101 rev C and includes a zebra crossing on Lakeside Drive, the location and design are considered to be acceptable.
- 5.5.2 The proposed new site access visibility arrangement is seen on plan 6692/204 rev A. The applicant will need to include the visibility splays wholly within the highway envelope. This is

to ensure visibility is not impaired by overgrowth etc. **A revised drawing is considered necessary.**

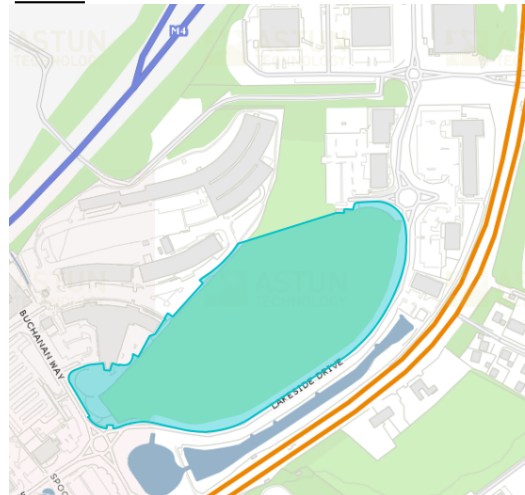
- 5.5.3 2. Cycle parking is provided in accordance with the now-superseded 2015 version of the Newport City Council Parking Standards. The number of cycle parking spaces is set out as 4. This is not acceptable as using the now superseded 2015 version it is recommend that 1 space per 250 m² internal space is provided.
- 5.5.4 The applicant is advised to recalculate the cycle parking space numbers and resubmit a drawing setting out the revised numbers of the cycle space facility structures at each location and the structures design details. Note they must be covered. **A revised drawing is considered necessary.**
- 5.5.5 3. Travel Plan - There will be works in the future that will involve the Travel Plan Co-ordinator from the Council. There will therefore be a cost charge requirement as per NCC procedure.
- 5.5.6 Highway Comment: Lakeside Drive is a privately managed highway leading the A448, a public highway. The proposal includes for a new priority junction off Lakeside Drive.
- 5.5.7 Access: The main access arrangement for customers and visitors will be from an existing site entrance off of the roundabout to the north of the building. In addition, it is proposed to construct a new priority junction to accommodate staff and service vehicles. The proposed new site access arrangement is seen on plan 0034-101 rev C and includes a zebra crossing, the location is considered to be acceptable.
- 5.5.8 The proposed new site access visibility arrangement is seen on plan 6692/204 rev A. The applicant will need to include the visibility splays wholly within the highway envelope. This is to ensure visibility is not impaired by overgrowth etc.
- 5.5.9 Swept Path Analysis: The drawing titled 'Swept Path Analysis Vehicle Transporter' Plan 6692/203 rev B is accepted.
- 5.5.10 Parking: Car and motorcycle parking, as well as appropriate provisions for servicing (e.g., transporters, and refuse collections) are provided in accordance with Newport City Council's Parking Standards (2020).
- 5.5.11 Cycle Storage: Cycle parking is provided in accordance with the now-superseded 2015 version of the Newport City Council Parking Standards. The number of cycle parking spaces is set out as 4. This is not acceptable, using the now superseded 2015 version it is recommend that 1 space per 250 m² is provided.
- 5.5.12 The applicant is advised to recalculate the cycle parking space numbers and resubmit a drawing setting out the revised numbers of cycle spaces, their locations and the design details of the covered cycle structures.
- 5.5.13 It is recommended that the details of the cycle storage facility numbers and their structures are submitted to and approved by the Council. The cycle store structure to remain in place for as long as the business operates on the site.
- 5.5.14 Transport Assessment: Within this document are the findings on the anticipated vehicle trip movements that will be generated as a result of this development. It is considered important to ensure the trip assessments are robust, this is to ensure the highway network can be reasonably expected to accommodate the additional vehicles.
- 5.5.15 The applicant considered it reasonable to assume that the trip generation estimates associated with a dealership of this nature would differ from the trip generation estimates derived from other dealerships within the TRICs database. The applicant has presented both methods of assessing the trip generation. Overall, when considering the sites accessibility, the availability of two accesses, the Council are satisfied that the trips generated will not have an unacceptable impact on the local highway network.
- 5.6 HEAD OF CITY SERVICES (DRAINAGE): No response.

- 5.7 HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (PLANNING POLICY): No response.
- 5.8 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (CONTAMINATION): I have read the Ground Investigation submission in respect of the application. It would appear that uncertainty exists regarding ground gas due to the presence of unknown filled ground at this site and as such the report author has made the following comments below:
- ‘Ground gas and volatile contaminant monitoring was not carried out. However, ground gas risk drivers were concluded within the associated PRA and assessment of the site’s ground gas regime may be required at the planning and design stage of the development’.
- 5.8.1 I concur with this and in view of the uncertainty regarding ground gas conditions a contaminated land condition will be required where any permission for this proposed development is considered. Evidence of the gassing regime at this site and any measures necessary would need to be provided to the LPA as a direct result of such a condition.
- 6. REPRESENTATIONS**
- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (13 properties), a site notice was displayed, and a press notice published in the South Wales Argus. No responses.
- 6.2 COUNCILLORS HOWELLS, SCREEN AND WATKINS: No responses.
- 6.3 COEDKERNEW COMMUNITY COUNCIL: No response.
- 7. ASSESSMENT**
- 7.1 Application site**
- 7.1.1 The application site is 3.2 hectares, and it includes part of an existing vacant parcel of land to the north of Lakeside Drive, which is associated with the Celtic Springs Business Park. The site is undeveloped except for the remnants of a previous access road, with its lighting column. It comprises made up ground with varying levels and spoil from previous developments in the neighbouring business park. It is dominated by grassland, hedgerows and trees along the western and northern boundaries. The trees along the northern boundary are a protected group (TPO GWT/104 - Oak and Horse Chestnut trees).
- 7.1.2 Access to the site is currently gained via a turning head within a car park which serves purpose built office buildings off Lakeside Drive. The car park of these offices forms part of the eastern boundary. The remainder of the eastern boundary is with Lakeside Drive, where the site is elevated above the road. The western boundary is bordered by car parking and office development within the Celtic Spring Business Park and the site slopes steeply up to this boundary.
- 7.1.3 Neighbouring land uses consist of office developments, a small parade of retail units, a hotel and a pub/restaurant. Further afield are a small number of residential properties (90m away) and the M4 is around 190m to the north west.
- 7.1.4 Part of the site is allocated for employment use in the LDP (policy EM1) and also part of the site is designated as a SINC. The reason for its designation is its post-industrial mosaic habitat, neutral and calcareous grassland.

Employment land



SINC



7.2 The proposals

- 7.2.1 It is proposed to construct a two storey Porsche centre building within the eastern portion of the site, with a satellite showroom and a satellite service centre in the southern portion of the site. Staff, visitor and storage parking areas are proposed around the remainder of the site and an attenuation pond would be created in the southern most corner of the site. Landscape planting is proposed throughout the site. Vehicular access would be from the existing access point to the south of the existing office development and from a new access created off Lakeside Drive, this also provides pedestrian access to the site.
- 7.2.2 The applicant is Dick Lovett who represent BMW, BMW Motorrad, MINI, Ferrari, Porsche, Jaguar, Land Rover and Aston Martin. They would be the operators for both the Porsche centre and the satellite centre.
- 7.2.3 Porsche Centre: the building would have a frontage to Lakeside Drive and would be the focal building. It would be roughly rectangular, with a curved glazed and cladding corner feature. The remainder of the Lakeside Drive frontage and would be extensively glazed and clad, which would continue around the northern elevation as it faces towards the roundabout on Lakeside Drive and the northern access. The design follows the corporate identity of the Porsche brand. The remainder of the building, which would house its servicing element would be finished with dark grey cladding.
- 7.2.4 The building would be set over two floors. The front portion of the building would have the showroom (over two floors), with office space also on the first floor. The rear portion would have servicing areas with stores and a repair room on the first floor. To the front and north of the building there would be a road with parking, including vehicles for sale, electric vehicle charging spaces and disabled spaces. Some of these would be at a lower level to the building due to site topography, although level access would be achieved opposite disabled bays. To the west and north west of the building 114 operational parking spaces are proposed, along with 30 covered cycle spaces and motorcycle spaces. There would be access to the servicing workshops and the area would be enclosed by 2.4m high palisade fencing. Landscaping would be provided around the southern side of the building, along the frontage with Lakeside Drive and along the northern access.
- 7.2.5 Satellite showroom: this building would be a smaller, single storey building, which would be rectangular in shape. While the future occupier of the showroom has not been identified the design of the building follows that of the Porsche building. It would have a frontage to Lakeside Drive, with extensive glazing and dark grey cladding. Internally it would provide space for car display, customer interaction and an office.
- 7.2.6 Pedestrian access would be provided from Lakeside Drive, along with vehicular access off a new access from Lakeside Drive. Customer car parking would be provided north of the building and the access would be shared with the servicing building. Landscaping is proposed around the building and parking area.

- 7.2.7 Satellite service centre: this would be part two storey, part single storey building located west of the satellite showroom. It would continue the design across the site with glazing and dark grey cladding. It would provide 12 workshop bays, customer interaction and office space. To the north/north west of the building 46 operational spaces are proposed with motorcycle spaces. These would be enclosed by 2.4m high palisade fencing.
- 7.2.8 Remainder of the site: a permanently wet attenuation basin is proposed in the southern most corner of the site, this would deliver sustainable drainage for this site, as well as providing some compensation for the partial loss of the SINC. 1.2 hectares of landscaping across the site is proposed, while landscaping at the front of the site (bordering Lakeside Drive) would be formal planting, elsewhere landscaping is proposed to re-create open mosaic habitat to compensate for the partial loss of the SINC. 117 new trees are proposed across the site.
- 7.2.9 A further area of staff car parking is proposed in the northern part of the site. This has been reduced by 30 spaces, to allow additional compensatory habitat to be retained. These spaces would include 10 electric vehicle charging bays and the area would be enclosed by 2.4m high palisade fencing.
- 7.2.10 Owing to the site topography some retaining walls are proposed along the frontage of the site, along the northern boundary of the car parking area and around some trees located on the western boundary. Elsewhere, the applicant has stated that buildings would have a ground level of 22.4m, which maintains the existing ground level from the existing northern access. Car parking areas would be largely flat but with slight slopes to a maximum gradient of 1 in 20 and other areas would be graded from the existing steep boundaries down to the car parking levels. There are some retaining structures along the boundary with the existing office car park to the north. These are within the applicants' control, and it is proposed to remove these as they do not provide any function as a retaining structure.

7.3 Principle of development

- 7.3.1 The application site is located in the settlement boundary and on vacant land. The very general principle of developing the site is considered acceptable and in accordance with policies SP1 and SP18, which encourage the reuse of vacant land within the settlement boundary. However, the employment allocation and SINC designation of this site, along with the suitability of the site sequentially, require additional consideration.

Employment land

- 7.3.2 As set out in paragraph 7.1.4 part of the application site is allocated for employment land. Policy EM1 allocates 6 hectares of land 'primarily for B1 use'. This site represents around 2.5 hectares of that allocation. Car dealerships have a Sui Generis Use which would not be in accordance with this policy.
- 7.3.3 Policy EM3 states 'development proposals promoting alternative uses on existing employment sites will be resisted unless:
- i) the site has been marketed unsuccessfully for employment purposes for a minimum of 12 months;
 - ii) there remains a sufficient range and choice of employment land and premises to meet LDP requirements and local demand;
 - iii) the development has no adverse impact on existing or allocated employment sites;
 - iv) the development has no adverse impact on amenity or the environment.
- 7.3.4 The applicants refer to the planning history of the site and the neighbouring parcel of land, which gained planning permission for office development in 2008. They note that this permission was not implemented, and the site has remained vacant since its first allocation under the previous Unitary Development Plan in 2006. While the applicant has not provided specific evidence of more recent marketing, the long-standing vacancy of the site is understood.
- 7.3.5 Newport currently has just under 13 years of employment land supply, which is considered to be a healthy supply of employment land. However, the specific concern for this site is the loss of 'Grade A' strategic office employment land, which is limited within the area. The applicant notes that the current vacant site detracts from the Business Park and the proposed

dealership would provide a modern, high quality purpose-built facility, which would represent a positive occupation of the site, and would be important to the image of the Business Park. It would give rise to the creation of around 100 new jobs, which would be a positive economic impact.

- 7.3.6 The applicant notes the impact of the Covid-19 pandemic on shifting working patterns with greater emphasis on working from home. This has had an impact on the market demand for office space and the applicant considers that the demand for a B1 use of this site has reduced since its allocation. They provide evidence of vacant office space in the immediate vicinity of the site, which includes properties on Cleppa Park, Celtic Springs and Imperial Way.
- 7.3.7 The National Plan: Future Wales 2040 also notes the impact of Covid-19 and it recognises that people are using places differently, travelling less and spending more time working from home. The Plan states that the planning system must respond to these changes and contribute to a sustainable recovery, shaping places around a vision for healthy and resilient places.
- 7.3.8 Planning Policy Wales (PPW) paragraph 5.4.1 notes 'For planning purposes the Welsh Government defines economic development as the development of land and buildings for activities that generate sustainable long term prosperity, jobs and incomes'. Paragraph 5.4.2 states 'Economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services'.
- 7.3.9 The loss of the B1 land is recognised however, this does not equally translate into a loss of employment land. The proposal would generate around 100 jobs, which is considered to be a positive impact. While 'Grade A' office use would not be realised, the shrinking office demand as a result of Covid-19 is recognised, along with the evidence that the site has failed to deliver such an office use over the last 16 years. Furthermore, the proposed use is considered to be high quality, with a high-quality design and setting. It is considered that it would contribute to economic prosperity and would maintain the prestige of this important and strategic business and economic hub.

Sequential test

- 7.3.10 While car dealerships are not traditional retail development (Sui Generis Use) Future Wales states that significant new commercial development should be directed towards town and city centres. As the proposal would be located outside of a defined retail centre, it should be demonstrated that there are no sequentially more preferable sites within those centres.
- 7.3.11 In application of the test it is for the applicant to robustly show that there are no more appropriate sites available or suitable. Caselaw requires a degree of flexibility is shown in site assessment to prevent an applicant setting such a stringent requirement that only their chosen site could ever meet it. The applicant has considered the proposals to include:
- a site area of 3.2 hectares
 - Porsche Centre
 - A satellite showroom
 - A satellite service centre
 - 338 car parking spaces (noting that this has been reduced to 308 following amendments to the layout)
- 7.3.12 In order to demonstrate a flexible approach the applicant has based their search on sites of 2.4 hectares and above. They have considered the City Centre, along with the district and local centres on the west side of Newport. The outcome of the applicant's sequential assessment is that there are no existing, suitable and available alternatives to the proposed site, applying a flexible approach and within the search area identified. This conclusion is not disputed by Officers.

Loss of SINC

- 7.3.13 The application site covers approximately 2.3 hectares of land designated a SINC. Policy CE8 states 'proposals affecting locally designated sites will only be permitted where:
- i) there would be no overall loss of the nature conservation resource for which the site has been designated;

- ii) there would be no significant adverse effect on the geological interest of the site;
- iii) appropriate mitigation or compensatory measures can be achieved.

- 7.3.14 The entire SINC includes the vacant land to the south and its total area is approximately 4.8 hectares. Within the layout it is proposed to provide 1.2 hectares of land to re-create the open mosaic habitat and grassland currently present on site. This is an increase to that initially proposed following concerns of the Councils Ecologist. The overall loss of SINC habitat land is 1.1 hectares. This is contrary to criterion i) of policy CE8 and is acknowledged by the applicants in their Ecological Impact Assessment. Following the reduction in parking area to the north and an increase in land for habitat creation the Councils Ecologist no longer has an objection to the proposals.
- 7.3.15 A detailed assessment of ecological matters is set out in Section 7.4 but to summarise, the habitats currently on site are degraded and of poor quality due to ongoing management of the site. A number of mitigation measures are proposed which would see new habitat creation and long-term management. While the quantum of land would be reduced the re-created habitat, through effective management would help the site to achieve its nature conservation potential. On this basis, it is considered that the requirements of policy CE8 are met.

7.4 **Ecological Impact**

- 7.4.1 PPW states that 'Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity'.
- 7.4.2 Under the Environment (Wales) Act 2016 there is a duty (Section 6 Duty) for public authorities to enhance biodiversity and ensure resilience of ecosystems.
- 7.4.3 PPW, paragraph 6.4.20 states that 'Although non-statutory designations carry less weight than statutory designations, they can make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given adequate protection in development plans and the development management process'.
- 7.4.4 An Ecological Impact Assessment (EclA) has been undertaken and submitted with the application. The survey includes the entire vacant parcel of land (including land to the south of the application site) but the assessment of impacts focuses on the application site area.
- 7.4.5 The assessment describes the survey area as having the following characteristics:
- Developed land; sealed surface
 - Vacant/ derelict land/ bare ground
 - Ponds (Non-Priority) (Aquatic communities) – within the southern portion of land
 - Calcareous Grassland (Calciolous grasslands)
 - Other neutral grassland, including areas of wet grassland (Mesotrophic grasslands)
 - Modified grassland
 - Ruderal/ Ephemeral (Vegetation of open habitats)
 - Woodland and scrub
- 7.4.6 The survey included an assessment of the habitats on site for their potential to support species such as hedgehog, polecat, harvest mouse and brown hare (Section 7 species – the Environment (Wales) Act 2016). The survey also included badger, dormouse, bats, birds (including habitat to support breeding birds), reptiles, amphibians and invertebrates.
- 7.4.7 The survey found a number of species characteristic of Open Mosaic Habitat (OMH) on site, which is consistent with its SINC designation. However, it also found that the vegetation on site is degraded through ongoing active management, and as such the condition of the habitats is poor, and currently has low potential and value for wildlife. While the survey site has potential to have high importance for wildlife conservation, at the time of the survey it was not considered to be of high importance due to the poor condition of habitats on site.

- 7.4.8 In terms of the species surveyed, no section 7 species were identified, although habitats on site could support hedgehog. Elsewhere habitats on site were unsuitable for polecat, brown hare and harvest mouse. In terms of the other species surveyed a summary of the findings are as follows:
- Badger – no records of badger on site, but there is limited site suitability.
 - Dormouse – negligible potential.
 - Bats – hedgerow being utilised for both commuting and foraging purposes.
 - Birds – limited suitability with very few nesting opportunities and suboptimal foraging habitat.
 - Reptiles – unsuitable, little foraging habitat and unsuitable shelter.
 - Amphibians – unsuitable within the application site area, although some suitable habitat in the southern portion of the wider parcel of land.
 - Invertebrates – the populations on site have local value for nature conservation.
- 7.4.9 The EclA acknowledges that the development of the site would lose an overall quantum of OMH but the proposals provide an opportunity to bring retained and create better quality OMH into active management which could be secured through a Landscape and Ecological Management Plan (LEMP).
- 7.4.10 The following landscape measures are proposed to deliver that 'better quality OMH':
- A mosaic of scrub and relatively species diverse grassland would be created along the western and northern boundary of the site.
 - Additional trees would be planted along the northern edge of the area.
 - A vegetated attenuation pond would be created at the southern corner of the site.
 - Diverse, vegetated bioswales would be created around the edge of the pond, along the southern edge of the site and around along the western edges of the car park.
 - A native species hedgerow, with trees would be planted along the southern boundary of the site.
 - Areas of mixed size pebbles and crushed stone within swales to create micro habitats.
- 7.4.11 The EclA recommends that a LEMP is secured through a condition to ensure these habitats are appropriately managed and maintained to ensure their suitability to support wildlife.
- 7.4.12 In addition to these measures, to ensure mitigation for those affected species identified in paragraph 7.4.8 the following measures are proposed:
- Hedgehogs - key features on site for hedgehog are hedgerows along the northern and western boundary. The landscape proposals are to retain these hedgerows with a buffer of scrub and grassland creation. Sensitive lighting measures, to be secured through a condition. Creation of new hedgerow along the southern boundary of the site, to create a new foraging and commuting corridor across the site.
 - Bats – bat activity is focused along the western and northern hedgerows. The landscape proposals are to retain these hedgerows with a buffer of scrub and grassland creation. New hedgerow, vegetated bioswales and attenuation pond along the southern edge of the site would provide an additional commuting feature and foraging habitat for bats. Sensitive lighting measures (such as avoiding illuminating the proposed hedgerow, bioswale and pond), to be secured through a condition.
 - Birds – the retention of hedgerows along the northern and western boundaries would ensure suitable habitat for birds is retained. The creation of the scrub and grassland buffer, as well as proposed hedgerow and trees along the southern boundary would create new foraging and nesting opportunities for birds.
 - Invertebrates – there would be temporary impacts on the suitability of the site for invertebrates during the construction phase and until the proposed grassland, scrub, bioswale and pond are established. However, once those habitats are established and managed they would be diverse and suitable for a range of invertebrates.
- 7.4.13 In addition to the measures proposed for mitigation and compensation, it is proposed to provide the following enhancement measures:
- Installation of bat and bird boxes along the retained boundary trees on the site boundaries.

- Creation of a number of hibernacula suitable to be used by a range of invertebrate, amphibian and reptile species within buffer zones at the western and northern boundaries.

Summary

7.4.14 The site is designated as a SINC due to the presence of Open Mosaic Habitat, however, the habitats are degraded and of poor quality. While it has potential to have high importance for wildlife conservation, this is not currently the case due to ongoing management of the site. The applicant has sought to maximise the amount of habitat creation across the site, while delivering the operational requirements of the development. The Councils Ecology Officer accepts that the maximum habitat creation has been achieved. It is considered that with the implementation of the measures identified above, the proposal would provide effective mitigation and would provide long term management of the new habitat, helping the site to achieve its nature conservation value.

7.5 Landscaping

7.5.1 As set out above 1.2 hectares of landscaping are proposed. This includes formal planting along the frontage to Lakeside Drive and re-created mosaic habitat, hedgerows, tree planting, bioswales and an attenuation pond elsewhere.

7.5.2 The Councils Landscape Officer has raised a number of concerns as set out in paragraphs 5.2.1 to 5.2.4. Their primary concern relates to elevated car parking which they consider to be very visible at the site frontage. The proposed car parking would be set back from Lakeside Drive by 3.8m and it would be elevated by 1.8m. The Porsche showroom would be elevated above this car parking area by a further 2m. A retaining wall is proposed between the parking area and the showroom building. The landscape treatment of the site frontage includes shrub planting on the slope leading to the parking level and a level verge of amenity grass. This section of elevated parking, with this landscape treatment extends for 35m and would be opposite the car park of the pub/restaurant. Elsewhere shrub and tree planting is proposed along the frontage with Lakeside Drive.

7.5.3 The Landscape Officer considers that a layout change is necessary to avoid dominating views of cars, or alternative landscape treatment, such as a low trimmed hedge with trees to slope.

7.5.4 While the comments of the Landscape Officer are noted it is considered that this relatively short section of elevated car parking, without tree planting to soften views, is not significantly harmful in visual terms. This portion of the site sits opposite a car park to the neighbouring pub/restaurant and the end of a parade of retail/commercial units. The area is characterised by amenity grass, low shrubs and limited tree planting, and the proposed layout is considered to not detract from this overall character.

7.5.6 No details are provided of the final external finish of the retaining walls, and it is considered important that the finish is of appropriate quality. A condition is recommended to secure this detail.

7.5.7 The Landscape Officer notes that a 2.4m high palisade fence with 3 strands of razor wire is proposed around all rear parking areas. It is considered that the use of razor wire above palisade fencing is not in keeping with the character of the area and would be significantly harmful in visual terms, particularly given the prominence of the site and its location adjacent to the high quality business park. A condition is imposed which requires details of alternative boundary treatments, making it clear that razor wire is not acceptable.

7.5.8 The Landscape Officer (in previous comments) notes that the attenuation basin slopes and water levels would vary. They recommend that marginal planting should be explored and the landscape treatment of the basin slopes and base should be confirmed. A condition is recommended to secure this.

7.5.9 The Landscape Officer comments that the revised Landscape Plan is not legible, boundary retaining walls are not shown and the landscape plan shows a 1.8m high chain link fence, and it is not clear whether this is in addition to palisade fencing.

7.5.10 It is recommended that a number of conditions are imposed to deal with these matters. A Landscape Ecological Management Plan is required which must detail all new habitat creation (which includes landscaping) and its maintenance and management, details of all boundary treatments, a general landscape condition and a soil resource plan.

7.6 **Trees**

7.6.1 There are a small number of trees along the western boundary, along with some boundary hedging. There are two groups of trees adjacent to the northern boundary. These are protected under one Tree Preservation Order (TPO GWT/104). There are no proposals to remove or undertake tree work to any of the existing trees. 117 new trees are proposed across the proposed development.

7.6.2 An Arboricultural report has been submitted which notes that most of the trees are good quality. In particular, the protected trees are in reasonable condition with no notable defects. The protected groups have been labelled as T11g and T12g. T11g relates to four Horse Chestnut trees, which are mature trees of around 20m in height. They are located adjacent to the north western corner of the site. T12g relates to two Oak trees and one Sycamore. They are early mature trees of around 14m in height. Both groups of trees have low crowns over the site.

7.6.3 The Councils Tree Officer has raised concern that the northern car parking area is too close to the protected trees, and it would compromise the amenity of the trees. As they are mature trees, they need space and their setting is part of their amenity value. The Officer is concerned that there would be future pressure for works to the trees due to a perceived danger from trees due to storm damage and debris from leaf fall.

7.6.4 The applicant has responded to these concerns in two ways:
- reducing the northern western section of car parking, away from T11g.
- providing a written response to the concerns.

7.6.5 The proposed car park would be 2.5m away from the root protection area of the nearest trees (north western T11g) and around 3m away from their crown. It would continue to be approximately 5.5m from the root protection area of the north eastern group (T12g) and around 8.9m from their crowns. As set out by the applicant it is considered that this would provide sufficient separation from the trees to ensure the construction of the hard standing would not have a harmful impact on the trees and that the crowns would not overhang the parking spaces.

7.6.6 The Tree Officer has also raised concern regarding shading from the trees, however given that the adjacent land use would be car parking rather than amenity areas, then shading would not be materially harmful.

7.6.7 The Tree Officer also raised concern regarding tree loss from the proposed visibility splays. This comment was made in error as the incorrect access had been identified, this has been clarified with the Tree Officer.

7.6.8 Overall, it is considered that the proposed car parking area would be located a sufficient distance from the existing protected trees, both in terms of their root protection area and their crown. It is considered that the separation distance is sufficient to allow the trees to reach maturity without adverse impacts. A suite of conditions are recommended requiring the retention of all existing trees, the installation of a root protection barrier and the appointment of an Arboriculturalist to perform a watching brief.

7.6.9 It should also be noted that 117 new trees are proposed, which represents a significant increase in the tree cover of the area and is a positive impact.

7.7 **Highways and sustainable travel**

Impact on highway network

7.7.1 A Transport Assessment has been submitted with the application. It includes an assessment of the anticipated vehicle trip movements generated by the proposed development. It derives trip data from an existing Porsche Dealership in Cardiff and extrapolating that data to the proposed floor space created by this proposal. Also, at the request of the Councils Highways

Officer, trip data of other dealerships within the TRICs database have been presented. The assessment concludes that the likely number of predicted additional vehicular trips would have a negligible impact on the local highway network. The Councils Highways Officer is in agreement with this conclusion.

Access

7.7.2 It is proposed to utilise the existing northern access and create a new lake further south, off Lakeside Drive.

7.7.3 The new access would include pavements and a zebra crossing to the opposite side of Lakeside Drive where footpaths continue north and south. The application site includes the zebra crossing and as Lakeside Drive is in private ownership, the appropriate ownership certificates have been completed. The Highways Officer considers the location of the new access to be acceptable.

7.7.4 The new access would be for servicing of both the Porsche garage and satellite service centre. Swept path analysis has been provided to demonstrate that the access is suitable for a vehicle transporter. The Highways Officer is satisfied with this.

7.7.5 Visibility splays of the new access have been provided. The splays show that they would cut across land within the application site which is pavement, amenity grass and shrub planting. The Highways Officer requires the splays to be wholly within the highway envelope. However, it is considered that with a condition to ensure there are no structures or planting above 600mm within the splays, visibility would be maintained. This is a commonly used approach.

Parking

7.7.6 The application site is located in parking zone 5. The Parking Standards SPG set out the following parking requirements.

Type of development	Operational	Non-operational	Requirement
Service station	1 lorry space + 20% GFA	2 car/lorry spaces per each service vehicle	2 lorry spaces and 58 non-operational spaces
Car-sales premises	1 space for car transporter	1 space per 50m ² of retail area (internal and external)	2 spaces for car transporter and 85 non-operational spaces
		Non-operational total = 143	

7.7.7 It is proposed to provide a total of 303 spaces which include:

- 50 customer spaces, including disabled spaces and electrical vehicle charging spaces.
- 160 operational spaces, to accommodate cars awaiting servicing and repairs, brand new vehicles, demonstrator vehicles and used vehicles. The applicants have based the level of parking provision on their operating experience across other dealerships.
- 93 staff spaces, including 19 electric vehicle charging spaces.

7.7.8 Swept path analysis has been provided to demonstrate the manoeuvrability of a car transporter within the operational car parks.

7.7.9 While the parking provision exceeds that required by the Parking Standards SPG, the operational requirements of the dealership is based on experience of existing dealerships, which is not accounted for in the SPG. For example 93 staff spaces would be commensurate with the provision of 100 employees and the operational parking includes additional sales vehicles and demonstrator vehicles. The Highways Officer is satisfied with the proposed levels of parking provision.

- 7.7.10 The proposal includes 30 covered cycle spaces, which is in accordance with the Sustainable Travel SPG.
- 7.7.11 The proposal includes 21 electric vehicle charging spaces. This exceeds the 10% target set out in PPW, in respect of customer and staff spaces.
- 7.7.12 The proposal includes pedestrian linkage onto Lakeside Drive, including a zebra crossing to existing footpaths on the opposite side of the road. There is also an existing bus stop in proximity on Lakeside Drive.
- 7.7.13 The Highways Officer is satisfied with the above provision. Conditions are recommended to ensure cycle parking and electric vehicle charging spaces are provided prior to the beneficial use of the development.

7.8 **Design**

- 7.8.1 The proposed buildings are considered to provide a contemporary approach to design with extensive use of glazing and cladding. The proposal would deliver active and attractive frontages to Lakeside Drive, set in a well landscaped setting. This is the prevailing character of the surrounding area and the Celtic Springs Business Park.
- 7.8.2 Notwithstanding the assessment of boundary treatments set out in paragraph 7.5.8, it is considered the proposal would deliver good placemaking and a quality of design which is in keeping with the prestige of the business park and this economic hub generally.

7.9 **Residential and general amenity**

- 7.9.1 The nearest residential properties are around 90m away and are on the opposite side of the A48. At this distance and with two roads and a landscaping area in the intervening distance it is considered that residential amenity would not be harmfully impacted by the proposal.
- 7.9.2 The Councils Environmental Health Officer has no objection to the proposal subject to conditions requiring a Construction Environmental Management Plan (CEMP), a restriction on working hours, the submission of a noise assessment, a restriction on advertisement illumination, details of any floodlighting and details of opening hours.
- 7.9.3 Conditions requiring a CEMP, a noise assessment (of plant and equipment), details of any floodlighting and details of openings hours are recommended. A condition to restrict advertisement illumination is not recommended as this would be subject to a separate advertisement consent application.

7.10 **Archaeology**

- 7.10.1 The Glamorgan Gwent Archaeological Trust (GGAT) sets out information in the Historic Environment Record which is relevant to this site. This is contained in section 4.7
- 7.10.2 A Written Scheme of Investigation has been submitted. The Scheme sets out the scope and methodology for an archaeological watching brief during all ground intrusion works. GGAT consider the Scheme and proposed mitigation is appropriate. They recommend a condition requiring adherence to the Scheme.

7.11 **Drainage and assets**

- 7.11.1 A Flood Risk and Drainage Strategy has been submitted with the application. The site is in Flood Zone 1 (Flood Map for Planning), which means there is no risk of flooding from rivers or the sea.
- 7.11.2 The Drainage Strategy sets out that it is proposed to discharge foul flows to the existing public foul sewer located in Lakeside Drive via a gravity connection. Welsh Water has not raised any objection to this.
- 7.11.3 In terms of surface water drainage, this is dealt with through a separate consenting regime (SAB) and as such the planning system does not control this. However, for information purposes, the Drainage Strategy states that surface water runoff generated would be managed utilising sustainable drainage measures. It states that infiltration SuDS are not deemed suitable for the disposal of surface water, instead surface water would be discharged

into the existing Celtic Springs/ Cleppa Park attenuation basins before discharging into the public surface water sewer network to the south via an onsite attenuation system (storage basin).

- 7.11.4 Welsh Water note that there is a non-operational watermain and a 160mm public water main crossing the site. They note that the proposed attenuation pond would be within proximity of the watermain and have requested that a holding objection is placed on the application until the water mains have been located and revised plans have been submitted to take into account the asset.
- 7.11.5 Since this initial response from Welsh Water the applicant has provided copies of correspondence with Welsh Water who have now confirmed that the watermain is not operational, it is redundant and will not be required for future use. The applicant is working with Welsh Water to locate the water main, fully isolate it and tap it off at the site boundary.
- 7.11.6 In terms of the 160mm diameter water main, which is to the south of the site, the applicant states that it is to be traced and marked up by Welsh Water when completing the other works on site. As these works have not been undertaken yet a condition is recommended which restricts any work to the attenuation pond until the water main has been traced, and following this, the submission of full details of the pond to show that the watermain would be unaffected.

7.12 **Air Quality**

- 7.12.1 The application site is not located within or in proximity to an Air Quality Management Area or a buffer zone. Very limited HGV movements are anticipated and as such the Air Quality SPG advises that an air quality impact assessment is not required. However, it is noted that electric vehicle charging spaces are proposed, along with green infrastructure and extensive tree planting, which would contribute towards reducing emissions in the surrounding area.

7.13 **Contamination**

- 7.13.1 A Ground Investigation report, which includes an intrusive ground investigation has been submitted with the application. The Councils Scientific Officer has reviewed the report and notes that there is uncertainty regarding ground gas due to unknown filled ground. They recommend that a full contaminated land condition is imposed in order to ensure this is investigated properly and any remediation required is secured.

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 proposed development is considered acceptable and in accordance with policies SP1, SP2, SP4, SP9, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE6, CE8, EM3, T4 and T5 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

9.2 It is considered that while there would be a loss of some B1 land, the proposal does not represent a loss of employment opportunities. With the creation of 100 jobs, the proposal is considered to have a positive economic impact. It is considered that the proposal would deliver high quality development, which would contribute to economic prosperity and would maintain the prestige of this important and strategic business and economic hub.

9.3 It is considered that the partial loss of SINC habitat would be appropriately off-set by the re-creation of mosaic habitat and its long terms management. The management of this new habitat would help the site to achieve its nature conservation potential.

9.4 It is considered through the imposition of appropriate conditions the impacts on ecology, landscape, trees, highway safety, sustainable travel, design, amenity, archaeology, drainage and assets, air quality and contamination would be acceptable.

9.4 It is recommended that planning permission is granted with conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

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

- | | |
|----------------|---|
| 0034-100 rev D | - Site Location Plan |
| 0034-101 rev G | - Porsche Site Plan |
| 0034-102 rev C | - Porsche Ground Floor Plan |
| 0034-103 rev B | - Porsche First Floor Plan |
| 0034-104 rev C | - Porsche Elevations |
| 0034-106 rev B | - Satellite Showroom and Service Centre |
| 0034-113 | - Site Sections |
| 0034-115 | - Cycle Storage |

E001 - Elevation Plan
 E002 - Elevation Plan
 LANDP001 rev 08 - Landscape Plan
 PP001 rev 04 - Planting Plan
 C001 - Tree Pit Section
 6692/204 Rev B - Visibility Splays
 6692-203 Rev B - Swept Path Analysis – Car Transporter
 23754-500-01 - Topographical Survey
 Written Scheme of Investigation (Black Mountains Archaeology, June 2022)
 Ecological Impact Assessment (Ethos Environmental Planning, Sept 2022)
 Transport Assessment Issue 5 (Cole Easdon, May 2022)
 Ground Investigation (Paddock Geo Engineering, January 2019)
 Sequential Assessment (Asbri Planning, April 2022)
 Flood Risk Assessment & Drainage Strategy (Cole Easdon, June 2022)
 Arboricultural Impact Assessment & Method Statement (Treecall Consulting Ltd, March 2022)
 Planning Statement (Asbri Planning, June 2022)
 Workplace Travel Plan Issue 5 (Cole Easdon, May 2022)
 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 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 the following as a minimum:

- a) Steps and procedures that will be implemented to minimise the creation and impact of noise, lighting, air pollution*, vibration and dust**.
- b) Construction methods: details of materials, how waste generated will be managed;
- c) 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.
- d) Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works.
- e) 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.
- f) Traffic Management: details of site deliveries, haulage routes, plant on site, wheel wash facilities, contractor parking.
- g) 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;
- h) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- i) Details of temporary traffic management measures.
- j) HGV routes and timings to avoid peak hour flows, avoiding schools and school timings.

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

Reason: To protect residential and general amenity, and to protect highway safety, in accordance with policies GP2, GP4 and GP7 of the Newport Local Development Plan.

* 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

03 No development shall commence until a Landscape and Environmental Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall set out the details of the proposed habitats, landscape and ecological features at the site. It shall include details of short and long-term management and monitoring of the site's ecological features to ensure that the plan(s) is effective in achieving its intended

objectives which will be clearly stated in respect of each habitat/species as appropriate. It shall include details of potential contingency measures which shall be taken in the event that the monitoring identifies a failure to achieve the stated objectives. In this regard, the LEMP shall confirm details pertaining to:

- a) Details of the measures that will be undertaken should any landscape or environmental features die, be removed, or become seriously damaged or diseased.
- b) Details of the remedial action that will be undertaken, in agreement with the LPA, in the event that long-term monitoring of the landscape, environmental and ecological features of the site reveals that these are declining against the established condition beyond year 5 of the development.
- c) Details of management and maintenance responsibilities.
- d) Details of timescales, length of the plan, provision for periodic reporting the effectiveness of the plan to the LPA, the method to review and update plans (informed by monitoring).

The LEMP must be carried out in accordance with the approved details set out in the document or any other iterations approved by the LPA in the event that the proposed monitoring data suggests that specific changes are required.

Reason: To ensure that the agreed ecological and environmental mitigation, compensation and enhancement is implemented and managed long-term, in accordance with policies SP9, GP5 and CE8 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

04 No work shall commence to the attenuation basin until the 160mm watermain has been traced and thereafter, notwithstanding the approved plans, full details of the basin shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following:

- a) Evidence to demonstrate that the watermain would be unaffected by the basin.
- b) Landscape details of the basin slopes and base, which shall explore and detail where appropriate, the use of marginal planting.

The development shall be carried out in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of protecting public assets and to secure appropriate drainage, landscape and ecological benefits, in accordance with policies SP9, GP3 and GP5 of the Newport Local Development Plan.

05 No development, (other than demolition) 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.

No part of the development hereby permitted shall be beneficially used until:

- d) 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 of the Newport Local Development Plan.

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

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

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

Reason: To protect important landscape features within the site, in accordance with policies SP9 and GP5 of the Newport Local Development Plan.

07 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. The fencing shall be retained for the full duration of the development.

Reason: To protect important landscape features within the site, in accordance with policies SP9 and GP5 of the Newport Local Development Plan.

08 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) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (c) Oversee working within any Root Protection Area;
- (d) Reporting to the Local Planning Authority;
- (e) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site, in accordance with policies SP9 and GP5 of the Newport Local Development Plan.

09 Prior to the commencement of development a soil resource plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall ensure that all reusable topsoil and subsoil resources are identified, recovered and protected. The development shall take place in accordance with the approved plan.

Reason: In the interests of climate change and sustainability, in accordance with policies SP1 and GP1 of the Newport Local Development Plan.

10 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, in accordance with policy GP7 of the Newport Local Development Plan.

11 Prior to the commencement of development a scheme of ecological enhancement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and retained thereafter for the lifetime of the development.

Reason: In order to provide satisfactory ecological enhancements, in accordance with policies SP9 and GP5 of the Newport Local Development Plan.

12 No development shall take place until the applicant, or their agents or successors in title, has secured implementation of a programme of archaeological work in accordance with that out-lined in "Land at Lakeside Avenue, Celtic Springs Business Park, Newport Written Scheme of Investigation" (Black Mountains Archaeology Report no. 258, dated June 2022).

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 of the Newport Local Development Plan.

13 Notwithstanding the approved plans, prior to the commencement of development, a landscaping and tree planting scheme (of the formal landscaped areas) 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 a

maintenance and management schedule, which shall also be submitted to and approved in writing by the Local Planning Authority. 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, in accordance with policy GP5 of the Newport Local Development Plan.

14 Notwithstanding the approved plans, no development shall commence until details and plans showing the finished slab level of the building(s) hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To safeguard the character and appearance of the area, in accordance with policies GP2 and GP6 of the Newport Local Development Plan.

Pre – construction conditions

15 Prior to the construction of the showroom and service centre buildings hereby approved, details of their external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

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

16 Prior to the construction of the showroom and service centre buildings hereby approved a noise assessment in accordance with BS 4142: 2014 'Methods for rating and assessing industrial and commercial sound' shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate that the rating level of the noise emitted from fixed Plant and equipment located at the site shall not exceed the background level at any premises used for residential purposes and if appropriate, include measures to be taken to mitigate excess noise impact. The development shall be completed in accordance with any approved mitigation measures, which shall be retained thereafter for the lifetime of the development.

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

17 Prior to the construction of any retaining walls details of their external finish shall be submitted to and approved in writing by the Local Planning Authority. The walls shall be finished in accordance with the approved details.

Reason: In the interests of visual amenity, in accordance with policy GP6 of the Newport Local Development Plan.

Pre-installation conditions

18 Notwithstanding the approved plans, prior to the installation of any boundary treatments, their details shall first be submitted to and approved in writing by the Local Planning Authority. The use of razor wire will be considered unacceptable. The development shall be carried out in accordance with the approved details and retained thereafter for the lifetime of the development.

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

19 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 light spill onto the western and northern boundary hedgerow, and the attenuation basin will be minimised. The lighting shall be provided in accordance with the approved lighting strategy and maintained as such thereafter for the lifetime of the development.

Reason: To protect the ecological interests of the area, in accordance with policies SP9 and GP5 of the Newport Local Development Plan.

20 Prior to the installation of any floodlighting, full details shall be submitted to and approved in writing by the Local Planning Authority to provide that:

- Light into neighbouring residential windows generated from the floodlights shall not exceed 5 Ev (lux) (vertical illuminance in lux).
- Each floodlight must be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical.
- The floodlighting shall be designed and operated to have full horizontal cut-off and such that the Upward Waste Light Ratio does not exceed 2.5%.

The submitted scheme shall include an isolux diagram showing the predicted illuminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent properties.

The approved scheme shall be implemented prior to first use of the lighting and be permanently maintained in that state thereafter for the lifetime of the development.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected, in accordance with policy GP7 of the Newport Local Development Plan.

Pre –occupation conditions

21 Prior to the beneficial use of the development hereby permitted the cycle storage shall be provided in accordance with the details shown in drawings 0034-101 rev G and 0034-115. The cycle storage shall be retained for the lifetime of the development.

Reason: In the interests of sustainability and to contribute toward reducing emissions, in accordance with policies SP1 and GP1 of the Newport Local Development Plan.

22 Prior to the beneficial use of the development hereby permitted, electric vehicle charging points, as shown in drawing 0034-101 rev G, shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The charging points (or any subsequent upgrade) shall be retained thereafter for the lifetime of the development.

Reason: In the interests of sustainability and to contribute toward reducing emissions, in accordance with policies SP1 and GP1 of the Newport Local Development Plan.

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

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

24 Prior to the first beneficial use of the development hereby approved, the visibility splays as shown in drawing 6692/204 rev B shall be provided. These areas shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres.

Reason: In the interests of road safety and traffic movement, in accordance with policy GP4 of the Newport Local Development Plan.

25 Prior to the first beneficial use of the development hereby approved, the parking areas shall be provided and surfaced as indicated on drawing 0034-101 rev G. Thereafter, these areas shall be retained for those purposes at all times, for the lifetime of the development.

Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety, in accordance with policies GP4 and T4 of the Newport Local Development Plan.

General conditions

25 No existing trees shall be felled, topped or lopped, and no existing hedges shall be removed.

Reason: To protect existing landscape features on the site, in accordance with policies SP9 and GP5 of the Newport Local Development Plan.

26 Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate

ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health and controlled waters which may arise as a result of potential land contamination are satisfactorily addressed, in accordance with policy GP7 of the Newport Local Development Plan.

27 The development shall operate in accordance the objective and recommendations of approved Travel Plan issue 5 (Cole Easdon, May 2022).

Reason: In the interests of sustainability and to contribute toward reducing emissions, in accordance with policies SP1 and GP1 of the Newport Local Development Plan.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP4, SP9, SP17, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE6, CE8, EM1, EM3, T4 and T5 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 In respect of condition 12 archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member.

APPLICATION DETAILS

No: 22/0551 Ward: **Marshfield And Tredegar Park**

Type: Full (Major)

Expiry Date: 24TH AUGUST 2022

Applicant: **MALONEY DICK LOVETT COMPANIES LTD THE COPSE FRANKLAND ROAD BLAGROVE**

Site: **Land On The North Side Of Lakeside Drive Coedkernew Newport South Wales**

Proposal: **ERECTION OF PORSCHE CENTRE, 1NO. SATELLITE SHOWROOM, 1NO. SATELLITE SERVICE CENTRE (SUI GENERIS USE) AND ASSOCIATED WORKS**

1. LATE REPRESENTATIONS

1.1 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (TREES): following the submission of amended plans, no objection is raised to the application subject to additional planning conditions to secure the protection of trees.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 The comments of the Council's tree officer are noted.

2.2 Class A of Part 3 of the Town and Country Planning (General Permitted Development Order) 1995 (as amended) states that:

'Development consisting of a change of the use of a building to a use falling within Class A1 (shops) of the Schedule to the Use Classes Order from a use falling within Class A3 (food and drink) of that Schedule or from a use for the sale, or display for sale, of motor vehicles'.

It is necessary to restrict any possible future conversion of these buildings to retail uses through permitted development rights, as this is an out of centre location and the impact of such a change of use on existing retail centres would need to be assessed. Therefore, an additional condition is recommended to remove these permitted development rights from the development.

- 2.3 An additional condition is recommended to ensure that the zebra crossing is installed and maintained.

3. OFFICER RECOMMENDATION

- 3.1 The officer recommendation remains to grant subject to additional conditions set out below:

01 Except where otherwise agreed in writing by the Local Planning Authority, no existing trees shall be felled, topped or lopped.

Reason: To protect existing landscape features on the site.

02 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 and other measures have been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. All weather notices shall be provided 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.

03 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:

- Supervision and monitoring of the approved Tree Protection Plan
- Ensuring the existing trees are safe during the construction
- Once the barrier fencing is erected, the approved Arboricultural Consultant must inspect and "sign off" in writing and submit a copy of this to the Local Planning Authority stating that the protective fencing is in the correct location and is fit for purpose. This will form the first report of the Arboricultural Watching Brief.
- Oversee working within any Root Protection Area including landscaping;
- Reporting to the Local Planning Authority. 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.

04 No mechanical cultivation such as rotovators or harrows shall take place within the Root Protection Areas of any trees. All grass seeding cultivation is to be carried out by hand and 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.

05 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), Schedule 2, Class A, Part 3, no change of use shall take place to a use within Class A1 (retail) within any buildings hereby permitted or on any land within the site.

Reason: To allow the Local Planning Authority to retain control of the development and ensure the protection of existing retail centres.

06 Prior to first beneficial use of the showrooms hereby permitted, the zebra crossing shall be installed in accordance with the plans hereby approved and maintained for the duration of the development.

Reason: In the interests of public s

3.

APPLICATION DETAILS

No: 22/0656 **Ward:** Pillgwenlly

Type: Full Application

Expiry Date: 30th August 2022

Applicant: *M Rahman*

Site: *19 Temple Street Newport NP20 2GJ*

Proposal: **CHANGE OF USE FROM DWELLING (C3) TO 5 BED HOUSE IN MULTIPLE OCCUPATION (C4)**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 The proposal concerns the site of 19 Temple Street and seeks full planning permission for the change of use of the existing dwelling (C3) to a House of Multiple Occupancy (C4).
- 1.2 The application is brought to the Planning Committee for consideration at the request of Cllr Saeed.

2. RELEVANT SITE HISTORY

None.

3. POLICY CONTEXT

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

- Policy SP1 – Sustainability
- Policy GP2 – General Amenity
- Policy GP4 – Highways and Accessibility
- Policy GP6 – Quality of Design
- Policy GP7 – Environmental Protection and Public Health
- Policy H8 – Self Contained Accommodation and Houses in Multiple Occupation
- Policy T4 – Parking
- Policy W3 – Provision for Waste Management Facilities in Development

3.2 Relevant Adopted SPG's

- Housing in Multiple Occupation
- Parking Standards

4. CONSULTATIONS

- 4.1 Gwent Police: No response.

5. INTERNAL COUNCIL ADVICE

- 5.1 Head of City Services (Highways): No objection.
- 5.2 Head of Environment & Public Protection (Public Protection): No objection.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 50m of the application site were consulted (108 properties).

6.1.1 38 x objections (summarised):

- Area not suitable for a HMO due to proximity to elderly, families and school.
- Adverse impact on community.
- Too many HMO's in the area.

- Flytipping and unsocial behaviour.
- Lack of parking.
- Nursery close by.
- Greater need for houses for families.

6.2 COUNCILLORS:

6.2.1 Cllr Saeed Adan: Residents have raised concerns regarding as follows:

1. Lack of parking spaces
2. Overconcentration of HMOs in the area
3. Fear of increase in Crime/Antisocial behaviour/noise nuisance

I would like this application called to the planning committee for the reasons above please.

6.2.2 Cllr Debbie Jenkins: I would like to raise the points that have come to my attention that need to be taken into account when making this decision, parking, fly tipping, antisocial behaviour, crime figures.

7. ASSESSMENT

7.1 Principle of Development

7.1.1 The application site is located within a settlement boundary as designated by the maps contained within the Newport City Local Development Plan 2011 – 2026 (Adopted January 2015). Therefore, the application site benefits from the principle of development in accordance with Policy SP1.

7.2 Houses in Multiple Occupation

7.2.1 Policy H8 states a HMO will only be permitted if:

i) the scale and intensity of the use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on street parking problems;

ii) the proposal does not create an over concentration of houses in multiple occupation in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;

iii) adequate noise insulation is provided;

iv) adequate amenity for future occupiers.

7.2.2 The proposed development would seek to create a 5no. bed HMO for five unrelated individuals. The number of people proposed to use the HMO is considered to not represent a more intensive use of the building when considering that the dwelling could be currently used to house the same number of people – although it is acknowledged that these would be people forming a family unit.

7.2.3 The proposed living room and kitchen/dining area are continued to be located on the ground floor of the building. Therefore, the internal arrangement of the rooms would not result in an adverse impact on the amenity of neighbouring properties as these areas would not be located adjacent a neighbouring bedroom.

7.2.4 The rear amenity space serving the existing property is retained for the use of the future occupants, in line with the guidance as set out within the Houses in Multiple Occupants SPG document. Furthermore, this area is proposed to be facilitated with a dedicated area for the storage of bicycles and waste.

7.2.5 The third party comments received relating to the behaviour and/or personal histories of any future occupants. However, as set out within the Houses in Multiple Occupancy SPG paragraph 5.5.2, the consideration of such applications are limited to material planning

considerations and will not consider the circumstances or likely behaviour of prospective residents. However, the Council does acknowledge that, where a concentration of HMO's occur, this can lead to an adverse impact on the character and appearance of the local area. Therefore, the Council seeks to control the number of HMO's in any particular area in order to retain a sense of community.

- 7.2.6 The application site is located within the HMO Threshold area; therefore, within a 50m radius of the application site, the threshold for HMO properties is 15%. Where the number of HMO's breaches this percentage, this is the point considered where the proposal would have an adverse impact on the local community. In *Figure 1* below, this shows the number of HMO properties within a 50m radius of the application site. As can be seen in *Figure 1*, there are no HMO properties within a 50m radius of the application site. There are 23 properties that include the full front elevation included within the 50m radius; as a percentage the proposed 1no. HMO would represent 4.34% of those 23 properties. Therefore, the proposed use of the dwelling as HMO would not breach the 15% threshold and is considered acceptable. The proposal is considered to be in accordance with Policy H8.

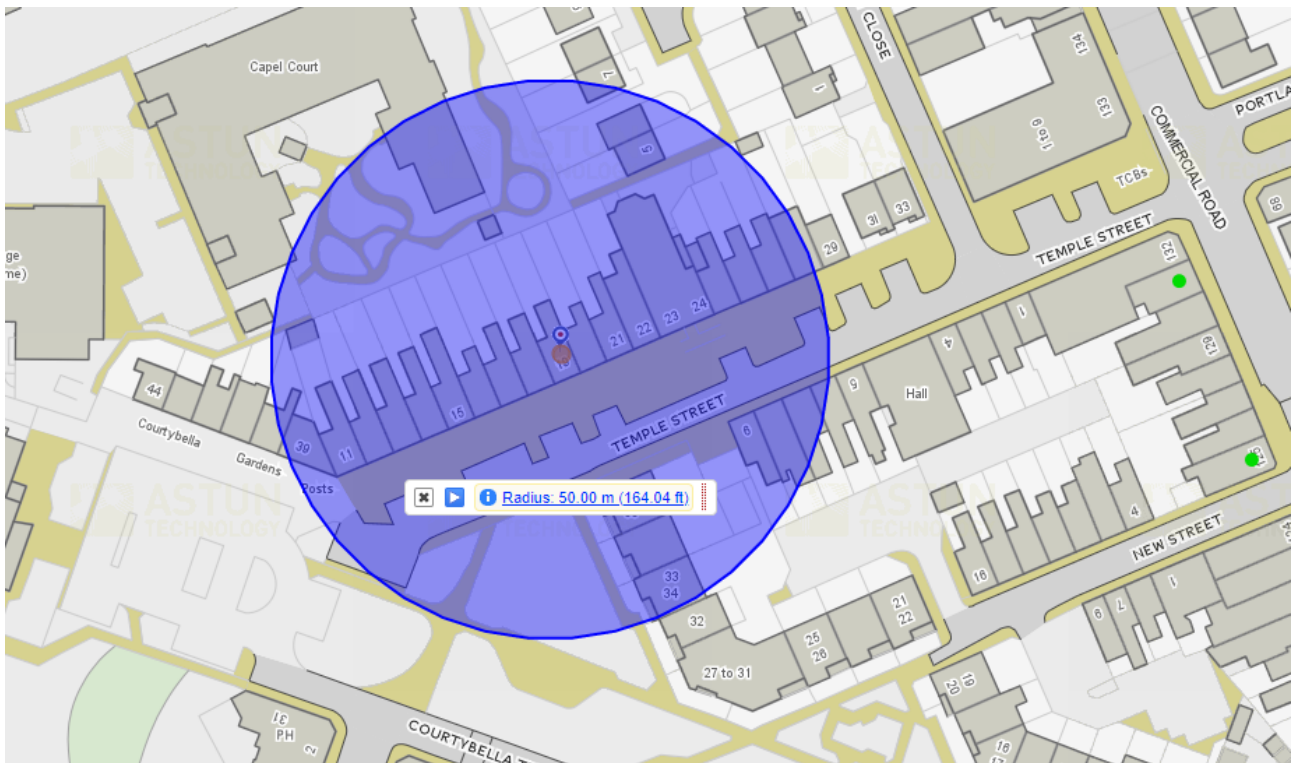


Figure 1: Extract from GIS mapping system showing the number of HMO properties within 50m of the application site.

7.3 Design

- 7.3.1 The proposed development does not consist any external changes to the elevations of the host dwelling. The proposal does include the provision of a covered bicycle storage area to the rear garden. The scale and position of the bicycle storage is subservient and would not lead to any adverse impact with regard to the levels of daylight, sunlight or overshadowing of neighbouring properties. The proposal is considered to be in accordance with Policy GP6.

7.4 Amenity

- 7.4.1 As set out above, there are no extensions proposed to the host dwelling, therefore, the proposal would not effect the levels of daylight, sunlight and overshadowing currently experienced by neighbouring properties. No objection has been received from the Environmental Health Officer. Applications such as this are required to provide suitable sound proofing in line with Building Regulations Part E, and the proposal would be subject to HMO licensing terms. It is therefore considered the aspects of sound proofing are adequately controlled via separate legislation. The proposal is in accordance with Policy GP2 and GP7.

7.5 Highways and Parking

7.5.1 The proposal would not result in any alterations to the road network or accesses to the highway. Therefore, the proposal is considered to preserve the safety and efficiency of the highway network in accordance with Policy GP4.

7.5.2 The Parking SPG sets out the existing residential unit has a parking demand of 3no. parking spaces. The proposed use would result in a parking demand of 5no. parking spaces. Due to the physical constraints of the site, it is not possible for any parking to be facilitated within the curtilage of the site. It is noted that unrestricted communal parking is located forward of the principal elevation serving surrounding properties. The application site is located close to a district centre, bus stops, supermarket, chemist, a hospital and a school – this provides in excess of 10 sustainability points thereby allowing for a reduction in parking standards by 2no. spaces. Therefore, the proposed development would not have to provide any additional parking in order to meet the needs of the proposed use.

7.5.3 The application is supported by a parking survey which has been carried out in accordance with an appropriate methodology. This parking survey sets out that there is provision for the additional parking demand of 2no. spaces. The parking survey has received no objection from the Highways Officer. Therefore, it is considered that there is sufficient available on street parking to serve the increased demand in accordance with Policy T4.

7.6 Waste

7.6.1 The proposal includes a separate area in the rear garden to serve as the general refuse and recycling area to serve the property. It is noted the third party concerns highlight an issue within rubbish in the area. However, the scope of the proposal can only consider that proposed under the current scheme and to ensure that there is onsite provision to suitably store general refuse and recycling. The area is served by the Local Authorities refuse collection service for kerbside collections. Therefore, the provision of the dedicated general refuse and recycling and kerbside collection is considered to fulfil the requirements of Policy W3 to ensure that all developments manage waste in the correct manner.

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 proposed development is considered to be in accordance with the relevant policies contained within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). It is considered that the proposal would not harm the character of the area, residential amenity, or parking.

9.2 It is recommended that planning permission is granted with conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

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

- Proposed Bicycle Store (Drawing ref: TS04)
- Proposed Elevations (Drawing ref: TS03-Rev A)
- Existing Elevations (Drawing ref: TS02-Rev A)
- Existing and Proposed Plans (Drawing ref: TS01- Rev A)
- Site Location Plan (Received: 06/07/2022)

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 development hereby approved, the bicycle storage and waste storage area shall be laid out in accordance with the approved drawing Proposed Bicycle Store (Drawing ref: TS04) and Existing and Proposed Plans (Drawing ref: TS01-Rev A) and shall be retained for the lifetime of the development to serve the needs of the occupants.

REASON: In the interests of providing sufficient levels of bicycle parking and waste storage provision in accordance with Policies T4 and W3 of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Proposed Bicycle Store (Drawing ref: TS04), Proposed Elevations (Drawing ref: TS03-Rev A), Existing Elevations (Drawing ref: TS02-Rev A), Existing and Proposed Plans (Drawing ref: TS01- Rev A), Site Location Plan (Received: 06/07/2022).

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

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

APPLICATION DETAILS

No: 22/0656 Ward: **Pillgwenlly**

Type: Full Application

Expiry Date: 30TH AUGUST 2022

Applicant: **M RAHMAN 19 TEMPLE STREET NEWPORT NEWPORT NP20 2GJ**

Site: **19 Temple Street Newport NP20 2GJ**

Proposal: **CHANGE OF USE FROM DWELLING (C3) TO 5 BED HOUSE IN MULTIPLE OCCUPATION (C4)**

1. LATE REPRESENTATIONS

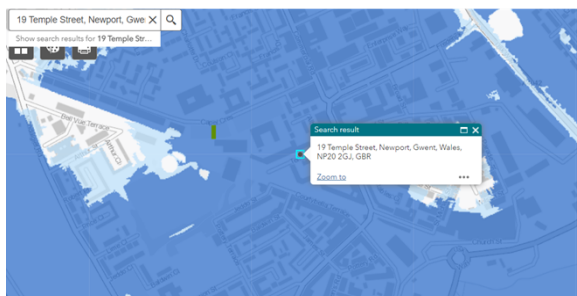
1.1 No additional comments received since the publication of the Committee agenda.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

2.1 Not applicable.

3. OFFICER RECOMMENDATION

3.1 Since the officer report has been published, it has been established that whilst the site is not located within Flood Zone C (the DAM maps), the site is located within Flood Zone 3 of the revised Flood Map for Planning (FMfP). These maps constitute the best available spatial information on flood risk and so are regarded to be a material planning consideration.



3.2 The advice set out by Natural Resources Wales in their letter dated 14 January 2022 states that:

'If a site is shown not to be at risk of flooding on the DAM but it is shown to be at risk on the new FMfP, our substantive response will be 'concerns' and we will recommend an FCA (flood consequence assessment) is submitted in support of the

planning application. Where these concerns are not appropriately addressed, we are likely to object to the development.'

3.3 A flood consequence assessment has not been submitted. It is therefore considered appropriate for the application to be pulled from the Committee agenda tomorrow, to enable the applicant the opportunity to prepare and submit a flood consequence assessment.

3.4 As an aside, in the event that the application is reported back to Planning Committee at a future date with a recommendation for approval, it is recommended by planning officers that an additional condition should be imposed to add control and clarity:
'The use of the dwelling as a HMO shall be limited to a maximum of 5 resident occupiers at any one time in accordance with the internal layout indicated on the proposed plans (Drawing ref: TS01- Rev A).

Reason: In order to restrict the use of the dwelling to that applied for in order to safeguard the amenities of neighbouring occupiers, the amenities of future occupiers of the HMO to provide for suitable levels of internal space to serve the occupiers and prevent an over demand for on street parking to the detriment of highway safety.'

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Report

Appeal Decisions

Part 1

Date: 2nd November 2022

Subject **Appeal Decisions**

Purpose To record the outcome of recent planning appeals

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

Wards Beechwood, Bettws, Shaftesbury, Llanwern, Malpas, Pillgwenlly, Allt-yr-Yn and Marshfield and Tredegar Park

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: 5th October 2022

Planning Appeal	
Reference	21/1212
Address	102A Victoria Avenue, Beechwood
Development	Retention of rear dormer and attic conversion
Appellant	Mr Simpson
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal Dismissed

Planning Appeal	
Reference	22/0213
Address	306 Monnow Way Bettws
Development	Provision of an off-road parking area to front of dwelling
Appellant	Mr Hussain
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

Planning Appeal	
Reference	20/1046
Address	1b Woodlands Drive
Development	Certificate of lawful use or development for existing use of the property as two separate flats
Appellant	Ms Griffiths
Officer Decision	Refused but appeal not contested on receipt of additional information at appeal stage
Committee Decision	N/A
Appeal Decision	Appeal allowed

Planning Appeal	
Reference	21/1286
Address	The Haven, Redwick
Development	Erection of single detached garage
Appellant	Mr Monk
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal allowed

Planning Appeal	
Reference	22/0123
Address	164 Malpas Road
Development	1 no. wall mounted illuminated digital sign
Appellant	Route Media
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal allowed

Planning Appeal

Reference	21/1262
Address	Monmouthshire Timber Supplies Ltd , East Way Road
Development	Installation of 2 no. 48 sheet free standing digital advertising display units
Appellant	Mr G Hughes
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

Planning Appeal

Reference	22/0091
Address	23 Marysfield Close
Development	Erection of single storey front and rear extensions
Appellant	Mr T Keay
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed in relation to the single storey front extension; Appeal allowed in relation to the single storey rear extension

Planning Appeal

Reference	21/0508
Address	10 Mons Close
Development	New front porch and conversion and extension of existing detached garage to create a new annex
Appellant	Mr and Mrs Rands
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed