

# Agenda



## Planning Committee

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Date: Wednesday, 7 December 2022

Time: 10.00 am

Venue: Committee Room 1 - Civic Centre

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

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

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

### **Part 1**

<b>Item</b>	<b>Wards Affected</b>
1. <u>Apologies for Absence</u> F_PR	
2. <u>Declarations of Interest</u> F_PR	
3. <u>Minutes of the meeting held on 2 November 2022</u> F_PR	
4. <u>Development Management: Planning Application Schedule</u> F_PR	
5. <u>Appeal Decisions</u> F_PR	

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Date of Issue: Wednesday, 30 November 2022

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# Draft Minutes

## Planning Committee

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Date: 2nd November 2022

Time: 10.00 am

Venue: Civic Centre- Council Chambers Hybrid Meeting

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

In Attendance: Joanne Davidson (East Area Development Manager), Stephen Williams (West Area Development Manager), Joanne Evans (Senior Solicitor- Planning & Land), Alun Lowe (Planning Contributions Manager), Andrew Ferguson (Planning and Development Manager).

Pamela Tasker (Governance Support Officer), Taylor Strange (Governance Support Officer) Felicity Collins (Governance Support Officer).

Apologies: None

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

None

### 2. **Minutes of the meeting held on 5 October 2022**

The minutes of the meeting held on 5 October 2022 were submitted.

#### **Resolved**

That the minutes of the meeting held on 5 October 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 11:04am

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Draft Appendix A  
 PLANNING COMMITTEE – 02 11 2022  
 DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
Page 5	<p><b>21/1134</b>    <b>Site:</b>    Land north of 51 Orb Drive, Lliswerry</p> <p><b>Proposal:</b> DEVELOPMENT OF 18 RESIDENTIAL DWELLINGS ALONG WITH ASSOCIATED PARKING AND LANDSCAPING</p> <p><b>Recommendation:</b> Granted with conditions and subject to section 106 with Delegated Authority to Head of Regeneration and Economic Development to use discretion to refuse if not signed within 3 months of a resolution</p>	<p><b>Lliswerry</b></p>	<p>Presented to Committee as is major application</p>	<p>Granted with conditions and subject to section 106 with Delegated Authority to Head of Regeneration and Economic Development to use discretion to refuse if not signed within 3 months of a resolution.</p> <p>Condition added for scheme of EV Charging to be submitted and agreed.</p>
22/0551	<p><b>Site:</b>    Land On The North Side Of Lakeside Drive Coedkernew Newport South Wales.</p> <p><b>Proposal:</b> Erection of Porsche centre, 1no. satellite showroom, 1no. satellite service centre (sui generis use) and associated works</p> <p><b>Recommendation:</b> Granted with conditions</p>	<p><b>Marshfield and Tredegar Park</b></p>	<p>Presented to Committee as it is a major application.</p>	<p>Granted with conditions as updated in Late representations Report.</p>

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# Report

## Planning Committee – Hybrid Meeting

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### Part 1

Date: 7<sup>th</sup> December 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.

<b>Risk</b>	<b>Impact of risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect?</b>	<b>Who is responsible for dealing with the risk?</b>
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Planning and Development Manager and Senior Legal Officer
			Ensure appeal timetables are adhered to.	Planning and Development Manager
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee  Planning and Development Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee  Planning and Development 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 31<sup>st</sup> 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.

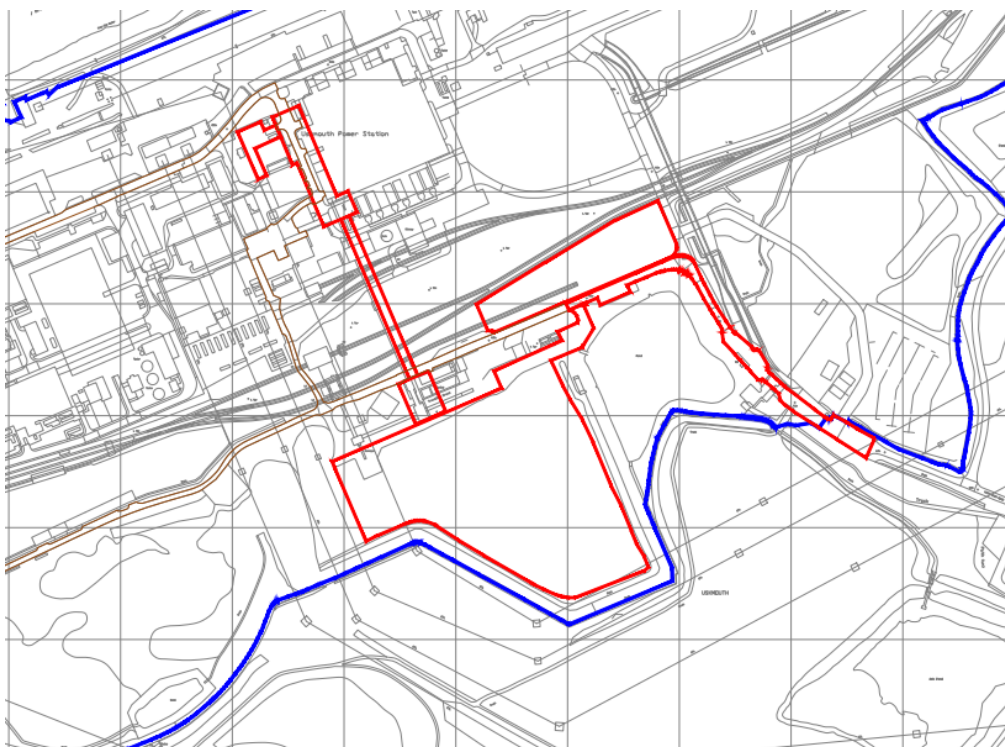
**APPLICATION DETAILS**

**No:** 22/0823      **Ward:** Liswerry  
**Type:** Full (Major)  
**Expiry Date:** 28<sup>th</sup> December 2022  
**Applicant:** P Walker  
**Site:** *Uskmouth Power Station West Nash Road Nash Newport South Wales*  
**Proposal:** *INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE SYSTEM (BESS)*

**Recommendation:** **GRANTED WITH CONDITIONS WITH DELEGATED AUTHORITY TO THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT TO ISSUE A DECISION ONCE NRW AGREE HABITATS REGULATION ASSESSMENT**

**1. INTRODUCTION**

- 1.1 This application is reported to committee as is a major application.
- 1.2 This full application seeks planning permission for the installation of a battery energy storage system at this established power station site including the raising of land levels to create and elevated engineered platform designed to support the new infrastructure and mitigate flood risk. The application site is only part of the much larger power station site and will be within the area of the Uskmouth B station on a former coal stockyard area. The wider site is very industrialised with existing industry to the north and across the River Usk. To the south are former ash piles, now vegetated, and beyond that is the RSPB Wetlands National Nature Reserve. The development will primarily be viewed in the context of the adjoining coal fired power station buildings that are to be retained and are of significant scale.



*Extract from OS site location plan*

- 1.3 The Uskmouth Power Station plant has previously produced thermal energy from the combustion of coal, thereby generating electricity. It began operation in 1959 and has now

ceased production. This proposal will have the capacity to store 230MW of electricity. This arises as electricity is directed to the proposed storage system from the grid during off peak periods (when supply is high and demand is low) and then reconverted to electricity to serve the wider grid during periods of peak demand on the distribution network. This will facilitate grid stability as energy storage can allow significant increase in intermittent renewable generation from wind and solar onto the electricity system by enhancing the balance of supply and demand. This location/site has the significant advantage of close access to the electrical grid system and an existing substation on site. Other battery storage systems exist or have been consented in Newport's administrative area but these are of much smaller scale and often linked to solar projects.

- 1.4 A comprehensive set of detailed information has been provided with this application and a statutory pre application consultation exercise was completed by the applicants. A discretionary pre application enquiry to the Local Planning Authority preceded this full application, as did a formal Environmental Impact Assessment Screening Opinion request. The latter was required as officers consider the development falls under Schedule 2, section 3a of the Town and Country Planning (Environmental Impact Assessment)(Wales) Regulations 2017 and comprises development of an industrial installation for the production of electricity and the proposal exceeds the threshold set out in the column to section 3a. Having regard to Schedule 3 of the Regulations officers confirmed the proposal was not EIA development and an Environmental Statement is not therefore required to accompany this submission.

## 2. RELEVANT SITE HISTORY

**06/0844** ERECTION OF NEW COMBINED GAS TURBINE POWER STATION – this was a consultation to the Authority by the former Department of Trade and Industry (i.e. the determining authority). This application was subsequently granted with conditions and subject to unilateral legal undertaking and the power station is now built.

**08/1144** LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) FOR THE CONSTRUCTION OF A PEAKING PLANT AND AN ADVANCED CONVERSION TECHNOLOGY PLANT (ACT PLANT) AND ASSOCIATED BUILDINGS, HARD STANDINGS, PLANT AND STORAGE AREA TO GENERATE ELECTRICITY FOR THE NATIONAL GRID AT THE USKMOUTH POWER STATION SITE – Granted

**20/0748** ERECTION OF SILOS AND DE-DUSTING BUILDING, EXTENSION TO RAIL UNLOADING FACILITY, NEW ABOVE GROUND CONVEYORS AND ANCILLARY DEVELOPMENT – withdrawn

**22/0263** EIA SCREENING OPINION FOR THE CONSTRUCTION OF A 230MW BATTERY ENERGY STORAGE SYSTEM (BESS) – not EIA development

## 3. POLICY CONTEXT

### 3.1 LDP Designations and Site Characteristics

#### Site Designation:

- Archaeologically Sensitive Area - CE6
- Developed Coastal Zone – CE9
- Urban Boundary
- Flood Zone B / C1
- Parking Zone 6

#### Nearby Designations:

- Environmental Space - Church of St Mary, Nash (1.1km west)
- Special Landscape Area - The River Usk
- SINC –immediately adjacent
  - Julian's Gout Land (north east)
  - Gwent Wetland Reserve (south)
  - Alpha Steel Site (east)



- SSSI – immediately adjacent
  - RIVER USK (LOWER USK) (north)
  - NEWPORT WETLANDS (south)
  - SEVERN ESTUARY (west)
- RAMSAR and SPA – Severn Estuary
- Special Area of Conservation – RIVER USK / Severn Estuary
- Wales Coast Path - Adjacent to Nash Road and south of the site
- National Nature Reserve – NEWPORT WETLANDS (west and south)
- Landscape of Outstanding Historical Interest – Gwent Levels (east and west)
- Public Right of Way and Coastal Path - 401/12/1 (south)
- Accessible Natural Greenspace - Waterway (north)
- Accessible Natural Greenspace - Amenity (south)
- Historic Environment Record – Various within Uskmoth Power station

### 3.2 National Planning Policy and legislation

#### **Future Wales: The National Plan 2040 (2021)**

Future Wales together with PPW will ensure the planning system focuses on delivering a decarbonised and resilient Wales through the places we create the energy we generate, the natural resources and materials we use and how we live and travel. Regarding energy generation, Future Wales identifies that Wales can become a world leader in renewable energy technologies. Wales’s wind and tidal resources, potential for solar generation, its support for both large and community scaled projects and commitment to ensuring the planning system provides a strong lead for renewable energy development means it is well placed to support the renewable sector, attract new investment and reduce carbon emissions.

Policy 17 of Future Wales is of specific relevance to this project. The policy states that:

“...the Welsh Government strongly supports the principle of development renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales’ international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.” It goes onto state that “...new strategic grid infrastructure for the transmission and distribution of energy should be designed to minimise visual impact on nearby communities” and “...proposals should describe the net benefits the scheme will bring in terms of social, economic, environmental and cultural improvements to local communities.” In addition, to topic-based policies, Future Wales establishes four regions and policies appropriate to them. Newport is within the ‘South East’ region in which it is noted that decarbonisation and responding to the threats of the climate emergency should be central to all regional planning.

There is strong potential for wind, marine and solar energy generation and Strategic and Local Development Plans should provide a framework for generation and associated infrastructure. The Welsh Government wishes to see energy generation, storage and management play a role in supporting the South East Wales economy. Local ownership and distribution are important for ensuring communities in proximity to renewable energy development benefit from it and that the future energy system better serves Wales.

### 3.3 Planning Policy Wales (Edition 11)

National Planning policy is clear that a Globally Responsible Wales is promoted by reducing our carbon footprint through measures such as the promotion of renewable energy over carbon-emitting sources. The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance. The policy notes that the planning system should optimise energy storage and maximise renewable and low carbon energy generation.

#### **Section 5: Productive and Enterprising Places**

“Embracing the challenge of decarbonising our energy and transport sectors including phasing out of fossil fuels and moving towards local, decentralised renewable energy

systems, the increased use of energy storage to balance supply and demand and the challenge this creates on our distribution networks”

## **Energy**

5.7.6: The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government’s aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development.

5.7.7 The benefits of renewable and low carbon energy, as part of the overall commitment to tackle the climate emergency and increase energy security, is of paramount importance. The continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. The planning system should:

- integrate development with the provision of additional electricity grid network infrastructure;
- optimise energy storage;
- facilitate the integration of sustainable building design principles in new development;
- optimise the location of new developments to allow for efficient use of resources;
- maximise renewable and low carbon energy generation;
- maximise the use of local energy sources, such as district heating networks;
- minimise the carbon impact of other energy generation; and
- move away from the extraction of energy minerals, the burning of which is carbon intensive.

5.7.12 Energy storage has an important part to play in managing the transition to a low carbon economy. The growth in energy generation from renewable sources requires the management of the resultant intermittency in supply, and energy storage can help balance supply and demand. Proposals for new storage facilities should be supported wherever possible.

5.9.7 The local balance of the energy network will be a crucial consideration in this regard, and planning authorities should consider the best places for local renewable energy generation to help improve the resilience of the grid in the future.

## **3.4 Welsh National Marine Plan**

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

- Achieving a sustainable marine economy –
  - Contribute to a thriving Welsh economy by encouraging economically productive activities and profitable and sustainable businesses that create long term employment at all skill levels.
  - Provide space to support existing and future economic activity through managing multiple uses, encouraging the coexistence of compatible activities, the mitigation of conflicts between users and, where possible, by reducing the displacement of existing activities.
  - Recognise the significant value of coastal tourism and recreation to the Welsh economy and well-being and ensure such activity and potential for future growth are appropriately safeguarded.
- Ensuring a strong, healthy and just society
  - Improve understanding and enable action supporting climate change adaptation and mitigation.
- Living within environmental limits
  - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).

- Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
- Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.

The above duties have been given due consideration in the determination of this application. Negative impacts and mitigating factors have been considered and set out in the assessment.

### 3.5 **Technical advice notes**

- Technical Advice Note (TAN) 11: noise
- Technical Advice Note (TAN) 15: development and flood risk
- Technical Advice Note (TAN) 18: transport
- Technical Advice Note (TAN) 23: economic development

### 3.6

#### **Local Planning Policy Adopted Local Development Plan**

The following LDP policies are considered to be relevant to the proposed development of this site:

- SP1 Sustainability
- SP3 Flood Risk
- SP8 Special Landscape Areas
- SP9 Conservation of the Natural, Historic and Built Environment
- SP18- Urban Regeneration
- GP1 General Development Principles – Climate Change
- GP2 General Development Principles – General Amenity
- GP3 General Development Principles – Service Infrastructure
- GP4 General Development Principles – Highways and Accessibility
- GP5 General Development Principles – Natural Environment
- GP6 General Development Principles – Quality of Design
- GP7 General Development Principles – Environmental Protection and Public Health
- CE2 Waterfront Development
- CE3 Environmental Spaces and Corridors
- CE6 Archaeology
- CE8 Locally Designated Nature Conservation and Geological Sites
- CE9 Coastal Zone
- CE10 Renewable Energy
- T3 Road Hierarchy
- T4 Parking
- T8 All Wales Coast Path
- W3 Provision for Waste Management Facilities in Development

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

- Sustainable Travel SPG (July 2020)
- Archaeology and Archaeologically Sensitive Areas SPG (Aug 2015)
- Wildlife and Development SPG (Aug 2015)
- Parking Standards SPG (Aug 2015)
- Air Quality (SPG) (Feb 2018)

## **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 Imp

## Condition 2: European Protected Species – Secure Implementation of Submitted Documents Conditions 3-8: Land Contamination

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

### Flood Risk

The planning application proposes an Energy Storage System which the flood consequences assessment (FCA) considers highly vulnerable development. The site is within Zone C1 of the Development Advice Map (DAM) as contained in TAN15 and the Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls into Flood Zone 3 (Sea). Section 6 of TAN15 requires your Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate, through the submission of 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 RPS Group, document reference HLEF83600, version 5, dated October 2022. The FCA shows that the risks and consequences of flooding could be managed to an acceptable level for the following reasons. Section 4.9 of the FCA confirms that the existing topography of the site ranges from 11m AOD – 6.91m AOD. Section 9.12 of the FCA confirms that the ground level for the electrical infrastructure will be raised to a minimum level of 9.8m AOD and the battery storage element is located in the central part of the site. Based on these levels, the FCA confirms:

#### A1.14 Criteria

- For the undefended scenario, during a 0.5% (1 in 200 year) plus climate change (95% confidence level) annual probability tidal flood event, the maximum flood levels for the site range between 9.75m AOD and 9.77m AOD. Therefore, the electrical infrastructure is predicted to be flood free during this event.
- The central part of the site (battery storage element) is predicted to be flood free during this event.

#### A1.15 Criteria

- For the undefended scenario, during a 0.1% (1 in 1000 year) plus climate change (95% confidence level) annual probability tidal flood event, the predicted flood level for the site ranges between 10.44m AOD - 10.46m AOD. Therefore, the electrical infrastructure is predicted to flood to maximum depths between 640mm – 660mm.
- The central part of the site (battery storage element) is predicted to be flood free during this event.

#### A1.12 Criteria

We welcome the additional information regarding infill area; however, we continue to advise that given the open flood cell at this location, and the source of flooding, we are satisfied that land raising would not need to be assessed in terms of impact elsewhere. The FCA proposes the management of flood risk by the occupants/owners signing up to the flood warning service and the preparation of a flood evacuation plan.

## Condition 1: Secure Implementation of Submitted Document

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:

‘Uskmouth Battery Energy Storage System – Flood Consequences assessment and Sustainable Drainage Strategy’, prepared by RPS Group, document reference HLEF83600, version 5, dated October 2022.

### Further Advice

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

## European Protected Species

We have reviewed the following documents submitted in support of the above application:

- Drawing entitled “Habitat Enhancement and Softworks”, prepared by RPS, drawing number 101, dated October 2022.
- Drawing entitled “Hard Landscape Enhancements”, prepared by RPS, drawing number 200, dated October 2022.
- Drawing entitled “Site Overview Plan”, prepared by Private Energy Partners, drawing number 1602 PEP XX ZZ DR W 0002 S3 P00, dated 12th August 2022.
- “Biodiversity Mitigation and Enhancement Plan, Uskmouth Bess”, prepared by RPS, document reference ECO02497, version 1, dated 24th October 2022.
- “Landscape & Ecology Management Plan”, prepared by RPS, document reference JSL 4467\_570, version 3, dated 26th October 2022.
- “Ecological Impact Assessment – Uskmouth BESS”, prepared by RPS, dated 8th July 2022.
- “Uskmouth BESS – Water Vole and Otter Report – 1”, prepared by RPS, document reference ECO02497, dated 21/10/2022.
- “Water Vole Mitigation and Enhancement Strategy – 1”, prepared by RPS, document reference ECO02497, dated 25th October 2022.

We note from the amended information submitted that 2022 field surveys have found evidence of otters []. We also note that water voles were found to be present []. Otters, as well as their breeding sites and resting places, are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), they are also a qualifying feature of the River Usk Special Area of Conservation (SAC), which is located to the north of the application site. Water voles are fully protected under the Wildlife and Countryside Act 1981 (as amended). Otters Section 1.2.4 of the Biodiversity Mitigation and Enhancement Plan (BMEP) advises that a ‘shadow’ Habitats Regulations Assessment (HRA) has been prepared to address the potential for the proposed development to have an impact on otter activity within and around the power station. Unfortunately, we have been unable to locate this document in the submitted supporting proposals however, we are reassured that the impacts on otters will be negligible, based on the information provided in the supporting documentation that has been submitted.

## Condition 2: Secure Implementation of Submitted Documents

The 2022 otter survey information that has been provided, together with statements in the BMEP on artificial lighting provision and construction and operational working practices, provide assurance that this species will not be detrimentally affected by these proposals, provided that the mitigation provisions listed in the following documents are implemented. Therefore, we recommend you should only grant planning permission if the following documents are included in the approved plans and documents condition on the decision notice:

- “Biodiversity Mitigation and Enhancement Plan, Uskmouth Bess”, prepared by RPS, document reference ECO02497, version 1, dated 24th October 2022.
- “Ecological Impact Assessment – Uskmouth BESS”, prepared by RPS, dated 8th July 2022.
- “Uskmouth BESS – Water Vole and Otter Report – 1”, prepared by RPS, document reference ECO02497, dated 21/10/2022.

## Water Voles

We support the mitigation proposals detailed in the Water Vole Mitigation and Enhancement Strategy. We note from the document the applicant’s intention to apply for a licence from NRW to undertake work of conservation benefit to water voles in association with this application. Water Vole Conservation Licence Under Section 16 (3) of the Wildlife and Countryside Act 1981 (as amended), NRW has the power to issue a licence in respect of works concerning water voles, where the primary purpose of that work is the long-term conservation of water voles. A clear, long-term conservation benefit to water vole would need to be demonstrated within the licence application. Please note that NRW may wish to discuss and agree some aspects of the water vole mitigation strategy in more detail at the licence application stage.

## Land Contamination

We have reviewed the following documents submitted in support of the above application:

- ‘Ground Investigation Factual and Interpretative Report – Uskmouth Battery Energy Storage System (BESS)’, prepared by RPS, document reference JER9597, dated August 2022.

• 'Uskmouth Power Station – Preliminary Risk Assessment – Uskmouth Battery Energy Storage System (BESS)', prepared by RPS, document reference JER8425, dated July 2022. We continue to note from the report that underground cabling is to be used in association with the proposed development. We recommend you seek confirmation from the application that these cables will not be fluid filled. If these types of cables are proposed, then we would advise that a further risk assessment will be required as per our position statement C5 of the Environment Agency's "Approach to Groundwater Protection" as adopted by NRW. We note from the ground investigation report that contamination has been observed in the groundwater. Concentration of contamination has been seen to exceed the environmental quality standards for numerous determinants. However, there is no discussion on the concentrations observed other than they exceed EQS and DWS, we recommend the application confirms what the magnitude of the exceedance is, and the risks associated. We note that no discussion of the development works at the site has been provided and how this contamination will be affected by construction. We understand that cut and fill methods will be employed but to what depth? There is no remediation strategy and/or validation plan proposed for the works. It is good practice to ensure that construction works do not mobilise contamination (especially as cut and fill methods move material around site) this should be monitored with frequent groundwater sampling pre, during and post construction. We therefore continue to advise the following suite of conditions are imposed on any planning permission granted for the site. In addition to the planning conditions, an Environment Permit from NRW may be required (during construction and operation) and we recommend early consultation with the relevant permitting teams to ensure all permits are in place prior to commencement of development.

#### Condition 3: Land Affected by Contamination

No development, of land known to be/suspected of contamination shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.

1. A preliminary risk assessment which has identified:
  - i. All previous uses.
  - ii. Potential contaminants associated with those uses.
  - iii. A conceptual model of the site indicating sources, pathways and receptors.
  - iv. Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The remediation strategy and its relevant components shall be carried out in accordance with the approved details. Justification To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity, and where necessary remediation measures and long-term monitoring and implemented to prevent unacceptable risks from contamination.

#### Condition 4: Contamination Verification Report

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

Justification To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

#### Condition 5: Long Term Monitoring Plan

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

- Details of the methods and triggers for action to be undertaken.
- Timescales for the long-term monitoring and curtailment mechanisms e.g., a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required.
- Timescales for submission of monitoring reports to the Local Planning Authority e.g., annually.
- Details of any necessary contingency and remedial actions and timescales for actions.
- Details confirming that the contingency and remedial actions have been carried out. The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

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

#### Condition 6: 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 with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

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

#### Condition 7: 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 to controlled waters. The development shall be carried out in accordance with the approval details.

Justification To prevent pollution to the water environment.

#### Condition 8: Piling

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

Justification There is an increase potential for pollution of controlled waters from inappropriate methods of piling.

NATIONAL GRID: no objection.

WALES AND WEST UTILITIES: no objection.

SENIOR FIRE PREVENTION OFFICER: no objection.

GOLDCLIFF RINGING GROUP: no response.

GWENT BAT GROUP: no response.

GWENT ORNITHOLOGICAL SOCIETY: no response.

GWENT WILDLIFE TRUST: no response.

WILDLIFE IN NEWPORT GROUP: no response.

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: Previous archaeological mitigation work has identified archaeological deposits, during works to construct the original power station, additional works at the power station, and development nearby. Consequently, there would be a high potential for any ground disturbing works to encounter such remains. We note from the supporting documentation for the current application that the location is on disturbed ground, and that the ground level will be raised to mitigate the impact of potential

flooding, using historic on site pulverised fuel ash. Therefore, it is our opinion that the current proposals will not adversely impact the archaeological resource, and that it is unlikely that archaeologically significant material will be encountered during the course of the proposed works. As a result, there is unlikely to be an adverse archaeological impact to this proposed development, and consequently, as the archaeological advisors to your Members, we do not make any recommendation for archaeological mitigation, and have no objections to the positive determination of this application.

ROYAL SOCIETY FOR PROTECTION OF BIRDS: no response.

CADW ANCIENT MONUMENTS: no response.

WELSH WATER: The proposed development is crossed by a trunk/distribution watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

NETWORK RAIL: no objection.

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF CITY SERVICES (HIGHWAYS): Highways consider that the proposed development will not have an unacceptable impact on the local highways.

Highway Comment

Consideration is given to the impact this development would have on potential routes to the site, these include West Nash Road, Nash Road, Meadows Road and the A4810 west of the Meadows Road roundabout and the A4810 Queensway east of Glan Llyn roundabout.

Construction Period - Vehicle Movement

It is anticipated there will be approximately 18 HGV movements (nine HGV deliveries plus nine HGV departures) and 20 staff vehicle movements per day (half of these HGV movements given a shorter working day on a Saturday) over the 12-month construction period. Additionally, there will be two abnormal load deliveries for the 132/33kV transformers, which will be up to 100 tonnes each. These movements will be co-ordinated with the relevant authorities. A comparison has been made with the previous use of the site where it is identified that there were almost 300 occasions when more HGV trips were made daily. It is expected that HGVs would route to and from the M4. For the purposes of construction, it is assumed that 50% route via the M4 east and the remaining 50% route via the M4 west. In conclusion on the traffic movement during the construction phase, the Uskmouth B Power Station previously generated up to 82 more daily HGV movements than those predicted for the construction of the Uskmouth BESS, this offers a betterment to the previous use traffic levels. Whilst any additional traffic on any road is often not preferred, the HGV traffic increase will be for a 12 month period only. For the future beyond the construction phase the additional traffic generated by maintenance staff is considered minimal in percentage terms.

Access and Car Parking

The site has one entrance accessed via a 24/7 manned security gatehouse. A total of 26 car parking spaces are provided which will cater for all the construction staff plus any additional ad-hoc short term parking requirements associated with deliveries etc. Sustainable Transport The site cannot be considered to be well served by any public transport and is located some distance from any large residential conurbations. This will mean staff will be more reliant on the car as a means of transport. Car sharing represents a relatively convenient form of travel offering a significant potential to reduce overall private mileage of construction workers. Whilst under construction the site manager will be encouraging the use of car sharing. This duty is part of the Considerate Constructors Scheme expectations.

Recommendation

That a planning condition is prepared to ensure that during the construction phase a record is kept of the number of HGVs trips. Also that the HGV trips are limited to 99 trips per week (5.5 days x 18). To allow for some flexibility, the wording for this condition to be agreed with the applicant.

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

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (ENVIRONMENTAL HEALTH): Given the location of the proposed development, noise is minimal material consideration but any external mechanical plant will have to comply to the local authority guidelines.

The development is reasonable in noise terms and I do not offer any objections to the application and suggest the following should you be mindful to grant the application.



Noise emitted from plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 10dB below the existing background level, with no tonal element to the plant. This will maintain the existing noise climate and prevent 'ambient noise creep'

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

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

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ECOLOGY): we can assume for the purposes of the HRA that Otters do not use the Operational Drain, and so would not be affected by works to it. NRW have advised that they are satisfied the impacts of the proposed scheme upon otters would be negligible, and I support this advice, though we still need to consult NRW on the HRA.

I note also that the Applicant intends to amend the conclusions of the draft shadow HRA in line with my previous comments.

From NRW's comments in relation to Water Vole, we can assume that they would be likely to issue a WCA licence, and that further details of mitigation in respect of this species, beyond those which have been provided thus far, will be determined at the WCA licence application stage, after the planning application has been determined.

Therefore I have no further comment other than to reiterate that implementation of all mitigation measures set out in supporting documents submitted should be secured by planning condition.

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE): The following landscape related documents have now been submitted in October, these have responded to the landscape comments raised in September.

- GI Plan
- LEMP
- Habitat and Soft Landscape Plan
- Biodiversity Mitigation and Enhancement Plan
- Hard Landscape Plan

Proposals are welcomed. No objections raised as all queries addressed.

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (PUBLIC RIGHTS OF WAY):

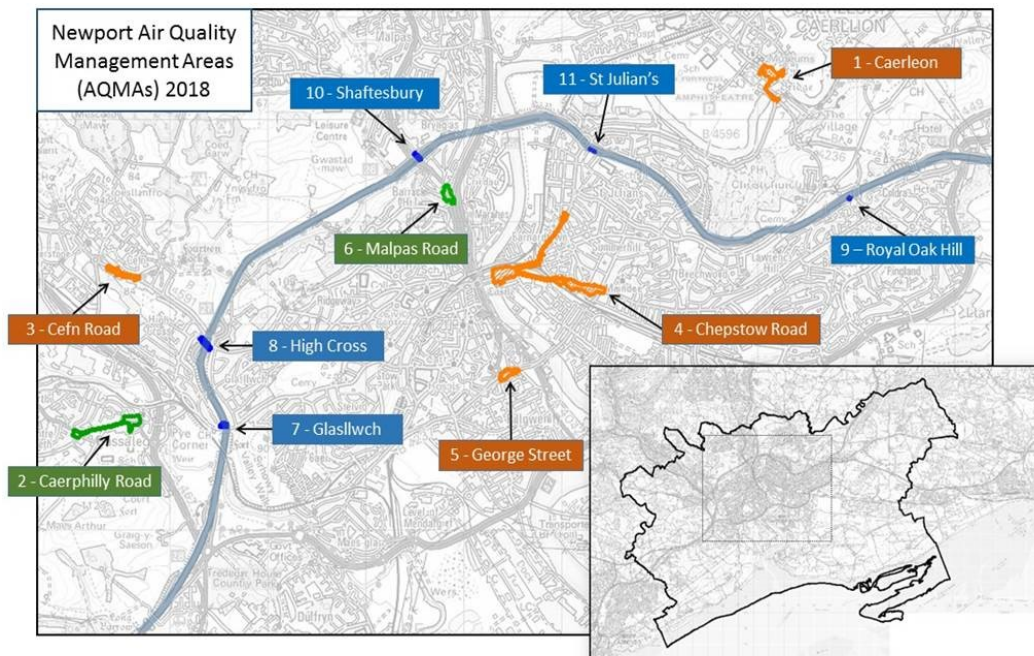
There are no objections to the proposals, however, as there is a public footpath (which carries the Wales Coastal path) running adjacent to the site and its access point the following points should also be considered:

1. All PROW's (as shown on the Definitive Map) are legally required to remain completely unobstructed and be clear and available for safe public use at all times (including during construction works – unless a temporary closure/diversion order is applied for and granted beforehand);
2. The PROW users must not be endangered or disadvantaged in any way by the proposals (during construction and following completion);
3. The fabric of the PROW's must not be adversely affected in any way;
4. PROW users must be protected from any vehicles/plant associated with the works. All potential conflict should be risk assessed and managed accordingly.

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (SCIENTIFIC OFFICER): I have looked at the submissions in respect of the above proposal.

#### **Air Quality**

The RPS transport assessment submission has been read and it would appear that 18 HGV movements per day will take place during the 12 month construction phase and as such the LPA will need to be satisfied that routing of vehicles does not substantially impact upon amenity or air quality along routes taken to and from the site. A routing plan needs to be provided for vehicles that will be accessing the site which demonstrates how this will be achieved. It is particularly important that areas where non-M4 air quality management areas have been declared are avoided (see map below).



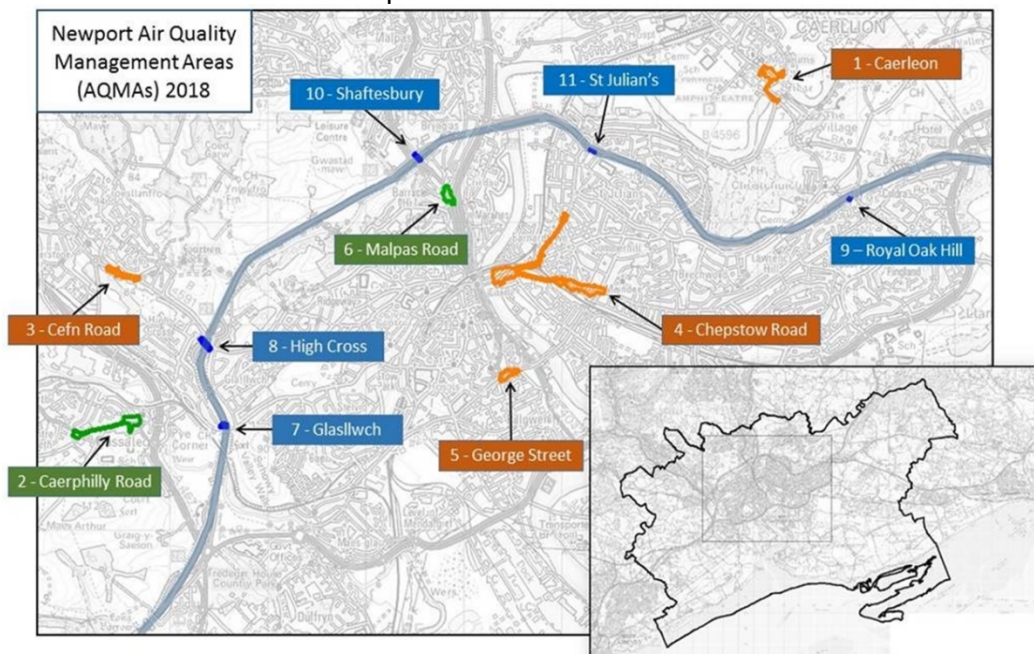
The 26 staff car parking spaces proposed for this development must include provision for electric vehicle charging; and the opportunity to provide electric vehicle charging should take place during the construction phase for staff associated with this as well. In view of the above the following conditions are recommended:

**1. ULEV**

*No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained. ULEV Infrastructure shall be available to staff during the construction phase in for as this is reasonably practicable.*  
**Reason:** To prevent unacceptable harm because of air pollution (Policy GP7); There must not be a significant adverse effect upon local amenity in terms of air quality (Policy GP2)

**2. Construction Routing Plan**

A construction routing plan shall be provided to the LPA which demonstrates how the routing of traffic during the construction phase will avoid non-M4 air quality management areas as detailed on the map below:



The plan shall be submitted to the LPA for approval prior to commencement of construction and retained throughout the construction period. Where any departure from the plan is required the LPA must be consulted prior to any changes.

**Reason:** To prevent unacceptable harm because of air pollution (Policy GP7); There must not be a significant adverse effect upon local amenity in terms of air quality (Policy GP2)

### **Contaminated Land**

The RPS preliminary risk assessment and ground investigation submissions has been read and it would appear that the proposed development site was formerly a coal stockyard for the power station. The preliminary risk assessment has identified the potential for contamination at the site. The subsequent ground investigation appears to have identified contaminants below their commercial screening values for human health, however a ground gas risk assessment remains to be completed as only one round of monitoring had been undertaken at the time of the report publication. Outstanding gas monitoring and risk assessment will need to be completed before any overall conclusion can be reached in relation to human health.

Loss on ignition and calorific value of soils at the site will be of value to the risk assessment and design of the proposed development and details of this and its implications for the development must be provided in addition to information submitted at this stage. A remedial strategy and verification strategy has not been developed at this stage.

In view of the above the following conditions are recommended:

#### **3. Contamination**

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 occupied until:
- d) Following remediation a Completion/Verification Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.
- e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

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

#### **4. Contamination – Unforeseen**

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 being 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.

#### **5. Contamination – Imported Material**

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

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

The NRW consultation comments and recommended conditions with regard to land contamination and controlled waters as noted, their conditions recommended by environment and community relate principally to human health, however conditions bear

similarities to those recommended by NRW. In order to reduce the degree to which conditions appear repeated some may be removed e.g. unexpected contamination.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

All properties within 500m of the application site were consulted ( 5 properties), 4 site notices displayed, and a press notice published in South Wales Argus.

6.2 COUNCILLORS HOWELLS, PETERSON, STERRY AND MORRIS were consulted. No response received.

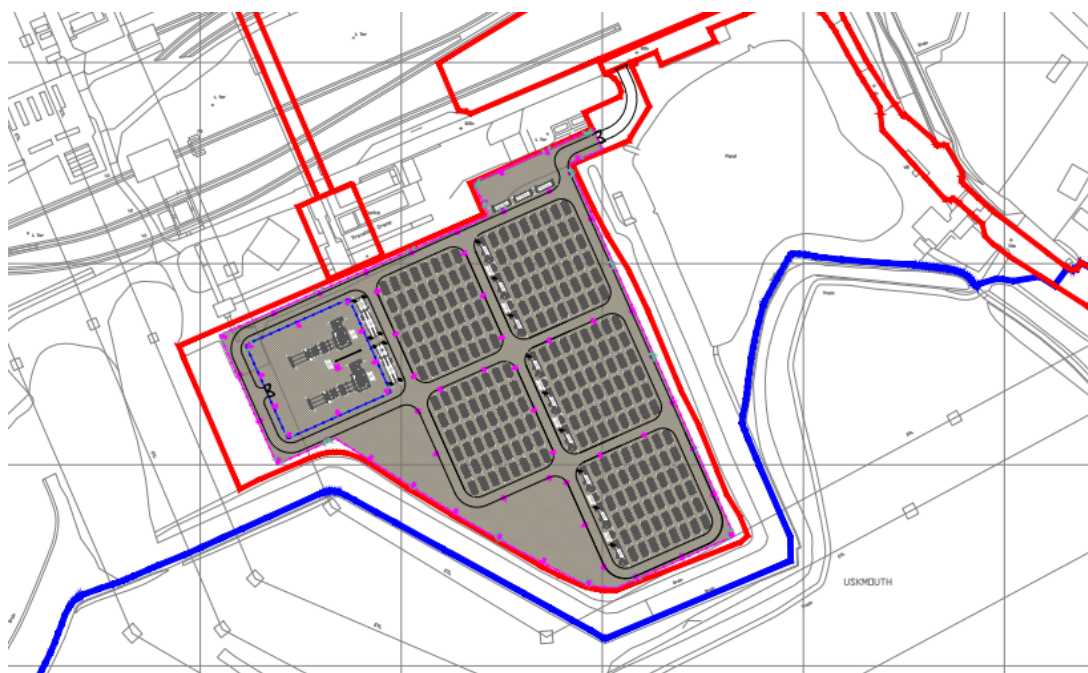
6.3 NASH COMMUNITY COUNCIL: no response.

## 7. ASSESSMENT

### 7.1 The Development

The proposed development would comprise the following elements of external construction:

- The majority of the former coal stockyard would contain bays of containerised high efficiency, battery energy storage units, inverters, transformers and associated electrical infrastructure, arranged in rows. Each bay of batteries is approximately 3.8 MW, there are an estimated 64 bays, each with a height of 3m mounted on concrete slabs/piers. It is intended to raise the ground level for the electrical infrastructure above predicted flood levels, utilising historic pulverised fuel ash stored on site.
- Laying out of containerised battery units along with associated inverters, switchgear units, closed loop cooling units, control units and associated electrical infrastructure mounted on concrete piers.
- Laying out of containerised substation units and associated electrical infrastructure mounted on concrete piers or slabs.
- Transformers within bunded compounds.
- Auxiliary power supplies for the batteries, control systems mounted on concrete piers.
- Security palisade fence around the BESS substation and battery compound with access gates to the compound entrance from the internal road network.
- Erection of CCTV cameras.
- Laying out of a hard surfaced site access into the BESS substation and battery compound from the internal road network. Car parking bays. Uncompacted gravel as a surface cover between the containerised units and equipment. Construction laydown area.



In addition to the proposed development the applicant will undertake engineering works comprising cut and fill across the site to achieve land raising linked to flood risk mitigation and the formation of an engineered platform suitable for the development. As levels across site are variable, the depth of fill also varies. However, across the site the current land level will be raised by up to 2.5m with most areas of the site being raised less than this above

existing levels. The slabs for containers and transformers will be further elevated above finished ground levels with containerised units on slabs of approximately 100mm depth and transformers on slabs of approximately 600mm depth. The applicant will install underground cable connections between the Battery Energy Storage System (BESS) substation and the existing Uskmouth 132kV substation. Electricity would be imported and exported between the BESS substation and the existing 132 kV substation. These cable runs are intended to be underground (where possible) utilising existing ducts and conduits within land owned by the power station. The final route of the power connection has not yet been confirmed. Planning permission is not sought for these local underground cable connection works.

7.2 Each containerised battery unit will measure 6.05m long by 2.45m wide and 3m high; substation containers will be 14m long by 4m wide and 3.8m high; a welfare block and control room will measure 9.2m long, 2.4m wide and 3.2m high; a spares store will measure 12.1m long by 2.4m wide by 2.6m high. Lighting columns proposed will be approximately 6m high.

7.3 There is significant national and local policy support for proposals that make a positive contribution to sustainable development and energy supply resilience. Battery storage of this kind can support renewable energy generation, reduce energy wastage and supports the transition to a low carbon economy. It can improve energy security along with a more balanced and reliable supply of electricity. Battery storage has an important role to play in the energy network and will supplement the grid during periods when supply of energy may have fallen below optimum levels for any reason. All these factors are of significant merit and must be afforded substantial weight in favour of the scheme.

7.4 In this context, the primary issues to be considered are as follows:

- Traffic and its effects associated with the construction of the battery energy storage system. This is likely to take place over a 12 months period.
- The visual and landscape impact of the development.
- Flood risk.
- Impact on ecology affecting protected sites close to the development area including risk to controlled waters from ground contamination.
- Fire risk and associated impact along with environmental factors associated with longer term end of battery life operational matters and disposal of waste.
- Energy security and optimisation of energy storage to improve supply resilience.

Secondary matters are considered to be:

- Archaeology and the historic environment
- Noise and disturbance and impact on residential amenity

#### 7.5 Traffic Impact

Given the distance to residential receptors and low population of the area, the development is considered to have fairly low sensitivity. However, as the existing access to the site is via the rural Nash Road and West Nash Road, which pass through the village of Nash and other groups of houses, the setting is considered to have higher sensitivity to potential road traffic impacts

7.6 The construction phase is anticipated to be in the region of 12 months. Construction traffic would use the existing access via West Nash Road which has been used by vehicular traffic to and fro the power station since the sixties. A Transport Assessment has been submitted with this application and no objection to it has been received from the Head of City Services (highways). It is anticipated that there would be approximately 9 HGV vehicles in and out per day (based on a 5 day working week) so 18 HGV movements per day for 1 year over the construction period. This takes account of vehicles delivering units and plant and those delivering material for the engineering layer of the site raising works. The developer anticipates up to 10 staff vehicles in and out per day also but these are smaller scale and of negligible impact over and above existing traffic levels. During operation there would be limited traffic movements, estimated at 4 light commercial vehicles per month on average. The Highways Officer has advised: Delivery vehicles would include 44 tonne articulated lorries, 32 tonne rigid 4 axle lorries and 3.5 tonne 2 axle vehicles. There would be 2 abnormal load deliveries. The Assessment confirms two important things. Firstly, the highway routing operates well within capacity now and well within capacity when the above vehicles are added. Secondly, the above vehicle movements are significantly less than those seen during

the operational life of the power station which effectively ceased in 2017. West Nash Road and Nash Road have historically served as the primary road access to the power station site and the neighbouring gas fired station and sailing club. It is also frequently trafficked by vehicles accessing the neighbouring sewerage treatment site. Therefore, whilst the roads are rural, the presence of industrial and larger vehicles using these roads is commonplace. Such traffic operates alongside residential and visitor traffic accessing existing properties but also the coastal path and bird reserve for example. Whilst the power station is also served by rail and river access, its reliance upon road access has been a longstanding one. A very small number of abnormal loads will be required over the 12 month period but these are of negligible impact and will require advance planning with the Council's Highway Networks team. Track testing confirms such abnormal loads can safely travel the network to site with the junction of West Nash Road and Nash Road being the most constrained point on the journey. However, these will be subject to advance agreement with NCC highway networks, may have to be accompanied by escort vehicles and can be appropriately timed to avoid any peak periods. This will be a matter for highways. The main consideration is the impact of heavy goods vehicles on the local highway network, the character of the area and amenity over the construction period. These are likely to include articulated lorries and rigid large vehicles carrying containerised units for example. The comments of the Scientific Officer are noted in relation to construction traffic routing but as there is only one road into the development and there is a reasonable likelihood that traffic will enter site via the M4 and routes that are not subject to Air Quality Management areas, this is likely onerous. Notwithstanding, such plans are normally included within Construction Environmental Management Plans and this is subject to a recommended condition.

- 7.7 By reason of the location and construction of the roads, separate agreement for reimbursement costs for damage or general wear and tear for the local highway network has been discussed with the Council's Highway Networks team. This is separate to the planning process and is subject to the regulatory powers of the Highway Authority. As an industrial site with an existing use, albeit no longer linked to an operating coal fired power station, the potential for heavy goods vehicles persists as it is likely the site will be reused in some form albeit not as a coal fired power station. Notwithstanding, other industrial uses remain a real option at the site having regard to its size, topography, infrastructure and general location. And such fallback is highly relevant to our assessment of all impacts arising from this development. It is a material consideration and, having regard to the site location, existing infrastructure, adjoining operations and underused industrial land present, the likely of future industrial uses on the site being acceptable or lawful is high and therefore must carry at least moderate weight.
- 7.8 A previous application subsequently withdrawn saw local objections notably from the neighbour RSPB reserve regarding highway safety linked to visitor traffic and increased HGV movements but clearly this proposal will limit the increase to the 12 month construction phase (as operationally, traffic implications are minimal) and these traffic effects have been estimated in the supporting information as being far more limited than, for example, traffic associated with the previous power station use. No response has been received from RSPB to this proposal. The Highway Officer confirmed at pre application stage that anticipated traffic is not high but clearly the larger vehicles along the rural highways will be discernible for the construction period and by reason of their context and predominantly rural nature. However, officers consider that their impact will be localised and manageable and both the applicant's Transport Assessment and the Head of City Services (Highways) response to this application support this view.
- 7.9 The proposal includes the construction of an access road into the new battery storage site from the existing site access road. This is minor in context and acceptable. During construction, a parking area for construction staff comprising 26 spaces will also be provided and parts of this may be retained longer term. A condition is recommended to ensure its implementation and that if parts are retained longer term, a suitable EV charging scheme is submitted. Parking already exists on site for operational staff although a separate area will be provided as part of the proposals but as operational staffing and access needs are very limited, operational parking requirements will also be limited. In short, the traffic impact of this development is acceptable and the proposal complies with policy GP4.

The site is located in the Caldicot Levels Special Landscape Area (SLA) and adjoins the Usk (SLA). The Gwent Levels Landscape of Outstanding Historic Interest lies a short distance to the east of the Application Site and extends west of the Usk parallel with the coast. There are International RAMSAR and European nature conservation designations Special Area of Conservation (SAC) and a Special Protection Area (SPA) associated with the intertidal areas at the mouth of the Usk with the Severn Estuary SAC and SPA. The SAC extends up the River Usk immediately to the west of the Application Site. The Wales Coastal Path is located immediately to the south and east of the Application Site. It passes less than 50m at its closest point. Some sections are slightly elevated above the Levels landscape, such as the coastal embankment which overlooks the Severn estuary. The intervening scrub and trees between the Wales Coastal Path and the Application Site means that views of the infrastructure on Site and the immediate surroundings are restricted to the taller elements such as the Power Station building and stack. There is a Sustrans national network route which runs east to west within the Levels landscape but inland from the coast and some 1.53km to the north east of the Application Site at its closest point, near Pye Corner. The Landscape and Visual Impact Assessment (LVIA) submitted with this application confirms there would be no significant effect on this route due to distance and the intervening built environment and vegetation and officers agree.

- 7.11 The dense network of drainage ditch water courses in the Caldicot and Wentlooge Levels landscapes are a defining characteristic and they form many of the field boundaries. They are a key extant historic landscape feature which persists today. The dense network of drainage features which consist of Reens, banks, grips, surface drainage and bridges are of 13th to 14th century origin. The applicant's Landscape and Visual Impact Assessment uses Landmap visual and sensory analysis information to inform potential visual and landscape impacts of the development. This confirms the immediate environs of the power station as follows:

*The overall evaluation is Outstanding...For nearly 50 years since 1960 the original coal-fired electricity power station at Uskmouth has dominated the skyline of the western Gwent Levels. The depositing of its waste in adjacent ash pits, irretrievably altering the original Levels landscape has had the unforeseen benefit of the operator donating the ash pits to the newly created Newport Wetlands Reserve.*

- 7.12 The presence of large pylons on and close to site dominate the landscape in this area and it is the close access to these that makes this site so attractive for battery energy storage. The 5ha development will be brownfield within the context of large scale industrial use. At present, the Uskmouth site is dominated by a 122m high stack and a 46m high brick building that houses the combustion units. It adjoins the combined cycle gas turbine power station completed in 2007 with its associated plant, flues and equipment. There are no national landscape designations at the site but numerous closeby as discussed above. The nearest residential cluster at Nash village is over 1km from site. There are a small number of individual farm complexes and private residences within the surrounding area to the east of the Application Site. These include properties along Nash Road (1.9km to the north east), Little Cross Farm and properties off West Nash Road (1.9km to the north east) and Moorcroft, Great House and Arch Cottage all west of Nash less than 1km to the east from the Application Site. The views from these properties would not be altered by the proposed development due to distance and height and scale of development.

- 7.13 To the south is the RSPB reserve which is also an important recreational and tourism feature. The Nash Wetlands form a distinctive and rare waterscape / landscape in the context of the Gwent Levels. The setting to the north is dominated by power generating development whether it be the buildings and plant associated with the gas fired or coal fired power stations, which provides an established context for the proposed development. Although the scale of the proposed development in land area appears large, in the context of the extensive industrial development within the neighbouring area, any change in the overall urban context to the Nash Wetlands would be limited. Although in close proximity, the proposals would generally result in a low degree of change and alteration to the setting of the Reserve itself. Visibility from peripheral public routes in the Reserve will experience, at worst, a minor adverse impact.



*Fig 4iv of LVIA: Track junction with RSPB reserve*

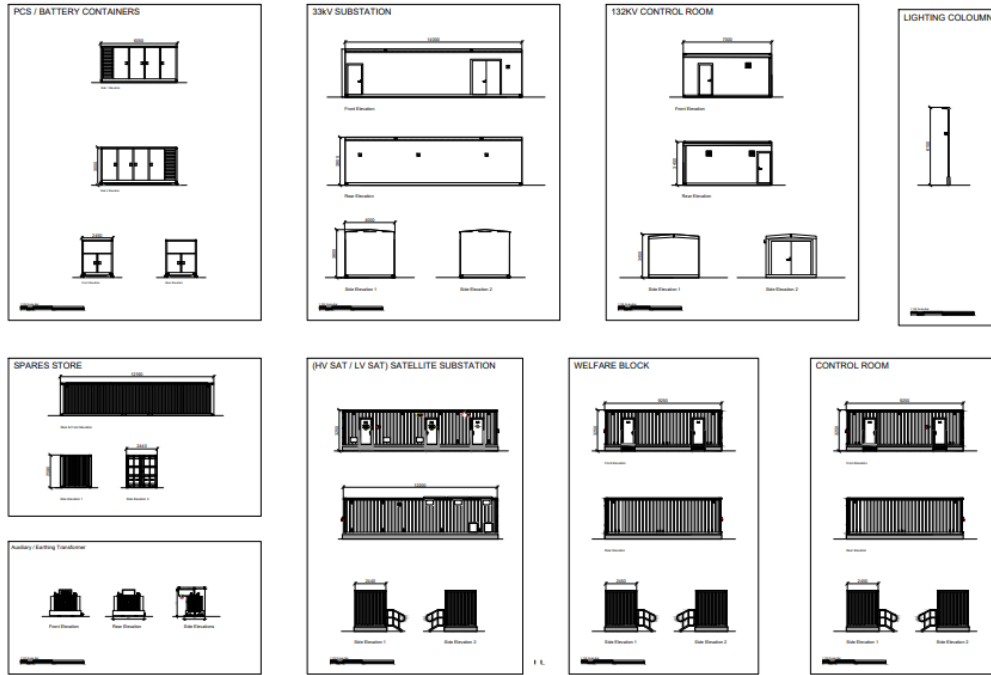
- 7.14 The closest seascape character area to the proposed development is the Severn Estuary (Wales). The main aesthetic and perceptual qualities of the marine area are the open expansive views across the estuary. Locally the backdrop to this part of the coast is large scale industry at Newport which has an influence over the seascape character. The proposed development would not be discernible from the sea to the south. The existing industrial / power generating urban character forms the context for this stretch of coast in a wider natural and wild seascape setting. Therefore, this area has a high capacity to absorb the proposed form and scale of energy infrastructure development without harm to visual amenity. Overall the significance of effect on the seascape character would be negligible to nil.



*Fig 4vii LVIA: Wales Coastal Path (Former lighthouse)*

- 7.15 The scope of the project includes 64no battery units (with up to a total of 110 containers, others containing ancillary equipment) to 3m height from a raised ground level of 2-2.5m high, set out in rows, a BESS substation to 12m, bunded compounds, security fencing, lighting and CCTV cameras, hard surfacing. The containerised units will have a utilitarian appearance and set out in uniform rows and of a uniform level will likely appear as one large sea of containers when viewed from vantage points outside the site. They are relatively low height structures against the much more considerably sized power station buildings that adjoin this application site and will utilise what is now the redundant coal stock pile area which is a large site of underused industrial land in its own right. The applicants have confirmed agreement to a condition requiring the colour of these units to be agreed and officers consider a green finish may appear less stark against the green periphery and brick power station buildings being retained. The containers will be compatible with the wider industrial appearance of the site.





*Taken from Power Systems UK website as an example of how such systems may look*

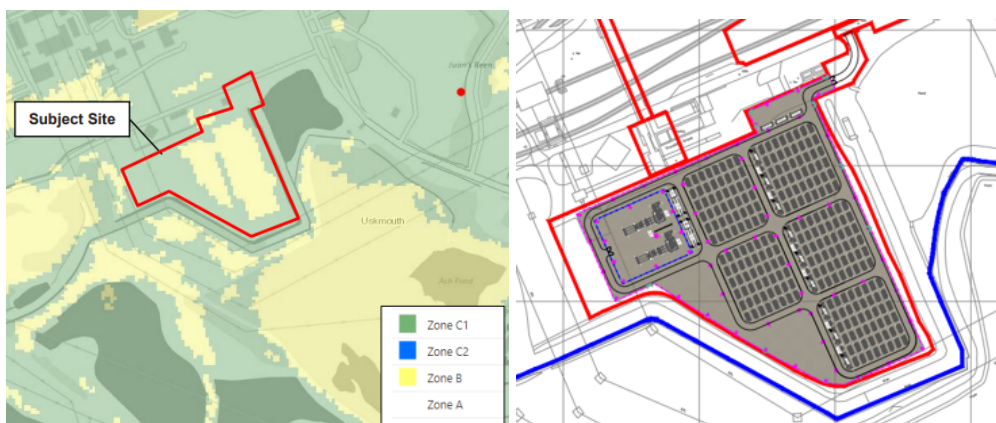
7.16 There are several very high quality vistas identified closeby and potentially affected by the development. These include the Caldicot and Wentlooge Levels, the Nash Reserve, the Saltmarsh and mudflats looking out over the Severn Estuary. There are also sensitive residential receptors with views of the site although all of these appear to be at least 1km from the site. Users of Uskmouth Sailing Club to the north of the site will have uninterrupted views of the northern side of the site as they pass via it to access the Club and frequent views of it from the River. Impact on residential receptors is limited to nil by reason of distance from site and low form of development. Users of the western Reserve will observe the development but its low form against the backdrop of the much larger and higher existing development along with landscape that exists along peripheries will limit this impact in practice. New landscaping is proposed on the outside of the proposed fence that will, in time, soften the appearance of both the fence and the development generally to the benefit of those viewpoints where views may be possible and there is a high chance of natural colonisation of undeveloped areas by landscape species already present on site and notably on peripheral areas where space is left to mature naturally. Landscape plans and supporting information has been provided and sets out a clear and acceptable proposal for new landscaping on site and the Council's Landscape officer has confirmed no objection to these details. They make use of existing features on site and have real potential to enhance these through appropriate improvements and ongoing maintenance that will manage existing vegetation, improve existing surface water drainage networks, retain and enhance existing water features on site that are used by people, plants, birds and other species and thereby

enhance ecological interests. Conditions are necessary to ensure implementation, maintenance and monitoring and such conditions are sought by both NRW and the Council's Ecology officer. These conditions are recommended by officers and included in this report. Furthermore, the applicant has agreed to a condition controlling/specifying the colour of the palisade fencing. At 3.5m this fencing will be a substantial structure in its own right. Palisade fencing is not favoured in prominent or sensitive locations but such fencing is commonplace in industrial settings and there is already this style of fencing on other areas of the wider power station site. Notwithstanding, officers consider the scale of this project and the fencing itself, along with the green periphery and location close to sensitive landscapes, justifies a condition requiring that the fence be colour coated green. This will also match the expectations for finishes on the containerised units. Subject to this, the proposal is considered to accord with policy GP5.

#### 7.17 Flood Risk

The development is highly vulnerable in accordance with Technical Advice Note 15 on flood risk and located within a C1 flood risk zone. It is intended to build flood risk mitigation into the design by mounting containerised electrical infrastructure on an area to be raised. The FCA confirms that the ground level on which the electrical infrastructure will be sited is to be raised to a minimum level of 9.8m AOD (rounded up from 9.77m AOD as shown on plans). There is some uncertainty at this stage on the final design and construction detail of the slabs and this will need to be subject to condition. So far, it is anticipated that these will be between 100mm deep above finished ground levels for the containers (thereby raising the containers to 9.87m AOD) and approximately 600mm deep for the transformers (thereby raising the transformers to 10.37m AOD). The presence of such slabs for electrical infrastructure is not uncommon and many electrical pylons have similar features for example, but the height of these is relevant in terms of visibility assessment and also importantly, to ensure flood risk management and future structural integrity of the site. These details were accounted for in the LVIA document and all plans and documents are conditioned. It is clear that stockpiles of PFA are currently vast but on site PFA will not or cannot meet all site raising requirements particularly as there are separate permitting restrictions on the amount that can be used. Consequently, some material will need to be imported to achieve the proposed finished ground levels and provide a suitable engineering layer from which the electrical infrastructure can be mounted. This layer will be 500mm deep and will also contain cabling and drainage associated with the development. So, land raising will occur alongside constructed slabs that will ensure plant and infrastructure more than meets the minimum 9.8m AOD threshold and the finished levels on the wider site will be minimum 9.77m. The final design will need to be secured by planning condition but in practice is unlikely to have any material effects over and above the considerations already expressed in this report.

7.18 The NRW Development Advice Map shows the central area of the site to be in zone B where flood risk is lower and these variations result in an extensive cut and fill operation to raise levels, achieve a flat finished ground level and ensure the raised level is engineered to adequately accept the proposed works without risk of movement or other issues that would otherwise prove prejudicial.

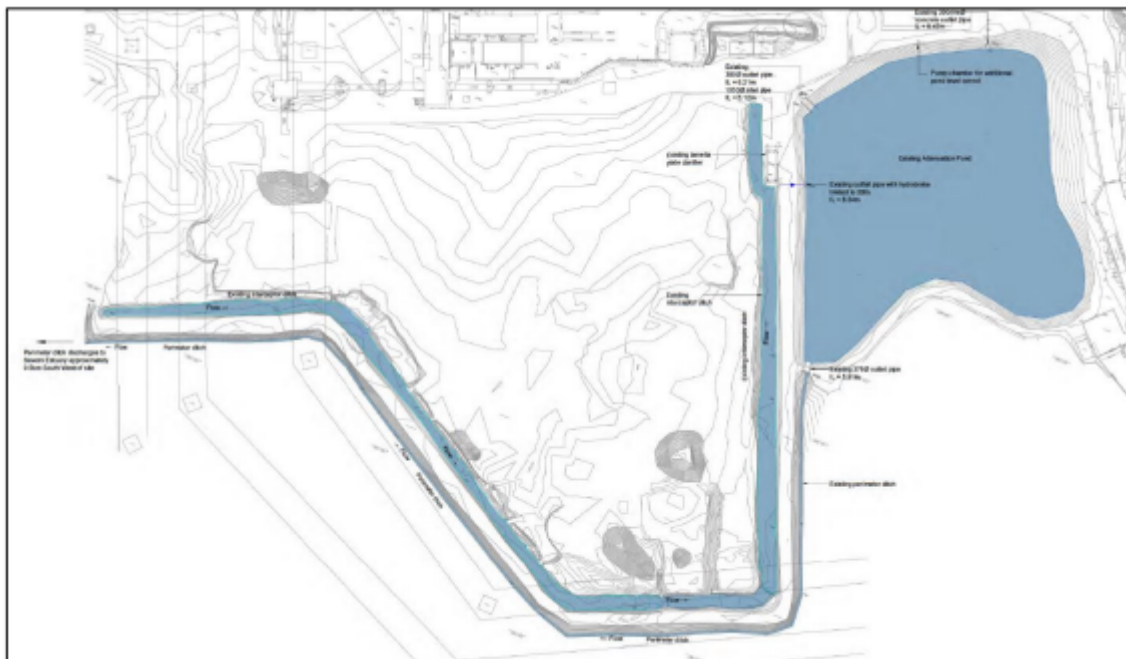


*Extract from NRW Development Advice Map alongside proposed site layout*

7.19 It is anticipated that uncompacted gravel would be used as surface cover between the containerised units and equipment. This is permeable. Whilst the site is within close

proximity to sources of flooding, the development does not raise the prospect of unusual, unforeseen or unmanageable consequences in flood risk terms. The site will be raised to mitigate flood risk and will utilise existing Pulverised Fuel Ash stockpiles in the main.

7.20 We know from the Flood Consequences Assessment (version 5) submitted that the north of the site, slopes to the south from around 8.4 m AOD at the northern boundary to around 7.2 m AOD. Elevations in the western portion of the site appear to be around 6.91 m AOD. The southern portion of the site is relatively undulating with levels in the centre at around 8.49 m AOD falling to around 7.6 m AOD in the south east and 8.19 m AOD in the south west. Works undertaken c. 2006-2009 included a new surface water drainage system including an attenuation pond and an interceptor ditch constructed around the former coal stockyard area to intercept surface water runoff. The topographic survey indicates that this interceptor ditch, adjacent to the site's southern boundary, connects into the attenuation pond. There is a perimeter ditch approximately 8 m further south than this interceptor ditch and it flows in the opposite direction, from the attenuation pond east of the site, and discharging water into the Usk coastline.



*Ditch Location taken from Flood Consequences Assessment*

7.21 Tidal flooding appears to be the most dominate flood risk source to this site as it suffers negligible risk from fluvial sources. The 1 in 200 year and 1 in 1000 year flood risk scenarios are therefore most relevant. No historical flood records are held at the site. Whilst the site is shown to be defended by 'Embankments', due to the current state of the defences, the undefended scenario flood levels have been used to inform development design and mitigation measures. This accord with NRW advice. The 2022 FCA scenarios have been modelled having regard to climate change factors. Results are as follows:

200-year present day undefended scenario

- Northern part of the site: Flood level = 8.38 m AOD producing a flood depth of 0.29 m.
- Western part of the site: Flood level = 8.37 m AOD producing a flood depth of 1.46 m.
- Southern part of the site: Flood level = 8.37 m AOD. This is lower than the site ground levels in this area therefore this part of the site would likely be dry.
- Central part of the site: Shown on the model results flood extent maps to be dry.

200-year Climate Change horizon year 2100 Upper End 95th percentile confidence level undefended scenario

- Northern part of the site: Flood level = 9.77 m AOD producing a flood depth of 1.68 m.
- Western part of the site: Flood level = 9.75 m AOD producing a flood depth of 2.84 m.
- Southern part of the site: Flood level = 9.77 m AOD producing a flood depth of 1.28 m.
- Central part of the site: Shown on the model results flood extent maps to be dry.

1000-year present day undefended scenario

- Northern part of the site: Flood level = 8.74 m AOD producing a flood depth of 0.65 m.
- Western part of the site: Flood level = 8.75 m AOD producing a flood depth of 1.84 m.
- Southern part of the site: Flood level = 8.75 m AOD producing a flood depth of 0.25 m.

- Central part of the site: Shown on the model results flood extent maps to be dry. 1000-year Climate Change horizon year 2100 Upper End 95th percentile confidence level undefended scenario

- Northern part of the site: Flood level = 10.46 m AOD producing a flood depth of 2.37 m.
- Western part of the site: Flood level = 10.44 m AOD producing a flood depth of 3.53 m.
- Southern part of the site: Flood level = 10.45 m AOD producing a flood depth of 1.96 m.
- Central part of the site: Shown on the model results flood extent maps to be dry. The centre of the site is expected to remain unaffected during all modelled flood events. The proposed battery storage element of the development is predominantly located in the centre of the site and therefore out of the flood extent.

7.22 NRW has raised no objection subject to a condition being imposed that ties the permission to the FCA (version5) submitted in support of the application and this is recommended for inclusion here. Notwithstanding this, it is for the LPA to consider whether the risks and consequences of flooding are manageable.

### 7.23 TAN 15 Assessment

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.

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.

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**

**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 proposal will reuse vacant industrial land on an existing industrial site located within the urban area and meets this test.

**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.*

The proposal meets this test.

### **Tests 2 to 12 – Consequences of Flooding**

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.

***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).***

Whilst the site is defended, NRW has advised of concerns regarding the existing defences in this area and consequently the applicant's FCA adopts a cautious approach and is based on an undefended scenario (i.e. assumes the site is not subject to any defences).

***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.***

The defences are an NRW asset.

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

This is not relevant to the proposal as no one will occupy the site. The applicants and site owners are aware of the flood risks.

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

This site, as with many, can sign up to NRW warnings relating to potential tidal flooding.

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

The site will not be permanently manned and the primary infrastructure (i.e. the battery units) will be above flood levels for the 1 in 200 year scenario. This consideration therefore becomes less relevant.

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

The FCA confirms that a Flood Management Plan will be produced for site management and operational staff, with instructions of appropriate measures to take in the instance of a flood. This will ensure the safeguarding of personnel in the event of a potential inundation whilst present on site.

***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 nature of the development is such that rapid movement of infrastructure would not be feasible.

***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.***

Flood resilience measures have been incorporated in the design to reduce the risk of tidal flooding. It is intended to raise the finished level for the electrical infrastructure above predicted flood levels in the 1 in 200 year scenario, utilising historic pulverised fuel ash (PFA) stored on site in combination with imported fill and individual assets protection. Final design will be developed post planning to meet other specification requirements for electrical infrastructure and a condition to secure details will be required for visual and flood risk reasons).

***Test 10 - No flooding elsewhere.***

Flood compensation would not be necessary. Due to the proximity of the Bristol channel to the site and the fact that the flooding is caused by tidal sources not fluvial, NRW has

confirmed as follows “given the open flood cell at this location, and the source of flooding, we are satisfied that land raising would not need to be assessed in terms of impact elsewhere”. This test is met.

**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.**

Flood resilience measures have been incorporated in the design to reduce the risk of tidal flooding. It is intended to raise the ground level for the electrical infrastructure above predicted flood levels, utilising historic pulverised fuel ash (PFA) stored on site in combination with imported fill and individual assets protection. Final design will be developed post planning to meet other specification requirements for electrical infrastructure and a condition to secure details will be required for visual and flood risk reasons). The final flood resilience/resistance levels to be achieved will be no lower than 9.8m AOD. This is above the above the 200 year Climate Change horizon year undefended scenario of 9.77 m AOD and therefore meets the requirements of TAN15 and specific advice received from the NRW. This test is met.

**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.**

Topographic levels within the centre of the site reach a peak of 11 m AOD which is above the 1000- year Climate Change horizon year 2100 Upper End 95th percentile confidence level undefended scenario. Therefore, the centre of the site is expected to remain unaffected during all modelled flood events. The proposed battery storage element of the development is predominantly located in the centre of the site and therefore out of the flood extent.

- 7.24 Outside the central portion of the site the fringes would, without raising, flood well beyond tolerable limits in the extreme scenario however it is proposed to raise site and elevate infrastructure to at least 9.8m AOD. Predictions for the 1 in 1000 year event would mean just over 600mm of flood water on some parts of site even with raising but having regard to the proposed slabs on which electrical infrastructure will sit, the worst case scenario flood event would give rise to less than 600mm of flooding of the infrastructure itself. The transformers in particular will likely be protected. This test is passed. However, conditions relating to land raising and/or raising of infrastructure and the final design of this are necessary.



Example image of raised slabs or piers used for electrical infrastructure

7.25 To conclude, the most vulnerable proposed land uses on the site are located on the lowest risk part of the site (the central area) which is located above the flood level and is currently zone B. The entire site would be appropriately protected through the combination of land raising using predominantly pulverised fuel ash and individual asset protection, whereby containers are elevated on blocks and land raised to achieve a total resilience design level of minimum 9.8 m AOD. This ensures that the development will be raised above the flood level associated with the 200 year Climate Change horizon year undefended scenario. Surface water runoff generated by the development will be managed by the site's existing drainage system. Water will be directed to the interceptor ditch to the south of the site, which will be regraded and resized to attenuate the development runoff, and subsequently flow into the attenuation pond east of the site at a restricted rate of 30 l/s. It has been demonstrated that the development meets the Justification Test imposed under TAN15. The proposal complies with Policy SP3 of the Local Development Plan.

#### Ecological Impact

7.26 A suite of documents and supporting information has been submitted for consideration and having regard to site sensitivities and protected species. NRW and the Council's Ecologist have raised no objections subject to these documents and associated mitigatory measures being conditioned. The conditions recommended are included in this assessment.

7.27 The applicant has provided a shadow Habitats Regulation Assessment (sometimes referred to as an Appropriate Assessment) and officers are satisfied with its content and recommend this is adopted as the necessary assessment in this case. There is no need to duplicate it. NRW's confirmation of its support for this document and approach had been sought at time of writing and an update will be provided to committee members on this matter separately.

7.28 The areas between the battery unit containers will comprise a compacted ground layer with shallow soil cover seeded with a Flowering Lawn Mix with the objective of creating moderately diverse grassland habitat within the working area. The BESS will be situated on raised ground and enclosed by a perimeter fence. A new native hedgerow will be planted outside the perimeter fence at the top of the bank. The hedgerow will comprise 75% hawthorn and blackthorn with the remaining 25% a mix of hazel, dogwood, field maple, spindle and guelder rose. The hedgerow will provide an additional level of security and help screen the development from the coastal footpath within the adjoining Newport Wetlands. The hedgerow is a habitat not currently found within the site. Once fully established it should provide foraging and nesting opportunities for a variety of species. Development proposals should include ecological conservation and enhancements in line with the Environment (Wales) Act 2016 providing a net benefit for biodiversity (also referred to in PPW 2021) and this proposed hedgerow and seed mix can be considered as part of this and should be conditioned. The Landscape officer supports the proposals in this regard.

7.29 We also know that the site includes or impacts an operational drain (referred to previously in this report as part of the surface water drainage infrastructure) and a boundary ditch. It is commonplace for such features to support habitat and potential foraging areas for protected species and they can form a valuable part of area ecosystems.

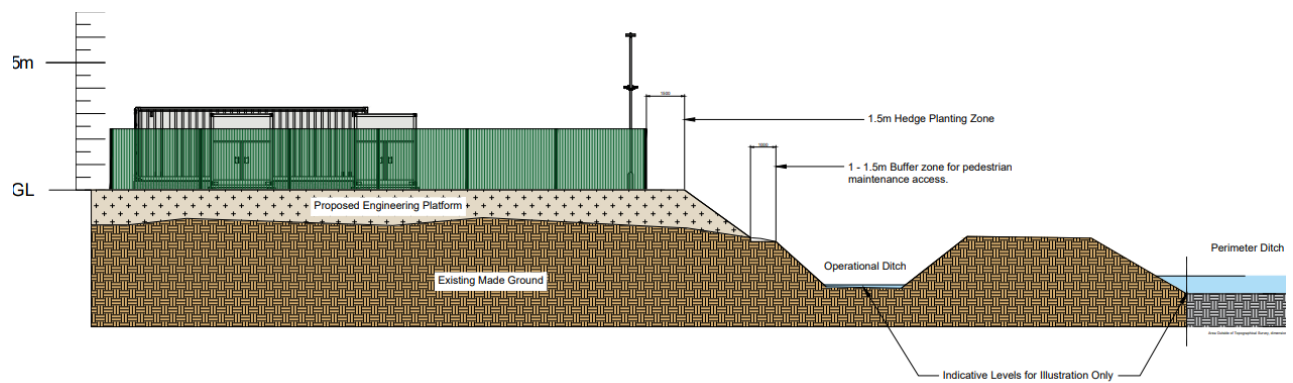
7.30 Survey work undertaken by the applicant pre-application to inform supporting information included camera surveys in the locality to establish the presence of otters and water vole for example. 2022 field surveys found evidence of otters using the boundary (not the operational) ditch as a commuting corridor to access known foraging grounds in the attenuation pond to the east of the development red boundary. We also note that water voles were found to be present throughout the boundary (not operational) ditch, which lies between Newport Wetlands and the former coal stockyard, and that field signs (potential burrows and feeding remains) were also recorded on the operational ditch that directly borders the coal stockyard area. Otters, as well as their breeding sites and resting places, are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), they are also a qualifying feature of the River Usk Special Area of Conservation (SAC), which is located to the north of the application site. Water voles are fully protected under the Wildlife and Countryside Act 1981 (as amended).

7.31 The base of the operational drain is currently heavily silted with coal residue. The operational drain will be widened and deepened to remove accumulated sediment from the

base with the channel to increase its water holding capacity as part of its continuing in an operational capacity to drain water run-off from the development site. To mitigate the loss of wetland vegetation as part of the ditch re-instatement, selected wetland plant species will be translocated to the new wildlife pond in advance of the work. The collected material including the roots of wetland plants will be replaced into the base of the deepened channel to enable the re-establishment of the wetland species in the ditch. A 40m long section at the western end of the operational drain will be dammed and significantly widened to create a shallow graded margin and will be deepened and lined with clay to become a wildlife pond.

- 7.32 Following the initial deepening of the channel to reinstate water holding capacity, management would involve periodic removal of any accumulated silt once every 2-3 years. It is expected that grassland on the banks of the ditch will become more extensive following the removal of the frequent non-native shrubs currently growing on the southern side of the channel and casting dense shade.
- 7.33 With regards to the boundary ditch, floodlighting currently in place along its banks will be removed which will enhance the value of the ditch for species such as bat and otter to forage and commute along. Desilting will take place with 25% of the ditch desilted every two years so that the ditch is fully desilted on a rolling eight-year cycle. The desilting process will aim to clear the centre of the channel but leave the margins intact to create a waterway habitat with an open channel bordered by marginal vegetation for the benefit of water vole.
- 7.34 All the above habitat mitigation and enhancement works are set out in the submitted Biodiversity Mitigation and Enhancement Plan, and such works must be linked to an appropriate condition to secure implementation and enforcement. This accords with the recommendations of NRW and the NCC Ecologist.
- 7.35 With regards to species themselves, the habitats within the BESS development construction area are not used by otter and there will be no loss or degradation of otter habitat as a result of the proposals. With regard to bats, a 20m exclusion area will be fenced off when the laydown area is set out. Lighting currently in place along the raised access track between the operational drain and boundary ditch will be removed. Operational lighting in the BESS development will maintain the entire boundary ditch and woodland edge as dark corridors maintaining their existing value for foraging and commuting bats. Ten bat boxes will be installed on larger trees located within dark corridors within the wider power station. A range of bird boxes will also be installed including those designed for common woodland bird species and for starling, a species of conservation concern. A total of five 26mm and five 32mm bird boxes and five starling boxes will be installed on trees in the wider power station. Solid hoarding will be installed alongside the eastern section of the operational drain to provide a visual screen between the construction area and the attenuation pond. A precautionary working method statement for grass snake will be included in the Construction Environment Management Plan. With small numbers of grass snake using refuge around the operational drain, any individuals occurring in the working area will be encouraged out of the development area through controlled systematic habitat degradation. Invertebrate habitat creation will seek to diversify the niches available by recreating features found on the boundary of the former coal stockyard. This will consist of the creation of flower-rich habitats and new areas of wildflower grassland habitats. Management objectives will include the maintenance of this habitat. Shrilc carder bee is a Section 7 Species of Principal Importance and a Newport Local Biodiversity Action Plan (LBAP) priority species known to be present in the local area. The change in management of grassland in areas to the south and west of the attenuation pond will maintain a grassland habitat suitable for the bees. The increase in cover of marginal species within the attenuation pond will provide increased levels of cover for fish including European eel which have been observed here.





*Extract from Biodiversity Maintenance and Enhancement Plan showing sectional detail of raised site and neighbouring operational and boundary ditch*

7.36 A management plan with annual work schedules will be a working document that will run for the lifetime of the BESS development. The operator will be responsible for the full implementation of the management actions and monitoring activities over the lifetime of the development. More explicit detail on this monitoring and maintenance is contained with the Biodiversity Maintenance and Enhancement Plan and specifically chapter 7 of this document and both the Plan itself and the management, mitigation and monitoring set out within it should be subject to condition(s).

Furthermore, details of external bulk, security and flood lighting have been provided with this application. In the operational site, automatic control of lighting shall be provided across the site. All access road lighting and lighting which is required for the purposes of safety is to be centrally controlled via the means of contactors, photocell, and time clock, the lighting is to be cabled such that 25%, 50% and 100% of the lighting can be switched on/off in stages and be grouped in zones in coordination to the final site layout. Units will use downlighting specifications with low lux contour luminaires so light spill is limited. Lighting will be sited no closer than 15m from the operational ditch and will be oriented into the working area away from the channel. Security lighting attached to built structures is to be controlled via photocell and presence detector.

7.37 We know the development of the former coal stock yard will result in some permanent loss of habitat and therefore mitigation is required. Furthermore we know the development will result in temporary disturbance of protected species during the construction phase that also requires mitigation. The timing and nature of some of these works will be controlled outside the planning regime and by way of NRW license. This includes for example works that temporarily affect water voles via precautionary displacement. A Landscape and Ecological Management Plan and the shadow Habitats Regulation Assessment also set out a very detailed approach to and assessment of ecological and landscape impact, mitigation and management over construction and operational phases.

7.38 **Appropriate Assessment**

Regulation 63 of the Habitats Regulations 2017 requires that a competent authority (in this case the LPA), before deciding to authorise a plan or project, must consider whether the plan or project is likely to have a significant effect on a European site, either alone, or in combination with other plans or projects. If it is considered that such an effect is likely, then a competent authority must then undertake an 'appropriate assessment' of the implications of the plan or project for the site, in view of the site's conservation objectives. Such an assessment is required in this case and must be completed before a determination is made.

The Habitats Directive applies the precautionary principle to relevant designated areas, in so much as plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of a SPA or SAC, collectively termed Natura 2000 sites. The following sites require assessment for effects:

- River Usk/Afon Wysg SAC (main focus species are Sea lamprey, Twaitte shad and European otter whilst secondary focus species are River lamprey, Allis shad and Atlantic salmon;
- Severn Estuary/Môr Hafren SAC;
- Severn Estuary/Môr Hafren SPA; and

- Severn Estuary/Môr Hafren Ramsar site.

7.39 There will be no potential effects on intertidal habitats (all works are within the former coal stockyard and on adjoining roads) with a stand off of 500m. As such, there is no potential for any of the migratory fish species listed under the River Usk SAC (or more widely within the Seven Estuary) to be adversely effected.

7.40 The shadow HRA provides an appropriate assessment analysis that officers consider can and should be adopted as the LPA appropriate assessment for the purposes of satisfying its obligations under the Habitats Regulations. The full report is included as part of this application and the following is a summary inclusion of its findings.

**Table 6.2 Summary of Stage 2 Conclusions**

<b>Impact Pathway</b>	<b>Screening Outcome</b>	<b>Designated Site</b>	<b>Feature</b>
Habitat loss and fragmentation, reduced connectivity	No Likely Significant Effect	n/a	n/a
Direct loss or damage of habitats used by interest species	No Likely Significant Effect	n/a	n/a
Change in water quality (including siltation, pollution, nutrient enrichment and pH changes)	Likely Significant Effect cannot be screened out	River Usk SAC	Otter
		Severn Estuary SPA	Wintering Bird Assemblage of International Importance
Change in water quality (including siltation, pollution, nutrient enrichment and pH changes)	Likely Significant Effect cannot be screened out	Severn Estuary Ramsar	Eel (listed migratory fish)
Entrapment/ obstruction during construction	No Likely Significant Effect		
Disturbance during construction (from human activity, noise and lighting);	Likely Significant Effect cannot be screened out	River Usk SAC	Otter
		Severn Estuary SPA	Wintering Bird Assemblage of International Importance
Disturbance during operation (from human activity, noise and lighting);	Likely Significant Effect cannot be screened out	River Usk SAC	Otter
		Severn Estuary SPA	Wintering Bird Assemblage of International Importance
Disturbance (all other potential pathways)	No Likely Significant Effect		

Three matters are not screened out above and require further consideration/mitigation for the purposes of the assessment.

- 7.41 **Water Quality**  
Best practice measures will be secured within the Outline CEMP. A silt fence will be installed at the base of the raised bank at the start of its construction to collect any mobile sediment before it enters the drain. Water collecting in the base of the operational drain has to pass through a silt trap removing any suspended sediments before the water enters the attenuation pond through an outfall.
- 7.42 The operational drain will receive surface water run-off from hardstanding and roadways and the containers in which the batteries are located. Surface water run-off from these areas will pass through interceptors before entering the existing operational drain via a new outfall to be constructed in the northern bank. A detailed drainage strategy is to be developed in the detailed design phase which will define the specifications for all the surface water management and controls. This should be subject to a condition.
- 7.43 In the event of an emergency, when fire water or similar emergency activity could be required the detailed drainage strategy will set out the mechanism through which surface water run-off from the battery areas will be independently isolated providing full cut off from the operational drain to mitigate any risks from contamination. The measures included in the detailed drainage strategy will set out the protection controls for maintaining the water quality of the attenuation pond. The existing control sluice gate means that the attenuation pond is hydrologically separated from the boundary ditch when fully closed. In the event of any incident in the BESS the sluice would remain closed to prevent water flow into the boundary ditch.
- 7.44 Following implementation of robust safeguard and mitigation measures set out in full in the shadow Habitat Regulation Assessment, officers agree there will be no adverse effect on the integrity of otter population (River Usk SAC) or the wintering waterfowl assemblage (Severn Estuary EMS).
- 7.45 **Construction activities disturbance - Otters**  
This will be undertaken during the day with no activities after 19:00 or before 7:00 and will need to be controlled. Although otters can be active during the day, the individuals within the population will be more active at night. The extent to which the construction works will overlap the periods of otters would be actively moving within the power station site should be very limited. The context of the boundary ditch will remain unchanged with the protection of the banks and maintenance of the stand offs. Prior to earth moving operations barrier fencing, such as Heras, will be installed along the northern bank of the operational drain with this channel and the raised trackway located in the exclusion area for all construction activities and contractor personnel. There will be no light spill from construction lighting onto any part of the boundary ditch channel which will as dark, unlit corridor. The features of the attenuation pond and its potential to be used as foraging habitat at night will also be unaffected by any site activities. There will be no artificial lighting on the boundaries of the construction site outside of the working hours. Outside of the defined working hours there will be negligible effects on habitats of value to otter adjacent to the construction site.
- 7.46 The mitigation controls will be secured within a CEMP to demonstrate avoidance of potential disturbance.
- 7.47 There will be no adverse affect on the otter population during construction with no effect on the integrity of this qualifying species of the River Usk SAC having regard to the extent of otter territories and the location of nearest known breeding sites.
- 7.48 **Construction Disturbance - Wintering Waterbird Assemblage**  
The broad duration construction phase is anticipated to take approximately 12 months, with effects covering at least a full winter period, comprising land raising over a period of 3-4 months prior to the construction and installation of the BESS development. Working hours for all construction activities will be between the hours of 07.00 and 19.00 Monday to Friday and between 08.00 and 13.00 on Saturdays. No piling will be required for the construction of the development (with the exception of the short duration works required for 132kV HV transformer supports) but the general construction activities will generate additional noise.

- 7.49 To reduce noise levels across the attenuation pond, an acoustic barrier will be installed between the construction site and the attenuation pond. This will be aligned to the bank of the operational ditch for the land raising and extend beyond the north-west corner of the pond. The acoustic barrier would be moved to the boundary of the BESS compound construction area further from the pond margin following the completion of the building and profiling of the raised landform.
- 7.50 During construction some effects on use of the attenuation pond are expected. The dispersal of any waterfowl from the pond is expected during periods of moderate level disturbance noise. Based on the 2018/2019 survey data features located close the construction site support less than 1% of the Severn Estuary EMS populations (mallard, tufted duck and shoveler). Movement of small numbers of birds from the attenuation pond to nearby waterbodies in the Newport Wetlands would not have any adverse effect on any of populations as a whole. No aggregations of species would be subject to significant disturbance and there would be no adverse effects on the integrity of the wintering assemblage of waterbirds using the SPA and Ramsar site and associated functional habitat outside of the designated area during construction.
- 7.51 **Operational Disturbance – Otter Population**  
There will be only low level human activity at night within the BESS compound except in the event of an emergency. At these times there would be brief periods of activities at night typically lasting up to one or two nights. The boundary of the BESS compound is located c30m from the boundary ditch with the operational area defined by the perimeter security fence. There will be negligible disturbance from human activity during operational activities and no potential for any adverse effects on otter from daily maintenance activities within BESS compound. When operational the low levels of noise associated with the site would not affect otter activity in the boundary ditch or in the associated terrestrial habitats including habitats in the Newport Wetlands adjoining the power station site.
- 7.52 Lighting will automatically reduce from 100% to 50% intensity between 20:00 and 00:00 and reduce to 25% intensity between 00:00 and sunrise. There will be localised light spill on a c20m section of the operational drain to the south-west of the BESS compound; and onto the operational drain on the eastern boundary. Detailed design will ensure that there will be no light spill from lighting units above 1 lux on the boundary ditch.

Therefore the proposal is considered acceptable in this regard.

- 7.53 **Operational Disturbance - Effect on Wintering Waterfowl**  
The built-in design measures and additional mitigation will maintain conditions across and around the attenuation pond that would have value for waterbirds. The continued use of the attenuation pond by species that contribute to the qualifying feature internationally important assemblage of wintering species including waterbirds with nationally important populations in the Severn Estuary EMS. Use of habitats around the BESS development should be considered in the existing industrial context of the power station site. The populations of birds present in area will be habituated to background noise and human activity through their use of a range of disturbed habitats across the wider River Usk, River Ebbw, and Severn Estuary area. Due to the nature of the battery storage development, based on the level of use of the attenuation pond in 2018 / 2019, no adverse effects on the integrity of qualifying features of the Severn Estuary EMS is anticipated as a result of the operation of the BESS development.
- 7.54 **In combination Effects**  
In combination effects have been considered having regard to projects set out at Appendix A of this report.
- 7.55 **Conclusion of Appropriate Assessment**  
In the context of the proposed protection and mitigation measures during construction and the environmental safeguards that will protect species and habitat features from direct and indirect effects during operation, it has been concluded that there is no adverse effect on the integrity of the National Sites Network (River Usk SAC, Severn Estuary SAC, Severn Estuary SPA, Severn Estuary Ramsar) either alone or in combination with other development projects.

7.56 Derogations potentially required in the case of European Protected Species (in this case otter)

i. Regulation 52(3) the development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

This site is an existing industrial site within the urban area in accordance with the adopted Local Development Plan. The site is underused and forms part of a larger former coal fired power station, having been used in the recent past a coal stockyard. The development would provide battery storage capacity for which Welsh Government and national planning policy is supportive and will aid energy supply and network resilience within the National Grid. This is a significant merit and will facilitate the efficiency of an energy network moving towards greater renewable production by capturing such energy during peak generation and releasing when generation reduces due to weather or other conditions. Energy security and stability of supply is a key material consideration having regard to wider objectives to reduce carbon emissions.

ii. There is no satisfactory alternative;

This site is capable of creating a substantial sustainable development which provides new and large scale battery storage without having an unacceptable adverse impact provided the key features of the site are retained and mitigation is provided. The site is located close to existing power generating plants, in a well established industrial site, is relatively flat and free of operational impediments, has direct access to the grid without the need for unsightly or unviable additional development for connection, has an existing substation on site that will support the development and is able to reuse pulverised fuel ash from previous power generating activities in the proposed land raising works. Such attributes are not found anywhere else in Newport or the wider area. It is considered that there are no satisfactory alternatives, nor would an alternate site of this scale not promoted through and considered part of a holistic LDP approach.

iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

This planning application includes a shadow Habitats Regulation Assessment which identifies the ecological value of the site and assesses the development impact. The HRA and associated documents including surveys, Landscape and Ecological Management Plan and Biodiversity Mitigation and Enhancement Plan outlines the mitigation measures to minimise any disturbance to European Protected Species and conditions would be attached to any grant of consent for a CEMP. NRW has raised no objection in relation to European Protected Species nor has the Council's Ecologist subject to specified conditions being included. It is considered that this proposal together with the specified mitigation measures would not be detrimental to the favourable conservation status of the European Protected Species on this site.

Doing nothing in this case would be a missed opportunity to re-use previously developed land and the benefits of doing so in this case, with mitigation, are considered to outweigh any harm

In this case, the NRW response to date has indicated that they would be likely to grant such a licence if one is required and sought, and we can be reasonably reassured on this point. NRW has also indicated that in their view impacts upon this species would be negligible, so an EPS licence would either not be needed, or that if it were, they would be likely to grant it.

Officers are satisfied with the information provided and subject to the conditions recommended consider the development accords with policies SP9 and GP5.

The proposed development includes cut and fill earthworks to raise the proposed footprint area of the BESS/site. The earthworks would include the raising of the ground to a finalised level of 9.77m AOD (rounded up to 9.8m).

7.57 We know the site does present contamination issues and that cut and fill is proposed to engineer the ground levels for flood risk mitigation for example. Risks to both human health and controlled waters are material factors with potential for adverse impacts, and conditions are recommended. These have been set out by NRW in its response and by the Scientific Officer but include much duplication of requirements such as the requirement for additional ground investigation, remediation strategy and verification over and above information already supplied. The recommended conditions of NRW and the NCC officer have therefore been combined. This will be required pre any engineering works on site. NRW also raises a query about the new pipework and the applicant has confirmed these are not fluid filled so additional risk assessment linked with this is not required.

7.58 Fire risk and associated impact along with environmental factors associated with longer term end of battery life operational matters and disposal of waste

This is considered relevant as battery fires may be infrequent but can have major implications. This proposal is of large scale, the largest certainly in Newport and in Wales so far. Similarly, batteries have a limited lifespan and their disposal is relevant in terms of the wider environmental implications of this. The site will have an operating lifespan of approximately 35 years. At pre application stage, the applicant confirmed that each battery unit or cell will be replaced at years 12 and 24 when they have degraded by approximately 40% of their operational effectiveness. The cells slide out of the casing and require no major works for their removal. The cells removed will be recycled and are not at end of life as can be used in secondary operations if demand exists. However, they are replaced to maximise storage and operational efficiency in this context. In short they still have value in operational terms so are unlikely to be waste. That said, officers are conscious that batteries give rise to hazardous waste that has to be disposed of carefully or risk environmental harm. Clearly the greater the frequency of battery renewal, the greater the potential for harm however in this case we understand there are effectively 2 periods of battery renewal over the anticipated lifespan of the development and the first of these will be 12 years into the project. The removal of the cells in itself is unlikely to pose any environmental effects and limited risks on site. Battery waste is not new or novel in environmental terms and processes exist for the safe dismantling as required but the effectiveness of disposal and recycling of lithium-ion batteries is a moot point at present with arguably more demand than supply in terms of recycling and disposal needs as this type of battery usage has surged to suit carbon reduction expectations. There are no plans to dispose of the batteries on site but clearly they will have to be disposed of and dismantled elsewhere. Large scale battery storage systems such as this will add pressure to safely dispose of these battery cells and it is reasonable to consider that the opportunities and efficiency of doing so will only improve over coming years to deal with demand. Officers consider that a condition for a scheme of battery replacement to be agreed is appropriate as large scale battery replacement cycles will have other implications, notably on traffic generation.

7.59 The Planning Statement accompanying this submission confirms as follows:

*At a certain point in the lifecycle of the energy storage project at Uskmouth the battery cells will reach a state of health (having been depleted) of 60-70% of their beginning of life efficiency. At this point the cells will be replaced. The removed cells will then be the subject of repurposing. "Battery repurposing, often confused with reuse, means the complete or partial use of the battery in a different application than its original purpose.*

7.60 Such repurposing and/or recycling has economic benefit and we can fully expect the applicant to seek appropriate value for the batteries when they reach the end of their operating life for this type of use which relies on units with high efficiency. They are unlikely to be merely wastage as this is not economically efficient. Repurposed batteries have the potential for second life applications in schemes that are able to rely on batteries with lower efficiency.

7.61 Fire risks are mitigated by each container including fire detection and gas fire suppression systems that are fully automated. Good management and observation of battery faults for

example will also limit risk along with monitoring of heat within the system itself. The fire risk in this type of system is low to our knowledge and clearly there are economic implications of any fire as well as environmental impacts so it is reasonable to expect operators to take all steps possible to mitigate risk. Over and above the matters identified in relation to fire risk, there are other mitigating factors that can be employed including clearance distances between containers, use of non combustible materials in the insulation and use of fire walls or breaks, particularly perhaps on larger schemes such as this. The implications of any fire on a site with this scale of battery units would have environmental effects in terms of emissions to air and likely spillage to ground but there is opportunity to significantly reduce such risks. The likelihood of fire is low and the likelihood of a large fire is negligible so the overall likelihood of environmental effects from the development arising from fire risk is not significant. No objections have been raised by any technical consultees on this issue including the Fire Service and whilst fire safety matters are often controlled by other regulatory authorities, in this case there may be a regulatory gap that the LPA will be required to fill. An Outline Battery Safety Management Plan has been submitted with this application and sets out design recommendations that should be complied with along with the requirement for a final version of the document once design is complete. This is recommended to be conditioned.

7.62 Energy security and optimisation of energy storage to improve supply resilience

As discussed elsewhere in this report, national planning policy very clearly supports energy storage confirming that LPAs should, in turn, support such schemes wherever possible. Clearly schemes of this type and scale are best located on brownfield sites and industrial locations would appear very well suited to such infrastructure, with likely easy connections to existing grid apparatus and reduced potential impact upon sensitive receptors. The benefits of energy storage appear well made with very clear national policy support and being a brownfield site in an existing industrial location with existing supporting infrastructure appears to support basic and general sustainability principles. This policy support is given substantial weight along with the opportunity the development will afford to store energy to enhance energy security and supply resilience.

7.63 Other matters

The risk of noise and disturbance from the site during its operation is considered to be limited and no objections are raised by the Council's Environmental Health team subject to recommended condition. As some elements of final design are yet to be confirmed and battery storage on this scale has not yet been seen, a Noise Impact Assessment is sought via condition and shall assess the operational noise of the final scheme having regard to nearby sensitive receptors. Noise and disturbance arising from the construction period can be controlled via a Construction Environmental Management Plan and associated hours and any complaints arising will fall within the regulatory control of the NCC Environmental Health team.

The site is within an archaeologically sensitive area but the former coal stock yard consists entirely of land that has been historically and significantly disturbed and Glamorgan Gwent Archaeological Trust has raised no objections.

## 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 will secure significant investment in this underused urban industrial site. Battery energy storage has national planning policy support and is encouraged in principle. It contributes to an efficient energy supply network and facilitates energy supply resilience and security. It supports the use of renewable energy sources as part of the supply network by removing excess supply, storing it and releasing it back to grid when wind and solar produce less energy (less light or wind) thereby encouraging a more stable network. National support stems from its contribution to a reliable energy supply derived from renewable (and sometimes inconsistent) sources. This site has many attributes that lend it to this type of development and the vital grid connection to make it viable is secured. The application is accompanied by extensive supporting documents that inform the assessment of material planning considerations and no objections to the scheme have been received.

- 9.2 Conditions are reasonable and necessary to ensure the scheme is delivered and operated in an acceptable manner in planning terms. The scheme has significant merit and officers consider that subject to the conditions recommended, the application should be granted.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS WITH DELEGATED AUTHORITY TO THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT TO ISSUE A DECISION ONCE NRW AGREE HABITATS REGULATION ASSESSMENT**



- 01 The development shall be implemented in accordance with the following plans and documents:  
Uskmouth Battery Energy Storage System – Flood Consequences assessment and Sustainable Drainage Strategy, prepared by RPS Group, document reference HLEF83600, version 5.5, dated October 2022; Biodiversity Mitigation and Enhancement Plan, Uskmouth Bess prepared by RPS, document reference ECO02497, version 1, dated 24th October 2022; Ecological Impact Assessment – Uskmouth BESS, prepared by RPS, dated 8th July 2022; Uskmouth BESS – Water Vole and Otter Report – 2, prepared by RPS, document reference ECO02497, dated 21/10/2022; Landscape and Ecology Management Plan by RPS 9<sup>th</sup> November 2022; Landscape and Visual Impact Assessment by RPS v4 updated 9<sup>th</sup> November 2022; Shadow Habitats Regulation Assessment v1 by RPS 10<sup>th</sup> November 2022; Water Vole Conservation Plan by RPS October 2022; Transport Assessment by RPS 18<sup>th</sup> August 2022; Preliminary Risk Assessment by RPS 22<sup>nd</sup> July 2022; Ground Investigation Factual and Interpretative Report by RPS 12<sup>th</sup> August 2022; Design and Access Statement by RPS August 2022; Outline Battery Safety Management Plan by PEP August 2022; Reptile Survey Report by RPS July 2022; Planning Statement by RPS 21<sup>st</sup> June 2022; along with the following drawings:  
AAC5927-RPS-XX-XX-DR-C-500-01P03;  
1602PEPXXZZDRW0003S3P00;  
1602PEPXXZZDRW0002S3P00;  
1602PEPXXZZDRW0004S3P00;  
1602PEPXXZZDRW0001S3P00;  
1602PEPXXZZDRW0005S3P02;  
100 – Green Infrastructure Enhancements;  
101 – Habitat Enhancement and Softworks;  
200 – Hard Landscape Enhancements.  
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 (including any engineering works to cut or fill the site), of land known to be/suspected of contamination shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.
1. A preliminary risk assessment which has identified:
    - i. All previous uses.
    - ii. Potential contaminants associated with those uses.
    - iii. A conceptual model of the site indicating sources, pathways and receptors.
    - iv. Potentially unacceptable risks arising from contamination at the site.
  2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
  3. The results of the site investigation and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The remediation strategy and its relevant components shall be carried out in accordance with the approved details.
- Reason: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity, and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination arising to the environment and human health. SP1, SP9, GP7 and GP5 of Local Development Plan.
- 03 Prior to any engineering works on site associated with the changing of ground levels, full details of slabs, piers or similar works required to elevate the electrical infrastructure shall be submitted to and approved in writing by the Local Planning Authority. This shall include layout and elevational details along with sectional drawings to a suitable scale to show the depth of such works above finished ground levels and shall ensure compliance with all recommendations set out in the supporting documents to this application. The works shall be undertaken in accordance with the approved details and retained thereafter.

Reason: In the interests of visual amenity and flood risk mitigation. SP1, SP3, SP8, GP6 and GP2 of Local Development Plan.

- 04 Prior to the commencement of development on site (including engineering operations) a detailed drainage strategy for construction and operational phases of development shall be submitted to and approved in writing by the Local Planning Authority. This drainage strategy shall have due regard for the mitigation and recommendations of all supporting documents accompanying this application and will define all surface water management and controls required to protect sensitive surface water receptors including those controls required in the event of an emergency situation such as fire. The drainage strategy shall detail the timing of surface water drainage works required as part of this development. The works shall thereafter be completed in accordance with the approved details and retained for the lifetime of development.

Reason: To safeguard ecological and environmental interests. SP1, SP3, SP9 and GP5 of Local Development Plan.

- 05 Prior to any engineering works, barrier fencing such as Heras shall be installed along the northern bank of the operational drain. This channel and the raised trackway shall be located in an exclusion area for all construction activities and contractor personnel. There will be no light spill from construction lighting onto any part of the boundary ditch channel which will remain as a dark, unlit corridor. There will be no artificial lighting on the boundaries of the construction site outside of the working hours.

Reason: In the interests of ecology. SP9 and GP5 of Local Development Plan.

- 06 Prior to any engineering works, a detailed Construction Environmental Management Plan that has due regard to the supporting documents that form part of this permission, shall be submitted to and approved in writing by the Local Planning Authority. This document shall be fully complied with for the duration of construction activities.

Reason: in the interests of amenity, ecology, landscape and safety. SP1, SP9, GP2, GP5 of Local Development Plan.

- 07 Prior to any engineering works, full elevation and technical details of a temporary acoustic barrier to be installed between the construction site and the attenuation pond shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the timing of such works and that it will be aligned to the bank of the operational ditch for the land raising and extend beyond the north-west corner of the pond. The acoustic barrier will be moved to the boundary of the BESS compound construction area further from the pond margin following the completion of the building and profiling of the raised landform. The works shall be undertaken in accordance with the approved details.

Reason: In the interests of ecology. SP9 and GP5 of Local Development Plan.

- 08 Prior to any engineering works, a timetable for the delivery of ecological enhancements set out in the approved drawings and the following supporting document shall be submitted to and approved in writing by the Local Planning Authority:

- Biodiversity Mitigation and Enhancement Plan, Uskmouth Bess, prepared by RPS, document reference ECO02497, version 1, dated 24th October 2022

The works shall thereafter be undertaken in accordance with the approved details and retained thereafter.

Reason: In the interests of ecological enhancement. SP9 and GP5 of Local Development Plan.

***Pre Occupation/operation conditions***

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

Reason: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and human health, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors. SP1, GP2, GP7 of Local Development Plan.

- 10 Prior to the occupation or operation of the development, a long-term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority. The long-term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken.
- Timescales for the long-term monitoring and curtailment mechanisms e.g., a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required.
- Timescales for submission of monitoring reports to the Local Planning Authority e.g., annually.
- Details of any necessary contingency and remedial actions and timescales for actions.
- Details confirming that the contingency and remedial actions have been carried out. The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Reason: A long-term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on controlled waters and human health. SP1, GP2, GP7 of Local Development Plan.

- 11 The development hereby approved shall be undertaken in accordance with the approved Landscape and Ecology Management Plan (LEMP) prepared by RPS dated 9<sup>th</sup> November 2022. A reporting timeframe to provide fully detailed Landscape Monitoring Reports is to be submitted to and approved in writing by the Local Planning Authority prior to first import or export of electricity from the site and the landscape scheme shall thereafter be undertaken in strict accordance with the Landscape and Ecology Management Plan and associated reporting timeframe.

Reason: In the interests of visual amenity and ecology. SP1, GP5, SP8, SP9, GP2 of the Local Development Plan.

- 12 Prior to the occupation or operation of the development hereby approved, a final Battery Safety Management Plan in accordance with the Outline Battery Safety Management Plan hereby approved, shall be submitted to and approved in writing by the local planning authority. The development shall be completed and managed in accordance with such a Plan thereafter.

Reason: To safeguard against the effects of fire in the interests of amenity and the environment. GP2 and GP7 of the Local Development Plan.

- 13 Prior to occupation or operation of the development hereby approved, a scheme for the replacement of battery units and associated infrastructure over the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details of the cycles for battery replacement and how this will be managed having regard to traffic generation and potential for pollution/waste generation. The scheme shall thereafter be operated in accordance with the approved details. SP1, GP2 and GP7 of the Local Development Plan.

- 14 Prior to occupation or operation of the development hereby approved, a Noise Impact Assessment for operational noise and activities shall be submitted to and approved in writing by the Local Planning Authority. This Assessment shall have regard to nearby sensitive recreational, residential and ecological receptors. The development shall operate in accordance with the approved Assessment thereafter.

Reason: To safeguard nearby sensitive receptors from unacceptable noise disturbance. GP2 and GP7 of Local Development Plan.

- 15 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.  
Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. SP1, SP9, GP5 and GP7 of the Local Development Plan.
- 16 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 to controlled waters. The development shall be carried out in accordance with the approval details.  
Reason: To prevent pollution to the water environment. SP1, SP9 and GP5 of Local Development Plan.
- 17 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.  
Reason: There is an increase potential for pollution of controlled waters from inappropriate methods of piling. SP1, SP9 and GP5 of Local Development Plan.
- 18 No more than 18 HGV movements\* per day Monday to Friday and 9 on Saturday (or 100 per week whichever is greater) shall enter and leave the site during the construction phase of the development and these vehicles shall use the vehicle route along Nash Road and West Nash Road hereby approved in association with this development. There shall be no HGV vehicle movements on Sundays or Bank/Public Holidays. Such vehicles shall include all those associated with any demolition, site clearance, site preparation, construction, site commissioning and land raising/ engineering during the construction period. The applicant shall keep an up to date and legible log of all HGV and delivery traffic accessing and departing from site in association with the development and make this log available for inspection by officers appointed by the Council upon request. This log must record the number, type (of vehicle including size), registration number, time and date of each vehicle entering site. The log shall be kept on site by a nominated person(s) to be notified to the Local Planning Authority and for the duration of development activity at the site.  
\* a movement equates to a single one way movement to or from the site.  
Reason: To safeguard residential and recreational amenity and highway safety and in accordance with policy SP1, GP2 and GP4 of the adopted Local Development Plan.
- 19 A minimum of 26 parking spaces shall be provided to serve construction staff and associated traffic in accordance with details included within Appendix A of the Transport Assessment hereby approved and prior to any other engineering works commencing on site. The approved parking area shall be retained for the duration of construction phase works and available for use by contractors and other construction personnel. If the area is to be retained beyond the construction period, a scheme for the provision of EV charging to include a minimum of 10% of overall spaces and a timetable for installation shall be submitted to and approved in writing by the Local Planning Authority prior to the end of the construction period. The parking area shall be provided (and removed/retained) in accordance with the approved details.  
Reason: To ensure adequate on site parking provision is secured to minimise risk of parking on local highways and ensure that, if retained, the parking area provides appropriate EV charging infrastructure. GP4, SP1 and GP2 of Local Development Plan.
- 20 All on site electrical infrastructure shall have a finished ground level no lower than 9.8m AOD.  
Reason: to safeguard the development from flooding. SP1 of Local Development Plan.
- 21 The development shall be undertaken fully in accordance with all recommendations set out in the document entitled 'Uskmouth Battery Energy Storage System – Flood Consequences

assessment and Sustainable Drainage Strategy’, prepared by RPS Group, document reference HLEF83600, version 5.5, dated October 2022.

Reason: To ensure mitigation of flood risk. SP1 of Local Development Plan.

- 22 The development shall be undertaken fully in accordance with all recommendations and mitigation measures set out in the following documents and this shall include all monitoring and maintenance requirements set out therein:  
Biodiversity Mitigation and Enhancement Plan, Uskmouth Bess”, prepared by RPS, document reference ECO02497, version 1, dated 24th October 2022.  
“Ecological Impact Assessment – Uskmouth BESS”, prepared by RPS, dated 8th July 2022.  
“Uskmouth BESS – Water Vole and Otter Report – 2”, prepared by RPS, document reference ECO02497, dated 21/10/2022  
Shadow Habitats Regulation Assessment v1 by RPS dated 10<sup>th</sup> November 2022.  
All monitoring and maintenance related surveys will be shared with the Local Planning Authority over the lifetime of the development and a procedure for doing so shall be submitted to and approved in writing by the Local Planning Authority prior to first import/export of electricity to the site.  
Reason: To safeguard European protected species. SP1, GP5 and SP9 of Local Development Plan.
- 23 Notwithstanding the details submitted, all containerised units and fencing hereby approved shall be colour coated green at time of installation and shall be maintained and retained in this state thereafter.  
Reason: In the interests of visual and landscape amenity. GP6 and SP8 of Local Development Plan.
- 24 No construction or site set up related operations shall take place outside the hours of 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturday. No works shall be undertaken on Sundays or Bank/Public Holidays.  
Reason: In the interests of ecology and amenity. SP1, SP9, GP5 and GP2 of local Development Plan.
- 25 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first import/export of electricity or completion of development whichever is the sooner; and any trees or plants which within a period of 5 years\* from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Written confirmation shall be provided to the Local Planning Authority once the landscaping scheme has been implemented in accordance with the approved details.  
\* The 5 year period referred to in this condition shall commence once the landscaping has been completed in accordance with the approved details.  
Reason: In the interests of visual amenity and ecology. SP1, SP8, SP9, GP2, GP5 of Local Development Plan.
- 26 The Landscape Monitoring Reports required by Condition 11 of this permission shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the approved timetable approved as part of the aforementioned Condition. The Landscape Monitoring Report(s) shall include photographic records of the landscaping on site and outline what reinstatement measures, if necessary, are required for the landscaping along with a timetable for their implementation. All measures and works shall be completed in accordance with the approved details and programme following written approval from the Local Planning Authority.  
Reason: To ensure appropriate landscaping is provided and well managed in the long term in the interests of ecology and visual amenity. SP1, GP2, SP8 and SP9 of Local Development Plan.

*NOTE TO APPLICANT*

01 This decision relates to plan numbers set out at condition 01 and Pre Application Consultation Report by RPS August 2022.

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
- SP3 Flood Risk
- SP8 Special Landscape Areas
- SP9 Conservation of the Natural, Historic and Built Environment
- SP18- Urban Regeneration
- GP1 General Development Principles – Climate Change
- GP2 General Development Principles – General Amenity
- GP3 General Development Principles – Service Infrastructure
- GP4 General Development Principles – Highways and Accessibility
- GP5 General Development Principles – Natural Environment
- GP6 General Development Principles – Quality of Design
- GP7 General Development Principles – Environmental Protection and Public Health
- CE2 Waterfront Development
- CE3 Environmental Spaces and Corridors
- CE6 Archaeology
- CE8 Locally Designated Nature Conservation and Geological Sites
- CE9 Coastal Zone
- CE10 Renewable Energy
- T3 Road Hierarchy
- T4 Parking
- T8 All Wales Coast Path
- W3 Provision for Waste Management Facilities in Development

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.

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.

NRW recommends that developers should: a) Follow the risk management framework provided in Land Contamination Risk Management (LCRM) b) Refer to 'Land Contamination: a guide for developers (WLGA, 2017) for the type of information that we require in order to assess risks to controlled waters from the site. c) Refer to our groundwater protection advice on [www.gov.uk](http://www.gov.uk) The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit. Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, NRW should be contacted for advice at an early stage to avoid any delays.

A Water Vole Conservation Licence Under Section 16 (3) of the Wildlife and Countryside Act 1981 (as amended) will be required. NRW has the power to issue a licence in respect of works concerning water voles, where the primary purpose of that work is the long-term conservation of water voles. A clear, long-term conservation benefit to water vole would need to be demonstrated within the licence application. Please note that NRW may wish to discuss and agree some aspects of the water vole mitigation strategy in more detail at the licence application stage.

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

**Table 1: Summary of Application Sites**

Reference	Site	Description	Status	Date of Decision
17/1007	Land East and Adjacent To 14 Mill Parade Newport	Demolition of existing structures and development of the site in order to provide a roadside facility comprising of a petrol filling station (PFS) and associated convenience store and 2 x Drive Thrus (class A1 coffee Drive Thru and class A3 restaurant drive thru)	Granted with Conditions	12 Sept 2018
18/0293	Land To South of Glan Usk Primary School Herbert Road Newport	Development of 195 no. Residential units, internal road networks, parking, landscaping and associated works affecting public right of way 407/1	Granted with conditions	21 Dec 2018
18/0973	Land and Property Formerly Known as Robert Price Transport Yard Corporation Road Newport	Outline application for mixed use development comprising C2 residential institutions and C3 residential and drive thru coffee shop (A1/A3) along with associated infrastructure and facilities	Granted with conditions	18 Dec 2019

18/1169	Land To South of Cyril Street Coverack Road Newport	Erection of 1no. Five storey apartment block and 1no. 6 storey apartment block comprising 76no. One and two bedroom dwellings with car park and associated work	Granted with conditions	29 Aug 2019
19/1164	Transporter Bridge Brunel Street Newport	Repair and restoration of Newport Transporter Bridge, demolition of existing visitor centre, provision of new expanded visitor facilities, new lighting scheme and associated landscaping works. Conservation of the engineering structure of the bridge, plus the restoration of ancillary elements including the gondola, motor house, anchor houses and anchor cables. Design work including the analysis of the structure and the specific action of repairs to the structure and ancillary components. Affecting public right of way Newport coastal path 403/2/1	Approved	30 March 2020
20/0237	15 Tom Lewis Way Alexandra Docks Newport NP20 2WF	Construction of plasterboard manufacturing facility, associated development, create new accesses off Tom Lewis Way and provide ecological enhancement areas	Granted with conditions	5 June 2020
20/1225	Land On The South West Side Of East Dock Road Newport South Wales	Construction of residential development for no.149 units, landscaping, car parking, drainage arrangements and associated works	Granted with conditions	1 Dec 2021



21/0718	Land South of Coronation Park Known As Flood Defence Scheme Stephenson Street Newport South Wales	Construction of the Stephenson flood defence scheme, incorporating the construction of 6 no. Flood walls (concrete and sheet pile) refurbished embankments and paths including the Wales coastal path, a highway flood gate, a new 0.7km road, localised ground raising and culvert enhancements to reduce the chance of tidal flood risk from the River Usk and landscaping works along the route and at coronation park, Newport affecting public rights of way 386/5/1, 401/4/1 and 386/4/1	Granted with conditions	4 Nov 2021
21/0893	Land To South East Of University Of Wales Newport City Campus Usk Way Newport South Wales	Construction of a new leisure centre (D2) and community health and wellbeing centre (D1), including a swimming pool hall	Granted with conditions	8 Nov 2021
21/0983	Car Park Adjacent Endeavour House Uskof Way Newport South Wales	Proposed development of 122 no. Dwellings, two commercial units (a1 and a3 use classes) and associated works including landscaping, sustainable drainage, car and cycle parking	Granted with conditions	1 Dec 2021
22/0438	R J Mason Transport Ltd Albany Street Newport South Wales NP20 5NJ	Erection of a class a1 food store with associated access, car parking and landscaping	Awaiting decision	N/A
22/0513	Newport Wetlands West Nash Road Nash Newport NP18 2BZ	Construction of a low impact and environmentally friendly nature play zone	Granted with conditions	25 Aug 2022

2.

**APPLICATION DETAILS**

**No:** 21/1246      **Ward:** Pillgwenlly

**Type:** Full Application

**Expiry Date:** 31st January 2022

**Applicant:** M Lewis

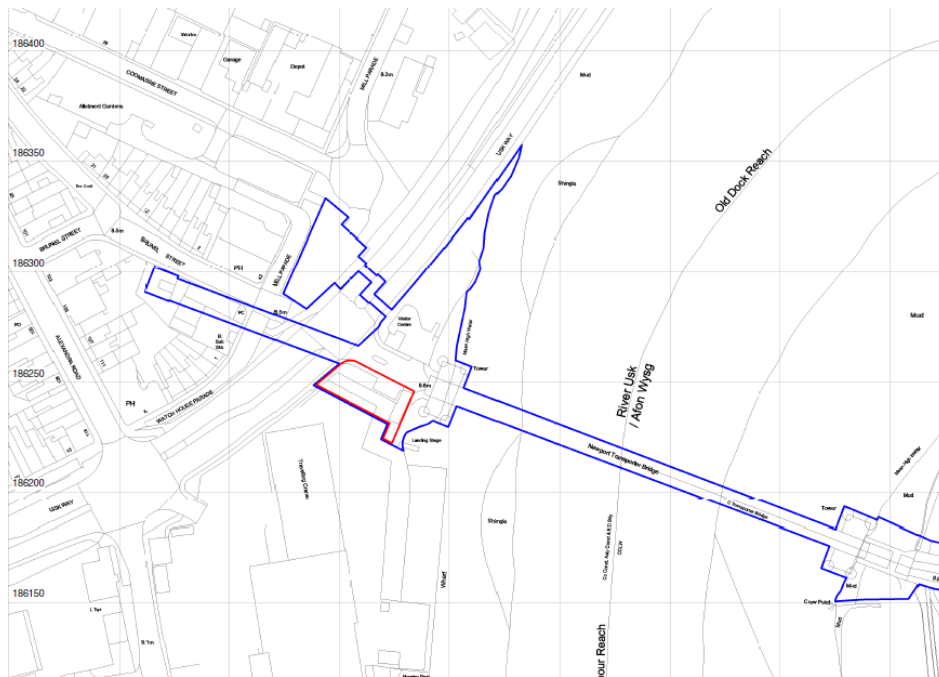
**Site:** Visitor Centre Transporter Bridge Brunel Street Newport South Wales

**Proposal:** PARKING PROVISION TO SERVE TRANSPORTER BRIDGE VISITORS

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

1.1 This application seeks full planning permission for the creation of a parking area to serve the Transporter Bridge visitor centre.



1.2 Planning permission and Listed Building Consent were granted for the repair and restoration of the Transporter Bridge, demolition of the existing visitor centre and the provision of a new expanded visitor centre. The proposal is to provide additional parking to serve the approved visitor centre.

1.3 The application is brought before Planning Committee as it has been advertised as a committee decision under the previous scheme of delegation.

**2. RELEVANT SITE HISTORY**

95/0992	ENVIRONMENTAL IMPROVEMENTS INCLUDING BANK PROTECTION WORKS	Granted with conditions
98/1155	DEMOLITION OF EXISTING FLAT ROOF OFFICE & REPLACEMENT WITH SINGLE STOREY BUILDING TO BE USED AS OFFICE & VISITOR CENTRE ASSOCIATED LANDSCAPING & PARKING & ERECTION OF	Granted with conditions

	<b>FENCE ALONG THE SOUTHERN BOUNDARY OF THE SITE</b>		
<b>19/1164</b>	<b>REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE, PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES. DESIGN WORK INCLUDING THE ANALYSIS OF THE STRUCTURE AND THE SPECIFIC ACTION OF REPAIRS TO THE STRUCTURE AND ANCILLARY COMPONENTS. AFFECTING PUBLIC RIGHT OF WAY NEWPORT COASTAL PATH 403/2/1</b>	<b>Granted</b>	<b>with conditions</b>
<b>19/1165</b>	<b>LISTED BUILDING CONSENT FOR REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE, PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES. DESIGN WORK INCLUDING THE ANALYSIS OF THE STRUCTURE AND THE SPECIFIC ACTION OF REPAIRS TO THE STRUCTURE AND ANCILLARY COMPONENTS. AFFECTING PUBLIC RIGHT OF WAY NEWPORT COASTAL PATH 403/2/1</b>	<b>Granted</b>	<b>with conditions</b>
<b>21/1217</b>	<b>REPLACEMENT OF RETAINING WALL</b>	<b>Granted</b>	<b>with conditions</b>

### 3. POLICY CONTEXT

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

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

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

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

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

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

Policy **GP4 General Development Principles – Highways and Accessibility** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and storage. Development should not be

detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

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

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

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

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

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

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

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

- Promoting Good Governance
  - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led, precautionary, risk-based and adaptive approach to managing Welsh seas.
- Using Sound Science Responsibly
  - Develop a shared, accessible marine evidence base to support use of sound evidence and provide a mechanism for the unique characteristics and opportunities of the Welsh Marine Area to be better understood.

#### 4. CONSULTATIONS

##### 4.1 NATURAL RESOURCES WALES:

- 4.4.1 River Usk Special Area of Conservation SAC: We welcome the production of the Appropriate Assessment (AA) and the following comments are our formal consultation representation under Regulation 61 (3) of the Conservation of Habitats and Species Regulations 2010, as amended.
- 4.4.2 We consider that provided a robust Construction Environmental Management Plan (CEMP) is implemented for the works, and the other conditions suggested within the AA are fully implemented, adverse impacts on the features of the River Usk SAC will be avoided.
- 4.4.3 We previously requested a CEMP condition to address our concerns on pollution prevention. We note that this condition has been included in the proposed conditions set out in the conclusion of the AA. We also note and support the need for a lighting condition to ensure light pollution is appropriately managed.
- 4.4.4 Flood Risk: The planning application proposes less vulnerable development, car parking to serve the Transport Bridge Visitor Centre. The application site is entirely within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note 15: Development and flood risk (2004) (TAN15). Our Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding within Flood Zones 3 (Sea).
- 4.4.5 Section 6 of TAN15 requires your Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an FCA (Flood Consequences Assessment) that the potential consequences of flooding can be managed to an acceptable level.
- 4.4.6 We have reviewed the following revised Flood Consequences Assessment (FCA) submitted in support of the application – Newport Transporter Bridge Visitors Centre, Flood Consequences Assessment, Project Ref: CC1991, Report status: P06, Document Reference: CC1991-CAM-ZZ-XX-RP-C-0001, prepared by Cambria, dated 12/09/22.
- 4.4.7 Our advice to you is that the assessment fails to demonstrate that the risks and consequences of flooding can be managed to an acceptable level for the reasons explained below. The FCA states:
- 4.4.8 The proposed new car park is roughly level at approximately 8.50m AOD. The JBA flood model update utilises the topographical survey produced for the site and other baseline model updates to the NRW 1D-2D ESTRY-TUFLOW model of the River Usk. The design flood level for the site should therefore be 8.95m AOD.
- 4.4.9 A1.14 TAN15: The predicted flood depth during the 1 in 200 year (0.5%) plus climate change tidal flood event is 8.95m AOD (Above Ordnance Datum). Based on the car park level of approximately 8.50m AOD the car park could flood to a depth of 450mm. Based on the predicted flood depth of the proposed car park is not compliant with A1.14 of TAN15. However, we note that the proposed car park is to serve the visitor centre and needs to be in close proximity to the Transporter Bridge for it to attract visitors and that there is no alternative location. We do not disagree with this statement.
- 4.4.10 A1.15 TAN15: The predicted flood depth during the 1 in 1000 year (0.1%) plus climate change tidal flood event is 9.58m AOD (Above Ordnance Datum). Based on the car park

level of approximately 8.50m AOD the southern area of the car park could flood to a depth of 10008mm. Based on the predicted flood depth of the proposed car park is not compliant with A1.15 of TAN15. However, we note that the proposed car park is to serve the visitor centre and needs to be in close proximity to the Transporter Bridge for it to attract visitors and that there is no alternative location. We do not disagree with this statement.

- 4.4.11 A1.12 TAN15 Flood Risk Elsewhere: We are satisfied that there is no further third party assessment required and that the proposals will not have an impact on third parties.
- 4.4.12 Access and Egress: The FCA recommends that occupiers sign up for NRW early flood warnings, we would encourage the use of an emergency plan for the site with input from the Emergency Planners of the LPA. It is stated that if evacuation is hindered that safe, dry refuge area can be provided on the first and second floors of the visitors centre. We recommend consulting your Emergency Planners with regards to this.
- 4.4.13 In summary, we have concerns with the proposed car park development as it doesn't comply with A1.14 or A1.15 of TAN15. However, we note that the car park is proposed to serve the Transporter Bridge Visitor Centre and that there are no suitable alternative sites.
- 4.4.14 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.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (HISTORIC BUILDINGS CONSERVATION OFFICER): no objections to the proposals. I believe there would be a neutral impact on the setting of the listed building.
- 5.2 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE): An email from the applicant confirms this is tied into application 19/1165. If this is the case, the applications do not tie up - there is a clash and disparity between the two applications that requires resolution.
- 5.2.1
1. The 21/1246 car park is larger and shows a sub-station, reducing the extent of planting bed PM1.
  2. The depth of car park is much larger in 21/1246 with new areas of planting which are not detailed, this is required in 21/1246 or as an amended 19/1165.
  3. If the layout in 21/1246 is proposed, in my view there is still a need for knee rail and planting to safely separate car park users from Usk Way, particularly as this is the car park for the Transporter Bridge which will be used by families with young children.
- 5.3 HEAD OF CITY SERVICES (DRAINAGE): No response.
- 5.4 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENV.HEALTH): No objection, recommend a condition requiring details of waste storage and recycling facilities.
- 5.5 HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (TOURISM): More visitor parking is needed for the development of the new bigger Visitor centre. The additional number of places is not huge, and I could not see if there had been a discussion around prioritisation for a disabled bay? If all are disabled parking then the number would be drastically reduced unless they are already designed for that.
- 5.5.1 Staff would get to work by alternative means, or park elsewhere. It is good that there is a proper reversing element for coaches to drop off here, and the environmental aspect improves this entrance area for visitors.
- 5.6 HEAD OF CITY SERVICES (HIGHWAYS): *First response:* The site would be accessed from the A48 Usk Way via an existing signal controlled junction and short access road. The access

road serves the existing visitor centre on the north side along with a single disabled parking bay. On the south side the access road serves 4 parking spaces. On the access road are delineated 6 vehicle queueing spaces.

- 5.6.1 The development proposal would provide 9 parking spaces, 3 of which would be disabled spaces, accessed from the south side of the access road. The existing 4 parking spaces would be lost. There would be a net gain of 5 parking spaces with a consequential likely increase in traffic attracted to the site. On this point it is taken that any additional parking would be publicised as part of the wider visitor attraction.
- 5.6.2 The proposed car parking layout has an adequate length fronting each space to allow for manoeuvring of a private car thus vehicles would be able to enter and leave the parking area in a forward gear provided a parking space was available on entry. A vehicle entering the parking area and finding all spaces were occupied has no dedicated turning area available at the far end of the car park. Long reversing manoeuvres with vehicles reversing onto the access road would result, which would be exacerbated by other vehicles attempting to access the parking area. The likelihood of congestion occurring would depend upon the visitor demand which is not known. It would also depend on whether the bridge queueing spaces were occupied. For reasons of highway safety it would not be acceptable for congestion to affect the free flow of traffic on the A48.
- 5.6.3 The parking spaces are of adequate dimensions to accommodate private cars. However, minibuses require larger parking spaces and manoeuvring areas which the car park cannot accommodate.
- 5.6.4 The applicant should be requested to address the above highway safety concerns by submitting further information regarding likely visitor numbers using the parking area, proposed methods to limit those numbers if and when necessary, the provision of a turning area and measures to limit the use of the car park to private cars only.
- 5.6.5 *Second response following applicant confirmation that spaces would be for disabled users, staff and pre-booked users:* In regard to only having the spaces for pre booked meeting, it's a question of whether this can be suitably enforced and conditioned? If it can then it could be acceptable subject to conditions which require the submission of a parking management plan and appropriate signage scheme. The conditions relating to these matters associated with the approval for visitor centre would need to be included for this application.
- 5.6.6 They would however need to submit a swept path analysis to demonstrate how vehicles would access the car park when the waiting bays are occupied. If appropriate unobstructed access cannot be achieved then the concerns relating to the potential for obstruction at the crossing and onto the SDR would be considered detrimental to highway safety.
- 5.6.7 *Third response following swept path analysis: 'A vehicle entering the parking area and finding all spaces were occupied has no dedicated turning area available at the far end of the car park. Long reversing manoeuvres with vehicles reversing onto the access road would result which would be exacerbated by other vehicles attempting to access the parking area'.*
- 5.6.8 A tracking diagram has been provided but offers nothing to address the above described scenario, as it uses a parking bay as part of the manoeuvre. As this remains a concern, highways are not in a position to support the application.
- 5.6.9 Note: to avoid this situation 'CAR Park FULL' interactive signage could be provided on the A48, additionally a 'KEEP CLEAR' space with hatched road markings could be provided at the end of the car park to protect the space that accommodates the about turn manoeuvre.
- 5.7 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (TREE OFFICER): No tree objections. However, replacement tree planting will be required.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: There are no neighbouring properties with the application site. The application was advertised by a a site notice and a press notice published in South Wales Argus. No responses.

## **7. ASSESSMENT**

7.1 The application site relates to an area of hardstanding adjacent to the existing vehicular access and existing parking bays of the Transporter Bridge visitor centre. It was formerly part of a steel processing facility, which closed in 2018. It was used for the storage of materials and it is now fenced off from the neighbouring site. The application site also includes an existing bus turning and drop off area to the west.

7.2 The application site is within 4 – 14m from the banks of the River Usk. The River Usk is a Special Area of Conservation (SAC), which is an international designation. It is also in proximity to the Transport Bridge, which is a grade I listed building, the site forms part of the setting of the listed building.

### **7.3 The proposals**

7.3.1 It is proposed to utilise the existing hardstanding to provide 9 parking spaces, including 3 disabled spaces and 1 electric vehicle charging space. A footpath would be provided to link with the existing pedestrian crossing point across the access road. A substation is proposed in the eastern portion of the site. Soft landscaping is indicated around the perimeter of the car park and three native trees are proposed to the rear of the bus turning/drop off bay, these would compensate for the loss of one existing tree. Fencing to the southern boundary is proposed to be retained, elsewhere no other boundary treatments are indicated.

7.3.2 The parking spaces are intended for disabled users, staff and for pre-booked meetings in the visitor centre.

### **7.3 Principle of development**

7.3.1 The application site is brownfield land, located within the urban boundary. The re-use of the land accords with the Councils general brownfield strategy and is supported by policies SP18 and CF8, which encourage the use of vacant land in the urban boundary and tourism related development, where regeneration objectives would be complemented.

### **7.4 Highways**

7.4.1 The proposed car park is intended to serve the new visitor centre, which was granted planning permission in March 2020, under reference 19/1164. That permission includes 29 parking spaces within an existing car park on Mill Street (western side of the SDR) and 3 disabled spaces on land now included in this application.

7.4.2 It is proposed to provide those three disabled spaces within this scheme, along with six other spaces. The Councils Highways Officer is satisfied that the parking layout would allow vehicles to manoeuvre, enabling them to leave the area in a forward gear. However, they have raised concern that should a vehicle arrive and all spaces are occupied then there is no suitable space to allow vehicles to turn within the site. This could lead to reversing manoeuvres onto the access road, which would be exacerbated by other vehicles attempting to access the area.

7.4.3 These comments were made at a time where the users of the parking spaces weren't known. Since then, the applicant has confirmed that the spaces would be available only to disabled users, which is a scenario no different to the existing visitor centre permission, and to staff or for pre-booked meetings. They would not be available for general use by the public. Advanced highway signage is considered necessary to make this clear to the general public and a parking management plan is also considered necessary to control and ensure the implementation of a pre-booking system. Similar conditions were imposed on the visitor centre permission to ensure general visitors are directed to the Mill Street car park.

7.4.4 The Highways Officer is satisfied that with additional signage and a pre-booking system this would reduce vehicles entering the car park, searching for a space. However, they still required swept path analysis to demonstrate that vehicle can manoeuvre within the site if all spaces are occupied. This has been undertaken and has shown that one space is required to be removed to allow suitable manoeuvrability. The applicant has agreed to remove the most westerly space.



7.4.5 The Highways Officer in their third response required interactive signage to display 'car park full' when appropriate. The applicant considers this type of signage onerous, particularly as the visitor centre application did not require such signage. It is agreed that such signage might be onerous, but a condition is recommended to agree the nature of advance signage, as per the visitor centre application.

## 7.5 Flood Risk

7.5.1 The application site lies wholly within Flood Zone 3 (Sea) of the Flood Map for Planning (or zone C2 of the now out-of-date DAM map). This means there is a 0.5% risk of flooding from the sea including climate change. The proposed use is less vulnerable development. Section 6 of TAN 15 requires development in this location to be justified. Tests are set out in section 6.2 of the TAN 15, they state that development will only be justified if it can be demonstrated that:

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

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

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

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

7.5.2 Criteria i) and ii): the proposal would support the regeneration of the Transporter Bridge visitor centre and there is support for the proposal within policies SP18 and CF8. It is considered that these criteria are satisfied.

7.5.3 Criterion iii): the application site is previously development land, within the urban boundary. This criteria is satisfied.

7.5.4 Criterion iv) requires the consequences of flooding to be found acceptable. A Flood Consequences Assessment (FCA) has been submitted. Natural Resources Wales (NRW) have reviewed the FCA. They advise that they have concerns with the proposals because inadequate information has been provided in support of the proposal. They advise that the Council may wish to seek further information from the applicant.

### Flood Consequences Assessment

7.5.5 The FCA confirms that ground levels across the application site are roughly level at approximately 8.5m AOD.

7.5.6 The FCA states that during a 0.5% (1 in 200) plus climate change allowance tidal flood event, the predicted flood depth is 8.95m AOD. Based on the car park level of 8.5m AOD the car park is predicted to flood to a depth of 450mm.

7.5.7 TAN 15, paragraph A1.14 states that development should be flood free during the 1 in 200 year flood event.

7.5.8 The FCA states that during a 0.1% (1 in 1000) plus climate change allowance tidal flood event, the predicted flood depth is 9.58m. Based on the car park level of 8.5m AOD, the southern part of the car park is predicted to flood up to a depth of 1.08m. This exceeds the tolerable limit of 600mm, as set out in paragraph A1.15 of TAN15.

7.5.9 The FCA states that the proposed development would not increase flood risk to third parties.

7.5.10 NRW note the findings of the FCA and advise that they have concerns that the proposed car park does not comply with criteria A1.14 and A1.15 of TAN 15, in that it is not flood free during the 1 in 200 year event and exceeds tolerable limits in the 1 in 1000 year event. However, they also note that the car park is proposed to serve the Transporter Bridge visitor

centre and that there are no alternative sites. They do not object to the proposals but raise concerns. They note that it is for the Council to determine whether the risks and consequences of flooding can be managed in accordance with TAN 15.

7.5.11 When considering the risk and consequences of flooding to this site, the following matters are relevant:

- the proposals constitute less vulnerable development. That is, development where the ability of users to decide whether or not they wish to accept such risks is greater than that of highly vulnerable development (e.g. residential development, public buildings such as schools or hospitals).
- the source of flooding is tidal and provided flooding warning alerts, provided by NRW, are engaged, there would be significant lead-in times for the car park to be evacuated and closed to users.
- the car park is to serve the visitor centre. The FCA approved with the visitor centre application concludes that the visitor centre would be flood free during the 1 in 200 year (providing finished floor levels are set at 9.1m AOD, as required by a condition) and flooding would be within tolerable limits during the 1 in 1000 year. The visitor centre building would therefore offer a safe refuge during a flooding event, in the unlikely event (considering the advance flood warning available) that the visitor centre and this associated car park was open during such an event.
- The FCA includes a safe evacuation route to the north of the wider site, on to the SDR, which would be flood free during the 1 in 1000 year extreme event.

7.5.12 Based on the matters discussed above, it is considered that the risks and consequences of flooding to the proposed development are manageable, particularly when considering the scale and nature of the proposal, and it's unlikely use during a flooding event. The applicant is reminded of the flood risks to the site and is advised, through an informative to sign up to flood warnings provided by NRW.

## 7.6 Habitats Regulations Assessment

7.6.1 The site is located in proximity to the River Usk which is designated a Special Area of Conservation (SAC). An assessment of the proposal as required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, is required in order to ensure no adverse effects on the sites' integrity. This is called an Appropriate Assessment, see Appendix A

7.6.2 Regulation 63(3) states "The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies". This means that Natural Resources Wales must be consulted on the content and outcome of the Appropriate Assessment and regard must be given to any comments made by them.

### Appropriate Assessment

7.6.3 The full Appropriate Assessment is provided in Appendix A. It is informed by the Ecology Appraisal. In summary the Appropriate Assessment identifies impacts on the qualifying features of the River Usk SAC from noise and vibration during construction, pollution/surface water run-off during the construction and operational phases.

7.6.4 The Appropriate Assessment concludes that with the inclusion and full implementation of conditions which require and secure a Construction Environmental Management Plan, a scheme for oil and petrol interceptors and details of any external lighting; there would be no adverse effect on integrity to the River Usk SAC either alone or in-combination with other relevant projects.

7.6.5 Natural Resources Wales agrees that with the imposition of conditions there would be no adverse effect to the integrity of the River Usk.

## 7.7 Landscaping and trees

7.7.1 The River Usk is a Special Landscape Area however, the proposed works would have a limited visual impact, considering its existing condition as a hardstanding. The proposed layout plan indicates soft landscaping around the edges of the car park, although no specific details have been provided.

- 7.7.2 The Councils Landscape Officer queries landscaping proposals shown in the visitor centre consent (19/1164) and these proposals. The 19/1164 consent does show different landscaping but it doesn't include the additional land subject of this application. The current proposals show a different landscaping treatment to that previously approved.
- 7.7.3 The Landscape Officer recommends that a knee rail should be installed to separate the car park from Usk Way. It is considered that conditions can secure a detailed landscaping scheme and boundary treatments.
- 7.7.4 In terms of trees, there is one existing tree within the application site. A tree survey has been submitted and it identifies the existing tree as a Hornbeam, which is around 9m high. The tree survey notes that it is a category U tree (a tree unsuitable for retention), which is early mature, poorly formed and growing against an existing fence. It is proposed to fell this tree and it is proposed to plant three new trees. The Councils Tree Officer has no objections.

## 7.8 **Design and heritage impact**

- 7.8.1 The proposed works are relatively minor and its visual impact is limited. It would replace an existing hardstanding but would also introduce new landscaping and additional trees. This is considered to result in a positive visual impact. The Councils Historic Buildings Conservation Officer has not commented on the application, but it is considered that the proposed works would not materially or harmfully affect the setting of the listed Transporter Bridge.

## 7.9 **General amenity**

- 7.9.1 The nearest residential properties would be around 50m away, on the other side of the Southern Distributor Road and behind acoustic fencing. It is considered that, at this distance and given the intervening dual carriageway and acoustic fence, their residential amenities would be protected.

## 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. It is considered that with the imposition of conditions highway safety and visual amenity would be protected and the proposal would not cause harm to protected sites or species. It is considered that the risk and consequences of flooding are acceptable, as are the heritage and amenity impacts. It would be in accordance with policies SP3, SP8, SP9, SP18, GP2, GP4, GP5, GP6, GP7, CE1 and CF8 of the Newport Local Development Plan.

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:

3896-AWW-ZZ-ZZ-DR-A 0115	- Site Location Plan
3896-AWW-ZZ-ZZ-DR-A 0122	- Proposed Site Plan
3896-AWW-ZZ-ZZ-DR-A 0121	- Existing Site Plan
CC1991-CAM-ZZ-XX-DR-C-20110-C01	- Vehicle tracking
Flood Consequences Assessment rev P06 (Cambria Consulting Ltd)	
Flooding Covering Letter (Cambria Consulting Ltd, September 2022)	
Tree Survey, Categorisation & Constraints Report (Steve Ambler & Sons, Jan 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 take place 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) Construction methods: details of materials, how waste generated will be managed.
- b) General Site Management: details of the construction programme including 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 the nearby watercourse and any surface water drain. Particular detail should be included of how contaminated water will be prevented from entering any existing surface water drains during construction.
- c) Biodiversity Management: invasive species management; species and habitats protection, avoidance and mitigation measures.

- d) Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from construction activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- e) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management.
- f) Traffic Management: details of site deliveries, plant on site, wheel wash facilities.
- 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. (Pollution Prevention Guidelines available at <https://www.netregs.org.uk> should be referenced (and a weblink included), specifically GPP 5: Works and maintenance in or near water and PPG 6: Working at construction and demolition sites. If a pollution incident does occur, Natural Resources Wales should be notified immediately by phoning the Incident Hotline 0300 065 3000).
- h) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.
- i) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

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

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

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

Reason: To ensure that the site is landscaped in a satisfactory manner and in the interests of visual amenity, in accordance with policy GP5 of the Newport Local Development Plan.

04 Prior to the construction of the car park hereby approved, a scheme to install oil and petrol interceptors shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

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

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

05 Prior to the beneficial use of the car park hereby approved, boundary treatments shall be installed in accordance with details, which shall first be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be maintained thereafter for the lifetime of the development.

Reason: In the interests of user safety and visual amenity, in accordance with policies GP4, GP5 and GP7 of the Newport Local Development Plan.

06 Prior to the first beneficial use of the car park hereby approved, a parking management/controls scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The site shall at all times thereafter be managed in accordance with the approved management scheme.

Reason: In the interests of highway safety, in accordance with policies GP4 and GP6 of the Newport Local Development Plan.

07 Prior to the first beneficial use of the car park hereby approved, a traffic signage scheme shall be implemented in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall direct visitors to the approved (under permission 19/1164) Mill Street parking area and discourage vehicles accessing the site directly off the SDR (Usk Way). The traffic signage scheme as approved shall be retained for the lifetime of the development.

Reason: To ensure the provision of safe on site traffic management to serve the development in the interests of highway safety, in accordance with policy GP4 of the Newport Local Development Plan.

### ***Prior to installation***

08 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 include:

- Details of the siting and type of external lighting to be used;
- Drawings (including a lux contour plan) setting out light spillage in key sensitive areas, in particular the River Usk corridor;
- Measures to monitor light spillage once development is operational.

The lighting shall be installed and retained as approved thereafter.

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

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

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP3, SP8, SP9, SP18, GP2, GP4, GP5, GP6, GP7, CE1 and CF8 were relevant to the determination of this application.

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

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

## Appendix A

Ask for/Gofynnwch Gail Parkhouse  
am

Our Ref/E Cyf 21/1246

Your Ref/E Cyf

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## Regeneration and Economic Development Adfywio a Datblygu Economaidd

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

### HABITATS REGULATIONS ASSESSMENT – APPLICATION 21/1246

### PARKING PROVISION TO SERVE TRANSPORTER BRIDGE VISITORS

Visitor Centre, Transporter Bridge, Brunel Street, Newport

#### Planning history

<b>95/0992</b>	ENVIRONMENTAL IMPROVEMENTS INCLUDING BANK PROTECTION WORKS	<b>Granted with conditions</b>
<b>98/0155</b>	DEMOLITION OF EXISTING FLAT ROOF OFFICE & REPLACEMENT WITH SINGLE STOREY BUILDING TO BE USED AS OFFICE & VISITOR CENTRE ASSOCIATED LANDSCAPING & PARKING & ERECTION OF FENCE ALONG THE SOUTHERN BOUNDARY OF THE SITE  DEMOLITION OF EXISTING VISITOR CENTRE	<b>Granted with conditions</b>
<b>19/1164</b>	REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE, PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES. DESIGN WORK INCLUDING THE ANALYSIS OF THE STRUCTURE AND THE SPECIFIC ACTION OF REPAIRS TO THE STRUCTURE AND ANCILLARY COMPONENTS. AFFECTING PUBLIC RIGHT OF WAY NEWPORT COASTAL PATH 403/2/1	<b>Granted with conditions</b>
<b>21/0639</b>	NON MATERIAL AMENDMENT APPLICATION TO REVISE THE WORDING OF CONDITIONS 2 AND 5 TO ALLOW FOR PHASED SUBMISSION OF MATERIALS AND LIGHTING DETAILS IN RESPECT OF PLANNING PERMISSION 19/1164 FOR THE REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE,	<b>Approved with conditions</b>

	PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES	
<b>21/1217</b>	REPLACEMENT OF RETAINING WALL	<b>Under consideration</b>

### **The application site and description of development**

The application site is 739 sq.m and it encompasses hardstanding, including four parking spaces, amenity grass and one tree. The area is currently partly fenced off with palisade fencing. It is to the north and east of the site is the Transporter Bridge and its visitor centre. To the north and west is the Southern Distributor Road (dual carriageway) and a signal controlled junction. The site is adjacent to the River Usk, which is designated as a Special Landscape Area, a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The Severn Estuary SAC, SPA, Ramsar is approximately 2.5 km south of the site.

It is proposed to remove the existing four parking spaces to create an access to the hardstanding area, which would be laid to form nine parking spaces and a substation. New tree planting is proposed to the east of the site. The works form part of the wider visitor centre expansion works approved under application 19/1164, as listed above.

### **Stage 1 - Screening**

This assessment is informed by the Preliminary Ecological Appraisal (PEA) and Ecological Impact Assessment (EclA) undertaken by Ecological Services Ltd in February 2019 and February 2020 respectively. These assessments were carried out to inform the wider visitor expansion works (19/1164) but are considered to be appropriately relevant to this proposal.

The application site is on the West side of the Transporter Bridge adjoining the River Usk SAC and next to the Southern Distributor Road. The site is approximately 1.3km from the River Ebbw and approximately 2.5km from the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar.

The zone of influence of 20km for internationally designated sites is identified. This includes the River Usk SAC (immediately adjacent) and Severn Estuary SAC, SPA and Ramsar (2.5 km south).

#### Severn Estuary

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

#### River Usk

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



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

The conservation objectives of the SAC are contained within Appendix 1.

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

The impacts from the following factors should be taken forward to Appropriate Assessment:

- Noise and light during the construction phase;
- Pollution/surface water run-off during construction and operation; and
- Light spill during operation.

### **Appropriate Assessment**

#### Noise and light during the construction phase

##### *Migratory fish*

It is not proposed to undertake any direct construction works within the River Usk. The laying of parking spaces and resurfacing works are unlikely to involve deep excavation works nor piling activity. However, construction works have the potential to cause disturbance from noise and light and this could affect the migratory fish species listed as features of the River Usk SAC (Twait and Allis Shad, Atlantic Salmon, Sea and River Lamprey).

It is considered that through best construction practice, including mitigation measures to minimise the impact from noise and light, any potential adverse effects on the integrity of the River Usk SAC can be avoided. A condition (condition 1) requiring Construction Environment Management Plan (CEMP) is recommended to secure details of these mitigation measures.

##### *Otter*

The PEA identifies that it is unlikely that an otter holt or resting site are currently present within or adjacent to the proposed development site. Instead the presence of otter moving up and down the river is assumed, otter footprints were found underneath the eastern deck of the Transporter Bridge. The proposed works would not directly impact the river banks however, it is considered that there would be potential impacts to Otter from temporary noise and lighting through construction.

The recommended CEMP condition would secure details of noise and light mitigation measures.

#### Pollution/surface water run-off during construction and operation

A key conservation objective measure identified for the River Usk is risk from development pressures in Newport leading to increased disturbance and pollution risk during either construction or operation. Habitat connectivity is an important property of river ecosystem structure and function. Many of the fish that spawn in the river are migratory, depending on the

maintenance of suitable conditions on their migration routes to allow the adults to reach available spawning habitat and juvenile fish to migrate downstream. For resident species, dispersal to new areas, or the prevention of dispersal causing isolated populations to become genetically distinct, may be important factors. In addition, reaches subject to depleted flow levels, pollution, or disturbance due to noise, vibration or light, can all inhibit the movement of sensitive species.

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

To avoid pollution to the River Usk during the construction phase a condition is recommended which requires the submission of a CEMP. To avoid pollution of surface water run-off from the proposed car park during the operational phase a condition is recommended requiring details of oil and petrol interceptors (condition 2).

#### Light spill during operation

As the application site is situated within an urban landscape, it is currently subject to a certain level of light pollution including from existing street lighting along the Southern Distributor Road to the west and the access road to the Bridge and visitor centre. The application does not include proposals for lighting however, should it later be required it is necessary to control its design and location to ensure that the river corridor is kept as dark as possible to prevent impacts on light sensitive species.

It is recommended that a condition secures a sensitive lighting strategy, which must demonstrate no light spill from the proposed development onto the adjacent river, via provision of a lux contour plan (condition 3).

#### **In-combination effects**

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

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

This proposed development is around 700 m north-east of the proposed development. This planning application did not include a HRA assessment and so is not considered further.

- Land To South East Of University Of Wales Newport City Campus, Usk Way, Newport (planning ref 21/0893) – a planning application for construction of a new leisure centre (D2) and community health and wellbeing centre (D1), including a swimming pool hall.

A sHRA was submitted with that application. It concludes that with the inclusion and full implementation of conditions, which require mitigation measures, the proposed development would not adversely affect the integrity of the River Usk SAC, either alone or in-combination with other projects.

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

A sHRA was submitted with that application. It concludes that subject to the implementation of identified mitigation measures, the proposed development would not result in an adverse effect on the integrity of the River Usk SAC either alone or in-combination with other projects.

- Land South Of Visitor Centre Transporter Bridge, Brunel Street, Newport (planning ref 21/1217) – a planning application for the replacement of a retaining wall.

A Habitats Regulations Assessment has been undertaken. It concludes that subject to the implementation of identified measures, the proposed development would not result in adverse effects on the integrity of the River Usk SAC either alone or in-combination with other projects.

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

### **Conclusion**

It is considered that with the inclusion and full implementation of the identified conditions, there would be no adverse effect on the integrity of the River Usk SAC either alone or in-combination with other relevant projects.

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

### **Conditions**

01 No development shall take place 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) Construction methods: details of materials, how waste generated will be managed;
- b) General Site Management: details of the construction programme including 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 the nearby watercourse and any surface water drain. Particular detail should be included of how contaminated water will be prevented from entering any existing surface water drains during construction.
- c) Biodiversity Management: invasive species management; species and habitats protection, avoidance and mitigation measures;
- d) Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from construction activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies;
- e) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management;
- f) Traffic Management: details of site deliveries, plant on site, wheel wash facilities;
- 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. (Pollution Prevention Guidelines available at <https://www.netregs.org.uk> should be referenced (and a weblink included), specifically GPP 5: Works and maintenance in or near water and PPG 6: Working at construction and demolition sites. If a pollution incident does occur, Natural Resources Wales should be notified immediately by phoning the Incident Hotline 0300 065 3000).

- h) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- i) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;

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

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

02 Prior to the construction of the car park hereby approved, a scheme to install oil and petrol interceptors shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

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

03 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 include:

- Details of the siting and type of external lighting to be used;
- Drawings (including a lux contour plan) setting out light spillage in key sensitive areas, in particular the River Usk corridor;
- Measures to monitor light spillage once development is operational.

The lighting shall be installed and retained as approved thereafter.

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

Gail Parkhouse

Principal Planning Officer/ *Prif Swyddog Cynllunio*

Regeneration and Economic Development / *Adfywio a Datblygu Economaidd*

Newport City Council/ *Cyngor Dinas Casnewydd*

18<sup>th</sup> May 2022

## **CONSERVATION OBJECTIVES OF THE RIVER USK SAC**

### **Background to Conservation Objectives:**

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

#### **(b) Format of the conservation objectives**

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

Each conservation objective consists of the following two elements:

1 Vision for the feature

2 Performance indicators

As a result of the general practice developed and agreed within the UK Conservation Agencies, conservation objectives include performance indicators, the selection of which should be informed by JNCC guidance on Common Standards Monitoring<sup>1</sup>.

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

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

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

#### **4.1 Conservation Objective for the water course**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.2 Conservation Objective for Features 1-5:

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

#### Vision for features 1-5

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

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

FCS component	Supporting information/current knowledge
<p><b>There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.</b></p>	<p>preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches eg through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.</p>
	<p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p>
	<p>Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.</p> <p>Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.</p>

**Performance indicators for features 1-5**

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
<p>Sea lamprey <i>Petromyzon marinus</i> :</p> <p><b>Performance indicators for feature condition</b></p>			
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> .	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered over time. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable.	1 - 5
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites each not less than 5km apart.	This standard CSM attribute establishes a minimum occupied spawning range, within any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute.	2 - 5
	Overall catchment mean $>0.1m^{-2}$ (Harvey & Cowx 2003) <sup>1</sup>	Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes $m^{-2}$ in suitable habitat <sup>2</sup> , therefore 0.1 $m^{-2}$ is a conservative threshold value for unfavourable condition.	
<p>Brook lamprey <i>Lampetra planeri</i> and River lamprey <i>Lampetra fluviatilis</i> :</p> <p><b>Performance indicators for feature condition</b></p>			
(a) Age/size structure of ammocoete population	Samples $< 50$ ammocoetes $\sim 2$ size classes Samples $> 50$ ammocoetes $\sim$ at least 3 size classes	This gives an indication of recruitment to the population over the several years preceding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition	2 - 10



Attribute	Specified Limits	Comments	Relevant Unit[s]
(b) Distribution of ammocoetes within catchment	Present at not less than 2/3 of sites surveyed within natural range	The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit ie all except unit 1.  Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment. Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment.	2 - 10
(c) Ammocoete density	Optimal habitat: >10m <sup>-2</sup> Overall catchment mean: >5m <sup>-2</sup>	Optimal habitat comprises beds of stable fine sediment or sand ≥15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2 - 10

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

**Performance indicators for feature condition**

(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1 - 5
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**Performance indicators for factors affecting the feature**

(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period.	1 - 5
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Atlantic salmon *Salmo salar*:

**Performance indicators for feature condition**

(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-sea-winter component.  As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality.	6 – 10

Assessed using electro fishing data.

**Performance indicators for factors affecting the feature**

**Water quality**

(a) Biological quality	Biological GQA class A	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6 - 10
(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3].	All

**Hydromorphology**

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
<b>Bullhead <i>Cottus gobio</i> :</b>			
<b>Performance indicators for feature condition</b>			
(a) Adult densities	No less than 0.2 m <sup>-2</sup> in sampled reaches	CSM guidance states that densities should be no less than 0.2 m <sup>-2</sup> in upland rivers (source altitude >100m) and 0.5 m <sup>-2</sup> in lowland rivers (source altitude ≤100m). A significant reduction in densities may also lead to an unfavourable condition assessment.	2 – 10
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by on-going monitoring will result in an unfavourable condition assessment.	2 - 10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment.	2 - 10

#### 4.3 Conservation Objective for Feature 6:

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

#### Vision for feature 6

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

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

#### Performance indicators for feature 6

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

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

## APPLICATION DETAILS

No: 21/1246 Ward: **Pillgwenlly**

Type: Full Application

Expiry Date: 31ST JANUARY 2022

Applicant: **M LEWIS NEWPORT CITY COUNCIL CIVIC CENTRE GODFREY ROAD NEWPORT**

Site: **Visitor Centre Transporter Bridge Brunel Street Newport South Wales**

Proposal: **PARKING PROVISION TO SERVE TRANSPORTER BRIDGE VISITORS**

### 1. LATE REPRESENTATIONS

- 1.1 Highways are satisfied that the highway safety concerns described previously and reiterated below have been sufficiently addressed, however this is subject to the revised drawing request below being acted upon or a planning condition made to protect the manoeuvring area from being obstructed.
- 1.2 Submitted drawing reviewed: 'Proposed Site Plan' numbered 3896-AWW-ZZ-ZZ-DR-A 0122 rev A and the drawing titled 'Vehicle Tracking' CC1991 CAM ZZ XX DR C 20110 rev C03.
- 1.3 It is noted that the manoeuvring space at the end of the car park is now acceptable. However to ensure the space is not parked in, a further revised drawing should be provided, showing a 'KEEP CLEAR' space with hatched road markings should be provided at the end of the car park to protect the area that accommodates the about turn manoeuvres.
- 1.4 It is recommended that if a revised drawing does not come forward, then if it is possible this should be conditioned to make it happen, subject to approval.

### 2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 The comments of the Highway Officer are noted and a condition is recommended to ensure the clear space shows hatched road markings.

### 3. OFFICER RECOMMENDATION

- 3.1 The officer recommendation remains as Granted with Conditions, with the additional conditions as below:

Prior to the beneficial use of the car park hereby approved, the manoeuvring space at the western end of the car park shall be marked 'KEEP CLEAR' and with hatched markings, in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The space shall be retained as such for the lifetime of the development. Reason: In the interests of highway safety, in accordance with policy GP4 of the Newport Local Development Plan.



# Report

## Appeal Decisions

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### Part 1

Date: 7<sup>th</sup> December 2022

Item No: Insert item number here

**Subject** **Appeal Decisions**

**Purpose** To record the outcome of recent planning appeals

**Author** **Head of Regeneration and Economic Development**

**Wards** Allt-yr-Yn, Victoria

**Summary** In consultation with the Chair or Deputy Chair of Planning Committee, the Head of Regeneration and Economic Development 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** Planning and Development 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 Head of Regeneration and Economic Development, 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 RED with Chair/Deputy of Planning Committee</p> <p>Head of RED with Chair/Deputy of Planning Committee</p> <p>Planning and Development 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.	Planning and Development 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, Policy and Transformation**

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

### **Local issues**

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

### **Equalities Impact Assessment and the Equalities Act 2010**

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

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

### **Children and Families (Wales) Measure**

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

### **Consultation**

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

### **Background Papers**

Not applicable

Dated: 7<sup>th</sup> December 2022



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**Planning Appeal**

Reference	22/0159
Address	11 Coverack Road Liswerry
Development	Change of use from a C3 dwellinghouse to C4 5No. bedroom HMO
Appellant	Mr Michal Zvala
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal Dismissed

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**Planning Appeal**

Reference	21/0975
Address	12 Corporation Road
Development	Change of use of first and second floors from offices (A2 use) to 3no. self-contained flats (C3 use)
Appellant	Mr Joe Lane
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

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**Planning Appeal**

Reference	21/1216
Address	32 Enville Road
Development	Proposed Hard Standing for Parking
Appellant	Mr Paul Nicolaas
Officer Decision	Refused
Committee Decision	N/A
Appeal Decision	Appeal dismissed

