

# Agenda



## Planning Committee

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Date: Wednesday, 6 September 2023

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors M Spencer (Chair), M Linton (Deputy Chair), T Harvey, J Reynolds, S Cocks, A Screen, B Perkins, J Jones, M Howells, R Mogford and J Jordan

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| Item   | Wards Affected |
|--|----------------|
| 1. <u>Apologies for Absence</u>  |                |
| 2. <u>Declarations of Interest</u>   |                |
| 3. <u>Minutes of the meeting held on 02.08.2023</u> (Pages 3 - 6)              |                |
| 4. <u>Development Management: Planning Application Schedule</u> (Pages 7 - 74) |                |
| 5. <u>Appeal Decisions</u> (Pages 75 - 80)                                     |                |
| 6. <u>Live Event</u><br><a href="#">Planning Committee Live Event Link</a>     |                |

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Date of Issue: Wednesday, 30 August 2023

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# Draft Minutes

## Planning Committee

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Date: 02 August 2023

Time: 10.00 am

Venue: Council Chambers- Hybrid Meeting

Present: Councillors M Spencer (Chair), M Linton (Deputy Chair), M. Howells, R Mogford, A. Screen, J Jordan, T Harvey, S. Cocks, B. Perkins, and J. Reynolds

In Attendance: Andrew Ferguson (Planning and Development Manager), Joanne Davidson (East Area Development Manager), Joanne Evans (Senior Solicitor- Planning & Land), Neil Gunther (Senior Planning Enforcement Officer), Ferguson, Andrew (Planning and Development Manager), Taylor Strange (Governance Support Officer), Emily Mayger (Governance Support Officer)

Apologies:

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1. **Declarations of Interest**

None

2. **Minutes of the meeting held on 02 August 2023**

The minutes of the meeting held on 02 August were submitted.

**Resolved**

That the minutes of the meeting held on 05 July 2023 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 Report**

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

The meeting terminated at 10:25am



# Decision Schedule

## Planning Committee

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| No              | Site/Proposal                                   | Ward              | Additional Comments   | Decision   |
|-----------------|---|-------------------|---|--|
| <b>E22/0336</b> | The Maltings, East Dock Road, Newport, NP20 2BT | <b>Pillgwenly</b> | Neil Gunther (Senior Enforcement Officer - Strategic) brought this item to the Committee. | The Committee authorised the issue of the notice, potential works in default and recovery of any consequential costs in accordance with the Officers recommendation. |

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# Report

## Planning Committee – Hybrid Meeting

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### Part 1

Date: **6<sup>th</sup> September 2023**

**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<br><br>Planning and Development Manager |
| Judicial review successful with costs awarded against the Council               | H   | L  | Ensure sound and rational decisions are made.   | Planning Committee<br><br>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 Strategic Planning, Regulation 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 2017  
 Welsh National Marine Plan November 2019  
 Future Wales - The National Plan 2040 (February 2021)

#### *PPW Technical Advice Notes (TAN):*

- 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 and are available to view on the Council’s website using the application reference number.

1.

**APPLICATION DETAILS**

**No:** 22/1033      **Ward:** St Julians  
**Type:** Full (Major)  
**Expiry Date:** 8<sup>th</sup> September 2023  
**Applicant:** J Moore  
**Site:** Gwent Car Sales Crawford Street Newport NP19 7AY  
**Proposal:** **DEMOLITION OF EXISTING BUILDINGS AND THE CONSTRUCTION OF 30NO. APARTMENTS ALONG WITH ASSOCIATED PARKING AND EXTERNAL AREAS (AMENDED PLANS RECEIVED)**

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

**1. INTRODUCTION**

- 1.1 This application is for the demolition of commercial buildings and construction of building containing 30no apartments comprising of a mix of 8no two beds and 22no one beds, together with associated parking and external areas at Gwent Car Sales, Crawford Street in the St Julians Ward.
- 1.2 Whilst the site is currently occupied by a range of car garages and hard standing, it is within the settlement boundary and is allocated within the adopted Local Development Plan for 10 residential units and the delivery of a residential scheme on the site has been accepted in principle. We have been advised that the proposed apartments would all be affordable and Newport City Homes has been named as the Registered Social Landlord (RSL) that will manage the accommodation.
- 1.3 The main considerations of this application are design, impact on neighbouring amenity, parking and associated highways matters, amenity for future occupiers of the development, noise mitigation, landscaping, air quality and flood risk.

**2. RELEVANT SITE HISTORY**

|         |  |                         |
|---------|--|-------------------------|
| 97/0406 | SITING OF PORTACABIN TYPE BUILDING FOR USE AS OFFICE   | Granted with Conditions |
| 12/1087 | OUTLINE PLANNING CONSENT FOR RESIDENTIAL DEVELOPMENT INVOLVING THE DEMOLITION OF EXISTING WAREHOUSE BUILDING AND CHANGE OF USE FROM CLASS B8 TO CLASS C3 | Approved and Conditions |

**3. POLICY CONTEXT**

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

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

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

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

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

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

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

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

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

*Policy H1 Housing Sites lists sites allocated for residential development within the plan period.*

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

*Policy H3 Housing Density seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.*

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

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

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

### **Relevant Supplementary Planning Guidance**

Parking Standards SPG  
Planning Obligations SPG  
New Dwellings SPG  
Waste Storage and Collection SPG  
Wildlife and Development SPG  
Sustainable Travel SPG  
Affordable Housing SPG



#### 4. CONSULTATIONS

- 4.1 GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No response.
- 4.2 DWR CYMRU – WELSH WATER: We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

##### ASSET PROTECTION

The proposed development boundary is in close proximity by a trunk/distribution watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site. Please ensure easement of 7.7m is maintained, 3.85m either side of the centre line of the main.

##### SEWERAGE

We haven't also considered the impact of foul flows generated by the proposed development and concluded that flows can be accommodated within the public sewerage system. Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

##### Conditions

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

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

##### SEWAGE TREATMENT

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

##### WATER SUPPLY

We anticipate this development will require the installation of a new single water connection to serve the new premise. Capacity is available in the water supply system to accommodate the development. The applicant will need to apply to Dwr Cymru Welsh Water for a connection to the potable water supply system under Section 45 of the Water industry Act 1991. The applicant's attention is drawn to our new water connection application guidance notes available on our website.

- 4.3 NATURAL RESOURCES WALES: We continue to have concerns with the application as submitted because of flood risk. We provide further detailed advice below. We also advise based on the information submitted to date, conditions regarding flood risk, land contamination and controlled waters and protected sites should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

##### **Flood Risk**

The planning application proposes highly vulnerable development (residential). Our Flood Risk Map confirms the site to be entirely within Zone C1 of the Development Advice Map (DAM) contained in Technical Advice Note 15 (TAN15). The Flood Map for Planning

identifies the application site to be at risk of flooding and falls into Flood Zone 2 and 3 (Sea).

Section 6 of TAN15 requires the Local Planning Authority (LPA) to determine whether the development at this location is justified. Therefore, we would refer the LPA to the tests set out in section 6.2 of TAN15. If the LPA 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 Flood Consequence Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

We have reviewed the FCA by JBA, dated May 2023. Our advice to you is the FCA fails to demonstrate the risks and consequences of flooding can be managed to an acceptable level because the site access in the vicinity of the highway connection and the bin storage area are predicted to flood during a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event.

The FCA considers this is necessary to make the connection to the highway and to provide level access to the highway for waste collection. However, in line with A1.14 of TAN15, the development (everything within the red line boundary) should be designed to be flood free. Therefore, our assessment is based on this. Further detailed advice is provided below.

The FCA states the current site level ranges from 7.95-7.61m AOD with the existing building set at 8.01m AOD. It is proposed the development site will be raised and levelled to 9.2m AOD for the car park, and 9.3m AOD for the proposed buildings. To facilitate connection to the existing highway, the site access shall be ramped from 7.6m AOD to 9.2m AOD, and the bin storage area will have a finished floor level of 7.92m AOD to provide level access to street level. With the proposed ground raising, the FCA shows:

- During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the proposed buildings and car parking are predicted to be flood free. This meets the requirements of A1.14 of TAN15;
- During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the site access in the vicinity of the highway connection with the adjoining site is predicted to flood to a maximum depth of 1.39m. This fails to meet the requirements of A1.14 of TAN15. The FCA considers this is necessary to make the connection to the highway;
- During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the bin storage area is predicted to flood to a maximum depth of 1.07m. This fails to meet the requirements of A1.14 of TAN15. The FCA considers this is unavoidably required to provide level access to the highway for waste collection. The FCA states should flooding of this area occur waste will be confined to storage bins and the bin store locked and this will prevent the mobilisation of waste in floodwater.
- During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event, the proposed car park is predicted to flood to maximum depth of 550mm and the proposed buildings are predicted to flood to a maximum depth of 450mm. These flood depths are within the tolerable limits of A1.15 of TAN15;
- During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event, the site access in the vicinity of the highway connection with the adjoining site is predicted to flood to a maximum depth of 2.15m. This exceeds the tolerable limits of A1.15 of TAN15.
- During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event, the bin storage area is predicted to flood to a maximum depth of 1.83m. This exceeds the tolerable limits of A1.15 of TAN15.

When assessing the impact to third parties because of the land raising, the FCA states:

- The flood outlines produced identify no noticeable change in flood extent;

During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event: water levels within the area west of the proposed development site are predicted to increase between 1- 2cm. A larger area to the north and east of the site is predicted to see a change in flood depths of between 5mm to 1cm. To the south and east of the proposed development site, no changes in flood depths are expected. The area across the proposed development and to the immediate east of the proposed development are predicted to see a reduction in flood depths of over 5mm;

- During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event: it is predicted there will be no change in the water levels as across the wider area of Newport because of the proposed development. Flood levels around the proposed development site are predicted to decrease by over 5mm because of the proposed development.

The FCA also evaluates potential third-party impacts by considering any change in the flood hazard rating in the surrounding area due to the proposed development. It is shown the flood risk impact of the development on the surrounding area is negligible, with no identifiable change in flood hazard categorisation predicted because of the development. TAN15 states there should be no increase to third parties because of development, even those areas already at risk of flooding during the extreme events. Typically, we deem an increase of approximately 5mm as acceptable. Although there is a predicted flood depth increase of up to 2cm to areas in the west of the proposed development, using the Post-development Model results in Section 5.3.2, it appears the existing flood depths in the surrounding area are 1m plus, therefore the 2cm increase to flood depths will be to an area already experiencing significant flooding. The use of the comparison hazard matrix is useful to further assist your Authority in your decision making.

Section 5.5.1 Flood mechanism, timings and hazard provides details in terms of time of inundation on the site. The model suggests one full tidal cycle will occur before the most extreme flooding occurs, during which low lying areas of Newport are flooded. Although the peak of flooding occurs 16 hours into the simulation, the flood warning lead time should be significantly greater than this and allow for early site evacuation. The FCA states after 17 hours flood water ponds around the site and flood depths begin to decrease. After a few hours, flood depths recede to tolerable limits allowing pedestrians to evacuate the site and follow Courtney Street onto dry land on Riverbank Avenue. Vehicular access is possible after approximately 10 hours after peak tide when flood depths decrease to tolerable depths of below 600mm.

It confirms at the peak of flooding at 16 hours most areas locally experience low flood velocities typically <0.3m/s and by 24 hours all floodwater in the area has all but stopped moving with all velocities in the area under 0.3m/s and most areas well below 0.1m/s. This velocity and time of inundation information should further assist your Authority in your decision making.

#### Summary

Based on the proposed finished ground levels, the residential element and the car parking element of the proposal are predicted to be flood free. The site access in the vicinity of the highway connection and the proposed bin store are predicted to flood and are therefore not compliant with TAN15. However, the FCA states this is necessary to make the connection to the highway and to provide level access to the highway for waste collection. Your authority may wish to take this into consideration when determining the application.

Condition 1: In consideration of the above, we strongly recommend you secure the proposed finished floor levels for the buildings and car parking by including the FCA in the approved plans and documents condition on the decision notice.

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

#### **Land Contamination and Controlled Waters**

The Draft Geotechnical and Geoenvironmental Report prepared by Terra Firma, dated July 2022, does not include any groundwater samples. We note further investigation works are proposed to understand the risk from the made ground to controlled waters. Therefore, we advise you to include the following conditions on any planning permission granted to ensure the risks to the River Usk and groundwater are fully understood and remediated, if necessary.

Condition 2: No development 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:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- 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 referred to in (2) 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 to demonstrate that the works set out in the remediation strategy in (3) 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 are implemented to prevent unacceptable risks from contamination.

Condition 3: Prior to the occupation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

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

Condition 4: Prior to the occupation of the development, a long-term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority. The long-term monitoring plan should include:

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

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

Justification: A land contamination long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts because of development on water quality.

Condition 5: 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 6: 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 both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution.

Condition 7: No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

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

### **Protected Sites**

River Usk Special Area of Conservation

The site is located within 160m of the River Usk Special Area of Conservation (SAC). From the information provided, we consider the proposals may affect the River Usk SAC during demolition and construction. Therefore, we advise you to include the following condition on any planning permission granted to ensure there will be no adverse effects on the integrity of the River Usk SAC.

Condition 8: No development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater, and energy use.
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

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

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to demolition and construction and implemented for the protection of the environment, including the nearby River Usk SAC and River Usk

(Lower Usk) SSSI.

River Usk (Lower Usk) Site of Special Scientific Interest

The site is located within 160m of the River Usk (Lower Usk) Site of Special Scientific Interest (SSSI). From the information provided, we consider the proposals have the potential to impact upon the River Usk (Lower Usk) SSSI. Providing the impact pathways referenced above for the SAC are adequately addressed, we consider the features of the SSSI will also be adequately safeguarded.

## **European Protected Species**

The Preliminary Roost Assessment prepared Spectrum Ecology, date 9th June 2022, has identified that bats were not using the application site. We therefore have no comments to make in relation to EPS on the application as submitted.

- 4.4 SOUTH WALES FIRE & RESCUE: No response.
- 4.5 WALES AND WEST UTILITIES: Provide detail of equipment and offer no objection.
- 4.6 WILDLIFE IN NEWPORT GROUP: No response.
- 4.7 WESTERN POWER DISTRIBUTION: Provide details of equipment in the area.
- 4.8 WALES AND WEST UTILITIES: Provide details of equipment in the area.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): Highway Recommendation:

No objection subject to conditions.

Highway Comments:

The amended application and additional information provided is sufficient to address Highways comments regarding refuse and other servicing as well as cycle storage and accessibility.

The only remaining concerns relate to landscaping adjacent to the access. The plan is not very clear, but appears to show a hedge adjacent to the footway. This would obstruct inter-visibility between passing pedestrians and emerging vehicles. As it would grow beyond 600mm. Highways cannot advise on species of plants or rely on maintenance and would suggest that a dwarf wall or railing is provided for the first 2m. This could be addressed via a condition.

As previously discussed the development has potential to raise further issues during construction and a suitable condition is therefore suggested.

Subject to the following conditions (or similar) there are no maintained highway related objections.

Suggested Conditions:

No part of the development shall be brought into use until visibility splays of 2 metres by 2 metres have been provided on each side of the access. The depth shall be measured from the back of footway/verge; and the width measured outward from the edges of the access. The splays shall be created clear of obstructions to visibility at or above a height of 0.6 metres above footway level. Once created, the visibility splays shall be maintained clear of any obstruction and shall be retained at all times.

Reason: To provide the driver of a vehicle using the access and other users of the public highway with adequate inter-visibility in the interests of road safety.

The development shall not be brought into use until the areas indicated on the submitted plans to be set aside for cycle parking have been provided in accordance with the details and specifications shown in drawing number 1528-PL2-04 B. The cycle parking shall be retained as such thereafter.

Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.

No works shall take place on the site at all until a method statement comprehensively detailing the phasing and logistics of demolition/construction has been submitted to and approved in writing by the Council as Local Planning Authority.

The method statement shall include, but not be limited to:

Construction traffic routes, including provision for access to the site

Entrance/exit from the site for visitors/contractors/deliveries

Siting of temporary containers

Parking for contractors, site operatives and visitors

Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition/construction

Temporary roads/areas of hard standing

Schedule for large vehicles delivering/exporting materials to and from site and details of manoeuvring arrangements  
Storage of materials and large/heavy vehicles/machinery on site  
Measures to control noise and dust  
Details of street sweeping/street cleansing/wheelwash facilities  
Details for the recycling/disposing of waste resulting from demolition and construction works  
Hours of working  
Phasing of works including start/finish dates  
For the avoidance of doubt all construction vehicles shall load/unload within the confines of the site and not on the highway.  
The development shall be carried out in accordance with the approved plan, unless otherwise agreed in writing with the Council as Local Planning Authority.  
Reason: To ensure that adequate on-site provision is made for construction traffic, including allowance for the safe circulation, manoeuvring, loading and unloading of vehicles, as well as parking, and to reduce impact on residential amenity and the general amenity of surrounding occupiers.

5.2 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ECOLOGY OFFICER): In relation to the Preliminary Roost Assessment of the buildings on site undertaken by Spectrum Ecology dated 9th June 2022, I agree with the methodology and conclusions of that report, which did not detect bats roosting in these buildings. The report states in section 4.9 that its findings are valid for 12 months, presumably from the date above. However, for mobile species such as bats, published guidance advises that 18 months is a more appropriate 'shelf-life', so I would say that the report is still valid at time of writing.

Section 4 of the report sets out some precautionary mitigation measures as well as some features for biodiversity net benefit. We should use a planning condition to secure implementation of these:-

Condition: Prior to the commencement of development a scheme of ecological enhancement to provide net benefit to biodiversity is submitted to and approved in writing by the local planning authority. This shall include full details of the location and specification of ecological enhancements and the timing of their inclusion. The details shall then be implemented as approved and shall be retained in perpetuity.

Reason: To provide ecological net benefit on the site as required by the Environment (Wales) Act 2016 and Planning Policy Wales.

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

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

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

In relation to the nearby River Usk SAC / SSSI, I support the CEMP condition that NRW have proposed in their letter of 16<sup>th</sup> June 2023.

In relation to soft landscaping, I support the comments made by Mackley Davies Associates in their letter of June 2023.

5.3 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (TREE OFFICER): No objections.

5.4 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE OFFICER): Further revisions have been made which answers most of the previous concerns and queries.

**Amenity space**

Amenity space is still shown on the ground floor site plan rev B by KJG for the planted buffer along Herbert Road which apart from a 1m wide grass verge along the rear of car parking bays is not accessible. This does not meet the definition of amenity space and it would be better to state this will not be delivered. Accepted there is adjacent public open space which residents would benefit from.

**Crawford Street**

The rain garden mix shown on Soft Landscape Proposals rev A and B by DP Landscape Architecture was altered following landscape officer comments to increase the percentage of evergreen cover although much of this (25%) will be delivered by Ajuga which is very low ground cover. The mix proposed is the same for all rain gardens (the previous version showed four mixes) and as this covers a substantial area and is in full public view, more variety of form/habit/height etc would have been appropriate and this is a lost opportunity.

**Herbert Road**

A parapet will be required to the wall top, the makeup of this is not clear on the section by KJG. Is this to be railing so planting can be seen or solid in which case the apparent wall height to the street will not be 1.3 but more likely around 2.4m.

There is no scope for planting to soften the retaining wall screening the bin store area, noted that this area is to be covered by a green roof.

The following conditions should be used:

1. Retaining wall finishes and parapet details.
2. Green roofs are proposed to bike store and bin store. These are not shown on the soft landscape plan or mentioned in the soft landscape management plan. This is a specialist item and details could be conditioned along with a plan for maintenance.
3. Given the public visibility of the SuDS scheme and green roofs to the bike store and bin store, monitoring of proposed planting to ensure successful establishment and management of vegetation cover is to be confirmed by submitting a short report with photo evidence by a landscape consultant to Newport City Council submitted at the end of planting, and by 31<sup>st</sup> December for year 2 and 5 after planting summarising any issues, replacement required, and the timetable for replacement.

5.5 HEAD OF CITY SERVICES (WASTE MANAGER): For 30 apartments we would advise the following:

For residual waste 3 x 1100L domestic euro bins + 1 x 360L domestic wheelie bin

For recycling, the requirement is for 4 x 1100 Litre Bins 2 x 360 Litre and 2 x 240 Litre.

Confirmation of dimensions on bin store for capacity is required to ensure that all bins for waste and recycling are accommodated.

In the event that the service roads within the development site are not adopted by Newport City Council, the applicant/developer (as landowner with responsibility for the maintenance and upkeep of the common areas of the development) may need to agree to indemnify Newport City Council to enable a Waste/Recycling collection service to be carried out by the Council within any part of the development site.

5.6 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (NOISE) AND (POLLUTION): We would expect to see the following standards achieved internally:

| Activity | Location           | 07:00 to 23:00               | 23:00 to 07:00              |
|----------|--------------------|------------------------------|-----------------------------|
| Resting  | Living Room        | 35 L <sub>Aeq</sub> , 16hour | -                           |
| Dining   | Dining Room / Area | 40 L <sub>Aeq</sub> , 16hour | -                           |
| Sleeping | Bedroom            | 35 L <sub>Aeq</sub> , 16hour | 30 L <sub>Aeq</sub> , 8hour |



|                   |  |  |                       |
|-------------------|--|--|-----------------------|
| (daytime resting) |  |  | 45 L <sub>Afmax</sub> |
|-------------------|--|--|-----------------------|

1. These levels are derived in part from Table 4 of BS8233:2014 and also World Health Organization figures. The figures from BS8233:2014 are themselves derived from World Health Organization values.
2. The notes to Table 4 of BS8233:2014 apply to the interpretation of the above figures.
3. It is also expected that to achieve an acceptable internal noise climate that individual noise events shall not exceed 45dB L<sub>Afmax</sub> on a frequent basis. The acceptability of the frequency of events will depend on the level of exceedance of the 45dB L<sub>Afmax</sub> criteria. Up to 10 events may be acceptable for small exceedances (<5dB) whilst for high exceedances (>=5 dB and <10 dB) less than 5 events will be acceptable. Events in excess of 10 dB above 45 dB are not permitted.

The maximum day time noise level in outdoor living areas exposed to external road traffic noise should not exceed 50dBA Leq 16 hour [free field].

The site is currently an operating vehicle dealership and garage located approx. 33m from the Welsh Marches railway line. The site is located approx. 3m lower than the railway line at ground level. The Welsh Marches line carries passenger and freight trains.

The site is predominantly surrounded by residential dwellings. Commercial sites lie to the south and east of the site comprising of a medical supply distributor and mechanics.

Appropriate noise guidelines have been followed within the report such as The Welsh Government's Planning Policy Wales (Edition 11) dated February 2021, Professional Practice Guidance on Planning & Noise, New Residential Development 'Supplementary Document 2 – Good Acoustic Design' produced by the ANC, IOA and CIEH, Technical Advice Note (Wales) 11 and BS 8233:2014.

I have reviewed the submitted acoustic assessment and no additional sound insulation measures to the external building fabric are indicated to be required as standard thermal double glazing and trickle ventilation are indicated sufficient to control daytime and night-time rail-noise levels to the desirable internal ambient noise criteria quoted in BS8233:2014, including L<sub>Amax,F</sub> levels from night-time train pass-bys.

I offer no objections to the application and suggest the following should you be minded to grant the application.

*The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LA<sub>eq 16 hrs</sub> daytime and of more than 30 dB LA<sub>eq 8 hrs</sub> in bedrooms at night.*

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

*Prior to commencement of the development hereby approved, a [demolition method statement] [and a] [construction management plan] shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 07:00 – 18:00 Monday to Friday daily, 08:00 – 13:00 Saturdays No works to be undertaken on Sundays or bank holidays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. Approved details shall be implemented throughout the project period.*

Reason: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the building site.

5.7 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (POLLUTION): As previously mentioned Crawford Street is in the vicinity of the Chepstow Road AQMA and as such we would have concerns about any development which could give rise to any increase in emissions locally. To this end we would prefer to support development which is as close zero emission as reasonably possible i.e. no cars or EV only, coupled with zero emission heating systems and low carbon building materials. It is noted that the applicant considers an AQA is not required however this will need to be justified in the context of prevailing traffic levels and air quality at the site against post development traffic levels and air quality at the proposed development site. Community & Environment do not support fall back position considerations where air quality is concerned.

Air Quality Positive (AQP) principles are supported by Environment & Public Protection. The AQP approach aims to maximise the benefits to local air quality in and around significant development sites or master plan areas; and minimise exposure to existing sources of poor air quality. It encourages planners, designers, architects, and air quality experts to actively seek ways to achieve the best possible outcomes from their developments in terms of air quality and to go beyond simply meeting the maximum threshold of allowable contribution to air pollution.

In view of the above the following conditions would be of relevance where an application was supported:

*ULEV Infrastructure condition*

*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 so far 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)*

*Heating condition*

*Space heating within the proposed retail should use the lowest emission systems possible if not zero emission which in turn would contribute to emission. An informative is suggested below which could form a condition or informative.*

*Sustainable heating condition*

*No development shall take place until a sustainable heating strategy and associated system has been submitted to the LPA. The sustainable heating system shall be implemented prior to occupation of the development and retained thereafter.*

*Where Green infrastructure planned as part of this proposal there exists an opportunity through the use of air quality beneficial species to maximise the air quality benefits from plantings.*

*Green infrastructure condition*

*No development shall commence on site until a scheme of Green Infrastructure including but not limited to street scene and landscaped areas has been submitted which identifies plantings which use species which are known to be beneficial to air quality. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained*

*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)*

*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. 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)*

### *Construction Phase Anti Idling*

*Prior to commencement of construction an anti-idling scheme aimed at all vehicles using the site shall be submitted to the LPA for approval.*

*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

A former brick works, infilled ground and saw mill was present at land this site is part of. As such land contamination will be a material consideration. The Terra Firma Draft reporting is noted as are the comments of NRW. Various contaminants have been observed and groundwater monitoring appears to be warranted which will need to be confirmed with NRW.

Conditions:

#### Contamination

Where permission was granted the following conditions would need to be applied:

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.

#### 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.

#### 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.

- 5.8 NEWPORT CITY COUNCIL SUSTAINABLE DRAINAGE MANAGER: We have received an application for the above scheme. The application was not approved and further information is required as set out below:

Evidence around the cost/benefit for a rainwater harvesting system.

- Evidence from the asset owner that connection to their system in lieu of a rainwater harvesting system is acceptable, along with confirmed rates of discharge.
- Evidence of the catchments entering the permeable paving does not exceed those set in the statutory standards table G2.1.
- Evidence of the suitability of the swale slope being flat at the outfall and 5m either side as describes in the statutory standards, table G2.1
- Pre and post run off volumes to be provided.
- Confirmation of acceptance of maintenance and funding for this from Newport City Homes.

- 5.9 HEAD OF CITY SERVICES (ACTIVE TRAVEL OFFICER): No response.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (68 properties), a site notice displayed and a press notice published in South Wales Argus. 3no neighbour responses have been received objecting to the development with comments as follows:

We live opposite this development and there are a number of issues we would like to raise and object to. The size of the development and the three storey structure is very imposing, with no "softening" features such as trees or plantings.

This development would have been better with a smaller density, maybe houses – but if not, then a much reduced number of flats. As for the 3 stories this is far higher and imposing than the existing structure and will significantly impact on existing houses privacy with living area and gardens overlooked by a considerable amount of Juliet balconies.

Existing properties are only overlooked by bedroom windows, infrequently used and only on the 2nd floor of properties, there are living rooms with Juliet balconies and the second and particularly the third floor will have this impact and will obviously be in use regularly. I believe in 2012 planning permission was granted for 10 houses (2 stories) on this land and also on the development of the old primary school in Durham road originally it was planned for houses and 3 story flats which was changed to houses and 2 story flats to be more in keeping with the original housing stock and surrounding height of buildings - could this not be an option.

The individual apartments seem very small. It also states that per person there should be 12m squared each per person of outdoor space this development is only 4.5m squared each (on I believe only 80 occupants) and therefore very overcrowded there could be anything from 70-100 occupants in (frankly an extremely small space) and little outdoor space for residents There is no green space. The children's play area, known locally as "the Patch", cannot make up for a lack of a communal garden and shouldn't be considered as part of this application.

The number of parking spaces would not be adequate and parking in the adjacent streets is really not an option. (And again we believe is the absolute minimum that could be offered and is recommend by Welsh government for more resident parking spaces). Turner Street is narrow and suffers with parking issues, with some parts of the street resident parking only and vehicles are often parked close to the junction with Caerleon Road, it is then impossible to get in, or out and traffic backs up on the main road. And further to this due to narrow access from the railway bridge down to single file traffic, often traffic congestion builds up causing issues onto Caerleon road and Turner Street. There are new developments at Red Brick Gardens and Trostrey/Bank Streets. Another small development is planned for Trostrey/Turner Streets adding to this further. It has already been exacerbated by the ongoing housing development on the riverbank.

Parking is also an issue on Crawford Street, Courtney Street and Morgan Street and the 7 planned visitor parking spaces on Crawford Street at the front of the building is going to cause further stress and difficulties for existing residents! Most of the cars parked there are not associated with the existing Gwent car sales premises as believed and are often parked up and not moved for a considerable amount of time.

We are also concerned about structural damage - the flats would need under-pinning, which will cause vibrations.

Damage to the structures of the present houses, many of which are early 20th century. And as you know drainage and flooding issues have been an issue on existing streets. I hope the council will consider the impact of this on local residents when considering this application.

Will an adequate assessment of the area be carried out if this goes ahead. My house vibrates when some of these extremely heavy vehicles pass by.

It's nice to see there's not a suggestion for HMOs or hostels. My complaint is that this area is a busy residential area, an area that is segregated by the river and railroad. There are two main entrances or exits to this overpopulated area. There is one entrance off Clarence Place and another entrance off Caerleon Road; however, only one car can pass under this bridge.

My fear about living in this area is that if something happened to one of these bridges, then it would cause huge congestion, especially if something were to happen near the high bridge by Clarence Place. If something were to happen here, a fire engine wouldn't be able to get into this area because the other bridge is too low. The only other entrances and exits in this area are by foot. Under a subway or a hump bridge.

This area is very heavily populated; more benches are needed for people to enjoy it. It's disappointing that the funding for Glebelands hasn't been carried out by the new housing estate leading up to the Glebelands

GPs and dentists are struggling. We have a new hospital that is 20+ years out of date. New schools are needed for all this increase in housing, and, so, say affordable housing. I'd like to see this affordable housing, as I'd love to move away from the river. It's frightening, especially when those high tides happened in Newport a few years ago. The water was pretty close to the top of the flood defence wall. Mix this with the poor drainage system and the increase in sea levels. I fear that this area, along with many other areas in Newport, could be wiped out. Hopefully, we'll all be able to escape safely via the very few exits.

Due to many years of heavy goods vehicles and new buildings, I also fear a massive sinkhole happening. I fear that the ground is close to the river and has suffered so much trauma over the years, making the ground weaker. There's only one entrance/exit for these big vehicles, the high rail bridge by Clarence Place.

There are a number of reasons for our objections, which are basically set out as follows:

1. There is insufficient parking for the number of properties envisioned for the development.

As resident of Crawford Street I do not recognise the report prepared as it pertains to parking. The street is regularly overfull, requiring parking in nearby streets.

2. Environmental concerns - there are significant traffic flows to and from the industrial estate at the end of Crawford Street. An increase in traffic to this extent, directly opposite a park, is extremely likely to dramatically increase pollution in an area where children regularly play.

3. Not in keeping with the character of the area - the design, whilst aesthetics unpleasing, is in direct contrast to that of the local area. The entirety of the area consists of two storey properties in terraces of approximately 3 or 4 houses. The density of housing proposed is ill conceived. There are no other social housing projects in the immediate vicinity, and there is

serious concern that such a development would negatively effect the house values in the area.

4. Anti-social behaviour - though not referred to in the literature provided to residents, the aim of this housing (according to the developers representative) is to create social housing for those moved or otherwise unsuitable for other social housing. It should come as no surprise that this raises serious concerns regarding anti-social behaviour. Particularly, again, directly opposite a children's play area.

This proposed development is entirely without merit or proportionality, and ought to be rejected.

As we were not given any notice of the impending application, and therefore provided no further opportunity to object, we would welcome an opportunity to put forward our views at a meeting of the planning committee if possible.

- 6.2 COUNCILLOR PHIL HOURAHINE: Please note only the Turner Street access is acceptable. As I'm sure you know such assurances were made during the Riverside development. And often disregarded with any number of excuses being offered. If Turner Street only can be written into the conditions, we have no objections. If not please advise so I can request to speak at the planning meeting.
- 6.3 COUNCILLOR CARMEL TOWNSEND: I would like to stress the limited "green space" in the proposal. In the original documents I saw, it was suggested that the children's play area, known locally as "the Patch", would be considered as a recreational space. I would like the planning committee to rule this out as part of the flats development. It is not right that young children should lose an amenity in an area short on green space. It is also not fair to people renting these properties to have to sit in a children's play area, to get some fresh air. Parking spaces need to be looked at too.

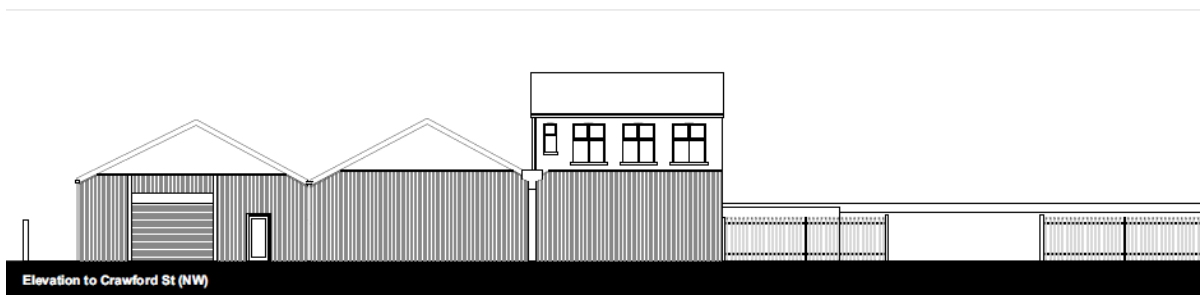
## 7. ASSESSMENT

- 7.1 The site is a broadly rectangular shaped parcel of land having an area of just under 2000m<sup>2</sup>. It fronts Crawford Street to the west with Herbert Road at the rear of the site. Neighbouring land uses are predominantly residential with the exception of a car spraying business and tattoo studio immediately south of the site and other commercial uses further beyond. A public park is located opposite the site off Crawford Street. To the rear of the site further east of Herbert Road is a railway line. Whilst the topography of the site is flat with level access from Crawford Street and Herbert Road, it is lower than the railway line east of Herbert Road. There is an existing strip of overgrown land between Crawford Street and Herbert Road immediately to the North of the site, this separates the site from the adjacent house on Crawford Street and does not form part of the application site.
- 7.2 The proposed layout would include the apartment building sited adjacent to the western site boundary and set off the northern and southern boundaries with neighbouring residential properties. Vehicular access is proposed from Crawford Street via a ramp leading to parking with refuse collection from Herbert Road at the rear of the site via a gated access. Other than this the rear of the site shall have no other vehicular or pedestrian accesses. The parking courtyard is partially covered by the building with a series of columns supporting the raised first floor apartments above. The columns have been aligned with the car parking layout and are set back 600mm to improve access to the spaces. The car park will include suitable infrastructure to allow EV charging points to be installed for all parking spaces. Also at the rear of the site is a bin store. A sprinkler room housing a tank and pump is shown underneath the overhang of the building and bicycle store is shown to the south of the site. Soft landscaping is shown along the frontage of the site, as well as to the rear. Areas of rain gardens and areas for SUDs drainage are provided around the site but we understand approval for sustainable drainage on site is pending at time of writing. This is a separate regulatory process and should not delay consideration of this planning application. In terms of boundary treatments 1100mm high powder coated metal bow topped railings are indicated to the front boundary with Crawford Street.

- 7.3 The apartment building would measure 50m in length, 18m in depth and 10.6m in height. Visuals of the front and rear of the proposed building can be seen below:



- 7.4 For comparison the existing buildings are shown below:



The maximum height of the largest of the existing buildings is approximately 9.2m with the ridge height of the adjacent pitched roof buildings being approximately 6.8m.

- 7.5 The main entrance to the proposed building is entered at pavement level with a half flight of steps to the ground floor level, which is raised by approx. 1.6m which sets the finished floor level at 9.3m AOD for reasons of flood risk. There is a second access at the southern end of the building although will generally be reserved as a fire exit from the secondary staircase and access to the bike store. The main pedestrian entrance off Crawford Street is a glazed entrance lobby which includes the main staircase and a lift.
- 7.6 Residential properties in the vicinity are predominantly two storeys and of traditional design. In contrast the proposed apartment building is three storeys in height and of greater massing with contemporary features. The scale and design of the building has been the subject of considerable discussions between the applicant and officers during the course of the

application and at pre application stage, and subsequently the design has been revised essentially reducing the bulk of the building at upper floor level and the number of units reduced from 35 to 30. Whilst this is more than the 10 units that the site is identified for within the LDP and the previous consented scheme (now expired) the increased density is not objectionable in principle and higher densities are favoured in sustainable urban locations. However, it should be noted that the LDP has no maximum density requirement, only a minimum density requirement of 30 dwellings per hectare to ensure an efficient use of land. The development would comply with this requirement. However, officers must consider the appropriateness and acceptability of the proposals having regard to all other relevant considerations. The demolition of the existing buildings and introduction of a residential use is more in keeping with the character of the area and conducive to neighbouring residential development and this merit of the scheme must be afforded significant weight in the decision making process.

7.7 A further key change to the design of the building undertaken during the course of the application is the addition of balconies to all of the apartments. This is the only private outdoor amenity space that the occupants would have access to although some communal space is provided around the building. This matter is discussed further under the amenity section of this report. The proposed site plan can be seen below with solar panels indicated on the roof of the building.



## 7.8 **Design**

Given the depth of the building, which is needed to achieve the required density, a flat roof design is proposed to avoid the bulk and massing that a pitched roof would create. To further reduce the perceived scale of the building the top floor of the building would be clad with a dark metal cladding system to create the sense of a roof and to create the impression of a two storey building with accommodation in the roof. Extensive discussions relating to the building design and scale resulted in this feature and reductions to the building area on each



side with a corresponding decrease in unit numbers (5 less than originally proposed). The front and rear façade of the building would feature balconies with those on the front elevation “framed” by feature banding that will direct views of users forward over the nearby open space. These features along with a variation in materials; namely red facing brick plinth, white render, metal cladding for roof, help to break up the expanse of the building façade and introduce welcome relief to the building to avoid it appearing bland and box-like. Windows will be grey powder coated aluminium to compliment the vertical cladding to the upper floor with reveals to further add texture to the elevations. Solar panels are proposed on top of the flat roof of the building.

- 7.9 To the front of the building the pedestrian entrance would be situated off centre of the building opposite the side elevation of no.1 Courtney Street. This, along with the location of the access ramp at the northern end of site is deliberate and minimises habitable accommodation opposite 1 Courtney Street and creates a good buffer to 24 Crawford Street. The building will be seen as distinctly separate to the existing development adjoining, a new and contemporary addition that will add interest to the street scene and will replace buildings of no architectural merit. Pedestrian access would also be provided to the rear of the building from the parking area. A central hallway on all three floors would provide access to the apartments with half of the apartments orientated towards Crawford Street and the other half towards Herbert Road. As noted above, all of the apartments would have balconies off the lounge/dining areas. The provision of balconies is in accordance with the Council’s New Dwellings SPG and is a key part of the acceptability of the scheme in this instance given the limited opportunity for usable communal space on the site. These balconies are also a feature that has been added to the scheme over the course of application consideration and discussion with officers and are seen as an important and welcome outdoor space for each apartment.
- 7.10 Whilst it is acknowledged that the scale and massing of the development is not akin to neighbouring development, this does not necessarily mean it is unacceptable. The site is currently occupied by large, industrial style buildings with no architectural merit and has a partial site frontage which is enclosed by industrial style pallisade fencing. The existing buildings and boundary enclosure are not considered to contribute positively to the amenity of the street scene or character of the area. In contrast, while the proposed apartment building has not sought to replicate the design or appearance of neighbouring development; in part due to the flatted nature of the accommodation that is sought, site constraints and a preferred contemporary approach to the design; the scheme design and scale have improved over the course of consideration and the applicant has co operated with officers in achieving these changes. The resulting building and layout is now considered acceptable in these respects.
- 7.11 Similarly, whilst balconies are not characteristic of the traditional style dwellings in the vicinity of the site, given the flatted nature of the proposed development and limited opportunity to provide external communal space within the confines of the site, the balconies will provide a small but valuable external area for the occupants of each apartment to utilise. The glass balustrades are considered to contrast pleasantly with the other proposed materials. The projecting balconies will be read as an intrinsic part of the design of the building as opposed to ad-hoc additions and it is not considered that these features will result in an adverse impact to the amenity of the area. The use of variable materials, integral outdoor space via balconies and general proportions and detailing on the building are considered acceptable. The design has sought to add interest and variation to the street scene in a positive way without being oppressive or incongruous having regard to existing site conditions and prevailing character.
- 7.12 Due to the requirement to raise the site levels in the interest of flood risk retaining walls are required to the north, east (rear) and south of the site. No retaining walls are required to the front of the site along Crawford Street which is instead treated with a landscaped frontage and railings to ensure visual softening and defensible space. The retaining walls would have a maximum height of 2.6m and are shown to be smooth finished concrete. The retaining walls either end of the development would reduce in height where they meet Crawford Street and it is not considered that the retaining structures would result in an adverse visual impact to the street scene or character of the area. The most prominent retaining wall will be at the rear of the site along Herbert Road. Herbert Road is not fronted by dwellings and is a low trafficked road, as such the retaining wall would not result in an adverse impact to a prominent

street scene. However, the wall will require railings or similar above in the interests of safety of the users of the site to prevent them falling. These walls will also need to be finished in robust and visually acceptable materials and colours that will age well. It is considered that a condition requiring full details of such treatment to be submitted for approval is warranted.

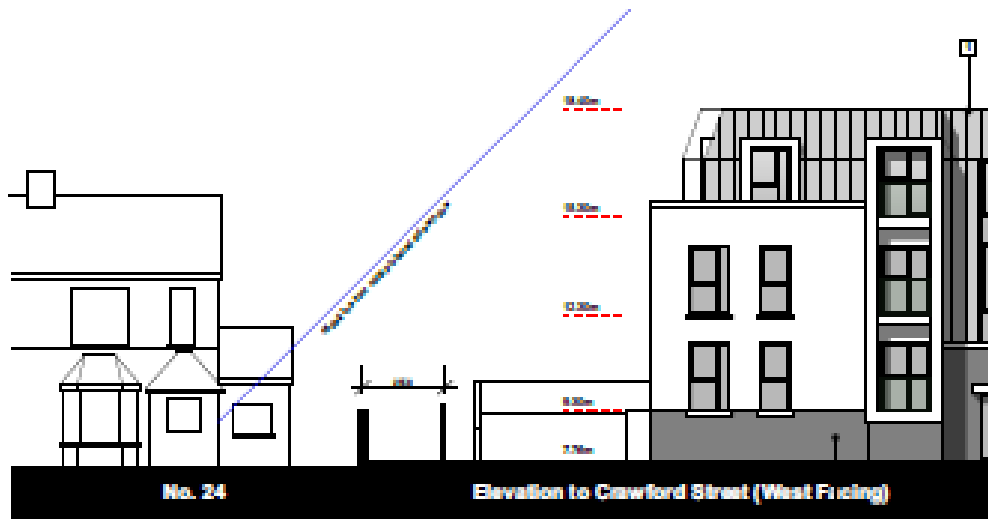
### 7.13 **Amenity**

As noted above the proposed building is larger than neighbouring buildings and has potential to result in an increased/altered impact in terms of neighbouring amenity. The nearest neighbouring properties are no. 24 Crawford Street to the north, no.4 Crawford Street to the south and no.1 Courtney street to the west of the site on the opposite side of the road. All of these properties are sited side-on to the site. The front elevation of the apartment building would be sited approximately 17m away from the side elevation of no.1 Courtney Street. This property has a ground floor window in the side elevation facing the development which given the size is likely to serve a habitable room and has been considered as such for the purpose of assessing acceptability in terms of the relationship with the proposed development. However the window has limited privacy as directly abuts the public highway. The Council's New Dwellings SPG specifies a minimum distance of 21m for window-to-window relationships such as this and the proposals fall short of this. However, the design of the building has been adapted to take account of this with the building entrance located directly opposite the window. As such there will be no habitable room windows directly opposite the window although some windows north of the main access are present and will afford views of this existing property across the street. However, as mentioned, this window is already vulnerable to overlooking by passers by and the level of privacy that the occupants of the property currently experience is considered to be limited via this window. Furthermore, the layout of the proposed development means that this property's garden space is not directly overlooked and whilst more oblique views will be possible from proposed upper floor windows these will be at greater distance and not unlike the mutual overlooking that already occurs at the rear of the Courtney Street terrace. Taking account of these factors, it is considered that the relationship between the development and this property is acceptable. The SPG specifies a minimum distance of 10m where there will be direct overlooking from upper floor windows and private amenity space and the proposals would exceed this with a distance of approximately 16m between the windows and the boundary of the rear garden serving no.1 Courtney Street.

7.14 Turning to the relationship with no. 24 Crawford Street, as previously noted the building would be sited side-on with this property with a distance of over 12m between the nearest part of the dwelling which is a single storey side extension. Three windows are proposed in the side elevation of the building (one on each floor). The windows would serve the communal hallways and whilst located over 10m away from the side garden boundary of the property it is considered that a condition requiring the windows to be obscure glazed and fixed shut is warranted in the interests of neighbouring amenity. Due to the depth of the building the rear elevation would be set well back into the site and any views from windows in the rear elevation of the building would be towards the gardens of neighbouring properties and would be at an oblique angle. The ramped vehicular access to the development would be adjacent to this property at a distance of over 5m away from the nearest part of the dwelling. The maximum height of the retaining wall enclosing the ramp would be approximately 2.4m in height and it is considered that this relationship is acceptable.

7.15 In terms of any potential light impact to this property and having regard to the light tests as set out in the New Dwellings SPG, this states: "Due to the established layout and acceptability that properties can be positioned closer side by side, the 25° test on a side facing protected window is considered to be too strict to satisfy. Therefore, to consider the impact of a proposed development on a protected side window, a 45° test will be applied. The consideration here is not only on the loss of light, but of overbearing as well. The proposals would comply with the light test in relation to the window in the side elevation of no.24 as can be seen from the image below. It is unknown whether this window serves a habitable room but in any case the proposals have been assessed on the basis that it does. There is a further ground floor window facing Crawford Street and in a side extension which appears to be a protected window and the proposals pass the light tests in relation to this window. Whilst some overshadowing may occur from the building towards no. 24 which is located on its northern side, the separation distance that is now achieved and the reduced massing at

upper floor will limit this in practice, and over and above the shadow caused by existing industrial buildings, the effect of the new building is considered to not be of demonstrable harm.



7.16 In terms of the relationship with no.4 Crawford Street, there would be a distance of approximately 6m between the side elevation of the apartment building and the side elevation of no.4 which has no windows in the side elevation and this relationship is also considered to be acceptable and would not result in an adverse impact to neighbouring privacy or amenity. As noted above, windows are proposed in the side elevation of the building to serve the communal hallways and a condition requiring the windows to be obscure glazed and fixed shut other than in the event that the fire alarm is activated is warranted in the interests of neighbouring amenity. A communal area is proposed adjacent to the side boundary with no. 4 but this will be at street level and compatible with the garden level of no. 4. An existing 1.8m high wall is retained. There is a 430mm strip between the development and the adjacent neighbours on this boundary to allow for a drainage channel to connect to the rain garden at the front of the site. This strip means that the communal area is set slightly off the neighbouring boundary which helps to improve the relationship. The rear parking area will be elevated and its level will be only just below the existing intervening boundary wall. The applicants propose a timber privacy fence/enclosure atop of this to prevent overlooking and this feature will be no closer to no. 4 than the existing industrial buildings located at its rear that include upper floor windows that already directly overlook the house. By setting the elevated level of site behind the building line of the retained industrial buildings to the rear of no. 4, risk of overbearing effect is mitigated. A condition requiring full details of all means of enclosure is considered warranted in the interests of both visual and neighbouring amenity.

7.17 As previously noted the demolition of the existing buildings and introduction of a residential use is more in keeping with the character of the area and conducive to neighbouring residential development and must be afforded significant weight in the decision making process.

7.18 In terms of the amenity of the future occupants of the apartments, the apartment sizes accord with the Council's New Dwellings SPG which specifies minimum desired standards for gross internal floor space as 43m<sup>2</sup> for a one bedroom apartment with common access and 59m<sup>2</sup> for a two bed apartment with common access. The apartments would have 47.6m<sup>2</sup> and 60m<sup>2</sup> internal floor space respectively. The SPG also specifies desired standards for communal amenity space. The scheme does not provide any meaningful communal space for the residents. However, each apartment would benefit from a balcony. The SPG recognises balconies as providing beneficial amenity space. The table below sets out the required dimensions for balconies which the scheme is in accordance with:

| <i>Type of home</i> | <i>No. of beds</i> | <i>Type of amenity space</i> | <i>Desired space</i>                                    |
|---------------------|--------------------|------------------------------|---|
| Flat                | 1                  | Balcony                      | 1.50 square metres (depth) x 1.50 square metres (width) |
| Flat                | 2                  | Balcony                      | 1.50 square metres (depth) x 2.00 square metres (width) |

- 7.19 The SPG recognises that physical and financial constraints sometimes prevent a development from providing on-site communal amenity space and states that in such circumstances, the council may seek contributions towards the improvement and/or provision of local public open space (in addition to standard planning contributions). However, given the affordable nature of the development and in accordance with the Affordable Housing SPG such contributions have not been requested in this instance. Any communal space provision in this case would impact off site parking and overall quality of layout and likely be contrived in any case. There is little point in providing space that would not be attractive to or used by residents. Whilst some green space is proposed on site and provides some visual softening of the rear parking court in particular, it is not relied upon as outdoor amenity space for residents. The existing established park opposite the site is a much more attractive feature and even if space were provided on site, this park would likely prove a much more engaging and peaceful space for future residents
- 7.20 On balance, taking account of the fact that the internal space complies with the Council's standards, that the apartments all have balconies and also the presence of a public park directly opposite the site which offers provision for the occupiers of the apartments to enjoy outdoor amenity space within very close proximity, it is considered that the development would provide a good standard of amenity for future occupants.
- 7.21 Given the proximity of the site to local noise sources including a railway line the application is supported by a noise assessment. The Council's Environmental Health officers confirm the assessment to be acceptable and no objections are offered subject to the inclusion of conditions to ensure that the development is constructed to standards that will ensure it protects residents from external noise. Balconies are proposed to the rear of the building and the railway line is located within 30m of this. It is not possible to mitigate for noise levels that will be experienced by occupants using the balconies to this side of the building. However, it is accepted that noise levels experienced to external areas will be higher than the internal accommodation and this is not considered to result in an adverse impact to the amenity of the occupiers and is preferable to having no private amenity space at all. The passage of trains and the noise this generates is different, for example, to constant noise that can arise from industrial and similar activities and on balance access to private outdoor space for these residents, albeit space that may experience audible rail noise, is acceptable and welcomed.
- 7.22 As previously noted, the proposals include a communal bin store at the rear of the site to be serviced via Herbert Road which the Council's Waste Manager has confirmed is acceptable. The Council's Waste officer has provided details of the number and size of refuse bins that are required and the bin store would exceed this. The bin store is within the permitted travel distance from the building entrance as per the Council's Waste SPG which specifies a maximum distance of 30m whereas the bin store is within 20m walking distance. In accordance with DQRs there is allocated storage space within the kitchens for waste and recycling.
- 7.23 **Highways**
- The proposals include the provision of 30no parking spaces underneath the apartment building and at the rear of the site. This number of parking spaces is less than the Council's Parking Standards which specifies one space per bedroom to a maximum of 3no spaces. There is also a requirement for visitor parking provision (6 spaces). The application includes a sustainability assessment to justify a reduction in parking provision. The assessment provides details of facilities including a post office (Caerleon Road), food store (Tesco, Caerleon Road), Dentist (94 Caerleon Road), Glan Usk Primary School, Pharmacy (Boots, Caerleon Road) within a maximum of 800m, as well as public transport connections with good frequency on Junction Road, a cycle route and a district centre on Caerleon Road. The site scores a maximum of 9 points and in accordance with Newport's Parking Standards a reduction of 1 space per unit is justified (with at least one space per unit). 6no visitor parking spaces are required totalling a requirement for 36no spaces.
- 7.24 The SPG allows for a further reduction in parking provision where it can be demonstrated that the parking can be accommodated locally on-street. The application is accompanied by a parking survey. The survey concludes that there were 264 parking spaces available within 200m walking distance of the site at the times surveyed. The survey was carried out

overnight on Thursday 5<sup>th</sup> September 2022 and Tuesday 20<sup>th</sup> September 2022 between 12.30am and 5.30 am. This is to ensure that the maximum demand for residential parking is captured overnight. These surveys followed the principles set out in the industry standard London Borough of Lambeth's 'Residential Parking Survey Methodology'.

- 7.25 The surveys covered a two-minute walk from the site (up to 200m), and included all roads within 200m of the site, as applicable in dense residential areas (in accordance with the Lambeth Methodology). This is considered a reasonable distance that a resident is prepared to leave their vehicle and walk to their home. In accordance with Lambeth's methodology, surveys were continued to the end of the street (or suitable location along a road even where this is beyond the 200m walk distance). The methodology and findings of the survey are accepted and it is considered that it has been demonstrated that there is sufficient space on the adjacent streets to accommodate the parking demand generated by the proposed development above that provided on site. The Council's Highways officers confirm that taking account of the survey no objection is offered to a reduction in parking provision. Weight must also be afforded to the fall-back use of the site for car sales. Such a use would inevitably result in a significant number of vehicle movements as well as vehicle transporters coming to and from the site, which can be disruptive to neighbouring uses, particularly in this instance given the surrounding residential uses. Parking occurs on street in connection with this use also. Whilst the concerns of residents are noted and many houses rely on the street for parking, this proposal provides acceptable off road parking for occupiers and visitor parking can be accommodated on street and is unlikely to cause greater disruption or any amenity impacts over and above consideration of parking and access associated with the existing site use.
- 7.26 The Council's Highways officer confirms the proposals are acceptable with regard to refuse and other servicing as well as cycle storage and visibility splays at the site vehicular access which are shown to be 2.2m x 25m in either direction.
- 7.27 A Construction Management Plan is requested and subject to this and a condition requiring the provision of visibility splays either side of the access to be maintained and kept clear of obstruction, no objection is offered to the proposals.
- 7.28 Concerns have been raised by the ward Councillor with regard to the construction traffic routing and confirmation that this route will be via Turner Street only has been requested. There are bridges in the vicinity of the site with height restrictions (East Usk Road and Turner Street) and whilst details of construction traffic routing would ordinarily be required by condition if considered warranted, the applicant has provided details of the intended route as part of the application to alleviate any concerns. The applicant advises that as the proposed construction method for the apartments is timber frame the largest products that will be delivered to site are the timber frame panels themselves. These will require a crane to erect. The proposed timber frame supplier/installer has assessed access to the site and has confirmed that both routes are acceptable and that their vehicles and cranes can safely negotiate the bridges and routes to the site, either the Crawford Street or Herbert Road entrances. Both bridges are also navigable by concrete wagons, which are the next largest vehicles that will need to access the site during construction. The applicant has confirmed that the selected route will be Turner Street and that the CEMP will include specific instructions for construction traffic to only use this access route. The developer/contractor has confirmed that this policy will be policed to the best of their ability and that all site workers, sub contractors and suppliers will be given specific instructions to adhere to this policy. The CEMP will also include timing restrictions for deliveries to avoid peak times at the Turner St bridge. This will reduce the likelihood of delays at that point and ensure that Turner Street is the most efficient access point.
- 7.29 The route can be secured by condition as part of a Construction Management Plan condition. Officers consider that the Turner Street route offers the most logical and least disruptive option. Residential streets between East Usk Road and the site are less appropriate, being more densely populated and often intensively parked. Scope for conflict with residential and construction traffic is much greater. Therefore, officers consider that the agreed construction route should be via Turner Street only.

- 7.30 The Councillor has also queried the status of Herbert Road as this was initially proposed as the main access to the building. However, this is no longer the case and access to the site would be from Crawford Street which is an adopted road and no concerns are raised by the Council's Highways officer with regard to this.
- 7.31 **Flood Risk**
- NRW Flood Risk Map confirms the site to be entirely within Zone C1 of the Development Advice Map (DAM) contained in Technical Advice Note 15 (TAN15). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 2 and 3 (Sea). Section 6 of TAN15 requires the Local Planning Authority (LPA) to determine whether the development at this location is justified.
- 7.32 TAN15 classifies residential development as highly vulnerable development and should only be permitted within Zone C1 if determined by the LPA to be justified in that location. 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<sup>1</sup>; **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; **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.
- 7.33 NRW have reviewed the FCA accompanying the application and advise that the FCA fails to demonstrate the risks and consequences of flooding can be managed to an acceptable level because the site access in the vicinity of the highway connection and the bin storage area are predicted to flood during a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event. The FCA considers this is necessary to make the connection to the highway and to provide level access to the highway for waste collection. However, in line with A1.14 of TAN15, the development (everything within the red line boundary) should be designed to be flood free. Therefore, NRW's assessment is based on this.
- 7.34 The FCA states the current site level ranges from 7.95-7.61m AOD with the existing building set at 8.01m AOD. It is proposed the development site will be raised and levelled to 9.2m AOD for the car park, and 9.3m AOD for the proposed buildings. To facilitate connection to the existing highway, the site access shall be ramped from 7.6m AOD to 9.2m AOD, and the bin storage area will have a finished floor level of 7.92m AOD to provide level access to street level.
- 7.35 With the proposed ground raising, the FCA shows:
- During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the proposed buildings and car parking are predicted to be flood free. This meets the requirements of A1.14 of TAN15;
  - During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the site access in the vicinity of the highway connection with the adjoining site is predicted to flood to a maximum depth of 1.39m. This fails to meet the requirements of A1.14 of TAN15. The FCA considers this is necessary to make the connection to the highway;
  - During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the bin storage area is predicted to flood to a maximum depth of 1.07m. This fails to meet the requirements of A1.14 of TAN15. The FCA considers this is unavoidably required to provide level access to the highway for waste collection. The FCA states should flooding of this area occur waste will be confined to storage bins and the bin store locked and this will prevent the mobilisation of waste in floodwater.
  - During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event, the proposed car park is predicted to flood to maximum depth of 550mm and the

proposed buildings are predicted to flood to a maximum depth of 450mm. These flood depths are within the tolerable limits of A1.15 of TAN15;

- During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event, the site access in the vicinity of the highway connection with the adjoining site is predicted to flood to a maximum depth of 2.15m. This exceeds the tolerable limits of A1.15 of TAN15.
- During a 0.1% (1 in 1000 year) plus climate change (2122) annual probability tidal flood event, the bin storage area is predicted to flood to a maximum depth of 1.83m. This exceeds the tolerable limits of A1.15 of TAN15.

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

### **Test 1 – Justification**

- 7.37 **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**

Located within the settlement boundary and identified for housing in the adopted Development Plan, Officers consider that the development is necessary as part of a local authority strategy required to sustain an existing settlement.

- 7.38 **It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1)**

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 satisfies this test and meets the definition of Previously Developed Land.

- 7.39 **Tests 2 to 12 – Consequences of Flooding**

Moreover, 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, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

***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).***

NRW have not objected to the development on the basis of inadequate flood 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.***

No flood mitigation measures proposed as part of the development.

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

It is intended to notify the developer of this by way of an informative to the planning consent.

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

NRW identify that whilst they seek to provide timely and robust warning they cannot guarantee their provision. No objection is offered by NRW on this basis.

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

The model suggests one full tidal cycle will occur before the most extreme flooding occurs, during which low lying areas of Newport are flooded. Although the peak of flooding occurs 16 hours into the simulation, the flood warning lead time should be significantly greater than this and allow for early site evacuation. The FCA states after 17 hours flood water ponds around the site and flood depths begin to decrease. After a few hours, flood depths recede to tolerable limits allowing pedestrians to evacuate the site and follow Courtney Street onto dry land on Riverbank Avenue.

Vehicular access is possible after approximately 10 hours after peak tide when flood depths decrease to tolerable depths of below 600mm. It confirms at the peak of flooding at 16 hours most areas locally experience low flood velocities typically <0.3m/s and by 24 hours all floodwater in the area has all but stopped moving with all velocities in the area under 0.3m/s and most areas well below 0.1m/s.

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

A Flood Emergency Plan has not been prepared.

The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements document is acceptable and effective. These procedures would be the responsibility of the developer.

***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 and 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.***

During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the site access in the vicinity of the highway connection with the adjoining site is predicted to flood to a maximum depth of 1.39m. This fails to meet the requirements of A1.14 of TAN15. The FCA considers this is necessary to make the connection to the highway;

- During a 0.5% (1 in 200 year) plus climate change (2122) annual probability tidal flood event, the bin storage area is predicted to flood to a maximum depth of 1.07m. This fails to meet the requirements of A1.14 of TAN15. The FCA considers this is unavoidably required to provide level access to the highway for waste collection. The FCA states should flooding of this area occur waste will be confined to storage bins and the bin store locked and this will prevent the mobilisation of waste in floodwater.

The residential accommodation and parking area would be flood free.

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

The FCA evaluates potential third-party impacts by considering any change in the flood hazard rating in the surrounding area due to the proposed development. It is shown the flood risk impact of the development on the surrounding area is negligible, with no identifiable change in flood hazard categorisation predicted because of the development.

TAN15 states there should be no increase to third parties because of development, even those areas already at risk of flooding during the extreme events. Typically, NRW deem



an increase of approximately 5mm as acceptable. Although there is a predicted flood depth increase of up to 2cm to areas in the west of the proposed development, using the Post-development Model results in Section 5.3.2, it appears the existing flood depths in the surrounding area are 1m plus, therefore the 2cm increase to flood depths will be to an area already experiencing significant flooding. NRW advise that the use of the comparison hazard matrix is useful to further assist your Authority in your decision making.

**Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.15) 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.**

The proposals would not accord with this. Although the accommodation would be flood free, due to the need to connect the site to the highway to provide level access for waste collection the site would not, in its entirety, be flood free.

**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 1000mm 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 0.45m/second in properties and the maximum rate of rise of floodwater would not exceed 0.3m/hour (refer to table at paragraph 7.7.41).**

The FCA suggests one full tidal cycle will occur before the most extreme flooding occurs, during which low lying areas of Newport are flooded. Although the peak of flooding occurs 16 hours into the simulation, the flood warning lead time should be significantly greater than this and allow for early site evacuation. The FCA states after 17 hours flood water ponds around the site and flood depths begin to decrease. After a few hours, flood depths recede to tolerable limits allowing pedestrians to evacuate the site and follow Courtney Street onto dry land on Riverbank Avenue. Vehicular access is possible after approximately 10 hours after peak tide when flood depths decrease to tolerable depths of below 600mm.

It confirms at the peak of flooding at 16 hours most areas locally experience low flood velocities typically <0.3m/s and by 24 hours all floodwater in the area has all but stopped moving with all velocities in the area under 0.3m/s and most areas well below 0.1m/s.

The properties will be flood free in all events, the access road will not be flood free in the extreme event and will flood in excess of 1m. However, velocities are expected to be within the tolerable limits. This test is not met by reason of the excess water on access roads in the extreme event.

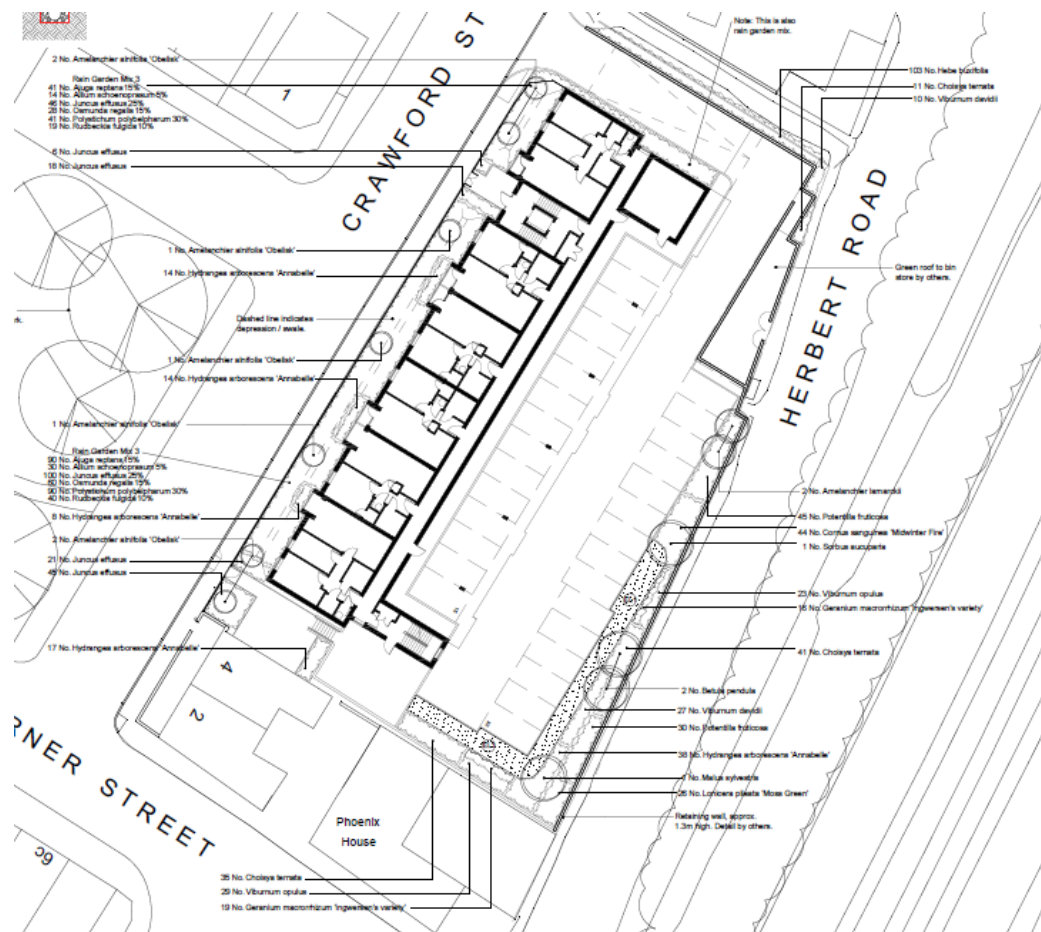
- 7.40 In summary, the FCA has demonstrated that based on the proposed finished ground levels, the residential element and the car parking element of the proposal are predicted to be flood free and it includes an assessment of the 0.1% (1 in 1000 year) event including climate change allowance (CCA) over the life time of development. The site access in the vicinity of the highway and connection and the proposed bin store are predicted to flood and are therefore not compliant with TAN15. However, this is necessary to make the connection to the highway and to provide level access to the highway for waste collection.
- 7.41 Access and egress routes generally have low velocities but many roads will become unpassable and unsafe and exceed tolerable limits in Tan15.
- 7.42 It should also be noted that as the nature of the flood risk is tidal there is likely to be advanced flood warning time of 24-48 hours. During a flood event, residents that remain are likely to be required to stay in their homes whilst floodwaters recede but this will be a common feature in this area where many existing units are likely to experience a degree of flooding with access routes potentially unpassable. The units proposed are shown not to

flood. The parking area is shown not to flood. Based on site location and local topography however, escape routes during a flood event cannot be shown to be passable during all conditions and a period of containment would be required for future residents pending floodwaters drawing back. This period of containment is predicted to be no more than 24 hours based on the flood consequences assessment provided.

7.43 Given that the accommodation and parking area is predicted to remain flood free it is considered that the proposals do show that flood risk can be managed in an acceptable manner for future occupiers. The tests of TAN15 are not met in full but on balance officers do not consider this, in itself, to be a reason to refuse planning permission in this case.

7.44 **Landscaping**

As noted above, the proposals include details of soft landscaping which will largely be located along the site frontage with Crawford Street and to the rear adjacent to Herbert Road as can be seen from the plan extract below:



7.45 A green roof is proposed to the bike and bin store.

7.46 The Council's Landscape officer has been consulted and confirms the proposals to generally be acceptable although a greater variety of species is desired. Subject to condition relating to the finish of the retaining walls and further details of the green roofs the Landscape officer offers no objection to the proposals. The existing site is a mixture of industrial style buildings and hardstanding and offers no soft landscaping whatsoever. In contrast to this, whilst the site will be occupied by a large apartment building it is considered that the landscaping, notably to the site frontage, will offer a pleasant greening along the street edge in an environment where front walls and hard frontages are dominant.

## 7.47 **Air Quality & Contamination**

The site is within the vicinity of the Chepstow Road AQMA. The Council's Senior Scientific officer has been consulted and advises that he would have concerns about any development which could give rise to any increase in emissions locally and advises that the application should be supported by a simple air quality assessment (AQA). The applicant has not undertaken such an assessment but has set out the justification for this and why they consider that the development will not result in an adverse air quality impact including the following:

*An AQA requires an initial assessment of the net change in traffic generation between the existing situation and the proposed situation. The Council's Highways Officer has previously confirmed that the proposed development is likely to generate fewer vehicle trips than the existing use. In addition, the existing operation involves the running of cars as part of the operation (garage and car servicing). The AQA also requires a list of all possible measures that could be included in the development to minimise emission producing traffic to and from the site. Given that the proposed development is likely to generate less car trips than the extant use and the scheme will include electric charging points to promote the use of electric vehicles, air quality is not seen as an impediment to the proposed development. The applicant confirms that the following measures will be included as part of the development:*

- *Electric vehicle charging infrastructure;*
- *A Travel Plan will be produced which sets out measures to reduce vehicle trips including a list of public transport options. It is anticipated that the plan will be secured by planning condition.*
- *Secure cycle storage will be provided on site.*

*The existing garage will be vacated and demolished. The construction traffic will be subject to restrictions that will reduce any impact on the nearby AQA (and buffer zone). These measures are set out in a separate submission. The current operation repairs and maintains petrol and diesel vehicles, many of which are run on site as part of the maintenance process. It is anticipated that the proportion of electric vehicles using the site will increase over time and will eventually be 100%. This is significant reduction in emissions from the site. In addition, the site is in a sustainable location and scores highly in the sustainability calculator included in the Parking Standards SPG. The easy access to public transport and local amenities reduces the need for car trips to and from the site.*

- 7.48 The Council's Senior Scientific officer has requested a number of conditions including ones relating to the building itself including a requirement for net zero heating and also to ensure that the landscaping proposals include species that are beneficial for air quality. In response to this the applicant advises that as part of Welsh Government funding requirements the apartments are required to achieve at least an A rating on SAP/EPC assessment. There is also a requirement to provide enhanced fabric values, over and above current Welsh Building Regulations. The apartments will be all electric which will reduce emissions locally, with a considerable proportion of the required electricity coming from PV panels on the roof, which will reduce the energy consumption and therefore emissions more generally.
- 7.49 With regard to the request for landscaping to include species that are known to benefit air quality, whilst this request is duly noted, the landscaping proposals have evolved over the course of the application with input from the Council's Landscape officer. Given that the proposals are not considered to result in a worsening in terms of air quality when taking account of the extant use, which is a material planning consideration which must be afforded significant weight in the decision making process, it is not considered that a revised landscaping scheme is warranted. Furthermore, landscaping per se has beneficial wellbeing, ecological and air quality effects.
- 7.50 Conditions relating to the provision of a scheme of Ultra Low Energy Vehicle infrastructure and construction routing to avoid the AQMA insofar as possible is considered justified. The construction routing can be included as part of a construction management plan condition and a condition for a scheme of EV charging capabilities on site is recommended.

7.51 The Council's Senior Scientific officer advises that a former brick works, infilled ground and saw mill was present at land this site is part of. As such land contamination will be a material consideration. The site is accompanied by a contamination report. Various contaminants have been observed and groundwater monitoring appears to be warranted. Appropriate conditions are requested and recommended.

#### 7.52 **Ecology**

Whilst the site currently has a low ecological value the application is accompanied by a preliminary bat assessment which did not detect bats roosting in the buildings. The Council's Ecology officer confirms the methodology of the report to be acceptable and advises that Section 4 of the report sets out some precautionary mitigation measures as well as some features for biodiversity net benefit which should be secured by planning condition. No European Protected Species is therefore affected by the proposals.

7.53 The site is located within 160m of the River Usk (Lower Usk) Site of Special Scientific Interest (SSSI). NRW have been consulted and advise that they consider the proposals have the potential to impact upon the River Usk (Lower Usk) SSSI. NRW have recommended conditions to ensure that the features of the SSSI will also be adequately safeguarded. These conditions are included.

#### 7.54 **Sustainable Drainage**

The development requires approval of Sustainable Drainage Systems (SuDS) features. The Council's Sustainable Drainage Manager has advised that an application has been submitted but was not approved. The requirement for SAB is set out under separate legislation and the absence of SAB approval does not warrant delays to the determination of the planning application or refusal of it.

#### 7.55 **Section 106 Planning Obligation matters**

##### Summary

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

Council policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. However, in order to safeguard any future Council infrastructure liabilities, there is a requirement to provide a S106 legal agreement in the event that any of the dwellings are sold or rented on the open market. Prior to commencement of the development, the Owner and/or Developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings. As such, the following formulas would apply:

##### **Affordable Housing**

Provide a minimum of 20% affordable dwellings on-site (mix and type to be agreed with the Council prior to commencement). Alternatively, in exceptional circumstances, an off-site commuted sum could be agreed (in accord with the Affordable Housing SPG) for the provision of affordable housing for the City of Newport.

Affordable Housing Sum will be index linked to the RPI and paid prior to occupation of 50% of the development

##### **Education**

The development falls within the catchment area of St Julian's High School and Glan Usk Primary School. Whilst it is recognised that an education contribution is requested for

affordable housing, it is necessary to ensure that dwellings sold or rented on the open market will adhere to the following formula:

- Number of secondary pupils generated by market dwellings in excess of available capacity at St Julian's High School (prior to commencement) x £29,741 = Secondary Education Sum;
- Number of primary pupils generated by market dwellings in excess of available capacity at Glan Usk Primary School (prior to commencement) x £19,034 = Primary Education Sum.

Education Sums to be used to improve and/or provide educational facilities and services. Education Sum will be index linked to the BCIS and paid prior to occupation of 50% of the development

### **Leisure**

There is a deficit of equipped and informal play provision within the St Julian's Ward. However, one bed apartments are exempt from contributing towards equipped play.

Whilst it is recognised that no leisure contribution is requested for affordable housing dwellings, it is necessary to build-in safeguards to ensure that any dwellings sold or rented on the open market, will be subject to leisure planning obligation contributions. As such, any 'open market' dwellings will be subject to a financial leisure contribution, based on the following formula:

- Number of one bed 'open market' dwellings x £397 = Leisure Sum;
- Number of two bed 'open market' dwellings x £1,916 = Leisure Sum

Leisure Sum to be used to maintain and improve formal leisure facilities serving the development. Sum to be index linked to the RPI and paid prior to occupation of 50% of the development

### **Administration Fee**

The Council charges an Administration Fee for progressing and subsequent monitoring of S106 planning agreements. The fee is calculated on the basis of 2% of the total financial contribution being sought under the agreement, or 20% of the planning application fee, whichever is the greater, subject to a minimum fee of £200. Fee to be paid prior to commencement.

The applicant has confirmed agreement to the Heads of Terms.

#### **7.56 Other Matters**

As noted above, comments and objections have been received from neighbouring residents and where material, the comments been addressed throughout this report. Concerns have been raised that the development could result in property damage during the construction phase. Issues relating to vibration are relevant, as is methodology for piling if required. This should form part of the CEMP in terms of minimising disruption in relation to dust, vibration and noise during construction activities.

- 7.57 Concerns have been raised that the proposals will result in reduction in property value for the area. This is not a material planning consideration. Concerns have also been raised regarding anti-social behaviour due to the affordable nature of the accommodation and likely occupants. Such concerns have not been substantiated and are not considered to be justified. The proposals will result in increased population in the local area with additional associated activity and movements. The building will be managed by a social landlord with tenants allocated accommodation based on their suitability and needs. This is a matter best dealt with by the social landlord. Anti social behaviour can occur in any residential situation and the character of occupants is not within the remit of the planning authority. The RSL is unlikely to want disruptive tenants for the sake of all building occupiers and neighbours. The proposal will offer enhanced natural surveillance of public spaces in the

area, particularly Herbert Road which will be overlooked by windows in the rear of the apartment building. As a residential apartment building the site will be occupied both day and night unlike the existing commercial buildings which cease use in the evenings and likely on bank holiday. Defensible boundaries with adjoining neighbours are maintained and whilst the access off Crawford Street will be open, it is not set out for pedestrian use and will clearly be seen as part of the new building development. Therefore, access by parties unconnected with the site that may pose security issues, will likely be observed by residents with accommodation close to the access and at elevated levels with windows overlooking the communal areas.

## 8. OTHER CONSIDERATIONS

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

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

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

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

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

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

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

### 8.4 The above duties have been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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

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

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

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

## 9. CONCLUSION

- 9.1 The proposal is for residential accommodation of an affordable nature on a brownfield site in the urban area identified for housing in the LDP and has considerable merit. We also understand that they will provide affordable units with the scheme managed by a registered social housing provider. Whilst it is acknowledged that the scale of the building is significant and the design is not representative of surrounding development, it is considered to be of a good quality design incorporating distinctive design features and appropriate materials combinations and proportions, particularly on the main facades. It must be borne in mind that the building will replace industrial buildings which do not benefit the visual amenity of the area. Furthermore, suitable regard has been had to the relationships with existing neighbouring development and the proposals are not considered to result in an adverse impact to neighbouring privacy or amenity, or to the visual amenity of the area.
- 9.2 The accommodation will provide a good level of amenity for future occupiers and whilst the scheme is not entirely in accordance with some aspects of TAN15, the accommodation would be flood free and NRW raise no objection to the development.
- 9.3 The development would provide less parking provision on site than is specified by the Council's Adopted Guidance but only insofar as visitor spaces are concerned. However, the site is located within a sustainable location and the reduction in parking has been justified by the submission of a parking survey following a recognised standard. The reduction in parking provision is in accordance with national planning policy which promotes the use of sustainable travel methods.
- 9.4 It is recommended that the application is granted subject to the following conditions.

## 10. RECOMMENDATION

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

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

1158.01 Rev B\_Soft landscape proposals

1528 PL2 01 Location Plan

1528 PL2 04C Proposed Site Plan

1528 PL2 05D Site/ GF Plan

1528 PL2 06D Proposed Elevations

1528 PL2 07B Site Section

1528 PL2 09 Detailed floor plans

1528 PL2 10A Upper floor plans

1528 PL2 07C Site sections

Flood Consequence Assessment Version 3 May 2023.

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 (excluding demolition), shall commence until details and plans showing the finished slab level of the building(s) hereby approved, together with cross sections through the site, have been submitted to and approved in writing by the Local Planning Authority. The finished floor levels of the development shall be set no lower than 9.2m AOD for the car park, and 9.3m AOD for the proposed apartment building. The site access shall be ramped from 7.6m AOD to 9.2m AOD, and the bin storage area will have a

finished floor level of 7.92m. The development shall be undertaken in accordance with the Flood Consequence Assessment Version 3 by JBA Consulting dated May 2023.

Reason: In the interests of visual amenities and to reduce the risk of flooding to the proposed development and future occupants in accordance with Policies SP3 and GP6 of the NLDP.

03. No development 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:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- 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 referred to in (2) 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 to demonstrate that the works set out in the remediation strategy in (3) 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 in accordance with Policy GP7 of the NLDP.

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

Reason: Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater or building damage during construction and methods/design are agreed prior to the commencement of development or phase of development in accordance with Policy GP2 and GP7 of the NLDP.

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

- Construction and demolition methods: details of materials, how waste generated will be managed, how the effects of vibration, noise and dust will be mitigated and controlled;
- General Site Management: details of the construction and demolition programme including timetable, details of site clearance; details of site construction drainage, containment areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater, and energy use.
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

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



Reason: To ensure necessary management measures are agreed prior to demolition and construction and implemented for the protection of the environment, including the nearby River Usk SAC and River Usk (Lower Usk) SSSI.

06. No works shall take place on the site at all until a method statement comprehensively detailing the phasing and logistics of demolition/construction has been submitted to and approved in writing by the Council as Local Planning Authority.

The method statement shall include, but not be limited to:

- Construction traffic routes, including provision for access to the site via Turner Street only and demonstrating how the routing of traffic during the construction phase will avoid non-M4 air quality management areas and peak periods of congestion or potential vehicle conflict, particular at Turner Street bridge;
- Anti-idling scheme aimed at all vehicles using the site;
- Entrance/exit from the site for visitors/contractors/deliveries;
- Siting of temporary containers and site compounds;
- Parking for contractors, site operatives and visitors;
- Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition/construction;
- Temporary roads/areas of hard standing;
- Schedule for large vehicles delivering/exporting materials to and from site and details of manoeuvring arrangements;
- Storage of materials and large/heavy vehicles/machinery on site;
- Measures to control noise, vibration and dust;
- Details of street sweeping/street cleansing/wheelwash facilities;
- Details for the recycling/disposing of waste resulting from demolition and construction works;
- Hours of working and construction access;
- Phasing of works including start/finish dates;

For the avoidance of doubt all construction vehicles shall load/unload within the confines of the site and not on the highway.

The development shall be carried out in accordance with the approved plan.

Reason: To ensure that adequate on-site provision is made for construction traffic, including allowance for the safe circulation, manoeuvring, loading and unloading of vehicles, as well as parking, and to reduce impact on residential amenity and the general amenity of surrounding occupiers and in the interests of air quality in accordance with Policies GP2, GP4 and GP7 of the NLDP.

07. 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 been 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 in accordance with Policy GP7 of the NLDP.

08. No development shall commence until full details of all retaining walls, parapet and vehicular ramp have been submitted to and approved in writing by the local planning authority. The details shall include but not limited to structural calculations for any retaining structures, heights and materials (which shall be robust and suitable for their intended purpose). The development shall be completed in accordance with the approved details prior to the first occupation of any unit as hereby approved and shall thereafter be permanently maintained thus.

Reason: In the interests of visual amenity in accordance with Policy GP6 of the NLDP.

09. Prior to the commencement of construction on site full details of all means of enclosure shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details prior to the first occupation of any unit as hereby approved and shall thereafter be retained for the lifetime of development.

Reason: In the interests of visual and neighbouring amenity in accordance with Policies GP2 and GP6 of the NLDP.

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

10. Prior to the construction of the development hereby approved full details of the green roofs shall be submitted to and approved in writing by the local planning authority. The details shall include a monitoring and maintenance plan for the green roofs to include photographic evidence by a Landscape Consultant, timings for planting and replacement plants where necessary by 31<sup>st</sup> December for year 2 and 5 after planting. The development shall be completed in accordance with the approved details and timings and shall thereafter be permanently maintained thus.

Reason: In the interests of visual amenity in accordance with Policy GP6 of the NLDP.

11. Prior to the construction of the development hereby approved a scheme of Ultra Low Energy Vehicle infrastructure shall be submitted to the LPA and written approval received. The infrastructure shall be implementation in accordance with the approved details prior to the first beneficial occupation of any unit and thereafter be permanently retained.

Reason: In the interests of preventing increased air pollution and impact on local amenity in accordance with Policies GP2 and GP7 of the NLDP.

12. No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be completed in accordance with the approved details and retained for lifetime of development.

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

13. A scheme of ecological enhancement to provide net benefit to biodiversity is submitted to and approved in writing by the local planning authority. This shall include full details of the location and specification of ecological enhancements and the timing of their inclusion. The details shall then be implemented as approved and shall be retained in perpetuity.

Reason: To provide ecological net benefit on the site as required by the Environment (Wales) Act 2016 and Planning Policy Wales.

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policy SP1 of the NLDP.

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

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

16. Notwithstanding the details submitted, prior to the commencement of its construction full details of the bin store enclosure and access to bin storage for all occupants shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details prior to the first occupation of any unit as hereby approved and shall thereafter be permanently retained for the lifetime of development.

Reason: In the interests of visual and residential amenity in accordance with Policy GP6 of the NLDP.

### ***Pre –occupation conditions***

17. The development shall not be brought into use until the areas indicated on the submitted plans to be set aside for cycle parking have been provided in accordance with the details and specifications shown in drawing number 1528-PL2-04 B. The cycle parking shall be retained as such thereafter.

Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.

18. The access, parking provision and general arrangement shall be carried out strictly in accordance with the details shown on the approved plans before the apartments hereby permitted are first occupied and the visibility splays shall be kept clear of obstructions to visibility at or above a height of 0.6 metres above footway. These areas shall be maintained clear of any obstruction at all times.

Reason: In the interests of highway safety in accordance with Policy GP4 of the NLDP.

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

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

Reason: A land contamination long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts because of development on water quality in accordance with Policy GP7 of the NLDP.

### **General conditions**

20. If, during development, to include demolition, 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. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure 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 in accordance with Policy GP7 of the NLDP.

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

Reason: To secure the satisfactory implementation of the proposal in accordance with Policy GP2 and GP5 of the NLDP.

22. The windows shown in the north side and south side elevation of the building hereby approved shall be obscure glazed at the time of installation to minimum level 4 Pilkington scale and shall only open upon activation of the fire alarm and no additional windows shall be installed in either of these elevations.

Reason: In the interests of neighbouring amenity in accordance with Policy GP2 of the NLDP.

23. 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 both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution in accordance with Policy GP7 of the NLDP.

### **NOTE TO APPLICANT**

01 This decision relates to plan Nos: 1528-PL2-11, 1158.01 Rev B\_Soft landscape proposals, 1528 PL2 01 Location Plan, 1528 PL2 03 Existing Site Plan, 1528 PL2 04C Proposed Site Plan, 1528 PL2 05D Site GF Plan, 1528 PL2 06D Elevations, 1528 PL2 07C Site Section, 1528 PL2 09 Detailed floor plans, 1528 PL2 10A Upper floor plans, 1528-PL2-07 Revision A, 1528PL208 Images, 015 Rev 0 vehicle swept path analysis, Parking Report 22/9/22, Draft Travel Plan 1582:PL1:TP, Flood Consequence Assessment May 2023, Ecology Report 9/6/22, Noise Survey 6573/ENS1 30/05/2022, Draft Geotechnical and Geoenvironmental Report July 2022, Construction routing document dated 25/8/2023.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP1, GP2, GP4, GP5, GP6, GP7, H1, H2, H3, T4, H4, W3 were relevant to the determination of this application.

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

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

05 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. In accordance with Planning Policy Wales (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

On behalf of Dwr Cymru – Welsh Water the applicant is advised that the proposed development boundary is in close proximity by a trunk/distribution watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site. Please ensure easement of 7.7m is maintained, 3.85m either side of the centre line of the main.

06 The applicant is advised of the flood risks associated with the development and to advise residents to sign up to flood warnings from NRW.

2.

**APPLICATION DETAILS**

**No:** 23/0044      **Ward:** Beechwood

**Type:** Full

**Expiry Date:** 22<sup>nd</sup> September 2023

**Applicant:** D Perry

**Site:** 557 Caerleon Road Newport NP19 7LY

**Proposal:** **FULL PLANNING PERMISSION FOR THE DEMOLITION OF EXISTING DWELLING AND THE ERECTION OF NO.2 DWELLINGS, ACCESS AND ASSOCIATED WORKS**

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

**1. INTRODUCTION**

- 1.1 This application seeks planning permission for the demolition of an existing dwelling and the construction of 2no. detached dwelling houses with access and associated works at 557 Caerleon Road, in the Beechwood ward.
- 1.2 The final scheme presented to planning committee is as a result of negotiations throughout the course of the application and the pre application process. It has been called to planning committee by Beechwood ward Councillor Davies due to concerns on highway and pedestrian safety.

**2. RELEVANT SITE HISTORY**

|         |  |                         |
|---------|--|-------------------------|
| 93/0311 | ERECTION OF TWO STOREY DETACHED DWELLING <small>ERECTION OF TW</small> | GRANTED WITH CONDITIONS |
| 96/0364 | THE ERECTION OF A TWO STOREY DWELLING <small>THE ERECTION O</small>    | GRANTED WITH CONDITIONS |
| 04/1164 | ERECTION OF DWELLING   | REFUSED                 |
| 18/0191 | ERECTION OF DETACHED DWELLING WITH DETACHED GARAGE                     | REFUSED                 |

**3. POLICY CONTEXT**

- SP1 – Sustainability
- SP10 – House Building Requirement
- SP13 – Planning Obligations
- SP18 - Urban Regeneration
- GP2 – General Amenity
- GP4 – Highways and Accessibility
- GP5 – Natural Environment
- GP6 – Quality of Design
- H2 – Housing Standards
- H3 – Housing Mix and Density
- H4 – Affordable Housing
- H6 Sub-division of Curtilages, Infill and Backland Development
- T4 – Parking
- W3 – Provision for Waste Management Facilities in Development

### 3.2 **Adopted Supplementary Planning Guidance**

- Planning Obligations SPG – August 2015
- Affordable Housing SPG – August 2015
- Parking Standards SPG – August 2015
- Wildlife and Development SPG – August 2015
- New Dwellings SPG – August 2015
- Waste Storage and Collection SPG – January 2020

## 4. **CONSULTATIONS**

### 4.1 **NATURAL RESOURCES WALES (FINAL RESPONSE):**

We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome if the document identified below is included in the approved plans and documents condition on the decision notice:

- Construction Environmental Management Plan for SuDS, 557 Caerleon Road, Newport, NP19 7LY, KRS.0645.001.R.003.A, prepared by KRS Enviro, dated February 2023. Please note, without the inclusion of this document we would object to this planning application. Further details are provided below.

#### **Protected Sites**

The site is within 30m of the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). We have reviewed the following information submitted in support of the application: - Construction Environmental Management Plan for SuDS, 557 Caerleon Road, Newport, NP19 7LY, KRS.0645.001.R.003.A, prepared by KRS Enviro, dated February 2023.

The CEMP states it has been undertaken to support a SAB application for the site. However, it is then stated that 'the system will not be adopted by the SAB'. All new developments are now required to include Sustainable Drainage Systems which comply with National Statutory SuDS Standards. Developers must gain approval for their drainage from a SuDS Approval Body (SAB) before construction can begin. As the construction area is greater than 100 square metres, SAB approval is required from the Local Authority.

In summary we recommend that the submitted CEMP is included in the approved plans and documents condition on the decision notice of any planning permission granted. We refer you to our previous response as detailed above for our other requirements and advice which are still valid and applicable.

### 4.2 **WELSH WATER DWR CYMRU: No objections subject to conditions.**

## 5. **INTERNAL COUNCIL ADVICE**

### 5.1 **THE HEAD OF INFRASTRUCTURE (HIGHWAYS):**

#### Final Response

#### **Highway Recommendation**

No Objection subject to conditions.

#### **Highway Comment**

In response to previous comments the key issues have been addressed, but some detail is still lacking in the CEMP.

The main issue has been demonstrating that the visibility splays can be provided. The final drawings show correctly constructed visibility splays that meet current standards for vehicles and pedestrians. The position of the drives and height of walls is critical, so approval should be based on drawing 3967.PL.18 Rev E. There are however some errors on the annotation of the wall heights. For the avoidance of doubt the walls adjacent to the

drive are assumed to be 400mm height and can be no more than 600mm high to comply with the design standards.

Highways note that there is a public objection on grounds of safety/visibility, but can confirm that this is no longer an issue.

In addition, we have received a sustainability assessment. Based on this we can confirm that a reduction of parking provision below the advised standard is acceptable. Two spaces per unit is sufficient to comply with policy. As the provision relies on garage spaces, we would request a condition that the garages are retained for use as such.

Further information has been provided regarding a construction management plan, but these are not all complete/correct. These matters of detail (parking /traffic management etc. during construction) can be controlled via suitable conditions.

Based on the above there are no maintained objections on highway grounds subject to the following conditions.

1 No part of the development hereby approved shall be occupied until the visibility splays defined on Drawing No. 3967.PL.18 Rev E are cleared of all obstructions to visibility exceeding 600mm in height above footway level. The visibility splays shall subsequently be maintained free of any visual obstruction thereafter.

Reason: To ensure adequate visibility at the street junction or site access in the interests of road safety.

2 No gates or other means of obstruction shall be placed across the vehicular access formed as part of this development.

Reason: To permit vehicles to pull clear of the carriageway when entering the site in the interests of road safety.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or re-enacting that order), the garage shall not be converted to living accommodation or used for any purpose that would preclude the storage of a car except following the express grant of planning permission by the Council.

Reason: To ensure that appropriate provision for parking vehicles is made within the curtilage of the dwelling. In particular that adequate secondary off-street parking space is available so that vehicles do not over-hang the footway and that unimpeded visibility is maintained for all road users.

4 Notwithstanding the submitted CEMP no works shall take place on the site at all until a method statement comprehensively detailing the phasing and logistics of demolition/construction has been submitted to and approved in writing by the Council as Local Planning Authority.

The method statement shall include, but not be limited to:

Detail of construction access provision

Siting of temporary containers

Parking for contractors, site operatives and visitors

Temporary areas of hard standing

Schedule for large vehicles delivering/exporting materials to and from site and details of manoeuvring arrangements

Storage of materials and large/heavy vehicles/machinery on site

Details of street sweeping/street cleansing/wheel wash facilities

Details for the recycling/disposing of waste resulting from demolition and construction works

Hours of working

Phasing of works including start/finish dates

The development shall be carried out in accordance with the approved plan, unless otherwise agreed in writing with the Council as Local Planning Authority.



Reason: To ensure that adequate on-site provision is made for construction traffic, including allowance for the safe circulation, manoeuvring, loading and unloading of vehicles, as well as parking, and to reduce impact on residential amenity and the general amenity of surrounding occupiers.

Except for site clearance and remediation No development shall take place until a scheme for the provision of cycle parking in accordance with the Council's current standards has been submitted to and approved in writing by the Council as Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no building works, which reduce this provision, shall take place except following the express grant of planning permission by the Council.  
Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.

The development shall not be implemented until the surface water drainage of the individual plots within the site have been designed to prevent the discharge of water on to the highway. The drainage design shall be submitted to and approved in writing by the Council as Local Planning Authority.

Reason: To prevent unnecessary surface water from being deposited on to the highway thus causing a potential source of danger to other road users.

### **INFORMATIVES**

It is an offence to carry out any works within the public highway without permission of the Highway Authority. This consent requires the construction, improvement or alteration of an access to the public highway. Under Section 184 of the Highways Act 1980 the Highway Authority must specify the works to be carried out and only the Highway Authority or contractor approved by the Highway Authority can carry out the works. Therefore prior to commencing any works that affect the access you must contact the Council's Highway Team.

The applicant is reminded that it is an offence to allow material to be carried from the site and deposited on or cause damage to the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and will prosecute persistent offenders under Sections 131, 148 & 149 of the Highways Act 1980.

- 5.2 THE HEAD OF INFRASTRUCTURE (STRUCTURES): The highway is marked red on the map. So long as the foundations are above the line of influence from this point then there will be no further structural recommendations from NCC.
- 5.3 THE HEAD OF INFRASTRUCTURE (WASTE): No objections.
- 5.4 THE HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ECOLOGY): I have considered the Ecological Assessment Issue 1 v. A dated July 2022 submitted in support of this application, and I agree with the methodology and conclusions of that report.

In particular, implementation of the Method Statements in respect of reptiles and bats set out in appendices B and D respectively, should be secured by a planning condition to ensure compliance with policy GP5. In addition, the mitigation measures set out in sections 4.2.10 (Breeding birds), 4.8 (Otters) and 4.11.10/11 (Invertebrates) should also be secured by planning condition.

Otters are considered as a European protected species in their own right in this report, but they are also a feature of the River Usk SAC, and so we need to consider whether a Habitats Regulations Assessment is required. On this occasion, the habitat which may have supported otters has already been cleared, the likelihood of a significant effect upon this species is minimal, and the mitigation measures proposed are precautionary, rather than specifically designed to counteract any impact. Therefore my advice is that we can say there is not likely to be a significant effect upon the features of the SAC, so an Appropriate Assessment is not needed. In terms of other impacts upon the River Usk SAC,

section 2.8.2.6 describes their significance as 'slight', and although this term is open to interpretation, I agree any impacts are not likely to be significant.

I accept that for dormice, the prior clearance of vegetation will have rendered the site uninhabitable for this species. However if the current regenerating scrub and coppiced trees are allowed to develop, in time this species may re-colonise from populations nearby. Guidance published by the Chartered Institute of Ecology and Environmental Management (CIEEM) on the Lifespan of Ecological Reports and Surveys from April 2019 advises that surveys greater than three least old are unlikely to still be valid and should be repeated. Therefore if the habitats continue to develop beyond May 2025, then species such as dormice may be a material consideration in any future applications at this site.

### **Biodiversity Enhancements**

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

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

*'Planning Policy Wales (PPW) 10 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers).', and '... where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.'*

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

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

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

#### 5.5 THE HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (TREES):

##### Final Response

Full mitigation will be required for the loss of the trees and vegetation in an area which is known to support dormice.

#### 5.6 THE HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE):

##### Final Response

The landscape should be delivered in line with the 'Proposed Soft Landscape' plan rev PO1 by Davies Landscape Architects with the usual condition for a 5 year replacement period for failed or failing planting.

No further comments.

- 5.7 THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (CONSERVATION OFFICER): No objections to this development as I don't believe there would be an impact on the Conservation Area.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties with a common boundary and opposite the application site were consulted (14no. properties) and a site notice displayed. 8no. responses were received as summarised below;

### 7no. Objections

- Highway and pedestrian safety concerns due to the proposed increase in vehicles entering and existing the highway;
- Concerns regarding the narrow width of highway, location of bus stop to the front of the site and parked vehicles along Caerleon Road;
- Concerns with visibility splays not meeting requirements;
- Concerns that the area shown on the plans for vehicles to turn will not be kept clear;
- Concerns regarding deliverability of materials etc. during construction;
- Concerns regarding possible loss of bus stop to facilitate the development;
- Impact on privacy of the properties opposite due to height and location of proposed windows;
- Concerns with height and design of proposed properties not being inkeeping with surrounding traditional properties;
- Loss of sunlight received to the rear of 559 Caerleon Road, which is north facing and is limited as existing;
- Concerns regarding waste entering the River Usk.

### 1no. Representation

- As long as the height of the properties will not occlude the view of the neighborhood, this might work.

- 6.2 COUNCILLOR DAVIES: My concerns are in relation to the highway. Caerleon Road is busy, being a main bus route as well the main access route into Caerleon.

It's a road that is very narrow and where cars are parked along the road. There are some driveways but these are nearer Beaufort Road where the road is wider and the ability to see oncoming vehicles is less restricted.

Properties opposite the site have previously had driveway applications turned down as its been recognised that its dangerous to have cars driving onto or reversing onto this busy stretch of a narrow road. The road into Caerleon dips down just past the final property which means the ability to see oncoming vehicles is compromised.

The proposed additional driveways which would be used by several cars would create additional danger not just for passing vehicles but for the residents themselves who would fail to see oncoming vehicles. I fear that it would also be difficult to see passing pedestrians as the driveways appear to be on an upward slope.

Additionally, to the rear of the site is an unadopted road which the neighbouring properties use to park their vehicles. This currently reduces the number of cars on the road and means that safety is maintained. The sensible option would be that the planning application maintained this vehicular access as has been previously used.

An additional concern is the bus stop which is directly in front of the site, as this would need to be moved.

## 7. ASSESSMENT

### 7.1 The Site

7.1.1 The application site is located within the urban boundary to the north of the B4596 Caerleon Road and is approximately 0.20 hectares in size, located between numbers 555 and 559. This section of Caerleon Road is predominantly residential in character, with rows of properties fronting and running alongside the highway, to the north and south. Whilst most of the site is located between these two neighbouring properties, it does wrap behind the rear garden of 555 Caerleon Road as well. The site falls away significantly from south to north (front to rear) towards the rear boundary and the River Usk (Conservation Area). There is currently an existing vacant and fire damaged property located in a broadly central position within the plot.

7.1.2 Other than the topographical constraints of the site there are limited other constraints to the development. The River Usk, which is a designated Special Area of Conservation and Site of Special Scientific Interest, is located to the north and is beyond the rear site boundary by approximately 50 metres. The site is outside of the adjacent C2 Flood Zone.

### 7.2 The Proposed Scheme

7.2.1 The proposal includes the demolition of the existing fire damaged dwellinghouse on site. The proposed two dwelling houses would both be detached and comprise of 4no. bedrooms. They would front onto Caerleon Road and would be set behind a parking and turning area and would have a two storey appearance at the front, measuring a height of 7.90 metres. However owing to, and to accommodate, the site's topography that falls away from the front of the properties, they are designed as four stories to the rear, measuring a height of 14.50 metres. Two houses on this size of site is well below recommended densities of 30 units per hectare in urban areas but officers consider the topographical constraints of the site make such a density unachievable in practice. That said the proposed units will occupy generous plots and will fill the road frontage to Caerleon Road.

7.2.1 From the front, the main two storey body of the properties have a traditional appearance comparable to many other properties along Caerleon Road, with architectural detail including a brick plinth, two storey bay projection with top opening windows and a hipped roof. The front elevation measures a maximum width of 11.30 metres and has been designed so that the hipped roof and gable end side projections appear subservient to the main body. The rear elevation is four storey in its design due to the topography and is more contemporary in appearance. There is a mix of large modern openings with glazed balustrade and a mix of materials including facing brick, render and timber cladding.

7.2.2 Each dwelling comprises of a layout including home office, utility room, shower room, guest room and external terrace at lower ground floor, garden room, w/c and terrace at garden level, open plan family room, dining and kitchen area at ground floor (level with Caerleon Road) and three bedrooms and bathroom at first floor. The external area to the front comprises of parking area for 2no. vehicles and a manoeuvring space and to the rear the garden area with soft landscaping and tree planting. Steps are located between the two properties providing external access to the two rear gardens.

### 7.3 Key Considerations

- Principle of Development;
- Design, Appearance and Visual Amenity;
- Residential Amenity;
- Trees, Landscaping and Ecology;

- Highway Safety;
- Legal Agreement.

#### 7.4 Principle of Development

7.4.1 The proposal is for residential infill development within the urban boundary and an existing residential area. The site forms part of the residential curtilage of an existing and fire damaged dwelling and consequently meets the definition of previously developed land. Therefore, the proposed residential development aligns with the overarching aims of Policy SP1 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and is considered to be acceptable in principle, subject to all other material considerations being satisfied.

#### 7.5 Design, Appearance and Visual Amenity

7.5.1 The final design that is being considered within this assessment is as a result of pre application discussions with the applicant and further negotiation throughout the course of this application.

7.5.2 PPW11 requires proposals to contribute to the concept of Placemaking, which is a holistic approach to the planning and design of development and spaces, focused on positive outcomes. Placemaking draws upon an area's potential to create high quality development and public spaces that promotes people prosperity, health, happiness and well being. Good placemaking should consider the context, function and relationships between a development site and its wider surroundings.

7.5.3 The application site is infill development along a main public highway and will be readily visible. Policy H6 (Subdivision of Curtilages, Infill and Backland Development) states the following; *The sub-division of residential curtilages, infill within existing residential areas, and the development of backland to existing residential properties will only be permitted where this does not represent an overdevelopment of land.* It is therefore essential to ensure that the proposal creates a positive contribution to the streetscape and integrates into the surrounding area adequately, through acceptable design, scale and appearance.

7.5.4 There is a linear pattern of development along Caerleon Road, with properties fronting the highway on both sides. Both dwellings would fit comfortably within the plot, continuing this pattern of development. The dwellings are handed and of a matching design, containing architectural details found across this side of Caerleon Road, which include but are not limited to brick plinth, two storey bay windows with front gable projection and vertically emphasised top hung windows. The roof design of the main body of the dwellings is of a hipped design, with secondary hipped and gable extensions that are set down to reduce the massing of the build. Both dwellings are of a two storey design when viewed from Caerleon Road and have a roof line that is set just below the adjacent property at 555 Caerleon Road. The main body of the properties would be greater in height than no.559 to the east, however would be set apart due to the separation distance and the gable end side addition would be of comparable height.



**Figure 1 – Proposed Streetscene Elevation (Caerleon Road)**

- 7.5.5 The front elevation of the properties are of a high quality design and materials that draw reference from the architectural detail found in other properties throughout Caerleon Road and compliment the existing street scape.
- 7.5.6 The rear of the properties would be of a much larger scale and this is inevitable, owing to the topography of the site. They are also of a more contemporary design with large openings taking advantage of the views available north, across the River Usk towards Caerleon. Materials would be a mix of brick, render and timber effect cladding. The rear elevations will be largely exposed given the site's gradient, however public views will be distant and set against the existing backdrop. Some minor design amendments have been sought throughout the course of the application in relation to openings sizes to ensure a more consistent and coherent design.
- 7.5.7 The proposed residential curtilage for each dwelling is large and extends beyond the largely consistent rear garden boundary line of the neighbouring dwellings and towards the River Usk. If uncontrolled these large gardens would benefit from householder permitted development rights and could for example be subject to significant extension, construction of outbuildings or laying of hard standings, which could cause an adverse impact on visual amenity within this area. As such, it is proposed to remove permitted development rights for extensions, buildings, enclosures, raised platforms and hard surfaces within the curtilage of the properties.
- 7.5.8 Overall, it is considered that the proposed development is of a strong architectural design which compliments the existing street scape and will integrate into the surrounding area successfully. As such the proposal is compliant with the aims of Policy GP6 and H8 of the NLDP 2011-2026 (adopted January 2015) and the New Dwellings SPG (adopted January 2020).

## 7.6 Residential Amenity

- 7.6.1 The dwellings both offer an acceptable internal arrangement that allows adequate light, privacy, natural ventilation and perceived space. External terraces are provided at garden and lower ground level that will provide immediate outdoor amenity space to the rear elevation for future occupants and a large garden area is also included. However, it is noted that the topography of the site is likely to limit the useability of this to some extent, although this is no different to other properties along this side of Caerleon Road. Overall, a high level of residential amenity is provided for future occupiers.
- 7.6.2 Turning to neighbouring amenity, when considering infill development it is important to ensure that the proposal does not cause any detrimental impact on the existing living conditions of neighbouring properties. Directly opposite the site the properties are raised and at a distance of approximately 25 metres from the front elevations of the proposed properties. The relationships will be similar to those existing relationships shared between other facing properties along Caerleon Road, which is acceptable. Privacy will therefore be adequately maintained.
- 7.6.3 The main properties given consideration are no.555 to the west and 559 to the east. The introduction of the two properties will naturally alter the existing relationship given that there is currently no built development directly off the highway. So there will be a change in the existing situation for these two neighbouring properties. However, when firstly looking at no.559, the side elevation of Plot 2 which is set down at a lower height is over 3.0 metres off the site boundary and there is approximately a further 14.0 metres to the side elevation of no.559 which is a blank elevation. This intervening area appears to be within the curtilage of no.559 however is overgrown and unused. There is adequate separation distance along with no.559 being located to the east of the site to ensure there is no demonstrable loss of light or overbearing effect as a result of the building or associated structural works. There are no openings in the side elevation that would result in a loss of privacy or overlooking and a privacy screen for the lower ground floor terrace would be adequately controlled through condition. No views of the rear of no.559 would be available from the rear of Plot 2 due to the orientation of the building and the form of the shared boundary.

7.6.4 The relationship between Plot 1 and no.555 is closer than that of Plot 2 and 559 and as such detailed existing and proposed cross sections were requested to better understand this relationship. Following review of these sections, whilst the external areas to the front and side of the proposed dwelling are being raised in close proximity to the shared boundary, subject to adequate boundary treatments that will be secured by condition, there is not considered to be any overbearing or overlooking of no.555. The nearest part of the dwelling would be the side aspect which is almost 3.50 metres off the boundary and just over 5 metres from the side elevation of no.555. This is set down from the main body of the building and is of a lesser scale. There are no openings in the existing side elevation of no.555 that could be impacted and no openings in the proposed side elevation of Plot 1 that would cause overlooking. Given the position of no.555 to the west of the site, the rear of the property may experience some shadowing from the proposed dwelling, however this is likely to be limited and not anticipated to result in a demonstrable impact on light received partly due to the limited scale of the proposed dwelling adjacent to the boundary, the separation distance and also the orientation of both the existing and proposed dwellings that are angled away from each other. This orientation also prevents overlooking towards no.555 from the openings in the proposed rear elevation.

7.6.5 Overall, it is acknowledged that the relationship of the existing neighbouring properties and the application site will be different following construction of the development as the plot has been vacant for many years. However, the assessment of the proposal concludes that these changes will not result in any demonstrable adverse impact on neighbouring residential amenity and the scheme is compliant with the aims of Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

## 7.7 Trees, Landscaping and Ecology

7.7.1 The site was previously vegetated and contained a number of unprotected trees, however these were cleared prior to the submission of this planning application. The Council's Tree Officer initially requested tree information, however following confirmation that the site has been cleared has confirmed this is no longer required but has advised mitigation for the loss of landscaping is required.

7.7.2 A full scheme of hard and soft landscaping has been submitted to address the consultation comments and this has been considered acceptable. The Council's Landscape Officer has confirmed the landscaping of the site should be delivered in line with the submitted plan and the five year maintenance period for failed or failing planting should be included within the conditional regime. Since the Landscape Officers confirmation, there has been some minor amendments to the site layout including access points that now do not align with the proposed landscaping of the site. Whilst this causes no issue in relation to the landscaping of the site, for consistency and accuracy an updated scheme for hard and soft landscaping is required and will be controlled through condition.

7.7.3 Natural Resources Wales and the Council's Ecology Officer have provided consultation responses and have offered no objection to the proposed development, subject to the ecological mitigation contained within the Ecological Method Statement being conditioned to ensure compliance. NRW agree with the conclusions of the Ecological Appraisal and have advised that an assessment of the likely significant effects on the River Usk SAC is undertaken. However, advise that it is a matter of judgement for the LPA as the competent authority to be satisfied that the development will not have any significant effect on the River Usk SAC.

7.7.4 Otters are considered as a European Protected Species in their own right in the ecological report, but they are also a feature of the River Usk SAC, and so the LPA needs to consider whether a Habitats Regulations Assessment is required. On this occasion, the habitat which may have supported otters has already been cleared, the likelihood of a significant effect upon this species is minimal, and the mitigation measures proposed are precautionary, rather than specifically designed to counteract any impact. Therefore the Council's Ecologist advises that there is not likely to be a significant effect upon the features of the SAC, so an Appropriate Assessment is not needed. In terms of other impacts upon the River Usk SAC, section 2.8.2.6 of the report describes their significance

as 'slight', and although this term is open to interpretation, the Ecologist agrees any impacts are not likely to be significant.

- 7.7.5 NRW have reviewed the submitted CEMP and have confirmed that this is satisfactory from an environmental perspective and have requested this is controlled through condition.

#### *Ecological Enhancement*

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

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

*'Planning Policy Wales (PPW) 10 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers).', and '... where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.'*

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

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

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

#### 7.9 Highway Safety

- 7.9.1 Many of the public objections and also the Local Councillor objection raise concerns in relation to the adverse impact that the proposed development would have on pedestrian and highway safety. This is a material consideration that will be given consideration and assessment within this section of the report.

- 7.9.2 In terms of parking each property would contain 4no. bedrooms and as such would have a parking demand of 3no. spaces per dwelling, as per the Parking Standards SPG (adopted August 2015). Each dwelling has a proposed parking arrangement of 1no. garage space, 1no. external space to the side of the garage and a paved area to the front that could accommodate a third parking space. However, the demand for the third parking space would limit the ability of vehicles to manoeuvre within the site. The applicant has submitted a Sustainability Assessment in accordance with Appendix 5 of the Parking Standards SPG, which scored 8 sustainability points and a reduction of 1no. parking space per unit. The appraisal has been cross reference and score verified, and the reduction of the third space allows sufficient space for vehicles to access and egress the site in a forward gear. The



parking plan can be conditioned and permitted development rights removed for garage conversions to ensure adequate parking and manoeuvring space is permanently retained.

- 7.9.3 Each access point would measure 3.0 metres wide and independently join Caerleon Road. The visibility onto the highway has been of concern within objections. This part of Caerleon Road is a relatively straight section of road and the 2.0 metre pedestrian visibility splays are drawn on the plan correctly and are achievable. The main issue has been demonstrating that the vehicular visibility splays can be achieved and following submission of final drawings the Council's Highways Officer is satisfied that these meet current standards. It is necessary to control that the maximum height of the front boundary wall is constructed to a height of 0.40 metres as per the proposed plans and maintained at that height thereafter to ensure adequate visibility is retained.
- 7.9.4 A provisional CEMP has been submitted and reviewed by the Council's Highways Officer. Further detail is required to include a method statement comprehensively detailing the phasing and logistics of works on site including details such as, but not limited to construction access provision, contractor parking, siting of temporary containers/storage, schedule for large vehicle deliveries etc. The Highways Officer is satisfied that an acceptable construction arrangement can be achieved and is agreeable for this to be controlled through condition.
- 7.9.5 The objections also reference concern over the potential loss of bus stop to facilitate the development. Firstly, there is no indication that the bus stop is proposed to be altered and the access points do not conflict with this. Confirmation has been sought from the Council's Highways Officer in relation to this and they have confirmed that it is not unusual for a bus stop to be situated across a property access, and there are other instances of this across Caerleon Road.
- 7.9.6 Owing to the structural works required in close proximity to Caerleon Road consideration needs to be given to ensure there is no adverse impact on the integrity of the public highway. The applicants structural engineer has confirmed that the dwellings will be setback 5 metres from the back of the footpath and therefore outside of the zone of influence to have any impact on the highway. The zone of influence is a 45 degree line from any bearing i.e. underside of the footpath. This will ensure that any excavations will not affect the bearing under the highway. It has been confirmed that there are several possible methods that could be utilised depending upon the Site Investigation Report on the ground conditions. However, regardless a structural solution can be employed satisfactorily without impacting the existing highway.
- 7.9.7 The Council's Structural Engineer has accepted that so long as the foundations are above the zone of influence then there will be no further structural recommendations from Newport City Council. It is therefore considered that final foundation details can be controlled by planning condition.
- 7.9.8 Overall, it is considered that the proposed development provides adequate parking provision for each property when taking into account the sustainability credentials of the site and adequate pedestrian and vehicular visibility splays have been demonstrated. As such, the proposal is compliant with the aims of Policy GP4 and T4 of the NLDP 2011-2026 (adopted January 2015) and the Parking Standards SPG (adopted August 2015).

## 7.10 **Section 106 Planning Obligation matters**

### Summary

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

| <b>Service Area that requires planning obligation</b> | <b>Purpose of planning obligation</b>                              | <b>Planning obligation initially sought by Planning Authority</b>                         | <b>Summary Heads of Terms agreed by applicant(s)</b> | <b>Viability Issues?</b> |
|---|--|---|--|--------------------------|
| Regeneration and Economic Development                 | To provide a contribution to off-site affordable housing provision | Commutated sum contribution of £899 for affordable housing provision based on 20% target. | Draft Heads of Terms agreed.                         | No                       |

#### Heads of Terms Agreed by Applicant

7.10.2 The applicant has agreed to the draft Heads of Terms.

## **8. OTHER CONSIDERATIONS**

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

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

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

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

8.3 Having due regard to advancing equality involves:

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

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

8.4 The above duties have been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision. There would also be no negative effects which would impact on inequalities of outcome which arise as a result of socio-economic disadvantage.

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

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

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

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been

considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

- 9.1 The proposed development is considered to have regeneration benefits and is to make a positive contribution to the visual amenity and character and appearance of the street scape. The proposed development will maintain highway safety, provide satisfactory levels of amenity for both neighbouring and future occupiers and will provide ecological enhancement.
- 9.2 As such, the proposal is considered to be acceptable and compliant with the relevant Newport Local Development Plan 2011-2026 (adopted January 2015).
- 9.3 It is recommended that the application is granted with conditions subject to the signing of the Section 106 legal agreement.

## **10. RECOMMENDATION**

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

### **Plans and Documents**

01 The development shall be implemented in accordance with the following plans and documents: Drawing No. 3967.PL.03 – Proposed Site Plan and Landscaping Rev H; Drawing No. 3967.PL.04 – Proposed Plans Rev E; Drawing No. 3967.PL.05 – Proposed Elevations Rev G; Drawing No. 3967.PL.06 – Proposed Plans Plot 02 Rev C; Drawing No. 3967.PL.07 – Proposed Elevations Plot 02 Rev E; Drawing No. 3967.PL.08 – Existing & Proposed Street Scene Rev C; Drawing No. 3967.PL.10 – Section A-A Rev B; Drawing No. 3967.PL.11 – Section B-B Rev C; Drawing No. 3967.PL.12 – Section C-C Rev C; Drawing No. 3967.PL.13 – Section D-D Rev B; Drawing No. 3967.PL.16 – Section E-E Rev B; Drawing No. 3967.PL.18 – Vehicle Vision Splay Rev E; Drawing No. 3967.PL.19 – Pedestrian Vision Splay Rev A; BE Ecological Ltd - Ecological Assessment Issue 1 (July 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*

### **Telegraph Pole Relocation**

02 No development shall take place until evidence of the utility provider's agreement to the relocation of the telegraph pole at Caerleon Road, along with a drawing to show the relocated position agreed, has been submitted to and approved in writing by the Local Planning Authority. The telegraph pole shall be relocated in accordance with the approved details no later than first occupation of Plot 2.

Reason: In order to ensure the telegraph pole can be relocated to a satisfactory location and acceptable pedestrian visibility splays are achieved, in accordance with Policy GP4 of the NLDP 2011-2026 (adopted January 2015).

### **CEMP**

03 Notwithstanding the submitted CEMP no development shall take place (including demolition) until a method statement comprehensively detailing the phasing and logistics of demolition/construction has been submitted to and approved in writing by the Council as Local Planning Authority.

The method statement shall include, but not be limited to:

- Detail of construction access provision;
- Siting of temporary containers;
- Parking for contractors, site operatives and visitors;
- Temporary areas of hard standing;
- Schedule for large vehicles delivering/exporting materials to and from site and details of manoeuvring arrangements;
- Storage of materials and large/heavy vehicles/machinery on site;
- Details of street sweeping/street cleansing/wheel wash facilities;
- Details for the recycling/disposing of waste resulting from demolition and construction works;
- Hours of working;
- Phasing of works including start/finish dates;
- Dust suppression/mitigation measures.

The development shall be carried out in full accordance with the approved plan.  
Reason: To ensure that adequate on-site provision is made for construction traffic, including allowance for the safe circulation, manoeuvring, loading and unloading of vehicles, as well as parking, and to reduce impact on residential amenity and the general amenity of surrounding occupiers in accordance with Policy GP4 and GP7 of the NLDP 2011-2026 (adopted January 2015).

### **Material and Finishes**

04 Notwithstanding the information submitted, prior to the commencement of development, full details of the external finishes of the buildings and hard surfaces of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the details approved.

Reason: In the interests of visual amenity and good design in accordance with Policy GP2 and GP6 of the NLDP 2011-2026 (adopted January 2015).

### **Structural Details**

05 Prior to the commencement of development full details (to include section drawings) of the proposed foundations for the dwellinghouses and any associated retaining works hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the details approved.

Reason: To ensure the structural integrity of the highway is protected in accordance with Policy GP4 of the NLDP 2011-2026 (adopted January 2015).

### **Scheme of Foul Drainage**

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policy GP3 and GP5 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

### **Ecological Enhancement**

07 Prior to the commencement of development a scheme of ecological enhancement, including numbers, location and specification of bird and bat boxes to be integrated into the buildings, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the details approved.

### **Hard and Soft Landscaping**

08 Notwithstanding the details submitted, prior to the commencement of development, other than demolition, written approval of the Local Planning Authority is required for a scheme of hard and soft landscaping and tree planting. The approved details shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the date of this permission. Thereafter the trees, grasses and shrubs shall be maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. The monitoring and remediation of the landscape mitigation planting during the 5 years establishment phase is to be confirmed by:

- a) A short report with photo evidence by the landscape consultant to be submitted to Newport City Council immediately following the completion of the landscape scheme and showing the site before and after planting, seeding, fencing has been undertaken, and to confirm this is all in line with the approved documents eg. plant species, plant size, planting operations etc; and
- b) A short annual report with photo evidence by the landscape consultant to Newport City Council submitted by 31st December for each year of the five-year establishment period summarising any issues with planting or seeding, any replacement planting required and the timetable for replacements.

For the purpose of this condition, the planting season shall mean the period of November-December 2022.

Reason: To secure the satisfactory implementation and maintenance of the soft landscape scheme in the interests of residential and visual amenity and rural character having regard to policies SP5, GP2 and GP6 of the adopted Newport Local Development Plan.

### *Pre Occupation*

### **Electric Vehicle Charging Points**

09 No dwelling shall be occupied until details of an electric vehicle charging point for each of the approved dwellings has been submitted to and approved in writing by the Local Planning Authority. Each point shall be installed and made available for use prior to the occupation of the associated dwelling.

Reason: To ensure the development contributes to sustainability principles in accordance with Policy SP1 of the NLDP 2011-2026 (adopted January 2015).

### **Parking Provision**

10 The garaging/parking provision and external turning area as shown on approved drawings shall be provided and made available prior to the first beneficial occupation of the dwelling to which they relate and shall be kept available for such use at all times thereafter.

Reason: To providing adequate parking provision in the interests of highway safety, in accordance with Policy GP4 and T4 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

### **Visibility Splays**

11 No part of the development hereby approved shall be occupied until the visibility splays defined on Drawing No. 3967.PL.18 Rev E are cleared of all obstructions to visibility exceeding 600mm in height above footway level. The visibility splays shall subsequently be maintained free of any visual obstruction thereafter.

Reason: To ensure adequate visibility at the street junction or site access in the interests of road in accordance with Policy GP4 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

### **Boundary Treatments**

12 Notwithstanding the details submitted, details (including location, height and materials and a proposed cross section drawing showing the relationship with 555 Caerleon Road) of all existing and proposed boundary treatments at the site shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The approved boundary treatments shall then be installed in full accordance with the approved details prior to the first beneficial occupation of the approved residential units and retained in that state thereafter.

Reason: To protect neighbouring amenity in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

### **Privacy Screens**

13 Prior to the first occupation of the associated dwelling house details of a 1.8 metre privacy screen for the lower ground floor terrace shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with these approved details prior to first occupation and retained in that state thereafter.

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

### ***General Conditions***

### **Ecological Mitigation**

14 The development shall take place in full accordance with the Method Statements and Ecological Mitigation contained within approved document "BE Ecological Ltd - Ecological Assessment Issue 1 (July 2022).

Reason: In the interests of protecting and mitigating ecological interests at the site in accordance with Policy GP5 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

### **Surface Water**

15 No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policy GP2 and GP5 of the NLDP 2011-2026 (adopted January 2015).

### **PD Rights – Extensions and Outbuildings**

16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, Classes A, E and F, no extensions, buildings, enclosures, raised platforms or hard surfaces shall be installed/constructed without the prior written permission of the Local Planning Authority.

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

### **PD Rights – Boundary Treatments**

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

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

## Restricted Openings

18 No window or door openings shall be formed in the side elevations of the dwellings hereby approved unless details have firstly been submitted to and approved in writing by the Local Planning Authority.

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

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan; Planning Statement; Tree Report; Sustainability Appraisal; Topographical Survey

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP10, SP13, SP18, H2, H3, H4, H6, GP2, GP4, GP5, GP6, GP7, T4, W3 were relevant to the determination of this application.

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.

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

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### **APPLICATION DETAILS**

No: 23/0044 Ward: **Beechwood**

Type: Full

Expiry Date: 22<sup>nd</sup> SEPTEMBER 2023

Applicant: **D PERRY 557 CAERLEON ROAD NEWPORT NP19 7LY**

Site: **557 Caerleon Road Newport NP19 7LY**

Proposal: **FULL PLANNING PERMISSION FOR THE DEMOLITION OF EXISTING DWELLING AND THE ERECTION OF NO.2 DWELLINGS, ACCESS AND ASSOCIATED WORKS**

#### **1. LATE REPRESENTATIONS**

1.1 Neighbour consultation response, with relevant concerns summarised as follows;

##### Parking

- The garages will not be used for car parking and will be used for storage, how will this be policed?;
- The new residents will park on the street outside their properties, which will increase the existing parking problem.

##### Bus Stop

- A lack of information in relation to the impact on the bus stop.

##### Sewage

- Concerns regarding sewage running into the River Usk. No information has been given to ensure the new builds will not pollute the river.

#### Lane Access

- Before any works are carried out, full access needs to be agreed with the land owners of the rear lane. How will construction traffic use a lane that they do not own or have the rights to drive down?

#### Lane Safety and Noise

- There is no information contained within the method statements advising how the lane will be used. The exit from the lane is steep and has a tight turn onto Caerleon Road, how can this be used for delivery trucks/vans etc?
- The use of the lane due to potholes and poor condition will create a lot of noise when trucks arrive;
- How is the unsafe lane going to be made safe when it is not owned by the applicant?

## **2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

#### Parking

- 2.1 Recommended Condition 10 requires the garages and external parking/turning areas to be made available for use prior to the first occupation of either dwelling, and to be retained so that they are available for such use at all times thereafter.
- 2.2 The Local Planning Authority can only make sure that adequate parking is provided as part of the development, but ultimately if the future occupier chooses not to use it then this cannot be prevented. However, if there is a breach of the condition reported i.e. the garage and/or external areas are not available for parking in line with the requirements of the condition then Planning Enforcement will investigate in the usual way.

#### Bus Stop

- 2.3 This matter is clarified in the committee report, however to reconfirm the Highways Officer has raised no concerns with the location of the bus stop to the front of the site. There is no intention for this to be moved or altered and it has been shown that the accesses proposed can be implemented without jeopardising the use of the bus stop.

#### Sewage

- 2.4 Recommended Condition requires the details of foul drainage to be submitted to and approved in writing by the Local Planning Authority prior to development commencing on site. Welsh Water have raised no concerns and there is no reason to suggest that the foul drainage at the site would not be connected to the mains asset.
- 2.5 If there are concerns with the Welsh Water drainage asset then this would need to be taken up directly with Welsh Water as the Statutory Undertaker.

#### Lane Access/Noise and Safety

- 2.6 An outline CEMP has been submitted, however further detail is needed to confirm final approval of the document and the Highways Officer is satisfied that this can be secured via condition. Environmental Health have raised no concerns. Therefore, recommended Condition 03 requires submission of this prior to any development commencing, including demolition.
- 2.7 The Outline CEMP indicates that contractors will utilise the existing lane to gain access to the rear of the site, which will be used by contractors for parking and for storage. Use of this lane has been reviewed and highways records confirm that the lane is a privately maintained public highway. The public therefore have the right to pass and repass i.e. gain



access to the site. Some deliveries may also take place via the lane, depending on vehicle size.

- 2.8 It is acknowledged that the existing lane is substandard and permanent use as a vehicular access to the site would not be accepted albeit that it currently serves as a lawful access to one dwelling. The proposed use of the lane for an additional dwelling was refused for a previous planning application for one dwelling at an adjacent site. However, the Highways Officer has advised that they consider it acceptable for temporary use during construction. The CEMP will identify details of access and this lane may not be suitable for large vehicles, so some materials for example may be delivered off Caerleon Road. The development is small scale and if needed the delivery of materials from the public highway would be no different to the existing property having materials delivered to their property for example. Highways has raised no objection to this.
- 2.9 In terms of noise and disturbance, a certain level of disruption is to be expected with any form of development. However, deliveries and construction hours are to take place during the typical working day when there will be ongoing background noise due to the location of the site. The scale of development is limited and it is not anticipated that this would cause any level of disruption over and above that you would typically expect for a development of this nature.

### **3. OFFICER RECOMMENDATION**

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

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# Report

## Appeal Decisions

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### Part 1

Date: 6<sup>th</sup> September 2023

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** Lliswerry, Victoria, Shaftsbury, Caerleon, Llanwern, Bishton and Langstone

**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: 6/9/2023

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**Planning Appeal**

|                    |   |
|--------------------|---|
| Reference          | 23/0153   |
| Address            | 1 Heath Close, Lliswerry Ward                   |
| Development        | Replacement Boundary Fence to Rear Amenity Area |
| Appellant          | Mr Griffiths                                    |
| Officer Decision   | Refused   |
| Committee Decision | N/A   |
| Appeal Decision    | Appeal dismissed                                |

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**Planning Appeal**

|                    |  |
|--------------------|--|
| Reference          | 22/1116                                    |
| Address            | 108 Brynglas Drive, Shaftsbury ward        |
| Development        | New front driveway and garden amenity area |
| Appellant          | Mr Norman                                  |
| Officer Decision   | Refused                                    |
| Committee Decision | N/A  |
| Appeal Decision    | Appeal dismissed                           |

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**Planning Appeal**

|                    |   |
|--------------------|---|
| Reference          | 23/0178   |
| Address            | Nailery Cottage, Caerleon ward  |
| Development        | Increase in size of 2 No. existing side elevation windows to create 2 No. Juliette balconies with glass balustrades |
| Appellant          | Mr Conrad and Ms Roberts  |
| Officer Decision   | Refused   |
| Committee Decision | N/A   |
| Appeal Decision    | Appeal Dismissed  |

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**Planning Appeal**

|                    |   |
|--------------------|---|
| Reference          | 22/0784   |
| Address            | The Bryn, Redwick, Llanwern ward  |
| Development        | Demolition of existing conservatory, single storey rear extension and outbuilding and construction of part single storey/part two storey side and rear extensions, conversion of internal garage and store to habitable rooms, construction of car port, other internal reconfigurations, the addition of conservation rooflights to the rear roof elevation and revised/new fenestration & door openings |
| Appellant          | Ms Jones  |
| Officer Decision   | Refused   |
| Committee Decision | N/A   |
| Appeal Decision    | Appeal dismissed  |

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**Planning Appeal**

|                    |   |
|--------------------|---|
| Reference          | 22/0963   |
| Address            | 12 Corporation Road, Victoria Ward                        |
| Development        | Retrospective application for retention of roller shutter |
| Appellant          | Lane Property Holdings Ltd                                |
| Officer Decision   | Refused   |
| Committee Decision | N/A   |
| Appeal Decision    | Appeal dismissed  |

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**Planning Appeal**

|                    |  |
|--------------------|--|
| Reference          | 22/0765  |
| Address            | Llandevaud Farm, The Cottage, Llandevaud Lane, Llandevaud, Langstone & Bishton Ward      |
| Development        | Retain a detached domestic garage not in accordance with planning permission Ref 21/0501 |
| Appellant          | Ms Lord  |
| Officer Decision   | Refused  |
| Committee Decision | N/A  |
| Appeal Decision    | Appeal allowed   |