

Report

Planning Committee

Part 1

Date: 07 February 2018

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

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.

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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-determination, with costs awarded	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee Development Services

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?
against the Council				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: 17/0953 **Ward:** *SHAFTESBURY*

Type: RENEWALS AND VARIATION OF CONDITIONS

Expiry Date: 12-JAN-2018

Applicant: *JBA CONSULTING*

Site: *CRINDAU PILL FLOOD ALLEVIATION SCHEME, EVANS STREET, NEWPORT*

Proposal: *VARIATION OF CONDITION 01 OF PLANNING PERMISSION 15/0078 FOR PROPOSED NEW RAISED FLOOD DEFENCES TO REPOSITION SHEET PILE WALL AND ENGINEER RIVER BANK*

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 This application seeks planning permission to vary planning condition 01 (Plans) of planning permission 15/0078 for the proposed new raised flood defences to reposition sheet pile wall and engineer river bank at Evans Street in the Shaftesbury ward. The application has been called to Planning Committee by Councillor Forsey in order to assess the impact on Policies CE1 (Routeways, Corridors and Gateways), CE2 (Waterfront Development) and CF3 (Environmental Spaces and Corridors) of the Newport Local Development Plan 2011-2026 (adopted January 2015).
- 1.2 The originally approved application site relates to a large section of area between the southern boundary of the former Sainsbury's site to the north of Newport Castle and the M4 Bridge to the north of Albany Street, which is an area of 3.66ha. The approved permission 15/0078 included the construction of a new flood defence wall along the northern bank of Crindau Pill from the highway bridge on Lyne Road to its confluence with the River Usk.

- 1.3 Due to civil matters the developer has been unable to reach the necessary agreements to enable implementation of the previously approved scheme and as such has submitted this application to amend the scheme design to avoid some third party land and this will necessitate the re-engineering of the river bank at the affected area.
- 1.4 The merits of the overall development are comparable to those previously considered and compliant with both national and local planning policy. This report therefore focuses solely on the impact of the proposed changes to the short section of wall that is located towards the southern boundary of the Magnum Access Scaffolding site. However, any consent granted under Section 73 of the Town and Country Planning Act 1990 (as amended) would represent a standalone planning permission.

2. RELEVANT SITE HISTORY

15/0078	PROPOSED NEW RAISED FLOOD DEFENCES COMPRISING REINFORCED CONCRETE WALLS, EMBANKMENTS AND GROUND RAISING 0.2M TO 1.5M ABOVE EXISTING GROUND LEVELS AND ASSOCIATED WORKS	GRANTED WITH CONDITIONS
15/0995	PARTIAL DISCHARGE OF CONDITION 06 (TREE PLANTING) AND 14 (LANDSCAPING SCHEME) OF PLANNING PERMISSION 15/0078	APPROVED
15/0996	PARTIAL DISCHARGE OF CONDITION 13 (REPTILE METHOD STATEMENT) OF PLANNING PERMISSION 15/0078	APPROVED
15/1072	PARTIAL DISCHARGE OF CONDITION 25 (GROUDNWATER MONITORING) OF PLANNING PERMISSISON 15/0078	APPROVED
15/1234	VARIATION OF CONDITION 1 (APPROVED PLANS) OF PLANNING PERMISSION 15/0078 FOR PROPOSED NEW RAISED FLOOD DEFENCES COMPRISING REINFORCED CONCRETE WALLS, EMBANKMENTS AND GROUND RAISING 0.2M TO 1.5M ABOVE EXISTING GROUND LEVELS AND ASSOCIATED WORKS	GRANTED WITH CONDITIONS
15/1269	PARTIAL DISCHARGE OF CONDITION 02 (MATERIALS) OF PLANNING PERMISSION 15/0078	APPROVED
15/1430	PARTIAL DISCHARGE OF CONDITIONS 04 (HARD LANDSCAPING), 05 (WRITTEN SCHEME OF INVESTIGATION) AND 15 (LYNE ROAD BRIDGE) OF PLANNING PERMISSION 15/0078	PART GRANTED/PART REFUSED
16/0554	PARTIAL DISCHARGE OF CONDITIN 16 (DESIGN DETAILS) OF PLANNING PERMISSION 15/0078	APPROVED
16/0886	PARTIAL DISCHARGE OF CONDITIONS 03 (CONSTRUCTION MANAGEMENT PLAN), 11 (LIGHTING), 12 (ECOLOGIST WATCHING BRIEF) AND 22 (IMPORTED TOPSOIL) OF PLANNING PERMISSON 15/0078 FOR PROPOSED NEW RAISED FLOOD DEFENCES COMPRISING REINFORCED CONCRETE WALLS, EMBANKMENTS AND GROUND RAISING 0.2M-1.5M ABOVE EXISTING GROUND LEVELS AND ASSOCIATED WORKS	PART APPROVED PART REFUSED

3. POLICY CONTEXT

3.1 SP1 - SUSTAINABILITY

SP3 – FLOOD RISK

GP1 – GENERAL DEVELOPMENT PRINCIPLES – CLIMATE CHANGE

GP2 – GENERAL DEVELOPMENT PRINCIPLES – GENERAL AMENITY

GP5 - GENERAL DEVELOPMENT PRINCIPLES – NATURAL ENVIRONMENT

CE6 – ARCHAEOLOGY

GP7 – GENERAL DEVELOPMENT PRINCIPLES - ENVIRONMENTAL PROTECTION AND PUBLIC HEALTH

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES: We recommend that you should only grant planning permission if you attach conditions. These conditions would address significant concerns that we have identified. Further details and advice are provided below.

You will be aware that NRW are the applicant for this scheme. We are also the determining authority for the Marine Licence as well as a statutory consultee to you as the planning authority. Our advice to you as a consultee is completely independent of our other roles.

River Usk Special Area of Conservation (SAC)

The variation of condition addresses the requirement for a design change to the originally approved scheme at the “Magnum Access Scaffolding” site on the Crindau Pill. The design change has the potential to affect the features (Otter) of the River Usk Special Area of Conservation (SAC).

The applicant submitted a ‘Record of a Habitats Regulations Assessment of a project’ form which is required from them when undertaking works that have the potential to affect a SAC.

Our advice to you is that providing the avoidance measures contained within section 4 of the form are implemented we consider that the proposals would not be likely to have an adverse impact on the River Usk SAC. This states that avoidance measures are necessary to ensure the proposals would not be likely to have an adverse impact on the River Usk SAC. Specifically, the need to use a cofferdam within the watercourse during construction could prohibitively narrow the river channel, inhibiting otter passage along Crindau Pill and increasing the risk of disturbance and harm.

To ensure safe otter passage during the construction, temporary fencing is proposed to be erected on the right (southern) bank of the channel for the length of the works proposed in the variation. This is set out in the approved Environment Action Plan and indicated within the revised drawing prepared by JBA consulting referenced 2014s1341-9017 Rev P3.

We recommend that final details of the fencing scheme are submitted and secured through any permission to vary condition 1 of planning permission 15/0078.

As the Competent Authority for the planning application you should be satisfied that you have carried out your own assessment under the Conservation of Habitats and Species Regulations 2010, however we recommend you refer to the Record of a Habitats Regulations Assessment of a project form when carrying this out. We will be referring to this when completing our Habitats Regulation Assessment for the Marine Licence variation.

4.2 THE CANALS AND RIVER TRUST: We understand the importance of the scheme to local residents and businesses and did not object to it in principle. However we are keen to ensure that anything that is done does not prevent the possibility in future of creating navigable link from the canal to the Usk. We are aware that the current Development Plan does not feature the scheme but are optimistic that a future revision will.

It appears from the submitted drawings that the sheet piling and bank reinforcement around a particularly sharp bend will result in the width of the Pill being narrowed. This is an important issue for us as this would become a difficult pinch point for a 60ft canal boat to navigate around.

4.3 WALES AND WEST UTILITIES: No objections.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): No objection.

5.3 HEAD OF STREETSCENE AND CITY SERVICES (PUBLIC RIGHTS OF WAY): No objection.

5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): No objection.

5.5 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): No objections.

5.6 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Provided all works are undertaken in accordance with agreed CEMPs and in line with the methods detailed in the HRA I do not have any objections.

5.7 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE SERVICES MANAGER): No objection.

5.8 ESTATES PORTFOLIO MANAGER: No objection

5.9 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties that share a common boundary with the application site were consulted (7no properties) were consulted on this application and no objections have been received.

6.2 COUNCILLORS COCKERAM & THOMAS: No comments received.

6.3 COUNCILLOR FORSEY: Has requested that the application is determined at planning committee for the following reasons;

“The proposal is contrary to Policy CE1, CE2 and CF3 of the adopted Local Development Plan. In particular it threatens the Councils aspiration contained within paragraph 9.18 of policy CF3.

“9.18 The Monmouthshire and Brecon Canals have considerable potential for recreational and tourism opportunities. The Council has entered into a partnership with Torfaen County Borough Council, Monmouthshire County Council, Brecon and Abergavenny Canals Trust and British Waterways, with the aim of re-establishing navigation on the full length of the canal between Newport and Brecon, linked with a proposed canal basin development at Crindau Pill.”

7. ASSESSMENT

7.1 The overall area subject to the scheme is “The River Usk, downstream of the M4 road bridge, and is described as a large water body that flows in a southerly direction to its confluence with the Severn Estuary at Uskmouth. At its confluence with Crindau Pill, the channel of the River Usk is approximately 120m wide and 10m deep. The river is estuarine in nature and is characterised by slow southerly freshwater flow, which is reversed during high tide events. It contains broad mudflat area along both banks, which are exposed during low tide and dense stands of aquatic and marginal vegetation including salt-tolerant grass species and reedbeds. The river is designated as a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), and supports a range of important fish species and otter

7.2 The amendments over and above the previously approved scheme specifically relate to a short section of wall that is located towards the southern boundary of the Magnum Access Scaffolding site and the western boundary of the adjacent downstream site. The flood defence wall comprises a reinforced sheet pile and reinforced concrete capping beam to a height of 9.15m AOD, with a steel wire mesh security fence positioned on the top of the capping beam. The original design of the scheme at this location allowed for a degree of future channel/bank erosion over the 100-year design life of the scheme. The riverbank also provided important passive support to the sheet pile flood wall. The proposed revised design re-aligns the sheet pile wall to the existing fence line of Magnum Access Scaffolding site and tapers back to the approved wall alignment on either side of the site. As a result of this change, the river bank along this section of Crindau Pill has been redesigned and engineered to protect against the risk of future erosion and to provide adequate passive support to the sheet piles.

7.3 Planning Policy Wales (PPW) (Edition 7)

PPW highlights that “Development proposals in areas defined as being of high flood hazard should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event.”

7.4 Technical Advice Note (TAN) 15

7.5 The development is defined as being Less Vulnerable Development. TAN15 explains that “new development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. New development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location.” Bearing in mind the associated tests in TAN 15 it is deemed that the development is necessary to sustain an existing settlement in Newport. Despite this, in most cases the development would be sited in areas that cannot be defined as previously developed land and therefore not in complete accordance with the wording of TAN15. However, the overall aim of TAN15 is to protect the built environment from flooding, which is the overall rationale behind the submission of this application. As a consequence it is deemed that the principle of development can be established in this instance and is also broadly in accordance with the aims of policy SP1 of the Newport Local Development Plan.

7.6 Policy SP3 relates to development and flood risk. It outlines that “Newport’s coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.” The site is positioned within an area of Flood Zone C1. Technical Advice Note 15 defines flood zone C1 as “Areas of the floodplain served by significant infrastructure, including flood defences.” The originally submitted Flood Consequences Assessment highlights that “Most of the defences that currently protect Crindau were constructed following the 1981 flood event, which reportedly affected 430 homes. It is understood that these defences were constructed as emergency works and were never suitably designed or intended to be a long term solution. Recent flood modelling suggests that these defences offer a level of protection up to the 10% AEP event. As a result 667 properties are at risk of flooding from a 0.5% Annual Exceedance Probability (AEP). A major tidal event in January 2014 caused the flood defences to fail in a number of locations and emergency repairs have been

undertaken by NRW.” It further notes that “the main source of flood risk to the proposed development site is tidal flooding. The proposed development is by its nature water compatible. The defence structures are designed to withstand all events up to and over its target standard of protection (0.5% AEP including an allowance for climate change up to 2064). The defences will have a 100 year design life...There are no other significant sources of flood risk to the Crindau area and the proposal will have no adverse impacts on surface water and groundwater flood risks...Raised defences such as those proposed can still be overtopped or even fail. However unlikely this risk, in some situations the presence of the defences may slightly increase the flood hazard within Crindau as, if overtopped, the area will flood very rapidly.”

7.7 Design

7.8 Good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:

- i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
- ii) access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
- iii) preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
- iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
- v) materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
- vi) sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.

7.9 In terms of the design of the scheme and the amendments over and above the previously approved, it is considered that these are acceptable and achieve what is required in order to complete the scheme.

7.10 Amenity

7.11 Policy GP2 relates to general amenity. It highlights that “development will be permitted where, as applicable:

- i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- iii) the proposal seeks to design out the opportunity for crime and anti-social behaviour;
- iv) the proposal promotes inclusive design both for the built development and access within and around the development;
- v) adequate amenity for future occupiers.”

7.12 This specific area of the scheme is predominantly a mixture between industrial, residential and retail. Given the nature of the proposed amendments it is not considered that this would cause any impact over and above the previously approved scheme. As such the proposal is in accordance with Policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

7.13 Ecology

7.14 Policy GP5 relates to development and the natural environment. It notes that “development will be permitted where, as applicable:

- i) the proposals are designed and managed to protect and encourage biodiversity and ecological connectivity, including through the incorporation of new features on or off site to further the UK, Welsh and/or Newport biodiversity action plans;
- ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national, Welsh section 4232 and local protected habitats and species, and protecting features of importance for ecology;
- iii) the proposal will not result in an unacceptable impact on water quality;
- iv) the proposal should not result in the loss or reduction in quality of high quality agricultural land (grades 1, 2 and 3a);
- v) there would be no unacceptable impact on landscape quality;
- vi) the proposal includes an appropriate landscape scheme, which enhances the site and the wider context including green infrastructure and biodiversity networks;
- vii) the proposal includes appropriate tree planting or retention where appropriate and does not result in the unacceptable loss of or harm to trees, woodland or hedgerows that have wildlife or amenity value.”

7.15 As a matter of course the Local Planning Authority has sought advice from the Head of Streetscene & City Services (Ecology) and Natural Resources Wales. The Head of Streetscene and City Services (Ecology) has offered no objection to the proposal subject to all works being undertaken in accordance with agreed CEMPs and in line with the methods detailed in the Habitats Regulation Assessment. NRW have offered no objection subject to conditions being attached to any permission in relation to the final details of the proposed fencing scheme and the avoidance measures contained within section 4 of the Habitats Regulation Assessment.

7.16 Environmental Protection

7.17 Policy GP7 outlines that “development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.” As a matter of course the Local Planning Authority has sought advice from the Head of Law and Regulation (Environmental Health) resulting in no objections being received.

7.18 Highways

7.19 The Head of Streetscene and City Services (Highways) has been consulted and has offered no objection.

Canal Navigation

7.20 The Canals and River Trust have objected to this application and have concerns regarding the future possibility of creating a navigable link from the canal to the River Usk and how this could be compromised by the proposed amendments. It has been stated within the objection that the proposal to narrow the width of the Crindau Pill at this section would create a difficult pinch point for large canal boats to navigate around.

7.21 Policy CE1 (Routes, Corridors and Gateways) outlines that proposals should protect and enhance the appearance and connectivity of existing and future main route corridors and gateways into the city, including The Monmouthshire and Brecon Canals.

7.22 Policy CE2 (Waterfront Regeneration) outlines that development in waterside location should integrate with the waterway and should take into account the interests of regeneration, leisure, navigation, water quality and flow and nature conservation.

7.23 Policy CF3 (Water Based Recreation) states

- 7.24 “The provision and enhancement of water based recreational activities and essential ancillary facilities are encouraged especially with the restoration of the Monmouthshire and Brecon Canals”.
- 7.25 Supporting text to the Policy confirms the merits of such activities and the potential of the Canals for both recreation and tourism. The Council has entered into a partnership with Torfaen and Monmouthshire Councils along with the Brecon and Abergavenny Canals Trust with the aim of re-establishing navigation on the full length of the canal. This application does not directly relate to the Canal nor does it affect these positive aspirations for navigability. However, the works proposed occur within the Crindau Pill, a waterway situated between the end of the Canal adjacent to Barrack Hill and the River Usk. A large area of roadway including Malpas Road and the A4042 is situated between the two.
- 7.26 The Canals Trust hopes that one day these two waterways will be joined to enable navigation along its entire length towards the River Usk itself. However, there is no plan to secure this and proposals for a Crindau Gateway or Basin do not form part of the adopted LDP as such urban regeneration areas lacked evidence of deliverability during the LDP preparation stages. The Canals Trust has raised a concern that the amendment works narrow the Pill close to an existing sharp bend in the water channel and that these two features combined would create a pinch point for rigid bodied barges attempting to navigate it. This is not an issue now but would become a potential problem if, one day, the waterway is re-opened as hoped. The Trust does not confirm that the works would prevent navigability, only that a pinch point would be created and that, therefore, navigation would be made more awkward.
- 7.27 This is noted, however, having regard to the significant public interest and planning merits of this scheme in relation to flood defence and long term flood protection the possibility that navigation will be made more difficult for users that may in the future be able to use the area for barges in particular, is not a robust reason to refuse permission in this case. There is no evidence that the Pill will be subject to such use despite the aspirations of both the Councils and the Trust but the exclusion of the Crindau regeneration area from the adopted LDP is evidence that such regeneration works were not considered deliverable during the Plan period. A future plan may include it but our current considerations must have regard to the current adopted plan and not possible policies that may be included in future Plans. Furthermore, as there is similarly no evidence to confirm that the works would prevent navigation of the Pill in any event, this Policy is satisfied, albeit that the works are noted to narrow part of the channel and may therefore make any future navigation more awkward for larger rigid barges.

7.28 Appropriate Assessment

3.2 Likelihood of significant effects (LSE) test

3.2.1 Which Natura 2000 sites might be affected by the proposal?	River Usk SAC		
3.2.2 Screening assessment			
	Assessment of likelihood of significant effect		
	I Relevant conservation objectives	II Potential impact pathway	III Avoidance measure
River Usk SAC			
Otter	The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc at road bridges and other artificial barriers (4.3.3).	Disturbance causing damage or harm to a designated species feature.	Ecological site walkover surveys undertaken in January 2006, September 2013, and March 2016, and specific otter surveys undertaken in July 2014 and January 2015 did not identify any evidence of otter i.e., holts, laying-up areas, spraints, or footprints, along Crindau Pill. Weekly Ecological Clerk of Works (ECW) site visits undertaken between March 2017 and November 2017 have also not identified any evidence of otter along Crindau Pill. Despite this lack of evidence, it is likely that otter are present along Crindau Pill, with the presence of extensive areas of reedbed habitat providing effective cover for passage/foraging. Disturbance to otter could occur due to noise pollution during construction of the scheme. This could affect safe movement of otter along Crindau Pill. Consultation with the NRW Conservation Officer (Usk NRM Team) in October/November 2017 raised concerns that use of a temporary cofferdam during construction could prohibitively narrow the river channel, inhibiting otter passage along

			Crindau Pill and increasing the risk of disturbance and harm. No concerns were raised in relation to the design of the permanent scheme as it does not affect channel width or profile.
Sea Lamprey, Brook Lamprey, River Lamprey, Twaite Shad, Atlantic Salmon, Bullhead, and Allis Shad.	<p>The ecological status of the water environment should be sufficient to maintain a stable or increasing population of each feature. This will include elements of water quantity and quality, physical habitat and community composition and structure (4.1.2).</p> <p>Flow regime, water quality and physical habitat should be maintained in, or restored as far as possible to, a near-natural state, in order to support the coherence of ecosystem structure and function across the whole area of the SAC (4.1.3).</p> <p>Levels of water quality parameters that are known to affect the distribution and abundance of SAC features will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC, and measures taken to maintain pollution below these levels (4.1.13).</p> <p>Levels of suspended solids will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC. Measures including, but not limited to, the control of suspended sediment generated by agriculture, forestry and engineering works, will be taken to maintain</p>	<p>Disturbance or damage to a designated species feature through pollution during construction.</p> <p>Water quality in Crindau Pill or the River Usk could be adversely affected during construction through the following three mechanisms:</p> <ul style="list-style-type: none"> • Mobilisation of potentially contaminating construction materials (i.e., fuel, oils, concrete constituents, soils, etc.) into surface water drains that discharge to Crindau Pill or direct to Crindau Pill. • Construction activities including the movement of plant cause the mobilisation of soils and silt, which are washed into Crindau Pill. • Construction activities (i.e., piling or excavation) create a pathway linking unknown ground contamination adjacent to the river with underlying groundwater, which in turn migrates into Crindau Pill. <p>An adverse impact on water quality could potentially cause disturbance, injury or mortality to fish species present in the River Usk downstream of the construction works.</p> <p>However, use of a cofferdam to create a dry working area within the channel and imposition of existing controls on construction, as set out in the approved EAP, would effectively avoid any risk of an impact pathway.</p>	<p>Three potential risks have been identified that could cause contamination of Crindau Pill and the River Usk.</p> <p>However, these risks would be minimised through use of a temporary cofferdam during construction, which would create a barrier between the construction working area and river flow. The cofferdam would create a dry-working area and would minimise the risk of a pathway between the working area and surface waters.</p> <p>No hazardous substances would be used during the construction of the scheme. The Redirock Blocks are made from preformed concrete and would not require concrete pouring during installation (the blocks are simply placed on top of each other). The Flex MSE system consists of reinforced polypropylene bags filled with a clean soil/sand mix and joined together using interlocking polypropylene plates. No concrete pouring or adhesive substances would be required.</p> <p>All excavated bankside materials (earth/stone) would be removed from the river channel and stored in the construction compound prior to reuse on site or offsite, or disposal at a suitable waste disposal facility.</p> <p>Given the limited scale of the area affected by the proposed design change, the risks associated with construction of the scheme are not likely to present a significant risk to</p>

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	suspended solids below these levels (4.1.15).		<p>water quality in the Usk SAC and would present no greater risks beyond those associated with construction of the approved scheme.</p> <p>In addition, the construction works would be effectively managed through adherence to the approved EAP. The EAP requires the contractor to adhere to the mitigating actions and produce construction method statements for approval to minimise (as far as possible) the risk of contamination during construction. The EAP remains a key part of the contract documentation controlling the management and implementation of the construction works. Methods of working have been approved by NCC and NRW.</p>
Sea Lamprey, Brook Lamprey, River Lamprey, Twaite Shad, Atlantic Salmon, Bullhead, and Allis Shad.	There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis (4.2.4).	<p>Consultation with the NRW Fisheries Team (see Section 1.2.2 of the Environmental Report) has confirmed that Crindau Pill does not support internationally important species of migratory fish and that in-channel construction works in this watercourse are not subject to any timing constraints.</p>	N/A
Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation.	N/A	<p>The River Usk SAC Core Management Plan indicates that this feature is not present in the River Usk downstream of Chepstow (therefore absent from, and downstream of, Crindau Pill) and is therefore not likely to be affected by construction or maintenance of the flood alleviation scheme.</p>	N/A

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3.2.3 Screening decision of the project 'alone'	
(a) If ALL rows in column II of Table 3.2.2 are GREEN	The project is not likely to have a significant effect on any Natura 2000 site, because there is no impact pathway from the project to any Natura 2000 features, and no further consideration under the Habitats Directive/Regulations is required in order to determine the application.
(b) If there are NO rows coloured RED in column II of Table 3.2.2, and there are ANY rows which are BLUE	The project is not likely to have a significant effect on any Natura 2000 sites when considered alone, but the possibility of significant effects in combination with other plans and projects needs to be considered.
(c) If ANY rows in Column II of Table 3.2.2 are RED	The project is likely have a significant effect on one or more Natura 2000 sites and therefore an appropriate assessment is required.

4. Appropriate assessment of the project when considered alone

4.1 Assessment of project as currently defined

Natura 2000 site feature (from Table 3.2.2 – RED rows only)	Impact pathway(s) (from Table 3.2.2)	Description of impacts	Assessment in view of conservation objectives	Can adverse effect on site integrity be ruled out?
River Usk SAC				
Otter	Disturbance causing damage or harm to a designated species feature.	Disturbance to otter could occur due to noise pollution during construction of the scheme. This could affect safe movement of otter along Crindau Pill. Consultation with the NRW Conservation Officer (Usk NRM Team) in October/November 2017 raised concerns that use of a temporary cofferdam during construction could prohibitively narrow the river channel, inhibiting otter passage along Crindau Pill and increasing the risk of disturbance and harm. No concerns were raised in relation to the design of the permanent scheme as it does not affect channel width or profile.	Ecological site walkover surveys undertaken in January 2006, September 2013, and March 2016, and specific otter surveys undertaken in July 2014 and January 2015 did not identify any evidence of otter i.e., holts, laying-up areas, spraints, or footprints, along Crindau Pill. Weekly ECW site visits undertaken between March 2017 and November 2017 have also not identified any evidence of otter along Crindau Pill. Despite this lack of evidence, it is likely that otter are present along Crindau Pill, with the presence of extensive areas of reedbed habitat providing effective cover for passage/foraging. Construction of the scheme will be controlled through a series of management actions agreed through the consenting of the approved flood defence scheme. These management actions include measures designed to minimise the risk of disturbance to otter. These actions are contained in the approved EAP and include the following: <ul style="list-style-type: none"> Construction works will not be carried out between sunset and sunrise. During these times, all construction plant will be removed from the river bank. Any site lighting will be positioned so that no light falls onto the adjacent river bank. 	No – consultation with the NRW Conservation Officer (Usk NRM Team) in October/November 2017 identified residual concerns that use of the cofferdam could prohibitively narrow the river channel, inhibiting otter passage along Crindau Pill and increasing the risk of disturbance and harm. The Conservation Officer stated that additional management controls may be required to ensure safe otter passage during construction of the scheme.

			<ul style="list-style-type: none"> The installation of protective fencing around the works area will be undertaken to prevent otter from accessing the construction site. All excavations will be backfilled on the same day to avoid the risk of otter falling in, or all open excavations over 600mm in depth will be covered at night. If this is not possible, a means of escape for small animals will be provided. Should an otter be encountered on site during the works, all works will cease. Passage for otter under Lyne Road Bridge will be maintained throughout construction. <p>Use of a cofferdam to facilitate construction of the scheme would provide a number of environmental benefits. In particular, it would create a dry-working area that would enable the works to be undertaken more quickly (thereby reducing the construction programme) whilst minimising the risk of any contamination of the river.</p> <p>The cofferdam would direct all river flow into the open section of the channel adjacent to the right (southern) bank. The free flow of water along this section of the channel would be maintained throughout construction.</p> <p>The cofferdam would have a minimal effect on river water levels in the open section of the channel. Flow is tidally influenced and so the cofferdam would have no effect on tidal levels within the channel; during low tide, when river flow dominates, water depths are typically shallow and the cofferdam is expected to have only very minimal effects on water levels (adding no more than a few centimetres) and flow velocity.</p> <p>No construction works would be undertaken to the right (southern) bank or from this bank. Use</p>	
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			<p>of this bank by otter would therefore be unaffected by the proposed scheme. However, planting of the right bank with native tree species is due to be undertaken shortly (winter 2017) as part of the approved flood defence scheme. This will increase the vegetation cover on this bank for commuting otter (these works will be completed at least 3 months prior to construction of the scheme).</p> <p>Weekly ECW visits to the site would continue throughout construction to check for signs of the presence of otter. Should any evidence of otter be identified, the management controls set out in the EAP would be reviewed to assess whether there is a requirement for additional controls to minimise the risk of disturbance to otter. Any revisions to the EAP would require prior approval from NRW.</p>	
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4.2 Assessment of the project taking into account additional mitigating measures, conditions or restrictions

Natura 2000 Feature (from Table 4.1 – 'NO' rows only)	Description of adverse effect(s)	Can adverse effect(s) be mitigated?	Description of mitigation measures, and how they would be applied (e.g. contractual obligations, consent conditions)	Can adverse effect on site integrity be ruled out?
Otter	Consultation with the NRW Conservation Officer (Usk NRM Team) in October/November 2017 identified residual concerns that use of a temporary cofferdam during construction could prohibitively narrow the river channel, inhibiting otter passage along Crindau	Yes.	<p>The cofferdam would narrow the area of open channel along the length of the scheme (90m), effectively reducing it by half to approximately 2-3m in width. The cofferdam would be in place for approximately 3 months of the 6-month construction programme.</p> <p>To ensure otter passage along this section of the river is not affected during construction (including use of the cofferdam), temporary fencing would be erected on the right (southern) bank of the channel for the length of the works so as to deter access by people from adjacent terrestrial areas to the opposite bank. No maintenance mowing of this area would be undertaken during construction. The fence would be maintained throughout the 6-month construction programme. The fence would be designed so that otters can still pass underneath it, but so that it would deter disturbance from people in the area of river bank opposite the works.</p>	Yes.

	<p>Pill and increasing the risk of disturbance and harm.</p>		<p>Otter would be able to access the fenced area of riverbank from the river channel. By preventing access to the riverbank by people, the fence would provide a relatively undisturbed area that otter could use to commute along this section of the river, whilst temporary cessation of the mowing regime would enable more bankside vegetation growth, providing additional cover for otter moving along the channel. Therefore, otter would be able to use the open section of channel and the enhanced area of river bank to commute past the scheme area.</p> <p>This mitigation proposal will be secured through a change to the design of the proposed scheme. The design drawing (Drawing 2014s1341–9017) will be amended to show the temporary fence/fenced area (the drawing will show an indicative fencing alignment with the final alignment to be agreed with the NRW Conservation Officer (Usk NRM Team) in-advance of any construction works taking place). Consenting of the proposed scheme will require the works to be undertaken in-accordance with the amended design drawing.</p> <p>Bi-weekly ECW visits will be undertaken during construction to check for evidence of the presence of otter. As otter signs are difficult to observe in tidal environments, the ECW would check the physical environment, construction works and fencing to ensure that otters can pass through undisturbed for the duration of the construction programme. Should any evidence of otter be identified, construction works on site would cease and consultation would be undertaken with the NRW Conservation Officer (Usk NRM Team). Works would only recommence following approval from NRW.</p> <p>The management controls set out in the EAP would also be reviewed to assess whether there is a requirement for additional controls to minimise the risk of disturbance to otter. These additional measures would be included within a revised EAP. Any revisions to the EAP would require prior approval from NRW. The EAP is a key part of the contract documentation controlling the management and implementation of the construction works and requires approval from NCC and NRW.</p>	
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4.3 Concluding the appropriate assessment of the project alone

(a) If the right hand column of Table 4.1 and Table 4.2 (if applicable) is 'YES' for all features	It has been ascertained that the proposal, when considered alone, will not adversely affect the integrity of any Natura 2000 sites.
(b) If there are any 'NO's in the right hand column of Table 4.1 that have not been resolved to 'YES' through mitigation measures identified in Table 4.2	It has not been ascertained that the proposal, when considered alone, will not adversely affect the integrity of one or more Natura 2000 sites.
(c) Are there any residual effects of the project (net of any mitigation measures identified) which, though insignificant on their own, could be significant if considered in combination with the effects of other plans or projects?	Yes.

5 In combination assessment

5.1 Identifying possible in combination effects

BLUE impact pathway from Table 3.2 and/or Residual effect (from appropriate assessment in section 4)	Natura 2000 site feature(s) concerned	Other plans/projects with effects that might interact with the effects of the project to render its effects significant (if any)	Nature of the in-combination effect (if any)	Is there likely to be any significant in-combination effect, in view of the site's conservation objectives?
Consultation with the NRW Conservation Officer (Usk NRM Team) in October/November 2017 identified	Otter.	<p><u>NRW Plans or Projects</u></p> <p><i>Crindau Flood Defence Scheme (planning permission 15/0078)</i></p> <p>Construction of the wider flood defence scheme is due for completion in early 2018 and so will be complete before works associated with this design change are due to commence in mid-2018. Therefore, in-combination effects are not likely.</p> <p><i>Other NRW Flood Defence Capital Projects and Maintenance Works</i></p>	None.	No.

<p>residual concerns that use of a temporary cofferdam during construction could prohibitively narrow the river channel, inhibiting otter passage along Crindau Pill and increasing the risk of disturbance and harm.</p>		<p>At present, no significant flood defence maintenance works are planned for the River Usk or Crindau Pill in Newport in 2017 or 2018.</p> <p><i>Severn River Basin Management Plan (Environment Agency, February 2016)</i></p> <p>The actions contained within this plan aim to improve the ecological and chemical status of the Usk waterbody, and take into account the conservation objectives of the Usk SAC. These actions are not likely to cause an adverse effect on the SAC and may deliver significant benefits. As such, there will be no in-combination effects with the proposed flood defence scheme.</p> <p><i>Severn Estuary Flood Risk Management Strategy (Natural Resources Wales/Environment Agency, Consultation Draft, July 2013)</i></p> <p>The strategy indicates that improvements are required to the existing flood defences on the River Usk adjacent to the Transporter Bridge (approximately 3.2km downstream of the Crindau flood scheme area), and provides an indicative timescale of 5 to 10 years for these works to be carried out. These works are therefore not likely to be delivered at the same time as the flood alleviation scheme and as such, will not have any in-combination effects.</p> <p><i>Wye and Usk Catchment Flood Management Plan (CFMP) (Environment Agency, January 2010)</i></p> <p>This plan does not identify any proposed schemes on the River Usk during 2017/2018. Therefore, there will be no in-combination effect with the proposed flood alleviation scheme.</p> <p><i>Severn Shoreline Management Plan Review (SMP2) and Action Plan (Severn Estuary Coastal Group, October 2010)</i></p> <p>The Severn Estuary is located 6.5km to the south of the proposed scheme area and it is envisaged that the proposals within the Severn Shoreline Management Plan will not have an in-combination effect with the proposed scheme due to this distance. A review of the Action Plan indicates that there are no actions proposed for the River Usk in Newport or Crindau Pill that will have an in-combination effect with the proposed scheme.</p> <p><i>River Usk Salmon Action Plan (Environment Agency, October 2003)</i></p> <p>The Salmon Action Plan does not identify any proposed schemes and therefore there will be no in-combination effect with the proposed flood defence scheme.</p> <p><u>Other Plans or Projects</u></p> <p><i>Costain Ltd, Upgrade to M4 Brynglas Tunnels and M4 Usk River Bridge</i></p>		
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<p>(a) If the right hand column is 'NO' for all rows</p>		<p>The project, when considered in combination with other plans and projects, is either not likely to have a significant effect on, or will not adversely affect the integrity of any Natura 2000 site.</p>		
<p>(b) If any rows in the right hand column are 'YES' or 'DON'T KNOW'</p>		<p>The project is likely to have a significant effect in combination with other plans or projects.</p>		

5.2 Addressing in-combination effects

In-combination effect	Describe any conditions, restrictions or other measures, if any, applicable to the subject project, and/or to the other plans/projects giving rise to the in-combination effect, which could remove the risk of adverse effects on the Natura 2000 site features. Include details of how such measures would be applied, and who would be responsible for applying them.	Taking into account any additional measures identified and how they would be applied, can adverse effects on site features from in-combination effects be ruled out?
(a) If the right hand column is 'YES' in all cases	It can be concluded that the project will not adversely affect the integrity of any Natura 2000 sites, either alone or in combination with other plans or projects.	
(b) If any row is 'NO' in the right hand column	It <u>cannot</u> be concluded that the project will not adversely affect the integrity of any Natura 2000 sites, when considered in combination with other plans or projects.	

6. Conclusion

HRA is not required because the whole of the project is directly connected with or necessary to the management of one or more Natura 2000/Ramsar sites, for the purposes of conserving the habitats or species for which the site(s) is/are designated, <u>and</u> the project is not likely to have a significant effect on any other Natura 2000/Ramsar sites. (As documented in section 2.1 and 2.2 of this form)	
HRA is not required because there is no conceivable impact pathway to any Natura 2000/Ramsar site (As documented in section 2.3 of this form)	
This project is a renewal of a current permission which complies with NRW agreed criteria for ruling out significant effects of a renewal without conducting a project-specific LSE test. Therefore it is considered not likely to have a significant effect on any Natura 2000/Ramsar sites, either alone or in-combination with other plans and projects. (As documented in section 3.1 of this form)	
The project has been screened for likelihood of significant effects and, taking account of the advice received from protected sites advisors, is considered not likely to have a significant effect on any Natura 2000/Ramsar site (As documented in section 3.2 of this form, or section 5 if applicable)	

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In light of the conclusions of an appropriate assessment, and taking account of the advice received from protected sites advisors, it has been established that the project will not adversely affect the integrity of any Natura 2000/Ramsar site, taking into account any conditions or restrictions as applicable, either alone or in-combination with other plans and projects. (As documented in section 4 of this form, and section 5 if applicable)	X
In light of the conclusions of the appropriate assessment, it has <u>not</u> been ascertained that the project will not adversely affect the integrity of any Natura 2000/Ramsar site, as documented in section 4 of this form, and section 5 is applicable. Approval for the project <u>cannot</u> be given unless either: <ul style="list-style-type: none"> the project specification, and/or the terms under which it might be approved, are modified so as to remove the risk of adverse effects, and a revised HRA report is prepared, or the project satisfies the requirements of Article 6(4) of the Habitats Directive, an Article 6(4) Statement of Case is prepared (OGN 200 Form 3) and submitted for consideration by the appropriate authority, normally Welsh Ministers 	

7.29 NRW, as a competent authority, has undertaken a comprehensive appropriate assessment as it is undertaking the works. As the determining authority, the Local Planning Authority has considered the content of this and concurs with both the assessment and its conclusions subject to specific conditions in line with NRW's consultation response on this application and notably additional details required in connection with matters highlighted in red in the appropriate assessment and the impact of development upon otters. In addition, all relevant conditions imposed upon the previous permission and necessary for safeguarding ecological interests are re-imposed, some in a revised form having regard to details previously agreed, on this assessment.

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 This scheme is essential to the completion of the Crindau Pill flood alleviation works. It has significant merit in that it will enable progress of the works to avoid a section of third party land originally affected by the previously approved scheme. The amendment does have some ecological implications but the applicant has addressed these points and proposes appropriate mitigation that the Council can secure by way of planning condition. There are also some concerns about the resulting narrowing of a section of the waterway and the implications this may have for the easy passage of rigid barges should the Pill ever form part of a re-opening of the Canal. However, as there is no evidence that the narrowing would prevent navigation or that such navigation has a reasonable prospect of occurring in the Plan period, such concerns do not outweigh the significant merits of the scheme.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and documents. The approved plans and documents for this development are:-

Approved under 15/0078

Design and Access Statement dated January 2015 produced by JBA Bentley, Bat Survey

dated January 2015 produced by JBA Bentley, Piling Risk Assessment dated January 2014 produced by JBA Bentley, Flood Consequences Assessment dated November 2014 produced by JBA Bentley titled Crindau Flood Alleviation Scheme, Environmental Report dated January 2015 and produced by JBA Bentley including associated Appendices A-N, 2014s1341-121, 2014s1341-123, 2014s1341-101, 2014s1341-111 P2, 2014s1341-102, 2014s1341-124, 2014s1341-112 P2, 2014s1341-103, 2014s1341-125, 2014s1341-113 P2, 2014s1341-104 A, 2014s1341-126, 2014s1341-114 P2, Sheet 1, 2014s1341-114 P2 Sheet 2, 2014s1341-114 P2 Sheet 3, 2014s1341-114 P2 Sheet 4, 2014s1341-127 Rev A, 2014s1341-105, 2014s1341-115 P3 Sheet 1, 2014s1341-115 P3 Sheet 2, 2014s1341-106 Sheet 6, 2014s1341-128 Sheet 6, 2014s1341-116 P2 Sheet 1, 2014s1341116 P2 Sheet 2, 2014s1341-129 Sheet 7, 2014s1341-107 Sheet 7 and 2014s1341-117 P2 Sheet 1.

Approved under 15/1234

2014s1341 Crindau FAS – Updated Habitats Regulations Assessment (doc no 276_05_5001, Version 5, dated 11/2/2015), Crindau Pavilion Toilet block Bat Survey Report dated October 2015, Covering letter ref 2014s1341 dated 01 Oct 2015, 2014s1341-2112 WP21, 2014s1341-2111 WP21, 2014s1341-2012 WP20, 2014s1341-2011 WP20, 2014s1341 – 0001 Key Plan, 2014s1341-3213 – 1 WP32, 2014s1341-3212-2 WP32, 2014s1341-3212-3 WP32, 2014s1341-3312-1 WP32, 2014s1341-3212-4-WP32, 2014s1341-3212-2-WP33, 2014s1341-3212-3-WP33, 2014s1341-3212-5-WP32, 2014s1341-3312-3-WP33 (1 of 3), 2014s1341-3312-3-WP33 (2 of 3), 2014s1341-3312-3-WP33 (3 of 3), 2014s1341-3311 WP33, 2014s1341 3212-1 (1 of 5), 2014s1341 3212-1 (2 of 5), 2014s1341 3212-1 (3 of 5), 2014s1341 3212-1 (4 of 5), 2014s1341 3212-1 (5 of 5), 2014s1341 3211 – 1, 2014s1341 3112- 1, 2014s1341 3112- 2, 2014s1341 3112- 3, 2014s1341 3112- 4, 2014s1341 3112- 5, 2014s1341 3112- 6, 2014s1341 3012 WP30, 2014s1341 3001 WP30, 2014s1341 2512 WP26, 2014s1341 2511 WP26.

Reason: To ensure that the approved development is carried out in complete accordance with the approved plans.

2. Pre commencement conditions

The development shall be carried out using the materials approved under application 15/1269 or any other details submitted in writing and approved by the Local Planning Authority.

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

3. The development shall be carried out in accordance with the Construction Management Plan (CMP) that has been approved under application 16/0886 or any other details submitted to and approved in writing by the Local Planning Authority.

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

Reason: To protect the amenities of nearby residents and highway matters.

4. Prior to the commencement of development full engineering construction details shall be submitted to and approved in writing by the Local Planning Authority regarding the hereby approved cycleway and footpaths along with the access to the allotments. The development shall only be carried out in accordance with the approved details and retained in perpetuity.

Reason: To protect the amenities of nearby residents.

5. The development shall take place in accordance with the agreed programme of archaeological work and the written scheme of investigation which has been submitted and

approved in writing by the Local Planning Authority under application 15/1430.

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

6. The tree planting and maintenance specification approved under application 15/0995 shall be implemented in full within the first tree planting season following the completion of the development and maintained in accordance with the approved details for a period of 5 years after that date.

Reason: To protect important landscape features within the site.

7. No development, to include demolition, shall commence until the Tree Protection Plan as submitted by Mackley Davies Associates (11/12 February 2014 and Revision B) has been implemented. The development shall be carried out in accordance with the approved Tree Protection Plan.

Reason: To protect important landscape features within the site.

8. No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. Erect all weather notices on Heras fencing, 1 per 10 panels, stating 'CONSTRUCTION EXCLUSION ZONE NO ACCESS'. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site.

9. No operations of any description, (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection within the development, until the Arboricultural Method Statement has been implemented in accordance with Mackley Davies Associates (11/12 February 2014 and Revision B)

Additional details will be required for the following :-

(a)Special engineering requirements including 'no dig construction' for retained trees within the RPA (trees nos 19, 22, 23, 32, 33, 50, 53 & 54 within the Mackley Davies Associates report)

The development shall be carried out in full compliance with the Arboricultural Method Statement unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To protect important landscape features within the site.

10. No development, to include demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be

responsible for:

- (a) Supervision and monitoring of the approved Tree Protection Plan;
- (b) Supervision and monitoring of the approved tree felling and pruning works;
- (c) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (d) Oversee working within any Root Protection Area;
- (e) Reporting to the Local Planning Authority;
- (f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site.

11. The development shall be carried out in accordance with the details for the lighting both during and post construction approved under application 16/0886 or any other details submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the designated areas of the SAC and SSSI.

12. The development shall be carried out in accordance with the details of the ecologist watching brief approved under application 16/0882 or any other details submitted to and approved in writing by the Local Planning Authority. The development shall only commence with these approved details, which shall be carried out in full.

Reason: To protect ecological interests.

13. The development shall be completed in accordance with the reptile mitigation strategy approved under application 15/0996 or any other details submitted in writing and agreed by the Local Planning Authority.

Reason: To protect ecological interests.

14. The tree screen along to the north/north east boundary of 48a Hoskins Street Newport the site approved under application 15/0995 shall be implemented in the first planting season following commencement of development. Any trees, which are removed or found to be dead, dying or diseased, shall be replaced with similar species during a period of five years following the completion of the screen planting scheme.

Reason: To protect residential amenity.

15. The development shall be carried out in accordance with the full engineering/construction details regarding the bridge at Lyne Road which have been approved in writing by the Local Planning Authority or any other details submitted and approved in writing by the Local Planning Authority. The development shall be carried out using the approved details.

Reason: To protect highway safety.

16. The development shall be carried out in accordance with the full design details of the hereby approved enhancement works at Albany Street that have been approved in writing by the Local Planning Authority under application 15/0554 or any other details submitted in writing and approved by the Local Planning Authority. The development shall be carried out using the approved details.

Reason: To protect highway safety.

17. No development shall commence until the developer has prepared a comprehensive scheme showing how foul sewers, surface water sewers and any other Welsh Water asset will be protected during construction while ensuring future access is afforded and this scheme has been approved by the Local Planning Authority.

Reason: To ensure that we are able to carry out our statutory duties as sewerage undertakers and that no adverse impact occurs to the environment or the existing public sewerage system.

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

Reason: To secure the satisfactory implementation of the proposal.

19. The scheme permitted by this planning permission shall only be carried out in accordance with the approved Flood Consequences Assessment (FCA) produced by JBA Bentley Ltd, Revision 1.1 dated January 2015, and the following plans detailed within Appendix A 'Flood Alleviation Scheme Proposals' of the FCA: The proposed crest levels of the flood defence scheme must be set to 9.15metres Above Ordnance Datum for the hard defences and 9.3metres Above Ordnance Datum for soft defences.

Reason: To reduce the risk of flooding to the existing properties and businesses within the Crindau Area.

20. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

21. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks

of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22. Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation to be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, verification sampling of the material received at the development site is required to verify that the imported soil is free from contamination and shall be undertaken in accordance with a scheme agreed with in writing by the LPA.

Reason: To ensure that imported materials do not present any unacceptable risks from contamination to the future users of the land, neighbouring land and controlled waters.

23. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation to be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, verification sampling of the material received at the development site is required to verify that the imported aggregate is free from contamination and shall be undertaken in accordance with a scheme agreed with in writing by the LPA.

Reason: To ensure that any imported materials do not present any unacceptable risks from contamination to the future users of the land, neighbouring land and controlled waters.

24. In order to reuse any materials excavated as part of the approved development they need to be chemically assessed to ensure that they do not present any unacceptable risks from contamination to the future users of the land, neighbouring land and controlled waters. Excavated materials with levels of contamination which are deemed to be unacceptable must be removed off site and either be disposed of or treated at an appropriately permitted or exempt facility.

Reason: To ensure that there are no unacceptable risks from contamination to the future users of the land, neighbouring land and controlled waters.

25. The groundwater sampling and analysis plan approved under application 15/1072 shall be carried out in accordance with the approved details by the developer before, during and after construction. Following completion of the monitoring methods approved a report that demonstrates the effectiveness of the monitoring must be produced, and submitted to the Local Planning Authority.

Reason: To ensure that any unacceptable risks from land contamination to the future users

of the land, neighbouring land, controlled waters, property and ecological systems are minimised.

26. The development shall be carried out strictly in accordance with Section 4 of the "Record of Habitats Regulations Assessment of a Project (Received 6th December 2017).
Reason: To protect ecological interests.

27 Prior to the commencement of construction on the works hereby approved, temporary fencing shall be erected on the right (southern) bank of the channel for the length of the works and set out in the Environment Action Plan and indicated within the revised drawing prepared by JBA consulting referenced 2014s1341-9017 Rev P3, in accordance with full details that shall first be submitted to and approved in writing by the Local Planning Authority. This shall include confirmation of how long the temporary fencing will be retained. Thereafter, the fencing shall be retained in accordance with all details approved.
Reason: To safeguard ecological interests, protected species and the special interests of the SSSI and cSAC.

NOTE TO APPLICANT

1 The development plan covering Newport is the Newport Local Development Plan 2011-2026 (Adopted January 2015). Policies CE1, CE2, CF3, CE6, GP1, GP2, GP5, GP7, SP1 and SP3, were relevant to the determination of this application.

2 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.

3 Any new cycleway/footpaths must be provided in accordance with the Active Travel Design Guidance (<http://wales.gov.uk/topics/transport/walking-cycling/active-travel-design-guidance/?lang=en>).

4 A Section.111/278 Agreement will be required in order for works to be carried out within the adopted highway.

5 The proposed works will affect the existing adopted highway which may require road closures/temporary diversions. The Council's Streetscene department must be contacted in regard to this matter.

6 There shall be no alteration or diversion of the existing footpaths until the precise route of any diversion has been agreed by the Local Planning Authority. Please contact the Public Rights of Way Officer on 01633 656656 for further information.

7 The amended Wildlife and Countryside Act 1981 protects bird species whilst nesting in the UK. This protection extends to a bird, its nest, eggs, and young until such time as the young have fledged. Vegetation clearance should proceed outside the peak bird-breeding season (generally considered to be March through August inclusive) or within the breeding season only if a pre-clearance survey shows no breeding birds to be present, nesting or commencing nesting within the vegetation to be affected.

8 Where there is a risk that bat roosts may be present, it is incumbent upon the owner to commission a specialist bat survey to identify bat roosts before instructing tree surgery to commence. Failure to do so and in the event of disturbing a roost site and upon conviction is an offence. Maximum penalties for committing offences relating to bats or their roosts can amount to imprisonment for a term not exceeding six months or fines of up to Level 5 on the standard scale under the Criminal Justice Act 1982/1991 (i.e. £5000 in April 2001) per roost or bat disturbed or killed, or to both.

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.
