

Report

Planning Committee

Part 1

Date: 6th December 2017

Item No: 4

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

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

Ward As indicated on the schedule

Summary The Planning Committee has delegated powers to take decisions in relation to planning applications. The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer recommendation to the Planning Committee on whether or not Officers consider planning permission should be granted (with suggested planning conditions where applicable), or refused (with suggested reasons for refusal).

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

Proposal

- 1. To resolve decisions as shown on the attached schedule.**
- 2. To authorise the Development and Regeneration Manager to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached**

Action by Planning Committee

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

The Officer recommendations detailed in this report are made following consultation as set out in the Council's approved policy on planning consultation and in accordance with legal requirements.

Background

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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.

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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, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

Financial Summary

The cost of determining planning applications and defending decisions at any subsequent appeal is met by existing budgets and partially offset by statutory planning application fees. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

Risks

Three main risks are identified in relating to the determination of planning applications by Planning Committee: decisions being overturned at appeal; appeals being lodged for failing to determine applications within the statutory time period; and judicial review.

An appeal can be lodged by the applicant if permission is refused or if conditions are imposed. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

A decision can be challenged in the Courts via a judicial review where an interested party is dissatisfied with the way the planning system has worked or how a Council has made a planning decision. A judicial review can be lodged if a decision has been made without taking into account a relevant planning consideration, if a decision is made taking into account an irrelevant consideration, or if the decision is irrational or perverse. If the Council loses the judicial review, it is at risk of having to pay the claimant's full costs in bringing the challenge, in addition to the Council's own costs in defending its decision. In the event of a successful challenge, the planning permission would normally be quashed and remitted back to the Council for reconsideration. If the Council wins, its costs would normally be met by the claimant who brought the unsuccessful challenge. Defending judicial reviews involves considerable officer time, legal advice, and instructing a barrister, and is a very expensive process. In addition to the financial implications, the Council's reputation may be harmed.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry and judicial review can be high.

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

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?
determination, with costs awarded against the Council			unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee Development Services Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Council's Corporate Plan 2012-2017 identifies five corporate aims: being a Caring City; a Fairer City; A Learning and Working City; A Greener and Healthier City; and a Safer City. Key priority outcomes include ensuring people live in sustainable communities; enabling people to lead independent lives; ensuring decisions are fair; improving the life-chances of children and young people; creating a strong and confident local economy; improving the attractiveness of the City; promoting environmental sustainability; ensuring people live in safe and inclusive communities; and making Newport a vibrant and welcoming place to visit and enjoy.

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 links to other strategies and plans, the main ones being:

- Single Integrated Plan;
- Local Development Plan 2011-2026 (Adopted January 2015);

The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City. Its vision is: "*Working together to create a proud and prosperous City with opportunities for all*"

The Single Integrated Plan has six priority themes, which are:

- Skills and Work
- Economic Opportunity
- Health and Wellbeing
- Safe and Cohesive Communities
- City Centre
- Alcohol and Substance Misuse

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

- 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.

Staffing Implications: Comments of Head of People and Business Change

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

Local issues

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

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

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

Section 3 of the Act 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 (section 5).

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.

Planning (Wales) Act 2015 (Welsh Language)

Section 11 of the Act makes it mandatory for all Local Planning Authorities to consider the effect of their Local Development Plans on the Welsh language, by undertaking an appropriate assessment as part of the Sustainability Appraisal of the plan. It also requires Local Planning Authorities to keep evidence relating to the use of the Welsh language in the area up-to-date.

Section 31 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. The provision does not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the decision maker.

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. Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

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 9 (November 2016)

Development Management Manual 2016

Minerals Planning Policy Wales (December 2000)

PPW Technical Advice Notes (TAN):

- TAN 1: Joint Housing Land Availability Studies (2015)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Commercial Development (2016)
- TAN 5: Nature Conservation and Planning (2009)
- TAN 6: Planning for Sustainable Rural Communities (2010)
- TAN 7: Outdoor Advertisement Control (1996)
- TAN 8: Renewable Energy (2005)
- TAN 10: Tree Preservation Orders (1997)
- TAN 11: Noise (1997)
- TAN 12: Design (2016)
- TAN 13: Tourism (1997)
- TAN 14: Coastal Planning (1998)
- TAN 15: Development and Flood Risk (2004)
- TAN 16: Sport, Recreation and Open Space (2009)
- TAN 18: Transport (2007)
- TAN 19: Telecommunications (2002)
- TAN 20: Planning and The Welsh Language (2017)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)
- TAN 24: The Historic Environment (2017)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

LOCAL POLICY

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

Supplementary Planning Guidance (SPG):

- Affordable Housing (adopted August 2015)
- Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
- Flat Conversions (adopted August 2015)
- House Extensions and Domestic Outbuildings (adopted August 2015)
- Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)
- New dwellings (adopted August 2015)
- Parking Standards (adopted August 2015)
- Planning Obligations (adopted August 2015)
- 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)

OTHER

The Colliers International Retail Study (July 2010) is not adopted policy but is a material consideration in making planning decisions.

The Economic Development Strategy 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

APPLICATION DETAILS

No: 17/0640 **Ward:** MARSHFIELD
Type: FULL (MAJOR)
Expiry Date: 19-DEC-2017
Applicant: WELSH GOVERNMENT
Site: LAND AND BUILDINGS TO EAST OF QUINN RADIATORS AND FORMER LG ELECTRONICS CELTIC WAY CELTIC LAKES NEWPORT SOUTH WALES
Proposal: CONSTRUCTION OF NEW JUNCTION, NEW CARRIAGEWAY, RESURFACING AND CAR PARK
Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application is seeking full planning permission for the construction of a new junction off an existing roundabout, the construction of a new carriageway and the upgrading of existing internal roads within the Imperial Park complex (former LG Electronics complex). It is also proposed to provide a car park within part of one of the vacant parcels of land in the northern part of the site; and next to the existing roundabout which connects Imperial Way and South Lake Drive.
- 1.2 The car park is proposed to remove existing vehicles which currently park on the carriageway off South Lake Drive and on the roundabout linking to Imperial Way. This parking is unauthorised and causes local disruption to the highway network. The proposed new roundabout junction and new carriageway would provide a connection to this car park.
- 1.3 The application is referred to Committee since the proposal constitutes major development.

2. RELEVANT SITE HISTORY

96/0663	CONSTRUCTION OF AN INTEGRATED PLANT FOR THE MANUFACTURE OF TELEVISION MONITORS COLOUR PICTURE AND COLOUR DISPLAY TUBES OTHER ELECTRONICS EQUIPMENT (LG ELECTRONICS INC.) A WAFER FABRICATION AND ASSEMBLY PLANT (LGSEMICON CO LTD) INCLUDING ANCILLARY BUILDINGS AND USES AND ASSOCIATED BUILDINGS, ENGINEERING AND OTHER OPERATIONS AND LANDSCAPING (CLASS B2 OF THE TOWN & COUNTRY PLANNING (USE CLASSES) ORDER 1987) (INVOLVING THE DIVERSION OF PUBLIC FOOTPATHS 7 AND 8 AND THE STOPPING UP OF PUBLIC HIGHWAYS CELTIC WAY AND DYFFRYN LANE)	Granted with conditions
96/1108	PARTIAL DISCHARGE OF RESERVED MATTERS - (CONDITION 02 OF OUTLINE APPROVAL 96/0663/OE) - DESIGN AND EXTERNAL APPEARANCE OF BUILDINGS FOR LG ELECTRONICS	Approved with conditions
12/1207	PRIOR NOTIFICATION FOR THE DEMOLITION OF CENTRAL UTILITIES BUILDING, WATER TREATMENT CONTROL BUILDING, STORAGE AND	Prior approval required

	TREATMENT TANKS, TRANSFORMER PENS, BELOW GROUND TANK AND EXTERNAL STEEL GANTRY	
13/0244	PRIOR APPROVAL DETAILS FOR DEMOLITION OF CENTRAL UTILITIES BUILDING, WATER TREATMENT CONTROL BUILDING, STORAGE AND TREATMENT TANKS, TRANSFORMER PENS, BELOW GROUND TANK AND EXTERNAL STEEL GANTRY PURSUANT TO PRIOR NOTIFICATION APPLICATION 12/1207 CONFIRMING PRIOR APPROVAL IS REQUIRED	Granted

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 **SP4 Water Resources** favours developments that protect water quality.

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

Policy **SP14 Transport Proposals** supports transport proposals that bring benefits to the economy, health and well-being of the community

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

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

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

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

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

Policy **GP6 General Development Principles – Quality of Design** states that good quality design will be sought in all forms of development.

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

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

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

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

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

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES

Following further clarification from the applicant: In our previous response, we noted a groundwater abstraction point adjacent to the site. We also noted it was unclear whether the abstraction was being used as a potable water supply. We have reviewed the additional submitted information provided via email from Ian Leek at Capita dated 25 October 2017. We note this is a non-licensed abstraction. If abstraction is occurring, it must be at 20m³ day or less. The applicant notes it is no longer being used which is in line with our records. The borehole is slotted at 29-50 m below ground level providing further protection to the supply which is from bedrock. Overlying superficial deposits will give protection to the supply and the borehole is approximately 100m from the development area.

4.2 The information provided (Celtic Lakes Geotechnical and Geo-environmental Interpretive Report, Arcadis, July 2016) refers to a desk study/preliminary risk assessment but this has not been provided, and as such we don't have access to historic maps or specific information relating to previous land uses within the specific red line boundary. We are therefore unsure of the exact historic land use associated with the site. The information that is available however makes reference to potentially contaminative land use (LG electronics factory and storage tanks) and as such we have reason to suspect there could be land contamination issues associated with the site that could present a risk to controlled waters.

4.3 Although the groundwater sample results would suggest there is low risk to controlled waters, there are a number of limitations associated with the exploratory investigation. As such, we do not yet have confidence in the results or conclusions presented in the above report. For example:

- The site investigation layout plan has not been provided within the reporting. There is therefore no context, explanation or justification as to the location of exploratory locations. There is also a lack of explanation and justification in relation to the frequency of sampling and suite of analysis.
- The report states that 3 rounds of groundwater monitoring have been undertaken however just one round of groundwater sampling has been completed. This is not necessarily sufficient to provide representative data and understanding of groundwater conditions.
- It is unclear at what depth samples have been collected and whether they are representative of the worst case scenario, i.e. targeted to the made ground, regional groundwater and suspected source locations.
- Section 5.3 correctly acknowledges that EQS are dependent upon the hardness of the receiving water. This however applies to the receiving surface water rather than groundwater. Further explanation of the choice of assessment criteria used with respect to controlled waters receptors is required.

4.4 Based on the above, we do not have confidence that the risk to controlled waters associated with the site is fully understood. Given the historic land use associated with the site and the sensitivity of controlled waters within the vicinity of the site, we have significant concerns that there could be a risk to the environment. We would therefore recommend the below planning conditions if consulted upon the full application.

- Preliminary risk assessment;
- Site Investigation;
- Remediation Strategy;
- Verification Plan;
- Verification Report;
- Long term monitoring;
- Investigation and remediation of any unsuspected contamination; and
- The prevention of surface water drainage to the ground.

4.5 Following further additional information provided by the applicant:

We continue to recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to planning permission. We have reviewed the following additional submitted information:

Celtic lakes Contamination Risk Assessment report prepared by Capital, (ref CS/091815/GT/01) dated November 2017.

We advise that further information is required in the Preliminary Risk Assessment. We note that our previous comments remain valid and advise the following conditions are included on any permission your authority is minded to grant.

Please note that further advice to the applicant is included in Appendix A (Copied to applicant)

- 4.6 Flood Risk and Surface Water The site lies within Zone A of the Development Advice Maps (DAM) contained within Technical Advice Note 15 Development and Flood Risk (July 2004). TAN15 advises that for development located in Zone A the justification test is not applicable and surface water requirements apply. The acceptability criteria is for no increase in flooding elsewhere to occur as a result of the development. Given the location of development in Zone A, we advise that surface water requirements should be assessed.
- 4.7 Biodiversity The proposed sites may have the potential to support habitats of local biodiversity importance. We would encourage the retention of mature trees and hedgerows on the proposed sites for their conservation and aesthetic value.
- 4.8 Protected Sites The application site lies within 270m of the Gwent Levels – St Brides SSSI. The SSSI is notified for its range of aquatic plants and invertebrates associated with the reens and ditches of the drainage system. The special interests of the SSSI are dependent on the water quality, water quantity, the existence of the drainage system and its continued management. Any development which has an adverse impact on any of these factors will have an adverse impact on the wildlife for which the area was notified. The applicant will need to ensure that there is no risk of water of inappropriate quality entering the watercourses of the SSSI.
- 4.9 DWR CYMRU – WELSH WATER
We acknowledge the applicant intends on disposing of surface water via a sustainable drainage system / existing water course, therefore we have no comments/objections to make. Advise of apparatus in the area and provided a number of informative notes.
- 4.10 WESTERN POWER DISTRIBUTION
No objections to the proposal. Advise of apparatus in the area and provided a number of informative notes.
- 4.11 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST
No objections to the proposal subject to a condition relating to further archaeological work.
- 4.12 WALES AND WEST UTILITIES
No objections to the proposal. Advise of apparatus in the area and provided a number of informative notes.
- 4.13 NEWPORT CIVIC SOCIETY
No response.
- 4.14 GWENT WILDLIFE TRUST
No response.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION)

No objection to the proposal subject to conditions requiring the implementation of the CEMP, the submission of a Construction Waste Management Plan and the agreement of details relating to the street/flood lighting. Informative notes have also been provided.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER)

No objection to conditions relating to the implementation and maintenance of the proposed soft landscaping works.

5.3 PLANNING POLICY MANAGER

The car park and access road is supported in principle, subject to satisfactory highway design comments and providing there is no impact on the SINC(s).

5.4 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS)

No objections to the proposal subject to the implementation of the Construction Environmental Management Plan (CEMP)

5.5 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY)

No objections to the proposal.

5.6 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE)

No response.

6. REPRESENTATIONS

6.1 NEIGHBOURS

All properties within 50m of the application site were consulted (2 properties), a site notice displayed and a press notice published in South Wales Argus. No responses have been received.

6.2 COEDKERNEW COMMUNITY COUNCIL

Members welcome the development of the car park, it will ease the disorderly car parking on Imperial Way which has caused residents of Pencarn Avenue and drivers using this road problems for a number of years.

6.3 Car park lighting should be switched off overnight to protect the residents of Pencarn Avenue suffering light pollution. Some form of traffic calming on the access roads to prevent speeding and use of the road as a "rat run".

7. ASSESSMENT

7.1 It is proposed to construct an additional junction to the roundabout which connects Imperial Way and South Lake Drive. It is proposed to construct a new arm to the west which would connect to the existing internal road following the construction of a new carriageway and then link to an existing junction off a roundabout to the south of the site at Celtic Way. The existing internal roads would be resurfaced and widened to provide a 2m wide pavement on one-side of the new road and also widening the bends at junctions and corners to allow large HGV vehicles to pass. 8-10m high lighting columns would be installed along the road, along with 2m high palisade and 1.8m high closeboarded fencing around the perimeter of the road.

7.2 A car park providing around 300 spaces would be provided north of the new carriageway which connects with the Imperial Way/South Lake Drive roundabout. An automatic barrier would be installed at the entrance to the car park and 2m high palisade fencing would be installed around the perimeter. It is also proposed to install 10m high lighting columns within the car park.

7.3 Highways

The provision of a car park dedicated to removing existing vehicles which currently park on South Lake Drive and Imperial Way is welcomed to remove this unauthorised parking situation. This car

park is only sought to serve existing commercial/office units off Imperial Way as a means of addressing the current unauthorised parking occurring in the area; and as such no additional vehicle movements are anticipated in relation to the car park.

- 7.4 The car park could be accessed from multiple locations, such as Imperial Way, South Lake Drive or the new link road. This would assist in spreading the traffic and reducing the potential for any congestion to and from a single point of the wider road infrastructure. A Junction Assessment has been carried out to examine whether there are any capacity issues with key junctions in the immediate vicinity. A combined Stage 1 and 2 Road Safety Audit has also been carried out for proposed development which evaluates the highway improvement scheme. A Construction Environmental Management Plan (CEMP) has also been submitted. From a transportation perspective, the Head of Streetscene and City Services (Highways) has considered the scheme, including the supporting highway assessments and has no objections to the proposal. It is therefore considered that the proposed development would not have any significant adverse effect on highway/pedestrian safety.
- 7.5 **Contamination**
Part of the application site (the car park location) was previously occupied by a building known as the Central Utilities Building which contained various items of plant and adjacent to this transformer pens. These were associated with the former LG factory although never utilised. Prior approval was granted for the demolition of these buildings/structures in 2013 and was subsequently implemented.
- 7.6 The applicant has submitted a geotechnical and geo-environmental interpretative report which covers the wider Imperial Park site and some of the application site. It does not include the new section of road and new arm to the roundabout off Celtic Way (south of the site). The report concludes that there are no sources of contamination in the ground or groundwater and that a contamination linkage has not been identified; and that significant risks to receptors are not present. It concludes that there are no unacceptable risks to human health or controlled waters.
- 7.7 Natural Resources Wales (NRW) are concerned that the submitted report does not provide information in relation to historic maps or specific information relating to the previous land uses within the application site. The report does make reference to potentially contaminative land use and NRW suspect there could be land contamination issues associated with the site that could present a risk to controlled waters.
- 7.8 NRW recognise that sampling within the submitted report suggests that there is a low risk to controlled waters however, there are some limitations with the investigation which leads to a lack in confidence in its results and conclusions. As such they recommend a number of conditions to secure further assessment, investigation, verification and long term monitoring. These conditions are duly attached and subject to their imposition NRW raise no objections to this aspect of the proposal.
- 7.9 NRW had also initially raised concern regarding a nearby abstraction point. They were concerned that the abstraction point could be used for drinking water, although they were unclear about how close the point is to the proposed development. The applicant has provided additional information which clarifies that if abstraction is occurring it is a non-licensed abstraction which must be at 20m³ a day or less. The applicant has confirmed that it is no longer being used which concurs with NRW records. NRW are satisfied that the borehole is slotted at 29-50m below ground level and overlying superficial deposits and bedrock provide further protection to the supply. They are also satisfied that the borehole is approximately 100m from the development area. On this basis NRW raise no objection to this aspect of the proposal with no significant risk to water quality. The Council's Scientific Officer also has no objections to the proposal subject to a condition relating to any unforeseen contamination on the site. The Scientific Officer also has no objections to the measures proposed within the Construction Environmental Management Plan (CEMP).

7.10 **Ecology and trees**

The proposed development involves the upgrading of existing roads and the construction of a car park on an area of existing hardstanding. It is noted that the car park area was partly occupied until recently by buildings and plant items. It is not considered that there are any ecological constraints associated with these areas.

7.11 Notwithstanding the above, it is noted that there is a Site of Importance for Nature Conservation (SINC) immediately to the east of the Celtic Way/South Lake Drive junction. This area does not form part of the application site since the proposed highway works would skirt alongside. It is also noted that there is a Site of Special Scientific Interest (SSSI) located approximately 300m from the site. A number of ecological assessments have been submitted with the application and these have been considered by the Council's Ecologist. There are no objections to the proposal and as such, it is considered that the proposed works would not have any significant adverse impacts upon ecology or biodiversity interests. A condition is recommended for the agreement of all floodlighting which will include details of measures to limit light spillage towards the SINC.

7.12 Natural Resources Wales have noted that the SSSI is to the south of the site. The special interests of the SSSI are dependent on the water quality, water quantity, the existence of the drainage system and its continued management. Any development which has an adverse impact on any of these factors will have an adverse impact on the wildlife for which the area was notified. Conditions have been recommended by NRW relating to contamination whilst will assist in protecting groundwaters. No objections have been raised by NRW or the Council's Ecologist with regards to the SSSI.

7.13 The construction of the new junction to the roundabout would involve the loss of a small number of trees which currently grow along the existing grass verges. The Head of Streetscene and City Services (Tree Officer) has no objections to the removal of these trees but has requested mitigation through the inclusion of a landscaping scheme and a schedule of maintenance. This has been submitted and it is considered that the proposal would not have any significant adverse effect on visual amenity to biodiversity interests.

7.14 **Residential amenity**

The nearest residential property to the application site is around 110m away on Pencarn Avenue. Given the industrial/commercial context of Imperial Park it is not considered that the provision of a car park and the highway works would cause harm to properties on Pencarn Way. It is noted that the community council comment that the unauthorised parking on Imperial Way has caused disruption to residents for many years and as such the provision of the car park would provide some betterment to these residents.

7.15 It is also noted that lighting columns are proposed within the car park. The community council comment that the lighting should be turned off overnight to prevent light pollution to neighbouring residents. As recommended by the Council's Environmental Health Officer it is considered necessary to require a lighting scheme to be submitted prior to their installation. A Construction Environmental Management Plan (CEMP) has been submitted and the Council's Environmental Health Officer has no objections to the majority of the measures within the CEMP, however a Site Waste Management Plan has not been submitted. As such, it is considered necessary to impose conditions so that the development is carried out in accordance with the CEMP and that a Site Waste Management Plan is submitted prior to the commencement of development. Subject to the above, it is considered that the proposal would reasonably protect the amenities of neighbouring properties.

7.16 **Drainage**

A drainage plan has been submitted in which it is proposed to use a sustainable drainage system in the proposed car park. This would involve the use of permeable materials which would allow for the infiltration of surface water into the ground. It is proposed to discharge highway drainage to existing gullies and an existing piped network which is under the control of the applicant.

7.17 Welsh Water has no objections to the proposal whilst Natural Resources Wales has no objections but has recommended a condition which restricts infiltration of surface water into the ground unless it can be demonstrated that there is no risk of contamination to controlled waters. This is because they are not fully satisfied with the contamination investigative work undertaken. Given that the proposed drainage system is inherently based on ground infiltration, it cannot be guaranteed at this stage that this would be the most appropriate means of controlling surface water until it can be demonstrated that there would be no risk of groundwater contamination. As such, the condition has been worded to require the submission and agreement of all surface water drainage. This also enables alternative drainage arrangements to be secured should there be any constraints as a result of contamination. Subject to this, it is considered that the proposal would be reasonably served by adequate drainage facilities with no significant detriment to controlled waters.

7.18 **Employment Land**

Part of the proposal passes through an employment land designation, EM1(i) Duffryn, which is allocated in the Local Development Plan for B1, B2, and B8 uses. It is considered that the provision of an access road and carpark would potentially help to attract more commercial development to this location, and the carpark and access road would likely be considered ancillary to the employment use. Therefore there is no objection on this basis.

7.19 **Archaeology**

Although the site is not within an Archaeologically Sensitive Area, Glamorgan Gwent Archaeological Trust (GGAT) has advised that there is an archaeological restraint on the site. As such, the application has been accompanied by an Archaeological Written Scheme of Investigation. This has been considered by GGAT who has no objections to the proposal subject to a condition.

8. **OTHER CONSIDERATIONS**

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

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

8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

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

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

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is

considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.6 ***Wellbeing of Future Generations (Wales) Act 2015***

Section 3 of the Act 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 (section 5). This duty has 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, comprising development supportive of the employment policy allocation, is considered acceptable in principle. The scheme would reduce pressure of parking on nearby roads to the betterment of local amenity. It is considered that the development would not have any significant adverse effect on highway safety, water quality, ecology, trees, residential amenity and employment. It is therefore recommended that planning permission is granted with conditions.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

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

CLN-CAP-61-XX-DR-C-0001 P04 – Site Location Plan
CLN-CAP-61-XX-DR-C-0002 P04 – General Arrangement
CLN-CAP-61-XX-DR-C-0004 P04 – Vehicle Swept Paths
CLN-CAP-61-XX-DR-C-0005 P02 – Proposed Landscaping

Landscape Management Schedule (Capita, 23 November 2017)

Construction Environmental Management Plan (dated 07/11/2017, conducted by EcoVigour/Griffiths)

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

Pre-commencement conditions

02 Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall each be 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 site investigation results and the detailed risk assessment (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 in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved.

Reason: To ensure that there are no risks to controlled waters.

- 03 Prior to the commencement of development a verification report demonstrating completion of the works set out in the approved remediation strategy (as required by condition 2) 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 any plan (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, and for the reporting of this to the Local Planning Authority.

Reason: To ensure that there are no risks to controlled waters.

- 04 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that there are no risks to controlled waters.

- 05 Notwithstanding the submitted plans, no development shall commence until a scheme showing how surface water drainage generated by the development will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed scheme and implemented in full prior to being brought into beneficial use.

Reason: To ensure that effective drainage facilities are provided for the proposed development and to ensure that there are no risks to controlled waters.

- 06 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a programme of archaeological work as set out in a the written scheme of historic environment mitigation prepared by GGAT (Projects) [entitled: Land east of Quinn Radiators and former LG Electronics, Celtic Way, Celtic Lakes, Newport, Report Number 2017/071, dated November 2017] which has been submitted by the applicant and approved in writing by the Local Planning Authority. Thereafter, the programme of work shall be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: In the interests of archaeology.

- 07 Notwithstanding the requirements of Condition 01, no development shall commence until a Construction Waste Management Plan has been submitted to and agreed in writing by

the Local Planning Authority. The development shall be carried out in accordance with the Management Plan.

Reason: In the interests of amenities.

Pre-construction condition

- 08 Prior to the installation of any floodlighting/street light, full details shall be submitted to and approved in writing by the Local Planning Authority to provide that:
- i) Light into neighbouring residential windows generated from the lights shall not exceed 5 Ev (lux) (vertical illuminance in lux).
 - ii) Each light must be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical.
 - iii) The lighting shall be designed and operated to have full horizontal cut-off such that the Upward Waste Light Ratio does not exceed 2.5%.
 - iv) Measures to limit light spillage towards the Site of Importance to Nature Conservation (SINC)

The submitted scheme shall include an isolux diagram showing the predicted illuminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent properties. The approved scheme shall be implemented prior to first use of the lighting and be permanently maintained in that state thereafter.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of ecology/biodiversity.

Post-construction condition

- 09 The landscaping scheme, as shown on drawing CLN-CAP-61-XX-DR-C-0005 P02 shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance the document titled Landscape Management Schedule (Capita, 23 November 2017). Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

General Conditions

- 10 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that there are no risks to controlled waters.

NOTES TO APPLICANT

- 01 This decision also relates to the following drawings and documents: CLN-CAP-76-XX-DR-C-0002, Geotechnical and Geo-Environmental Interpretative Report (Arcadis, July 2016), Junction Assessment Report (Captia, June 2017), Pre Application Consultation report (Capita, August 2017) and Design and Access Statement and Planning Statement (Captia, July 2017),

Archaeological Written Scheme of Investigation (GGAT Projects, November 2017), Road Safety Audit (Stage 1/2, Capita, October 2017), Road Safety Audit (Stage 1/2 – Incorporating Designers Response, Capita, November 2017).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP17, GP2, GP4, GP5, GP7, CE8 and EM1 were relevant to the determination of this application.

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

04 In order to construct the new junction onto the Imperial Way/South Lake Drive roundabout the applicant will have to enter a s278 Highways Agreement with the council to enable the required work to be undertaken on the highway.

05 The applicant is advised that when discharging condition 7 infiltration of surface water drainage into the ground will only be permitted where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

06 The applicant/developer is advised that no development should be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays.

07 Newport is known to suffer from particularly poor air quality compared to the rest of Wales. To encourage a change to low/zero emission methods of transport, the applicant/developer is advised to install electric vehicle charging points within the vehicle parking area.

08 The proposed development site is crossed by a public sewer. The applicant/developer is advised that no operational development shall be carried out within 3 metres either side of the centreline of the public sewer. The proposed development is also crossed by a 200mm and 300mm watermain. Dwr Cymru/Welsh Water has statutory powers to access the apparatus at all times. It may be possible for the 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 applicant/developer is advised to consult Dwr Cymru/Welsh Water before any development commences on site.

09 The applicant/developer is advised that Wales & West Utilities and Western Power Distribution have utility apparatus in the area of the application site. The applicant/developer is advised to contact these utility companies before any works commence on site.

APPLICATION DETAILS

No: 17/0874 **Ward:** LLISWERRY

Type: FULL

Expiry Date: 8-DEC-2017

Applicant: J HAYMAN, FLAWLESS ACTION DESIGN LTD

Site: LAND ENCOMPASSING UNIT 106 CLEARWATER ROAD QUEENSWAY MEADOWS INDUSTRIAL ESTATE NEWPORT

Proposal: RETENTION OF MIXED B1 (FILM STUDIO) AND D2 (LEISURE) USE

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the change of use of Unit 106 Clearwater Road from a film studio (B1) to a mixed use of a film studio (B1) and gym/leisure (D2).
- 5.2 The unit in question is a mid-terrace B1 industrial unit located within an existing industrial estate of light industrial B1 units and benefits from shared parking spaces to the front of the unit and to the side of Unit 105. For the purpose of this application, the site lies on previously developed land, within the urban boundary, as defined by the Newport Local Development Plan (adopted 2015).

2. RELEVANT SITE HISTORY

- 2.1 No relevant history

3. POLICY CONTEXT

- 3.1 Policies SP3, SP17, GP1, GP2, GP4, EM3, T4 and CF10 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the determination of this application.

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

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

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

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

Policy CF10 Commercial Leisure Developments sets out the criteria for commercial leisure proposals outside of City and District Centres. They will need to have an assessment of need; demonstrate there are no suitable City, District or edge of centre sites; they do not undermine the vitality and viability of the City and District Centres; and the proposal does not have an unacceptable effect on the supply of employment land.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES: Offers no objection, but has made the following comments in regards to the proposed change of use of the unit:

The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river.

We recommend a FCA is undertaken to ensure all parties, including your authority, are aware of the risks to and from the proposed development, and ensure that the risks and consequences of flooding are minimised as far as possible. The criteria for the FCA, which should normally be undertaken by a suitably qualified person carrying an appropriate professional indemnity, are given in Section 7 and Appendix 1 of TAN15. The FCA should be appropriate to the scale and nature of the development being proposed.

Natural Resources Wales has no objection to the proposals. However, in our opinion, it is considered good practice for a Flood Consequence Assessment (FCA) to be undertaken.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS OFFICER):

In terms of the D2 use, the Newport City Council Parking Standards states that 1 space per 2 facility users should be provided. I note that the Design and Access Statement makes reference to 12 pupils and therefore in this scenario 6 spaces will be required. The applicant must submit further information to demonstrate that the parking demand associated with the proposed uses can be accommodated. I note that that the applicant makes reference to the parking within the area not being allocated however the applicant must still demonstrate that there is adequate parking available and also that they have the right to utilise this parking.

5.2 HEAD OF REGENERATION AND REGULATORY SERVICES (PLANNING POLICY MANAGER):

The sequential approach to development applies to all retail and other uses that are complementary to retail and commercial centres; including leisure uses. Developers should demonstrate that all potential retail and commercial centre options, and then edge-of-centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered. The onus of proof that central sites have been thoroughly assessed rests with the developer.

The site is located within the urban boundary of Newport, on previous developed land. It is proposed to convert an industrial unit (use classes B1) into a Film Studio and Gym (use classes B1 & D2). The applicants must, therefore, satisfy the requirements of LDP policies EM3 (Alternative Uses of Employment Land) and CF10 (Commercial Leisure Developments). For instance, they must show that they have attempted to find premises in, or adjacent to, established centres. In addition, they must demonstrate that the site has been marketed unsuccessfully for employment purposes for at least 12 months.

Both PPW and the LDP require the applicants to demonstrate a lack of suitable premises in, or adjacent to, established centres. In this instance, the city centre and the nearest district centre (Newport Retail Park). In paragraph 10.3.5 of PPW, the Welsh Government states that developers will need to be “flexible and innovative about the format, design and scale of proposed development”. At the same time, however, the council will need to be realistic about the applicants’ requirements. Buildings with the required characteristics for the business may exist in the city centre or district centres. One must remember, though, that the film studio and gym, unless strictly controlled by a planning condition, could subsequently be used for any purpose within the D2 and B1 use classes. In view of this, the council must consider whether blanket permission for D2 and B1 uses at this location could, in the future, upset the city’s hierarchy of leisure uses.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: Common boundary properties (2 addresses) were consulted and no comments were received.

7. ASSESSMENT

- 7.1 The proposed use would involve the addition of exercise classes and stunt classes associated with the existing film studio business operating at this B1 commercial unit. ‘Flawless Action Design’ is a small media company who would be using a designated area of the unit as a gym use in order to facilitate and expand the main use of the business as a film studio. The applicant is proposing to utilise the space within the evenings and therefore separate times to the main operating hours of the business. The hours of operation sought by the applicant are between 18:00-20:00, with the maximum number of attendees being 12, with the likelihood of the classes being between 4- 6 people. No external alterations are proposed as part of this application. The site lies within Flood Zone C1.
- 7.2 Policies SP3, SP17, GP1, GP2, GP4, EM3, T4 and CF10 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the determination of this application.
- 7.3 The unit in question is located within an area that is primarily smaller, light industrial units. Given the lack of residential units in the vicinity and the nature of the use proposed, it is not considered that the proposed use would have a detrimental impact on local amenity. Therefore, the proposed change of use would in accordance with policy GP2 of the Newport Local Development Plan (adopted 2015).

7.4 Policy CF10, relates to commercial leisure developments such as this, which are located outside of the city centre or district centre and state that they should not undermine the vitality of these areas and put an unacceptable effect on the supply of employment land. It is considered the proposed mixed use to incorporate an element of leisure use is primarily to support and expand an existing small enterprise and the fitness/leisure function is directly associated with the film studio, teaching stunt moves and similar as part of the exercise class. Furthermore, it is noted that there is a high number of vacant industrial units surrounding the application site which are currently available to rent with incentives, indicating that the continuous use of this unit should be supported. Whilst sequential testing is appropriate for city centre uses proposed outside designated centres, in this case the proposal directly relates to the existing enterprise, is very small scale and will hopefully encourage the long term viability of this small enterprise. Policy CF10 is not complied with, but the merits of this small scheme are considered to outweigh any actual harm or harm to policy interests. On balance, it is not considered that a Sequential Test is essential to support this application.

7.5 *Employment Land*

Policy EM3 of the LDP seeks to protect employment land within Newport, unless;

- i) *THE SITE HAS BEEN MARKETED UNSUCCESSFULLY FOR EMPLOYMENT PURPOSES FOR A MINIMUM OF 12 MONTHS;*
- ii) *THERE REMAINS A SUFFICIENT RANGE AND CHOICE OF EMPLOYMENT LAND AND PREMISES TO MEET LDP REQUIREMENTS AND LOCAL DEMAND;*
- iii) *THE DEVELOPMENT HAS NO ADVERSE IMPACT ON EXISTING OR ALLOCATED EMPLOYMENT SITES;*
- iv) *THE DEVELOPMENT HAS NO ADVERSE IMPACT ON AMENITY OR THE ENVIRONMENT.*

7.6 With regards to criterion i), the applicant has not confirmed whether or not the site has been advertised unsuccessfully solely for a B1 use as opposed to incorporating a leisure use aspect to the site. However, it is evident from the site that there are a high number of units available to let and are being offered with financial incentives and therefore it is considered that if the applicant's site became vacant, like many of the other units, this would likely be the case for a considerable period of time and continuous use of the unit should be supported in this instance through the proposed mixed use development. ii), the LDP has allocated 172ha of employment land across the Plan period. Since the start of the Plan period, 4.46ha of EM1 employment land allocations has been developed and 2.5ha currently has full planning permission. Therefore over 165ha of EM1 employment land is still available for development, which would satisfy the second criterion. Furthermore, the Council's Employment Land Review (submitted as part of the LDP examination) noted the surplus supply of older stock office accommodation in Newport and suggests that alternative uses for this older stock should be explored. Therefore, other than the small loss of B1 employment land proposed as part of this application, it is not considered that this proposal would have an adverse impact on existing or allocated employment sites. Furthermore, the proposed use of D1 (leisure) in this location and within the same unit is proposed to promote the viability of the existing B1 use and therefore allowing a mixed use development at this site on balance, is in accordance with policy EM3 of the Newport Local Development Plan (adopted 2015). In regards to iii) The unit is still in B1 use as part of the proposed mixed use, so it is not considered that the requirements of policy EM3 need to be strictly complied with in this instance and the thrust of the policy is met in any case as the leisure use will support the B1 operation. As a result, it is not considered that the applicant needs to demonstrate that the unit has been unsuccessfully marketed for employment purposes for a minimum of 12 months, with the proposed addition of a D1 use being complementary to the existing B1 use.

Flood Risk

- 7.7 As stated, the application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, which is a designated main river.
- 7.8 Policies SP3 and GP1 of the LDP require that development is directed away from areas where flood risk is an identified constraint, and that development will only be permitted in these areas where they comply with national guidance. The relevant national guidance is Welsh Government's Technical Advice Note 15: Development and Flood Risk (TAN15), which states that "*a proposed development must provide a safe and secure living and/or working environment throughout its life*". The guidance and aforementioned policies states that a Flood Consequences Assessment (FCA) will be required to ensure that the developer and LPA can appreciate and assess the potential risks and consequences of flooding, and demonstrate that the development is designed to cope with the threat, risks and consequences of flooding over its lifetime.
- 7.9 No information (in the form of an FCA) has been submitted which considers the risk and consequences of flooding associated with the development. Nevertheless, the applicant has confirmed that the proposed change of use is minor and does not involve any proposed extension to the existing development. In terms of the users of the site, it is considered that the users of the premises will be linked to the existing B1 use and therefore the development will not intensify or alter the character of the property in order to require the submission of an FCA in this instance. Furthermore, Natural Resources Wales have commented on the proposed change of use and have stated that although it is considered good practice to submit an FCA, justification from the applicant as to why one is not required has been included in this application and they offer no objection to the scheme of works taking place at Unit 106 Clearwater Road. Additionally, the site currently benefits from a lawful B1 use, the intensity and operational hours of which are uncontrolled. The addition of several exercise classes for up to 12 customers per class and to take place outside the filming periods, will not in all likelihood increase the intensity of use compared to a credible fall-back position of a small office or manufacturing business.
- 7.10 *Parking*
The parking available at the unit is shared with approximately eight additional commercial units located within the industrial estate. To the front of the application site there are six car parking spaces, in which three of the spaces would be realistically available in connection with 'Flawless Action Designs'. In addition to the parking available directly outside of Unit 106, there is ample parking available to the side of Unit 105. This area, although not clearly marked out for parking, is vacant and appears to be used for 'overspill' parking within the industrial park. This area would accommodate approximately 8 vehicles, if required. Furthermore, the industrial estate does not appear to be overly subscribed in terms of parking available and there are no restrictions within the private cul-de-sac preventing additional on-street parking. The applicant is proposing a maximum class size of twelve and the Head of Streetscene and City Services (Highways Officer) has commented that this proposed number of attendees would generate a parking demand of six spaces. The applicant has stated that the likely number of people attending the exercise classes will most likely be between four and six people and therefore the parking increase in this case would be between two and four spaces. As these classes are scheduled to operate outside the peak hours of nearby starter units there is unlikely to be competition for spaces in practice and consequently there is no robust justification to refuse planning permission for parking reasons. It

is therefore considered that the number of parking spaces available in connection with the unit is suitable in this instance and the proposed change of use would not be detrimental to highway safety or have an adverse impact on amenity for adjoining users of the commercial units.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

8.7 *Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act 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 (section 5). This duty has 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

8.1 The proposed change of use at Unit 106, Clearwater Road, by reasons of its scale and location is not considered to increase the vulnerability of the building by reason of flood risk. Furthermore, although some employment land is to be lost as a result of the mixed use development, the proposed change of use would not be harmful to employment land or residential amenity and is not therefore considered to be contrary to policy EM3 or GP2 of the Newport Local Development Plan (adopted 2015). As the need for a sequential test and the assessment of parking has been based on information accompanying this application and weight has been given to the proposed mixed use of the building and the times of classes, conditions regarding these factors are recommended.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Existing and Proposed (Floor Plans), Drawing No. KD1623/1 (Received 20 September 2017), Site Location Plan, (Received 20 September 2017), Design and Access Statement, (Received 13 September 2017).

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

General conditions

02 The D2, martial art studio/gym hereby approved shall only be used in connection with the existing film studio and shall at no time operate as the only or primary use of the unit.

Reason: To prevent increased demand for parking in the interest of highway safety and to safeguard the vitality and viability of defined centres.

03 The D2, martial art studio/gym use hereby approved shall be restricted to the following hours of operation: 17:30-20:30 Monday to Saturday.

Reason: To prevent increased demand for parking in the interest of highway safety and congestion.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Existing and Proposed (Floor Plans), Drawing No. KD1623/1 (Received 20 September 2017), Site Location Plan, (Received 20 September 2017).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP3, SP17, SP18, GP1, GP2, GP4, EM3 and T4 were relevant to the determination of this application.

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

APPLICATION DETAILS

No: 17/1018 **Ward:** GAER

Type: FULL

Expiry Date: 25-DEC-2017

Applicant: MR BRIAN LOVETT

Site: CENTRICA LODGE, GAER ROAD, NEWPORT, NP20 3GX

Proposal: ERECTION OF 2NO. FIRST FLOOR SIDE EXTENSIONS, A GROUND FLOOR LOBBY EXTENSION TO INCLUDE AN INTERNAL LIFT, CHANGE OF INTERNAL LAYOUT TO INCLUDE EN-SUITE BATHROOMS TO ALL BEDROOMS

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the erection of 2No first floor side extensions and a ground floor lobby extension at the residential care home known as Centrica Lodge, Gaer Road, Newport. The proposed works would allow for a change to the internal layout, the provision of en-suite bathrooms to all bedrooms and the installation of an internal lift.
- 1.2 The application is brought before Planning Committee as it relates to a Council run property.

2. RELEVANT SITE HISTORY

00/0135	ERECTION OF 6 NO BEDROOM SHORT STAY FACILITY FOR RESPITE CARE	Granted with Conditions
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3. POLICY CONTEXT

- 3.1 Policy SP1 (Sustainability) favours proposals which make a positive contribution to sustainable development.
- Policy GP2 (General Development Principles – General Amenity) states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- Policy 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.

4. CONSULTATIONS

- 4.1 DWR CYMRU/WELSH WATER: Recommend an advisory note.

5. INTERNAL COUNCIL ADVICE

- 5.1 No internal Council advice was sought.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties that share a common boundary with the application site, and opposite, were consulted (15No properties). No representations were received.

7. ASSESSMENT

- 7.1 The existing property is two storeys in scale, with two single storey elements on either flank, and a single storey rear projection. It also has its entrance recessed below the cat-slide roof of the single storey section to the right hand side (as viewed from the front elevation). The proposed development involves the erection of two first floor extensions above the single storey side elements, allowing for an internal reconfiguration and the provision of an additional en-suite bathroom. The installation of an internal lift requires the extension of the existing lobby, which is proposed through 'infilling' the existing void adjacent to the entrance.
- 7.2 To the right hand side (when viewed from the front) it is proposed to erect a first floor extension that would continue the ridge height across and adjoin with the existing first floor of the property, so does not include a set-back or set-down. In isolation, the extension would measure 2.4m in width, 7m in depth and 2.2m in height. It would have a window of matching proportions on the front elevation and be constructed of matching materials. To the left hand side, the side section is set back from the front elevation of the building by 1.1m. The proposed first floor extension would match the ground floor in terms of its siting, and retain the 1.1m set back from the main front elevation. It would measure 2.4m in width, 6.35m in depth and 2.3m in height. It would also have a window of matching proportions on the front elevation and be constructed of matching materials. The infill extension adjacent to the entrance would involve the bricking up on the voids within the existing walls and relocating the entrance door.
- 7.3 The property is located on Gaer Road, which includes a diverse mix of property types and designs. To the north and west of the site there are predominantly two storey semi-detached dwellings, whilst to the south there are a number of commercial/community buildings and a multi-storey tower block beyond. This property is the transition point between the two types of properties in the vicinity and, as a relatively recent construction, it does not follow any of the character or architectural detailing of the adjacent developments.
- 7.4 The Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) recommends that two storey (or first floor) side extensions are set back from the front of a property by at least 1m and are set down from the ridge of the main dwelling in order to reduce its massing and to retain the character of the host property. Whilst this proposal is not relating to a domestic property, it is considered that the design principles of the SPG are relevant due to the nature of the application property. The first floor extension to the right hand side has been amended since the original submission so that it adjoins to the front elevation. The rationale behind this alteration is due to the cat-slide roof extending across the front of the property, creating a canopy. It is considered that an extension which matches the eaves and ridge height, and that does not make use of a set back, would better integrate with the existing property. Conversely, the first floor extension to the left hand side is set down from the ridge of the main dwelling so that it resembles an extension to the main dwelling. This is considered appropriate as it is already set-back from the front elevation of the dwelling, and would help to both reduce the massing of the extension, and to retain some of the character of the host property. The infilling of the ground floor section, which is within the footprint of the existing building, is considered acceptable and it would not have a detrimental impact on the character or appearance of the property. Overall, it is considered that the design, character, detailing and massing of the proposed development is acceptable and that it would have an acceptable impact on the visual amenities of the area.
- 7.5 With regards to the impact on residential amenity, due to its location on the corner of Gaer Road and an access road, the proposal is only likely to impact on 27 Burnfort Road as all other properties are set away from the application property. The application property is sited at a lower ground level to no27, which reduces its impact and prominence. Furthermore, no27 has a double garage between its side elevation and the application site, and they have different orientations. Taking these factors in to account, it is not considered that any of the proposed developments would have an overbearing impact on no27, nor result in a loss of light. There are no windows proposed in the first floor extension facing towards no27, so there would be no impact on privacy. The insertion of windows in this elevation can be controlled by condition.

7.6 There are no parking implications arising from the proposed development, and the internal reconfiguration and installation of a lift do not require planning permission.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

8.7 *Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act 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 (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 Having regard to the aforementioned policies of the LDP, it is concluded that the design and impact of the proposed development would be acceptable in terms of visual amenity, residential amenity and quality of design. It is therefore recommended that planning permission is granted with conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; NPS-DR-A-(00)-002 P1 (Amended 22/11/2017).

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

02 No window or door openings shall be formed in the northern side elevation of the northern first floor side extension hereby approved.

Reason: To protect the privacy of adjoining residents.

03 The external surfaces of the extensions hereby permitted shall only be of materials to match those of the existing building.

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

NOTE TO APPLICANT

01 This decision relates to plan Nos: NPS-DR-A-(00)-001 P1 (Amended 21/11/2017) and Site Location Plan.

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

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

04 The proposed development site is crossed by a public sewer with the approximate position being marked on the record plan provided by DCWW. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact DCWW Developer Services 0800 917 2652. The developer must contact DCWW if a sewer connection is required under Section 106 of the Water Industry Act 1991 or any alteration to their apparatus is proposed prior to any development being undertaken.

APPLICATION DETAILS

No: 17/0820 **Ward:** *ROGERSTONE*

Type: RENEWALS AND VARIATION OF CONDITIONS

Expiry Date: 28-NOV-2017

Applicant: *M SPARREY*

Site: *5, BEACONS CLOSE, ROGERSTONE, NEWPORT, NP10 9AX*

Proposal: *VARIATION OF CONDITION 02 (OBSCURED GLAZING) OF PLANNING PERMISSION 02/0659 FOR ERECTION OF FIRST FLOOR REAR EXTENSION*

Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks to remove condition 02 of planning permission 02/0659 which requires a first floor window in the side elevation to be obscure glazed and retained as such in perpetuity. The original window has been replaced with a window of a different style and omits the obscure glazing resulting in a breach of this condition. This application seeks to remedy the breach.
- 1.2 This application has been called to Planning Committee by Councillor Evans.

2. RELEVANT SITE HISTORY

02/0659	ERECTION OF FIRST FLOOR EXTENSION	Granted Conditions	with
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3. POLICY CONTEXT

- 3.1 ***Newport Local Development Plan 2011-2026 (Adopted January 2015)***
- 3.1.1 General Development Principles – GP2 General Amenity
The amenity enjoyed by people in their local environment should not be significantly harmed as a result of development.
- 3.1.2 General Development Principles – GP6 Quality of Design
High quality design should be sought in all forms of development.
- 3.2 ***House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015)***
- 3.2.1 Ensures that house extensions and domestic outbuildings do not cause substantial harm to neighbours' living conditions and protects the character and appearance of residential buildings and their surroundings.

4. CONSULTATIONS

- 4.1 None.

5. INTERNAL COUNCIL ADVICE

- 5.1 BUILDING CONTROL MANAGER: No representations received.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties with a common boundary were consulted (five addresses). Two letters were received objecting on the following grounds:
- Results in overlooking of neighbouring properties.
 - Proximity to neighbouring properties.
 - Views into protected windows of neighbouring properties from the window.

- Quality of life, amenity and privacy have been negatively impacted.
- The side elevation is approximately 2 metres from the garden boundary and the window directly overlooks neighbouring gardens offering no privacy for the use of the garden.
- Neighbouring properties are less than the 21 metre distance of separation required.

7. ASSESSMENT

7.1 This application seeks permission for the removal of condition 02 of planning permission 02/0659 for the erection of a first floor extension at the detached property in the Rogerstone ward.

7.2 Condition 02 states “The proposed window on the first floor side (south) elevation as shown on the approved plans shall be fitted with obscure glazing prior to the first use of the extension and shall be retained in this state thereafter.

Reason: To protect the amenities and privacy of adjoining residents.”

7.3 The original top opening window has been replaced with a vertical opening window to comply with FENSA regulations to allow for a means of escape and in doing so the obscure glazing has also been removed.

7.4 The side elevation of the application property where the first floor window is located is approximately 2 metres from the side boundary which allows views into the rear gardens of neighbouring properties to the south, particularly 167 and 169 Ruskin Avenue. The original properties and their subsequent extensions also fall within 21 metres of the window.

7.5 The SPG states that that high-level windows in the side elevation will almost always be unacceptable due to resulting loss of privacy. In order to preserve residents’ privacy in their homes, suitable separation distances must exist between new high-level protected windows in neighbouring houses. Protected windows which face each other should be at least 21 metres apart.

7.6 The SPG also considers overlooking of adjacent gardens. In order to prevent overlooking between properties, suitable separation distances must also exist between new high level protected windows and adjacent back gardens. When judging whether the distance between high-level protected windows and a neighbouring garden is suitable, the Council will consider, amongst other things, the shape, size and layout of the garden and the effects of ground levels, outbuildings and boundary treatments.

7.7 In this instance, due to the proximity of the window to neighbouring gardens and properties, an unacceptable degree of overlooking exists resulting from the removal of obscure glazing.

7.8 It is not considered that the style of the replaced window results in an unacceptable impact on amenity as the overall opening size remains the same. However due to the large opening size, even if the window was obscure glazed views would be available from the window when opened fully. However, this could be addressed by attaching a condition ensuring fitting window restrictors fitted with a release catch to limit the opening for day-to-day use while still allowing emergency escape to be compliant with Part B of the Building Regulations.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 **Equality Act 2010**

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

8.7 **Wellbeing of Future Generations (Wales) Act 2015**

Section 3 of the Act 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 (section 5). This duty has 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 Removal of condition 02 of planning permission 02/0659 would result in an unacceptable impact on the amenity of neighbouring occupiers, resulting in a significant loss of privacy and is therefore recommended that the application be refused.

10. **RECOMMENDATION**

REFUSED

01 The removal of obscure glazing results in an unacceptable impact on the amenity of surrounding occupiers in terms of loss of privacy to neighbouring residential properties contrary to policy GP2 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Photo of Window.

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

03 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) was relevant to the determination of this application.

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