

# Report

## Planning Committee

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# Report

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### Part 1

Date: 6<sup>th</sup> February 2019

Item No: 5

**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

**Signed**

## **Background**

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

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

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

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases, or against the imposition of planning conditions. There is no third party right of appeal against a decision.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, well-being of future generations, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

## **Financial Summary**

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

## **Risks**

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

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

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

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

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

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

\* Taking account of proposed mitigation measures

### **Links to Council Policies and Priorities**

The Council's Corporate Plan 2017-2022 identifies four themes, including the aim to be a Thriving City. In order to achieve this, the Council is committed to improving:

- jobs and the economy
- education and skills
- fairness and equality
- community safety and cohesion
- the environment, transport, culture and social well-being

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

The Corporate Plan contains the Council's Well-being Statement and well-being objectives, which contribute to the achievement of the national well-being goals. The Corporate Plan also links to other strategies and plans, the main ones being:

- Improvement Plan 2016-2018;
- Local Development Plan 2011-2026 (Adopted January 2015);

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Local Development Plan (Adopted January 2015) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

### **Options Available and considered**

- 1) To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To grant or refuse planning permission against Officer recommendation (in which case the Planning Committee's reasons for its decision must be clearly minuted);
- 3) To decide to carry out a site visit, either by the Site Inspection Sub-Committee or by full Planning Committee (in which case the reason for the site visit must be minuted).

### **Preferred Option and Why**

To determine the application in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate).

### **Comments of Chief Financial Officer**

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

### **Comments of Monitoring Officer**

Planning Committee are required to have regard to the Officer advice and recommendations set out in the Application Schedule, the relevant planning policy context and all other material planning considerations. If Members are minded not to accept the Officer recommendation, then they must have sustainable planning reasons for their decisions.

### **Comments of Head of People and Business Change**

Within each report the sustainable development principle (long term, prevention, integration collaboration and involvement) of the Well-being of Future Generations (Wales) Act has been fully considered.

From an HR perspective there are no staffing issues to consider.

## **Comments of Cabinet Member**

The Cabinet Member for Regeneration and Housing has been made aware of the report.

## **Local issues**

Ward Members were notified of planning applications in accordance with the Council's adopted policy on planning consultation. Any comments made regarding a specific planning application are recorded in the report in the attached schedule

## **Scrutiny Committees**

None

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

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

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

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

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

The Well-being and Future Generations (Wales) Act seeks to improve the social, economic environmental and cultural well-being of Wales. Public bodies should ensure that decisions take into account the impact they could have on people living in Wales, in the future. The 5 main considerations are:

- |              |  |
|--------------|--|
| Long term:   | Decisions made by the Planning Committee balances the need to improve the appearance of areas as well as meeting the needs of residents in order to make places safe to live in and encourage investment and employment opportunities. Planning decisions aim to build sustainable and cohesive communities. |
| Prevention:  | Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable.  |
| Integration: | Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities.            |

- Collaboration: Consultation with statutory consultees encourages decisions to be made which align with other relevant well-being objectives.
- Involvement: Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

Decisions made are in line with the Council's well-being objectives published in March 2017. Specifically, Objective 9 (Health and Well Being) of the adopted Newport Local Development Plan (2011-2026) links to this duty with its requirement to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

## **Crime and Disorder Act 1998**

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

## **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 10 (December 2018)  
Development Management Manual 2016

### *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)
- Air Quality (adopted February 2018)

## **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:** 18/0837      **Ward:** *ALWAY*

**Type:** **FULL**

**Expiry Date:** **08-FEB-2019**

**Applicant:** *JANG HUSSAIN*

**Site:** *5, GLANWERN RISE, NEWPORT, NP19 9BS*

**Proposal:** ***SINGLE STOREY REAR EXTENSION AND NEW RETAINING WALL AND ENGINEERING WORKS TO CREATE LEVEL AREA TO REAR OF HOUSE***

**Recommendation:** **GRANTED WITH CONDITIONS**

**1. INTRODUCTION**

- 1.1 This application seeks consent for the retention of engineering works to create a level area to the rear of the house and the erection of a retaining wall. The application also seeks consent for the erection of a single storey rear extension.
- 1.2 The proposal seeks consent for the retention of a retaining wall that currently measures a height of 3m but is proposed to be reduced to a height of 2m following negotiation with the LPA. The garden was previously sloping and an area of this was removed in order to create a level area to the rear of the property to facilitate the proposed extension. The ground level behind the retaining wall will be sloped at a 45° angle. The proposed single storey flat roof rear extension will measure a height of 2.8m, a depth of 3.8m and a width of 4.2m.
- 1.3 This item is presented to committee at the request of Councillor Harvey.

**2. RELEVANT SITE HISTORY**

No relevant site history.

**3. POLICY CONTEXT**

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: 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.
- 3.3 Policy GP6 (Quality of Design) states: 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.

#### **4. CONSULTATIONS**

- 4.1 WELSH WATER (DWR CYMRU): Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts us on 0800 917 2652 to establish the location and status of the sewer.

#### **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF REGENERATION AND REGULATORY SERVICES (BUILDING CONTROL): Building Control doesn't deal with retaining walls unless they form part of the house or extension i.e. in a basement for example or the house /extension are built into the land.
- 5.2 HEAD OF CITY SERVICES (STRUCTURAL ENGINEER): From a purely planning aspect I have no further comments, but the technical details for the build including the slope and retaining wall need to meet the requirements of Building Control.

#### **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All neighbours with a common boundary were consulted (2no properties) and the following concerns were raised;

##### **7 Glanwern Rise**

- I was made aware that building was taking place when the excavators started digging out and removing many tonnes of clay. This was in the beginning of July (not the beginning of August as Stated in Section 4 of Mr Hussains Application).
- Fears over the garden falling in.
- The most serious concerns that I have is that adequate drainage will be put in place. There is a void between the proposed extension at no 5 and my boundary which I would like clarification on. The gardens are very steep and water does run down from the woods and gardens.
- At this height the proposed extension is almost 830 mm above our existing fence and will most certainly affect the light coming in to our garden
- I would also like to know how Mr Hussain is going to maintain the side of the extension with no access. There will be just approximately 300mm gap between the boundary of my garden and his extension. The "void "or gap is the distance between my boundary and the side of the extension. From what I can work out on the plans this is about 300mm. I am concerned about: Keeping this area clean from a collection of debris, leaves etc. and a collection of rainwater. Will there be adequate drainage put in place to handle this.
- I would also like to add that the skylights on the extension will make the extension even higher.
- As the retention wall has been built without any planning permission, can I be assured that such a high wall has adequate footings and were these checked on inspection prior to the walls being built.

## 9 Glanwern Rise

- Mr and Mrs Hussain began works to the property early in the summer. They have already removed a considerable amount of the back garden, leaving the garden of my neighbours at number 7 in a precarious position, as there is no support to the lower portion of their back garden. The gardens on the Rise are cut directly into the hillside and are terraced and steep.
- I cannot see from the drawings submitted what Mr and Mrs Hussain's intentions are concerning drainage. The area is heavy clay and does not drain well in bad weather. Having seen the area of back garden already cleared by Mr and Mrs Hussain, there is a large pipe, presumably for drainage, which was uncovered during excavations.
- My main concern however is in relation to the size of the proposed extension. If I have read the drawings correctly, Mr and Mrs Hussain intend to build within 1 metre of their boundary and to take the extension to the maximum permitted of 4 metres deep, hence the removal of the lower portion of their garden. I cannot be certain about the height of the proposed kitchen extension but I understand the maximum permitted is either 3 or 4 metres. Whichever height they build to, it will impact on my view along to the end of the Rise looking towards the cul-de-sac, as it will be considerably higher than the boundary walls between the houses. It will in effect block my view completely, all I will be able to see will be a high, white rendered wall, and in all likelihood it reduce the level of natural light reaching the back of my property. Due to the way the properties were built into the hillside, the rear of the houses are naturally quite dark in any event and I believe the extension will only make this worse.
- Mr and Mrs Hussain have made no attempt to discuss their intentions with any of their neighbours; we only became aware of the works when excavations began some months ago.

6.2 COUNCILLOR (DEBBIE HARVEY): Requested the application is determined at committee for the following reasons; He hasn't got planning permission, the issue of the deluge of water during winter months, he has de-stabilised the bank by digging it all out and the bank has underground springs and any 'digging out' will cause ongoing issues for the other residents.

## 7. ASSESSMENT

7.1 The proposed extension will measure a height of 2.8m, a depth of 3.8m and a width of 4.2m. The proposed extension will be set 1m from the retaining wall. Fenestration will consist of patio doors in the side elevation and 2no roof lights. It is proposed that the extension would be finished in white render to match the existing dwelling and sit on a red brick plinth. The proposed single storey flat roof extension would typically constitute permitted development, however, as the engineering works were completed in order to facilitate the extension, both the extension and engineering works require planning permission. The extension would be set in from both neighbouring boundaries. In terms of amenity, the property is a detached dwelling and the proposed extension is to be located on the rear elevation of the property. There are no windows proposed in the side elevation facing no.7 Glanwern Rise. There are patio doors facing towards no.3, however, the proposed extension is set in approx 4.5m from this boundary. As such it is considered that there would be no element of overlooking or loss of privacy caused to either neighbour. As the proposed extension is a single storey flat roof extension with a height of 2.8m, it is considered that there would be no overbearing impact caused to neighbouring properties. It is considered that the extension would not result in a detrimental impact on residential amenity by way of overbearing impact, loss of light or loss of privacy and so accords with policy GP2. In terms of design, the proposed extension would not be visible from public vantage points, however it is proposed that the extension be finished in materials to match the existing dwelling and so it is considered that the proposed extension would be in keeping with the character and appearance of the host property and would not detract from the visual amenity of the area. Fenestration is comparable in size and design with the existing dwelling. It is therefore considered that the proposal accords with policy GP6.

- 7.2 The adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance states that where ever possible extensions should be built on the rear or least important elevations of properties and the size and form should be appropriate to the main building and the space around it. The proposed development is a single storey rear extension that is out of view from the public highway. It is considered that the size of the extension is proportionate to the host dwelling and there is an appropriate amount of amenity space left undeveloped to the rear of the property.
- 7.3 The retaining wall that is currently on site measures a height of 3m. The applicants are proposing to amend this wall resulting in its height being decreased to 2m, akin to the height of a standard boundary enclosure. It is proposed to finish the wall with vertical black timber cladding to match the existing boundary fence. The rear garden is steeply sloped and an area of this was removed in order to create a level area to the rear of the property to facilitate the proposed extension. The retaining wall was then erected in order to support the rear garden. The wall has since been amended so that the ground level behind the retaining wall will be sloped at a 45° angle. This will result in the wall being reduced in height from the current height of 3m to 2m. Whilst it is appreciated that it is a substantial retaining wall, due to the topography of the garden, a wall of this height is necessary to hold the remaining garden. It is considered that due to the distance of the wall from neighbouring properties, it would not result in a harmful impact with regard to an overbearing impact or loss of light. With regard to the design of the wall, it is proposed to finish the wall in vertical black timber cladding that would match the existing boundary fence. It is considered that this would be acceptable and would not detract from the character of the property or area. Therefore it is considered that the retaining wall accords with policies GP2 and GP6. The LPA has consulted the Council's Building Control service and Structural Engineer in light of concerns raised by nearest neighbours and the risk to safety of occupants of the site. Following initial comments raised by the Structural Engineer, the wall has been amended and reduced on plan. The Structural Engineer has raised no further concerns following reconsultation of the amendments but for clarity sake, the wall does not fall within the control of Building Regulations when assessing the merits of the proposal, however, should Building Control receive a complaint regarding concern for a dangerous structure, this would be investigated.
- 7.4 When taking into consideration concerns that have been raised by neighbours, only material planning considerations can be given weight. Concerns have been raised by the neighbour at no.7 Glanwern Rise with regard to a loss of light to her property. Therefore, in accordance with the SPG, tests have been carried out in order to assess the potential impact of loss of light to the kitchen in the neighbour's property (no.7), which is the ground floor window that is closest to the neighbour's extension. From the neighbour's kitchen window, both the 45° horizontal and vertical tests pass. The SPG states that both tests would need to fail in relation to a single protected window for any impact in terms of loss of light to be considered harmful. Therefore, it is considered that there will not be a harmful loss of light afforded to the kitchen of no.7 Glanwern Rise. Whilst the roof lights will increase the height of the extension, they are only 0.2m high and it is not considered that this will result in a harmful impact on the amenity of the neighbour. Concerns have also been raised by the neighbour at no.9 Glanwern Rise with regard to drainage. The applicant has advised that there are weepholes located in the retaining wall and there is a drainage channel and grating to the base of the retaining wall to catch water from the weepholes. Concerns regarding structural integrity have been considered with advice from the Council's Structural Engineer. At the previous height of 3m, the Structural Engineer had various concerns over the structural integrity of the retaining wall. Following negotiations, the applicant has proposed to reduce the height of the retaining wall to 2m and the ground behind the retaining wall will be sloped at a 45° angle. Following further correspondence with the Structural Engineer on the amended proposal, no further concerns were raised and it is considered that no demonstrable harm can be identified or could reasonably form a reason for refusal. Immediate neighbours potentially have additional separate routes

through which they can seek reassurance on any impact upon their own elevated gardens, (i.e. the Party Wall Act) but separate legal advice would need to be sought by neighbours on this. Concerns were also raised with regard to a loss of light, the properties are detached and the proposed extension is a flat roof single storey extension. The neighbour is located two properties away and the light tests passed from the adjacent neighbouring property (no.7), therefore, it is considered that there is no material loss of light that would result in a harmful impact on the amenity of the neighbouring occupiers.

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

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

## **9. CONCLUSION**

- 9.1 The proposal by reason of its location, scale and design would preserve visual amenities, access to daylight and privacy to neighbouring occupiers and would preserve the character and appearance of the property. The proposal is therefore in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance (adopted August 2015).

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: Plans and Elevations as Existing and Proposed PL01 Rev G.

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

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

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

03 At no time shall the roof of the extension hereby permitted be used as a balcony.

Reason: To protect the amenity of adjoining residents.

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Plans and Elevations as Existing and Proposed PL01 Rev G.

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

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

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

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**APPLICATION DETAILS****No: 18/0862****Ward: LLANWERN****Type: SECTION106A****Expiry Date:****Applicant: TIM GENT (SAVILLS)****Site: GLAN LLYN, FORMER LLANWERN STEELWORKS, QUEENSWAY, LLANWERN, NEWPORT, NP19 4QZ****Proposal: PROPOSED MODIFICATION OF PLANNING OBLIGATION UNDER SECTION 106a OF THE ACT****Recommendation: The proposed changes should be agreed with delegated authority to finalise details of the review mechanism.****1. INTRODUCTION**

1.1 The applicant is seeking to vary the Section 106 legal agreement that forms part of outline planning permission 06/0471 to redevelop the former Llanwern Steelworks (heavy end) as a mixed use redevelopment area. The development has commenced and the site is now commonly known as Glan Llyn. Significant housing numbers have been provided at the western end of the site alongside works to provide infrastructure and landscaping and several commercial units have been built or approved on the Celtic Business Park which is the commercial part of the redevelopment that abuts the retained Llanwern works at the eastern end of the site. Work has commenced on the proposed local centre with the construction of the Llanwern Bull Public House. The Glan Llyn West Primary School is nearing completion.

1.2 The applicant is seeking to vary the terms of the Section 106 legal agreement in the following way for viability reasons:

- Reduction in affordable housing provision from 20% to 10%;
- Reduction in bus service payment from £1 million to £500,000;
- Omission of Library and Police Station from Local Centre;
- Secondary Education sum to be maintained at £8 million but to be split equally between Llanwern and Lliswerry Schools with the indexing (account for inflation) to end in April 2012 for Llanwern;
- Introduction of a review mechanism.

**2. RELEVANT SITE HISTORY**

Ref. No.	Description	Decision & Date
06/0471	REDEVELOPMENT OF SITE TO CREATE A MIXED USE URBAN EXTENSION COMPRISING: A RANGE OF NEW HOMES (APARTMENTS, HOUSES AND SOME SHELTERED ACCOMMODATION FOR THE ELDERLY - USE CLASSES C2&C3); NEW OFFICES, WORKSHOPS, FACTORIES AND WAREHOUSES (USE CLASSES B1, B2&B8); COMMUNITY FACILITIES INCLUDING NEW SCHOOLS AND COMMUNITY CENTRES (USE CLASSES D1&D2); A LOCAL CENTRE INCORPORATING SHOPS, OFFICES AND COMMERCIAL LEISURE FACILITIES INCLUDING NEW BARS, CAFES AND LICENSED PREMISES (USE CLASSES A1, A2, A3&D2); A NETWORK OF OPEN SPACES INCLUDING PARKLAND, FOOTPATHS, SPORTS PITCHES AND AREAS FOR INFORMAL RECREATION; NEW ROADS, ACCESSES AND PATHS; HEALTHCARE AND FITNESS FACILITIES (USE CLASSES D1&D2); PROVISION FOR A NEW RAILWAY HALT/STATION; OTHER ANCILLARY	GC  01 April 2010



	USES AND ACTIVITIES; AND REQUIRING: SITE CLEARANCE, TREATMENT AND PREPARATION; THE INSTALLATION OF NEW SERVICES AND INFRASTRUCTURE; THE CREATION OF NEW WATER BODIES AND DRAINAGE CHANNELS; IMPROVEMENTS/WORKS TO THE HIGHWAYS NETWORK AND OTHER ANCILLARY WORKS AND ACTIVITIES	
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### 3. POLICY CONTEXT

#### 3.1 Welsh Office Circular 13/97 – Planning Obligations (July 1997)

Planning obligations should meet the following 5 tests:

- i. Necessary
- ii. Relevant to planning
- iii. Directly related to the proposed development
- iv. Fairly and reasonably related in scale and kind to the proposed development
- v. Reasonable in all other respects

#### 3.2 The Community Infrastructure Levy Regulations 2010

Section 122 requires as a point of law that any planning obligation (S106 legal agreement) must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In essence the policy tests of Circular 13/97 were made legal tests which must be complied with.

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

Policy SP10 (House Building requirement) states

**PROVISION IS MADE FOR 11,623 UNITS TO DELIVER A HOUSING REQUIREMENT OF 10,350 UNITS OVER THE PLAN PERIOD. THE AFFORDABLE HOUSING TARGET FOR THE PLAN PERIOD IS SET AT 2,061 UNITS. THE LAND WILL BE PROVIDED PRIMARILY ON PREVIOUSLY DEVELOPED LAND IN THE FOLLOWING WAYS:**

- i) SITES WITH PLANNING PERMISSION, INCLUDING SITES UNDER CONSTRUCTION;**
- ii) THE EASTERN EXPANSION AREA<sup>1</sup>;**
- iii) ALLOCATIONS SET OUT IN POLICY H1; AND**
- iv) INFILL, WINDFALL AND SMALL SITES.**

Policy SP13 (Planning Obligations) states:

**DEVELOPMENT WILL BE REQUIRED TO HELP DELIVER MORE SUSTAINABLE COMMUNITIES BY PROVIDING, OR MAKING CONTRIBUTIONS TO, LOCAL AND REGIONAL INFRASTRUCTURE IN PROPORTION TO ITS SCALE AND THE SUSTAINABILITY OF ITS LOCATION.**

**THIS LIST IS NOT EXHAUSTIVE, BUT THE FOLLOWING ARE INFRASTRUCTURE PRIORITIES THAT DEVELOPMENTS WILL BE EXPECTED TO PROVIDE OR CONTRIBUTE TO IN ORDER TO MITIGATE ANY NEGATIVE CONSEQUENCES OF DEVELOPMENT:**

- **EDUCATIONAL FACILITIES AND/OR THEIR UPGRADES;**
- **AFFORDABLE HOUSING;**
- **IMPROVEMENTS TO THE HIGHWAY NETWORK, INCLUDING WALKING AND CYCLING ROUTES AND PUBLIC TRANSPORT;**
- **OUTDOOR RECREATION;**

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<sup>1</sup> *Glan Llyn H1 (47) expected to deliver 2262 units in the plan period*

- **PROTECTION, ENHANCEMENT AND MANAGEMENT OF THE NATURAL, HISTORIC AND BUILT ENVIRONMENTS;**
- **COMMUNITY FACILITIES AND/OR THEIR UPGRADES; AND**
- **IMPROVEMENTS TO THE PUBLIC REALM.**

Policy H4 Affordable Housing states:

**ON-SITE PROVISION OF AFFORDABLE HOUSING WILL BE REQUIRED ON ALL NEW HOUSING SITES OF 10 OR MORE DWELLINGS WITHIN THE SETTLEMENT BOUNDARY, OR 3 OR MORE DWELLINGS WITHIN THE DEFINED VILLAGE BOUNDARIES.**

**THE AUTHORITY WILL SEEK THE PROVISION OF AFFORDABLE HOUSING IN ACCORDANCE WITH THE RELEVANT SUBMARKET AREA TARGET NOTED BELOW;**

**40% CAERLEON AND RURAL NEWPORT**

**30% ROGERSTONE AND WEST NEWPORT**

**20% EAST NEWPORT**

**10% MALPAS AND BETTWS**

### 3.4 Affordable Housing SPG (August 2015)

20% affordable housing will be sought in east Newport in accordance with NLDP Policy H4 but site specific targets may be set subject to viability and negotiation.

#### **Abnormal Development Costs**

4.26 The Council, through the Local Development Plan, expresses a clear priority for the re-use of 'previously developed land'. This "brownfield strategy," as well as making good use of the land itself, helps to bring visual and wider environmental benefits while contributing to the more general regeneration of the whole area. Such sites do, however, sometimes have abnormal development costs, especially where remediation of contamination from former uses is required. In these cases, if insistence on the full proportion of affordable units would render the development unviable, then the developer may seek a reduction in the requirement in order that the development might proceed. Any such negotiation would need to be on an "open book" basis, providing a financial viability assessment including appropriate supporting evidence of costs and value.

### 3.5 Planning Obligations SPG (August 2015)

#### **11. Financial Viability**

11.1 Certain proposals may be eligible for discounted or reduced contributions, if it can be proven that the level of contribution required will jeopardise a proposal's viability. This is most likely to be the case on previously developed land, and the development of the site is considered to be a significant regeneration benefit.

11.2 It is expected that an 'open book' approach to negotiations will be supported by developers/owners, in order that planning obligations can be secured at appropriate levels to mitigate the impact of the development, whilst ensuring that the development remains viable. Any financial information supplied by a developer as part of this 'open book' process will be considered as being 'commercial information supplied in confidence'.

11.3 All 'open book' financial appraisals will be scrutinised by the Council, which may lead to additional questions being asked of the applicant. Developers will be expected to prove to the Council that a scheme is financially unviable. The Council will seek verification of these details for the Three Dragons Development Appraisal Toolkit. Assessments undertaken by developers/owners utilising other suitable toolkits (e.g. Circle) will also be considered. Where the parties are unable to agree, the Council will instruct the District Valuer to undertake an independent study, at cost to the applicant.

11.4 Irrespective of the outcome of a viability appraisal, it may be necessary for the Council to secure a certain level of developer contributions, in order to mitigate the impact of the development. Such a circumstance could be where a failure to make some provision for certain infrastructure items would make the development unacceptable in planning terms,

contrary to policy and an unacceptable burden. This will be assessed on a case-by-case basis. In such circumstances, failure to secure the contributions, deemed necessary to support the proposal, could result in a recommendation of refusal.

11.5 It is important to understand the principle that a planning obligation is generally necessary to make a proposed development acceptable in planning terms. A scheme's non-viability, although a material consideration, is not a sufficient reason in itself for accepting reduced contributions. Reduced contributions would, however, be considered for developments that provide regeneration benefits and/or additional planning benefits to the City.

### **13. Dispute Resolution**

13.1 Where there is a dispute between the Council and landowner, applicant and/or developer, and where all parties agree, the District Valuer (DV) will be appointed to undertake an independent assessment of scheme viability and the ability to achieve the planning obligations that are in dispute. The DV appointment will be paid for by the applicant/owner/developer. All key stakeholders must endorse the process, play an active role and be willing to submit appropriate information to enable the appraisal to be undertaken. The role of the DV is to validate factual information to assist in the resolution of issues. Both parties should accept the DV's decision on the determination of viability. However, the DV would not act as an arbitrator. Responsibility remains with the Local Authority and landowner, applicant and/or developer to resolve the dispute.

13.2 A Statement of Common Ground must be jointly produced to establish project elements, costs and assumptions that can be agreed between both parties at the outset of the DV's involvement. Any financial assessment can then focus on addressing the specific areas of disagreement. To address commercially sensitive information, a confidentiality agreement can be drawn-up to ensure that any sensitive financial information is made available only to the assessor and not shared directly with the Local Authority or any other third party. Only the findings of the assessor need to be shared across all parties, based upon the information supplied to them and their professional opinion on its accuracy. However, enough information must be presented to ensure the decision making process can continue and to see the effect the decision may have on the scheme viability and also give confidence to determine the need to depart from policy.

13.3 Either party may, of course, decline to participate. However, this could be perceived as obstructing a potential resolution and may compromise their position at a later date in the decision making process.

### **14. Renegotiation**

14.1 Where a consented development can no longer deliver the agreed planning contributions, for reasons of non-viability (subject to verification by the developer/owner in accordance with the procedures identified above), the Council is entitled to take a view on whether there are benefits to the scheme that justify flexibility. The Council will consider whether the development is of sufficiently high priority to warrant renegotiation of planning obligations to restore viability and allow delivery, and whether any re-negotiated development will continue to match the Council's local policies and priorities. For example, reduced contributions would be considered for developments that provide regeneration benefits and/or additional planning benefits to the City.

## **4. CONSULTATIONS**

4.1 None.

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY): No comment beyond the comments of the S106 Manager.<sup>2</sup>

5.2 HEAD OF REGENERATION, INVESTMENT & HOUSING (HOUSING MANAGER): this is obviously disappointing for the delivery of affordable housing and our ability to achieve the

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<sup>2</sup> The Section 106 Manager has formed an integral part of the discussions relating to the re-negotiation and has instructed the DVS.

target set by Welsh Government. The site has been able to provide up to 15% affordable housing on previous phases and property prices in Newport have increased since that time, particularly the prices of 3 and 4 bed room properties. Sales only take on average 8 weeks in Newport and achieve 98.05% of the asking price both better than the Welsh average. Newport has also seen the highest take up of the Help to Buy scheme, 18% of the Welsh total, and this scheme has been utilised by buyers at Glan Llyn, and the future removal of the bridge tolls has seen the Newport housing market extend into England. As at the 1<sup>st</sup> November there were 8,752 active housing applications on the waiting list, 200 more than the previous month, with 63 properties allocated on average each month, this would see the waiting list numbers rising significantly over time and the backlog of supply increasing. This situation could impact on the City Council with the need to provide more temporary accommodation for some applicants who will ultimately become homeless. Though I fully appreciate issues with viability on a site such as Glan Llyn, the delivery of affordable housing is essential for the provision of quality accommodation for those applicants who are unable to address their housing needs on the open market.

## 6. REPRESENTATIONS

6.1 A site Notice was displayed, no representations have been received.

## 7. ASSESSMENT

7.1 The applicant is seeking the following changes in the Section 106 legal agreement for this site:

Topic	As Agreed	Change Sought
Affordable Housing Provision	20% overall purchased at 62% of the Welsh Government's Acceptable Cost Guidelines	10% of all dwellings going forward to be purchased at 62% of the Welsh Government's Acceptable Cost Guidelines
Library & Police Station	To be provided within the local centre	To be omitted
Revision to the Schedule of payments for the New Bus Service Contribution (Schedule 9 of the current agreement)	£1million payable as follows: £100,000 payable before the occupation of the 100 <sup>th</sup> dwelling on the site and £100,000 per year thereafter for 9 years.	£500,000 payable as 10 annual payments of £50,000
Secondary Education	£8 million for Hartridge and Lliswerry schools	Sum to be split evenly between the two schools. Hartridge sum to be indexed from the date of the initial agreement in 2010 to April 2012 when Llanwern High School opened.
Review mechanism	No review mechanism	Review of viability: a) after 5 years of any agreement to vary the current agreement; or b) the approval of or the construction of or the occupation of the 2000 <sup>th</sup> dwelling, Whichever of option a) or b) is the sooner.

7.2 All other contributions would stay the same as originally agreed.

7.3 The current situation follows from a period going back to 2011 in which Reserved Matters submissions on the Glan Llyn site have provided affordable housing at around the 15%

mark. The existing S106 agreement allowed for the provision of affordable housing at a range of the 15-25% within phases as they came forward so long as the ultimate global figure of 20% affordable housing was reached by the end of the development. This was to allow early phases to provide smaller amounts of affordable housing making the site more attractive to developers and allowing momentum to build within a major site subject to significant up-front costs for decontamination, infrastructure and wider 'place-making'. So far no phase of the scheme has delivered the agreed level of 20% affordable units.

7.4 The applicant's agent has come forward with their own viability report prepared in 2017 which demonstrated that the site was unviable at the 20% contribution level to the sum of £62,216,585. Although this was not linked to a viable level of affordable housing that could be provided it allowed a starting point for an assessment of a revised level of affordable housing provision. The Savills Report was reviewed by the District Valuer who confirmed the accuracy of the Savills Report and calculated 9% going forward as a viable level of affordable provision. The DV's review is provided as a confidential appendix to this report. The DV's review confirms the following:

- A mix of dwellings that the site can be expected to deliver,
- The values those dwellings can be expected to yield based on sales made so far at Glan Llyn and other outlets in the city,
- The cost of remediating the site, providing infrastructure and building the houses,
- The reasonable cost of the site to the developer (accepted as the price paid given the unusual nature of the site),
- The developer's profit margin on housing (20% for market units & 6% for affordable units),
- A return to the 'master developer' for remediating and servicing the site (10-11%),
- The surplus left available to pay S106 contributions.

7.5 In the approach taken by the District Valuer the wider Section 106 contributions were left unaltered with the focus coming down to the level of affordable housing provision that was to be made. Reduction in affordable housing contributions does not directly and adversely impact on infrastructure needed by the development but does reduce the overall sustainability of a scheme by reducing the contribution the scheme makes to overall social equality (Policy SP1 – Sustainability).

7.6 Should the changes identified earlier in this report be agreed then all the other contributions agreed in the original Section 106 agreement would stand. The current value of these has been agreed as follows under the submitted viability study:

Item	£
Construction of the EDR	7,614,699
Foul Water Drainage	2,000,000
Public Open Space	2,360,000
Highways	1,800,000
Primary School	11,127,030
S106 Fees	1,416,602

The 10% affordable housing contribution would be in addition to these items.

7.7 The DV's review confirms that at 20% affordable provision the site is not viable being unable to deliver an acceptable profit margin to the developer and make that level of affordable housing contribution. English Guidance available 19 November 2018 at:

<https://www.gov.uk/guidance/viability#standardised-inputs-to-viability-assessment>

confirms 15-20% of the gross development value of a scheme (its sale value) to be a reasonable return for any developer. In this case the DV has accepted the 20% return in relation to market housing, 6% in relation to the affordable housing and 11% for the master developer to be appropriate levels of return. Should these levels of return not be realisable then the redevelopment of the former Llanwern Steelworks site can be expected to stall

since no developer would reasonably take it on at the level of return available preferring to invest elsewhere where returns are better.

- 7.8 The Glan Llyn site is strategically important to the Council being an allocated site within the adopted Newport Local Development Plan 2011-2026 (adopted NLDP). Policy SP10 (House Building Requirement) requires the delivery of 10,350 units some of which would be within the Eastern Expansion Area which Glan Llyn forms part of. Glan Llyn is expected to deliver 2262 units within the plan period which is approximately 22% of the housing requirement for the entire City. As of October 2018 the site has delivered 626 units with the expected delivery by 2021 being 1337 units. This leaves a deficit of 711 units to be made up in the next 3 years. This would require a delivery rate of over 237 units per annum which is considered unlikely. As such the site has not delivered at the anticipated rate although difficult economic circumstances since 2008 are acknowledged. Overall one of the City's key housing sites is not delivering the units required to meet the plan target for that site. The recent Annual Monitoring Report (October 2018) assesses the delivery of the NLDP and this concluded that the Glan Llyn site is not delivering the required numbers of units to meet the plan targets and has not done so for 3 consecutive years. It was hoped the opening of the Glan Llyn West Primary School and the removal of the Severn Bridge tolls would stimulate the delivery rate on this site in the future.
- 7.9 In overall terms the NLDP is not meeting its housing targets with the current shortfall being 78 units across the City. Some of the shortfall on Glan Llyn is being made up for elsewhere in the City by other schemes that have over-delivered. However the plan is currently in slight deficit in relation to housing delivery. This is not a cause for concern at the current time since it represents an acceptable level of housing delivery within the plan parameters and is a good level of delivery in the regional context. The Council's housing land supply is currently 5.6 years. As such the under-performance of Glan Llyn has not been damaging to overall targets for housing delivery within Newport so far during this plan period but this must be caveated by the fact other large sites have made up much of the shortfall and these are coming to an end. Their contribution will pinch out in the near future and the underperformance of Glan Llyn will become more problematic given its strategic significance in delivery of the housing requirement during the overall plan period of 2011-2026.
- 7.10 In terms of affordable housing the plan requirement is 2,061 units over the plan period. Between 2011 and 2018, 743 affordable units have been completed against the anticipated target of 916 units over the same time period. The current deficit is 173 units when affordable completions are measured against the set targets. The proportion of constructed units that are affordable is currently at 16% and has been at this level for three years. However to meet the overall plan target approximately 20% of all completions would need to be affordable. Clearly at the agreed level of provision (20%) Glan Llyn would meet this requirement but would cease to do so at the proposed level of 10%. Should the lesser amount be accepted then the delivery of affordable housing will be reduced further and will pressurise the targets in the plan. However should the site be mothballed because it is unviable then it will make no contributions to housing delivery at all. As it stands there are currently two developers on site but both are now nearing the end of the phases they are engaged in and no reserve matters have been approved on subsequent phases. However that may be due to the on-going uncertainty over the level of contributions the Council requires and other masterplanning issues that are currently being looked into.
- 7.11 Delivery of the site offers wider benefits beyond the provision of housing. The developed parts of the site demonstrate place making with areas of landscaping and public open space being delivered alongside the housing. A Public House has been built (the Llanwern Bull) and the Glan Llyn West Primary School is nearing completion. The Celtic Business Park is progressing and currently contains an Amazon unit and the CAF train factory is nearing completion. An additional two commercial units have recently received reserved matters approval. Glan Llyn is delivering wider benefits beyond housing since a large and prominent site is being brought back into productive use from its current condition of a post-industrial site of limited / no utility. Delivery of the site yields wider benefits in terms of economic benefit and in establishing an attractive and prominent entrance corridor to Newport. Paragraph 2.43 of the adopted NLDP describes the site in the following terms:

*The development of Glan Llyn will provide for a range and choice of housing and is integral to the strategy of the Newport Local Development Plan. Achievement of the Local Development Plan and Sustainability Appraisal objectives is underpinned by the allocation and delivery of this 240 hectare regeneration site. Outline planning permission has been granted and the development of Phase 1 is underway. The site will be fully integrated into the City of Newport.*

The delivery of this site is of significant importance to the City and the delivery of the NLDP.

### Conclusion

- 7.12 The submitted Savills Report is corroborated by the District Valuer who agrees that the site is unviable with a 20% affordable housing provision. The DV goes further and assesses that viability will be restored at a level of 9% affordable housing provision across the entire scheme going forward with all other aspects of the current S106 agreement remaining the same. Agreement to the reduction of the affordable provision will allow the site to continue to deliver planning and wider benefits in the public interest. However this will come at a clear cost, that being a reduction in the amount of affordable housing that the site will provide and some reduction in other contributions as outlined. However the risk is that should the revision not be agreed that the site will be mothballed to such a time as it can deliver acceptable levels of profit to the developer. At this point it will cease to make any contribution to local housing targets either affordable or market, to the clear detriment of the targets set within the NLDP.
- 7.13 To safeguard the Council's future position the intention is to set a review mechanism in place which will allow the viability of the site to be revisited and a reassessment of the planning contributions it can be expected to make. This would include affordable housing. Should overall profitability improve in the future then the scheme would be able to deliver further public benefits via enhanced contributions. The purpose of the review mechanism is to allow this to happen. The trigger for the review would be 5 years; or the date of approval / completion / occupation of the 2000<sup>th</sup> dwelling on the site, whichever is the sooner. This gives the developer a reasonable period of certainty over what contributions will be and reflects the 5 year moratorium on re-negotiation of S106 agreements found within the legislation. In the event the build rate significantly increases due to changed economic circumstances then the review will be triggered earlier and the Council can seek to clawback some of the general uplift in values and profitability. The review mechanism would take place in similar terms to the current review with the level of affordable provision and other contributions being reviewed by the District Valuer and with those costs being met by the applicant. It should be remembered the review could see affordable provision reduced in the event economic conditions on the site worsen.
- 7.14 In conclusion it is the view of officers that the existing S106 agreement should be varied by reducing the affordable housing provision from 20% to 10% and making the other changes in order to allow this significant regeneration site to continue to be developed subject to an appropriate review mechanism being put in place to protect the Council's future position.

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

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

**9. CONCLUSION**

9.1 The sought variation should be agreed.

**10. RECOMMENDATION**

**The proposed changes should be agreed with delegated authority to finalise details of the review mechanism.**

***NOTE TO APPLICANT***

01 This decision relates to the following documents:

- Glan Llyn, Llanwern, Newport – Summary Viability Report (Savills – September 2017), *Provided to Planning Committee as a confidential Part 2 item.*
- Assessment of Development Viability Appraisal & Appendices (District Valuer Services – August 2018). *Provided to Planning Committee as a confidential Part 2 item.*

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP10, SP11, SP13, H1 & H4 were relevant to the determination of this application.

03 The following adopted Supplementary Planning Guidance was relevant to the determination of this application:

- Planning Obligations (August 2015)
- Affordable Housing (August 2015)

04 Due to the minor nature of the proposed change to the development it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.



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### 3

#### **APPLICATION DETAILS**

**No:** 18/1090      **Ward:** *ROGERSTONE*

**Type:** **FULL**

**Expiry Date:** 16-JAN-2019

**Applicant:** *A KAUSAR*

**Site:** *14, LILY WAY, ROGERSTONE, NEWPORT, NP10 9LG*

**Proposal:** *PROPOSED TWO STOREY EXTENSION AND EXTENSION OVER DOUBLE GARAGE TO SIDE OF DWELLING FOR USE AS GARAGE/GYM ON GROUND FLOOR/STUDY ROOM ON FIRST FLOOR*

**Recommendation:** **GRANTED WITH CONDITIONS**

#### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for an extension over the existing double garage with a two storey side extension to connect to the main house. The detached property is in the Rogerstone ward.
- 1.2 The application is brought before Planning Committee as the request of Councillor Chris Evans. The reasons being the possible impact on neighbour's amenity.

#### **2. RELEVANT SITE HISTORY**

07/0029	ERECTION OF CONSERVATORY TO REAR	Granted with Conditions
02/1301	RESERVED MATTERS RESIDENTIAL DEVELOPMENT COMPRISING 70NO. DETACHED DWELLINGS	Granted with Conditions
97/0941	RESIDENTIAL DEVELOPMENT (RESUBMISSION FOLLOWING REFUSAL OF 96/0207/O)	Granted with Conditions

#### **3. POLICY CONTEXT**

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

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

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

**Policy T4** (Parking) states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards

- 3.2 ***Supplementary Planning Guidance (Adopted)***

- Parking Standards SPG – August 2015
- House Extensions and Domestic Outbuilding SPG – August 2015

#### **4. CONSULTATIONS**

- 4.1 DWR CYMRU/WELSH WATER: We would inform you that a public sewer is crossing the application site. We have attached a copy of the public sewer record indicating the location of these assets. We would therefore request that the following be included in any planning consent you are minded to grant: The proposed development site is crossed by a public sewer with the approximate position being marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Developer Services 0800 917 2652. The developer must contact us if a sewer connection is required under Section 106 of the Water Industry Act 1991 or any alteration to our apparatus is proposed prior to any development being undertaken.

#### **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The plans do not clarify if the two parking spaces in front of the garages are retained. If this is the case parking is retained in line with the SPG Parking Standards, I would therefore have no objection.

#### **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties that share a common boundary and opposite the application site were consulted (8 No addresses). Three representations were received, objecting on the following grounds:

- Impact on the rear garden on no. 18:
  - The existing garage wall upon which the first floor extension being built is directly on my garden boundary line and any increase in height will have an over-shadowing effect for a large portion of my garden for a significant part of the day - the increase in height will effectively block a large part of the existing gap between the buildings on the southern boundary.
  - In addition to loss of daylight within my garden the levels of natural light in my kitchen, lounge and bedroom at the rear of my property will also be affected.
  - The first floor extension will have an over bearing effect on my garden due to its proximity to my property. This will have a negative impact on the appeal of my rear garden for any prospective purchaser therefore depreciating the value of my property.
  - Should the existing wall foundations need extending it will be disruptive to my use when the proposal is built.
  - The increase in wall area will mean that additional maintenance access will be required in the future with potentially the need for scaffolding which would have to be located in my garden.
- The use of particularly the gardens of 14, 18 and 20 will be inhibited by the second storey extension because the view and light will be diminished. Above the garage at the moment, there is a corridor of light and view which would be lost, blocking the only free section of the organisation of this space and making it feel more confined.
- I feel particularly for my neighbours because their garden directly backs onto the wall of the garage and would dominate their garden.
- Disturbance cause to all surrounding houses, including the potential requirement of using our shared drive to access the other side of the structure.
- This seems an unusual application and the proposed structure certainly doesn't align to the general aesthetics of the street or area. The structure would undoubtedly impact the structural integrity of my garage and the height would adversely impact numerous surrounding properties.

#### **Comments on Amended Plans:**

- The amendments do not eradicate any of the concerns that I stated within my previous comments.

- Would it not be possible to incorporate this space within the current ground floor extension?

6.2 ROGERSTONE COMMUNITY COUNCIL: No response received.

## 7. ASSESSMENT

7.1 The proposed first floor extension would be constructed over the half of the existing 4 bay garage block (the remaining 2 bays belonging to No 16) with a two storey extension infilling the 1.9 metre gap between the house and the garage and connecting the extension to the main house, it would measure 5.4 metres in width and 6.9 metres in length. During the course of the application amended plans were submitted reducing the eaves and ridge height. The extension would now have a ridge height of 6 metres and a split eaves height, 2.8 metres to the rear and 4.2 metres to the front. One bay of the garage would be infilled with a window and door, replacing the garage door. Two dormer windows are proposed to the front elevation no windows are proposed in the rear or side elevations. The extension would be constructed from materials to match those of the existing dwelling.

### Residential Amenity

7.2 The garage is bounded on two sides by residential dwellings, as such the impact upon those to the west (18 Lily Way), and south (16 Lily Way) has been considered in turn. Window positions have been approximated from the Planning Officers site visits and planning history.

7.3 **Sunlight & Daylight (Dwelling):** The house extensions and domestic outbuildings SPG (Aug-2015) sets out tests for loss of light, this relates to neighbours' habitable rooms. In most cases, a proposal that fails the 25° test in relation to a neighbour's protected window will not receive planning permission. Similarly, a proposal that fails two or more of the 45° tests in relation to a single protected window is unlikely to be acceptable.

- **Impact on no. 18:** The rear elevation of the proposal would be approximately 9.4 metres from the closest ground floor habitable window (. It and passes the 25° test (16°). With the 45° test it fails the horizontal test and passes the vertical test (18°).
- **Impact on no. 16:** The side elevation of the proposal would be approximately 10.5 metres from the closest ground floor habitable window and passes the 25° test (22°). With the 45° test it fails the horizontal test and passes the vertical test (24°). It is noted the ridge of the existing garage of no.16 has a similar impact as the ridge of the posed extension with regard to loss of light to this property.

7.4 **Daylight (Garden):** The Council's SPG does not have a specific test for the levels of natural light in back gardens. While it is acknowledged the increase in eaves height from 2.2 metres to 2.8 metres will have some impact, the extension will be situated to the east and south-east of no.18's garden. The additional 0.6 metres in well height is not considered to overshadow the garden to an unreasonable extent sufficient to warrant refusal.

7.5 **Overbearing:** The Council's SPG sets out assessment for the loss of perceived space and visual amenity, it notes development that reduces the distance between a neighbouring protected window and a proposed blank two-storey elevation to less than 14 metres is unlikely to be acceptable.

- **Impact on no. 18:** While the extension will be approximately 9.4 metres from the closest habitable room, the amendments submitted reduce the rear eaves height to 2.8 metres, this is considerable lower than a two storey wall (typically 5+ metres). With the roof sloping away the proposed extension is not considered to have an overbearing impact sufficient to warrant refusal.
- **Impact on no. 16:** The existing side elevation of the garage would be approximately 10.5 metres from the closest ground floor habitable window, however the remain garages of no 16 is situated in between breaking up this elevation, as such the proposed extension is not considered to have any overbearing impact.

- 7.6 **Overlooking / privacy:** The proposed dormer window are to the front elevation and it is considered they would not result in an unacceptable increase in overlooking, over or above the existing situation.
- 7.7 Overall the proposal is not considered to result in a detrimental impact on residential amenity by way of overbearing impact, loss of light or loss of privacy in this instance and is in accordance with policy GP2.

#### **Character of the Ares**

- 7.8 The extension will be brick and tile, matching the existing dwelling. The ridge will be set down from the ridge of the main house by 2.5 metres and the garage is set back by 1.7 metres from the main building line. Window detail will match the proportions and design of the existing dwelling, the dormers will reflect the gabled fronted design of the existing house. As such the extension is considered to respects the character and design of the existing property and be in keeping with the character and appearance of the wider area in accordance with the Supplementary Planning Guidance for House Extensions (January 2005).

#### **Highways Impact**

- 7.9 The both the existing and proposed development generate a parking requirement of 3 spaces. While once bay of the garage will be removed as a result of the proposal, three parking spaces will be will be retained and as such is compliant with the Parking Standards 2015. The Head of Streetscene and City Services (Highways) has no objections to the proposals and it is considered that the development would not result in a detriment to highway safety.

#### **Other Matters Raised**

- 7.10 The Party Wall Act is the procedure for resolving disputes between owners of neighbouring properties, arising as a result of one owner's intention to carry out works which would affect the party wall or boundary wall or adjacent the line of junction between the two properties or excavation within certain distances of a neighbour's structure and to a lower depth than its foundations. It is a civil matter between neighbours and not a material planning consideration.
- 7.11 Loss of value of neighbouring properties is not a material planning consideration.

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

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

**9. CONCLUSION**

9.1 The design and materials are in keeping with the character of the detached dwelling and the surrounding area, the extension is not considered an overdevelopment of the site, and does not raise any highways concerns. It is not considered that there would be an unacceptable impact on the amenity of neighbouring occupiers when assessed against the adopted policies and guidance and is therefore acceptable.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 290/3 Rev B, 290/1 Rev A and Proposed Block Plan.

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

***General conditions***

02 The external surfaces of the extension hereby approved shall be of materials to match those of the existing dwelling.

Reason: To ensure the development is completed in a manner compatible with its surroundings. In accordance with Policy GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

***General conditions***

03 No window, door openings or rooflights (other than those shown on the approved plan) shall be formed in either side or rear elevation of the extension hereby approved.

Reason: To protect the privacy of adjoining residents. In accordance with Policy GP2 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

04 The 2 parking spaces (shown on drawing block plan proposed) and remain garage (shown on drawing 290/1 Rev A) shall be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety. In accordance with Policies GP2 and T4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

***NOTE TO APPLICANT***

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

02 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) and Newport City Council Parking Standards (Adopted August 2015) was relevant to the determination of this application.

03 The proposed development site is crossed by a public sewer. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Dwr Cymru Welsh Water on 0800 917 2652. The developer must contact Dwr Cymru Welsh Water if a sewer connection is required under Section 106 of the Water Industry Act 1991 or any alteration to Dwr Cymru Welsh Waters apparatus is proposed prior to any development being undertaken.

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

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**APPLICATION DETAILS**

**No:** 18/0919      **Ward:** ALLT-YR-YN

**Type:** FULL

**Expiry Date:** 12-FEB-2019

**Applicant:** MR DAVEY, CUROE LIMITED

**Site:** 58, CAERAU ROAD, NEWPORT, NP20 4HH

**Proposal:** CHANGE OF USE AND CONVERSION FROM OFFICES TO 6NO. FLATS AND ASSOCIATED PARKING

**Recommendation:** GRANTED WITH CONDITIONS AND SUBJECT TO A LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE IF THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF DECISION

**1. INTRODUCTION**

- 1.1 This application seeks consent to convert a vacant office building into 6no. flats (4 x 2-bed flats and 2 x 1-bed flat). The building is a semi-detached property and due to the sloping nature of the site, it appears as a two-storey building with a converted roof when viewed from Caerau Road but it has three storeys from the rear. Access to the premises is from Caerau Road where there is a forecourt for parking. The site and rear of the premises is currently overgrown but is mostly soft landscaped.

**2. RELEVANT SITE HISTORY**

None.

**3. POLICY CONTEXT**

- 3.1 Adopted Newport Local Development Plan 2011-2026 (NLDP)

Policy <b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
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Policy <b>SP2 Health</b> promotes development which has a positive contribution to health and well-being by being in a sustainable location, close to walking/cycling routes and green infrastructure.
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Policy <b>SP13 Planning Obligations</b> enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.
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Policy <b>SP18 Urban Regeneration</b> supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
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Policy <b>GP2 General Development Principles – General Amenity</b> states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
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Policy <b>GP3 General Development Principles – Service Infrastructure</b> states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.
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Policy <b>GP4 General Development Principles – Highways and Accessibility</b> states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
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Policy <b>GP5 General Development Principles – Natural Environment</b> states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.
Policy <b>GP6 General Development Principles – Quality of Design</b> states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
Policy <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.
Policy <b>H2 Housing Standards</b> promotes high quality design taking into consideration the whole life of the dwelling.
Policy <b>H4 Affordable Housing</b> sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.
Policy <b>H8 Self Contained Accommodation and Houses in Multiple Occupation</b> sets out the criteria for subdividing a property into self-contained flats. The scheme must be of appropriate scale and intensity not to unacceptably impact on the amenity of neighbouring occupiers and create parking problems; proposals must not create an over concentration in any one area of the city; and adequate noise insulation is provided and adequate amenity for future occupiers.
Policy <b>EM3 Alternative Uses of Employment Land</b> protects existing employment sites against development unless it can be demonstrated that the site has been marketed unsuccessfully for 12 months; there remains a sufficient range and choice of employment land to meet LDP requirements and local demand; there is no adverse impact on existing or allocated employment sites; and the proposal has no adverse impact on amenity or the environment.
Policy <b>T4 Parking</b> states that development will be expected to provide appropriate levels of parking.
Policy <b>W3 Provision for Waste Management Facilities in Development</b> states that where appropriate, facilities for waste management will be sought on all new development.

#### 4. CONSULTATIONS

##### 4.1 WELSH WATER

Sewerage We can confirm adequate capacity exists within the public sewerage system to accept the foul only flows from the proposed development site. Having reviewed the submitted design and access statement, we acknowledge that the developer is to utilize the existing foul and surface water connections of which we have no objections to. A series of informative notes were also provided.

##### 4.2 WALES AND WEST UTILITIES

No objections to the proposal but advise that there are pipes and utilities in the area.

#### 5. INTERNAL COUNCIL ADVICE

##### 5.1 HEAD OF CITY SERVICES (HIGHWAYS)

Following the submission of further information and amended plans, please see the following final comments.



In accordance with the Newport City Council Parking Standards an office in zone 3 generates a parking demand of 1 space per 35sqm of gross floor area. The existing gross floor area, as determined by the applicant, is 540sqm and therefore the existing parking demand would be 16 spaces.

The proposal consists of 4no. 2 bed and 2no. 1 bed units. This generates a residential parking demand of 10 spaces at a ratio of 1 space per bedroom. In addition 2 visitor spaces are required resulting in a total proposed parking generation of 12 spaces.

The applicant has carried out a sustainability assessment in accordance with appendix 5 of the parking standards. There are some errors in the way that points have been calculated however I'm satisfied that the site scores a minimum of 10 points. When applying the reduction to the proposed residential units the parking demand is reduced to 8 spaces at a ratio of 1 space per unit plus 2 visitor spaces. The parking reduction must however also be applied to the existing use and therefore the existing parking demand is reduced by 30% resulting in a parking demand of 12 spaces.

When calculating the existing and proposed parking demand, with or without the sustainability reduction, it's determined that there will be no increase in the parking demand in accordance with the Newport City Council Parking Standards.

I'm satisfied that 4 spaces are available at the property as previously stated by the applicant and that the applicant has addressed my concerns by extending the boundary wall.

I would offer no objection to the application.

## 5.2 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION):

I confirm that I do not object to the proposed development providing the conversion complies with current Building Regulations and in particular Approved Document Part E 'Resistance to the Passage of sound'.

The premises is situated on a busy road and therefore the use of the proposed residential accommodation will potentially be impacted by noise from road traffic.

I therefore recommend that any grant of permission is subject to the following conditions intended to minimise noise impact on the proposed residential occupiers from road traffic and the occupiers of the existing adjacent residential property during the construction period:

- 1) No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night.
- 2) Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. \* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003.

## 5.3 HEAD OF HOUSING, REGENERATION AND INVESTMENT (HOUSING):

With regard to the above named application within the DAS, the owner/agent refers to Newport City Homes and I am aware that discussions have taken place. The development proposes 6 flats which would comply with Welsh Government guidance, and addresses the

prevailing housing need for this area of the City. The application is not a joint application directly involving the housing association and therefore a s106 agreement would be required to ensure the delivery of the affordable units on site, or a contribution if they are sold or let privately.

5.4 HEAD OF HOUSING, REGENERATION AND INVESTMENT (PLANNING CONTRIBUTIONS MANAGER)

Council policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. As such, based upon a 100% affordable housing scheme, the following planning obligations are required.

Affordable Housing

The proposed properties should be offered on a neutral tenure basis, allocated through the Common Housing Register and attain the appropriate Welsh Government standards.

Should the developer decide to sell or rent the properties on the open market, a commuted sum payment for affordable housing would be sought. The commuted sum generated by 6 apartments (in the Housing Target Area of Newport West) is £26,344

This payment would be index linked to the Retail Price Index and paid prior to the occupation of the fourth dwelling

Education

The development falls within the catchment area of John Frost High School and Clytha Primary School and Ysgol Gymraeg Bro Teyrnion Primary School. Whilst it is recognised that no education contribution is requested for affordable housing, it is necessary to build-in safeguards to ensure that, if any of the dwellings are sold or rented on the open market, the following formula will be applied:

- Number of secondary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at John Frost High School x £15,302 = Secondary Education Sum;
- Number of post 16 pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at John Frost High School x £16,427 = Post 16 Education Sum;
- Number of primary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at Clytha Primary School and Ysgol Gymraeg Bro Teyrnion Primary School x £16,115 = Primary Education Sum.

Prior to commencement of the development, the Owner and/or Developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings

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

Leisure

There is a deficit of equipped and formal play provision within the Allt-Yr-Yn Ward.

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

- Number of one bed 'open market' apartments (prior to commencement of development) x £1,821;

- Number of two bed 'open market' apartments (prior to commencement of development) x £3,816

Prior to commencement of the development, the Owner and/or Developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings

All Leisure Sums will be index linked to the RPI and paid prior to the occupation of the fourth dwelling

## 5.5 HEAD OF HOUSING, REGENERATION AND INVESTMENT (PLANNING POLICY MANAGER)

In the context of Policy EM3 of the adopted Newport Local Development Plan:

With respect to criterion i), the submitted Design and Access Statement identifies that the building has been unoccupied for at least 3 years. It would be useful if the applicant could confirm that efforts were made to market the property for office use during this period (for a minimum of 12 months) in order to fully satisfy criterion i.

For criterion ii), the LDP has allocated 172 hectares of employment land. Over 13 hectares of EM1 land has either been developed or has permission. There are also numerous other vacant employment units in and around Newport. Therefore it is considered criterion ii) can be satisfied.

In terms of criteria iii), there are no employment sites within the immediate vicinity and therefore criterion iii is considered to be satisfied.

For criteria iv), consultation with the neighbouring properties and businesses along with Council Highways will help to establish whether these can be addressed and satisfied.

## 5.6 HEAD OF CITY SERVICES (TREES)

The large mature silver birch tree has recently been TPO'd (TPO 1/2019) and the following conditions should be applied :-

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

- (a) Trees and hedges to be retained/felled clearly identified and marked on a plan;*
  - (b) Trees and hedges requiring surgery;*
  - (c) The root protection areas to be identified on plan for retained trees and hedges;*
  - (d) The type and detail of the barrier fencing to be used to safeguard the root protection areas;*
  - (e) The precise location of the barrier fencing, to be shown on plan.*
- The development shall be carried out in accordance with the approved Tree Protection Plan.*

*Reason: To protect important landscape features within the site.*

*02 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing 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.*

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

- (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.*

## 5.7 HEAD OF CITY SERVICES (WASTE MANAGER)

The number of dwellings is such that they can have the kerbside collection provision so the standard recycling containers presented at the curtilage. The bin store could accommodate the individual residual bins (not enough space for recycling but we'd expect people to keep individual receptacles themselves). The only other potential issue is possibly bin access problems, we have experienced blocked access to bins before whenever car parking is put between bin store and collection vehicle.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

All properties sharing a common boundary with the application site were consulted (14 addresses).

Comments were received from the following addresses:

36, 37, 39, 57, 59 (including Garden Flat and Flat 6 within 59) Caerau Road  
35c Llanthwy Road  
31 Clyffard Crescent  
3 Spencer Road

Their comments have been amalgamated and summarised as follows:

1. Insufficient parking in an area already experiencing parking and traffic problems, to the detriment of highway safety
2. High level of properties in this area already converted into flats. The proposed development would constitute intensification of residential development of high density within the building and not promote family housing, causing an imbalance in the area.
3. Detrimental to residential amenity, particularly from adverse noise
4. The proposed flats appear small and cramped. The removal of the external fire escape would also be detrimental to the residential amenities and wellbeing of future occupiers.
5. The proposal would involve social housing which is not in keeping with the area and it would attract undesirables, resulting in increase in crime and antisocial behaviour and harming public safety, wellbeing and residential amenity
6. Impact of increased waste and littering, including location of bin store and harm to health and well-being
7. No details on the future maintenance of landscaping and outdoor spaces
8. No details of a boundary wall at the rear of the site. The boundary wall between 58 and 59 Caerau Road is a retaining wall and requires upgrading.
9. Devaluation of property and impacts on Council tax

### 6.2 COUNCILLORS:

#### CLLR. FOUWEATHER:

I have received a representation from a neighbour to this property who is concerned about the impact that this development will have upon her privacy. I also note that the application

does not meet the parking standards and falls well short of the required number of parking spaces. The developer is only planning to provide four spaces when there should be ten. If you are minded to approve this application I would like it to be presented to the planning committee.

CLLR. EVANS

I wish to object to this proposal for the change of use of 58 Caerau road from an office to 6 dwellings. Having looked at the plans this will do nothing to enhance surrounding properties and is woefully short of parking spaces in an area already struggling with sufficient spaces.

CLLR. FERRIS

I'd like to object on the grounds of inadequate parking and too great a proliferation of this type of accommodation in the area.

## **7. ASSESSMENT**

- 7.1 This application seeks consent to convert a vacant office building into 6no. flats (4 x 2-bed flats and 2 x 1-bed flat). The building is a semi-detached property and due to the sloping nature of the site, it appears as a two-storey building with a converted roof when viewed from Caerau Road but it has three storeys from the rear. Access to the premises is from Caerau Road where there is a forecourt for parking. The site and rear of the premises is currently overgrown but is mostly soft landscaped.
- 7.2 The application site lies within the urban area and is not subject to any other specific land-use constraint or allocation defined by the Newport Local Development Plan (NLDP). The application therefore represents an opportunity to re-use a vacant building for residential purposes.
- 7.3 Since the proposal involves the loss of offices, the scheme is firstly assessed against Policy EM3 of NLDP. This Policy protects existing employment sites against development unless it can be demonstrated that the site has i) been marketed unsuccessfully for 12 months; ii) there remains a sufficient range and choice of employment land to meet NLDP requirements and local demand; iii) there is no adverse impact on existing or allocated employment sites; iv) and the proposal has no adverse impact on amenity or the environment.
- 7.4 With regards to criterion i) of Policy EM3, the submitted Design and Access Statement identifies that the building has been unoccupied for at least 3 years. The applicant has provided a letter from the property consultants who were appointed by the previous owner to market the property. The property was marketed in January 2017 as a development opportunity for both offices and residential. The property consultants have confirmed that the marketing exercise only drew realistic interest from prospective residential buyers. Having regard to this information, it is considered that reasonable efforts have been made to market the property for a minimum of 12 months for office use. Whilst the marketing exercise was unsuccessful in securing the employment use, it is considered that the requirements of criterion i) has been satisfied.
- 7.5 Criterion ii), the NLDP has allocated 172 hectares of employment land. Over 13 hectares of EM1 land has either been developed or has permission. There are also numerous other vacant employment units in and around Newport. Therefore it is considered criterion ii) can be satisfied.
- 7.6 In terms of criteria iii), there are no employment sites within the immediate vicinity and therefore criterion iii) is considered to be satisfied.
- 7.7 Criterion iv) of Policy EM3 will be considered in conjunction with the requirements of Policy H8 which establishes the criteria for considering self-contained accommodation. This Policy states:

*WITHIN THE DEFINED SETTLEMENT BOUNDARIES, PROPOSALS TO SUBDIVIDE A PROPERTY INTO SELF CONTAINED ACCOMMODATION, BEDSITS OR A HOUSE IN MULTIPLE OCCUPATION WILL ONLY BE PERMITTED IF:*

*i) THE SCALE AND INTENSITY OF USE DOES NOT HARM THE CHARACTER OF THE BUILDING AND LOCALITY AND WILL NOT CAUSE AN UNACCEPTABLE REDUCTION IN THE AMENITY OF NEIGHBOURING OCCUPIERS OR RESULT IN ON STREET PARKING PROBLEMS;*

*ii) THE PROPOSAL DOES NOT CREATE AN OVER CONCENTRATION OF HOUSES IN MULTIPLE OCCUPATION IN ANY ONE AREA OF THE CITY WHICH WOULD CHANGE THE CHARACTER OF THE NEIGHBOURHOOD OR CREATE AN IMBALANCE IN THE HOUSING STOCK;*

*iii) ADEQUATE NOISE INSULATION IS PROVIDED;*

*iv) ADEQUATE AMENITY FOR FUTURE OCCUPIERS.*

- 7.8 Policy H8 is supported by other relevant Policies which need to be considered in the determination of this particular application. These include Policies: SP1, SP18, GP2, GP3, GP4, GP5, GP6, GP7, H2, T4 and W3. Supplementary Planning Guidance: Flat Conversions (SPG: FC), Parking Standards (SPG: PS), Affordable Housing (SPG: AH), Planning Obligations (SPG: PO) and Trees, Woodland, Hedgerows and Development sites (SPG: TWHDS) are also considered relevant.
- 7.9 The application site is located in a predominantly residential area. Therefore, the conversion of former offices to residential use is broadly considered acceptable. Caerau Road comprises of a range of house-types, from large dwellings, small terraced properties and flats. Several properties on this street are large and have been subdivided to flats.
- 7.10 External alterations would be rather limited consisting of cladding part of the structures attached to the rear of the building, the removal of an external staircase and the blocking-up to the opening, changes to the forecourt and wall to accommodate parking and bin storage and the erection of various boundary treatments.
- 7.11 Since the proposal would not involve the construction of any extensions and that the proposal would mainly utilise existing openings, it is considered that the proposal would not result in any unreasonable loss of amenity to neighbouring properties, particularly with regards to light, outlook, dominance and privacy. The removal of the external staircase and the blocking-up of that opening and the erection of boundary treatments would improve the level of amenity between the site and neighbouring properties.
- 7.12 It is proposed to clad part of the structures attached to the rear of the building with Western Red Cedar laminated rainscreen insulated cladding. Whilst this external finish is not part of the character of Caerau Road, it would not be significantly visible from any prominent public position, especially since it would be limited to the rear of the building which is enclosed by private spaces of neighbouring properties, including those off Spencer Road and Llanthewy Road. It is also noted that the site is not within a Conservation Area and there is sufficient buffer between the site and Stow Park Conservation Area. Also, the site is not immediately adjacent to any listed building. It is therefore considered that this aspect of the proposal would not have any significant adverse effect on the visual amenities of the area, thereby satisfying Policies GP6 and H8 of the NLDP.
- 7.13 In addition to the above, whilst six units of accommodation would be created, these would be relatively small units of 1 to 2 bedrooms and would not be houses of multiple occupancy. Given that the building was previously used as offices (and can be reopened at any time as offices) and that each flat would meet the minimum internal space standards required by Supplementary Planning Guidance: Flat Conversions, these units would not be disproportionate with the scale and size of the building or of such intensity so as to unduly harm the character of the building or the locality which contains a mixture of house types. The building is relatively close to the city centre and where high density and flatted development is commonly found. The Head of Regeneration, Investment and Housing (Housing Manager) has offered no objections to the proposal and confirm that affordable housing in this part of Newport is needed. This satisfies Policy GP2, GP6, H2 and H8 of the NLDP.

- 7.14 Having regard to the representations received from local residents, there is no evidence to substantiate the claim that six self-contained flats would result in an increase in crime and antisocial behaviour in the locality. The flats are not houses in multiple occupancy whilst the Authority is unable to consider or control who would occupy the flats, irrespective of whether they would be affordable or market housing. Having regard to the above, it is considered that this proposal satisfies Policies GP2, GP6 and H8 of the NLDP. Devaluation of property and impact on Council Tax bands are not material planning considerations in the determination of the application.
- 7.15 Representations have also been received from local residents concerning parking problems and that this proposal would be detrimental to highway/pedestrian safety and amenity. In general terms, the site is approximately 300m from Risca Road (Handpost) District Centre and within reasonable distance to the city centre. The site is considered to be in a relatively sustainable location. A similar conclusion was reached in the recent determination of applications for residential development at 1-3 Llanthwy Road (17/0960 and 17/1081 refers) and in the conversion of 32 Llanthwy Road to four flats (17/0792 refers).
- 7.16 The site is within Zone 3 Parking Area, as defined by Supplementary Planning Guidance: Parking Standards (SPG: PS). In accordance with SPG: PS an office in Zone 3 generates a parking demand of 1 space per 35sqm of gross floor area. The existing gross floor area is 540sqm and therefore the existing parking demand would be 16 spaces.
- 7.17 The forecourt of the site is currently surfaced in hardstanding although the parking spaces have not been formally demarcated. This proposal seeks to utilise the same hardstanding area for parking to serve 4no. 2 bed and 2no. 1 bed units. The proposal generates a residential parking demand of 10 spaces at a ratio of 1 space per bedroom. In addition, 2 visitor spaces are required resulting in a total proposed parking generation of 12 spaces.
- 7.18 The applicant has carried out a sustainability assessment and whilst the Head of City Services (Highways) has indicated that there are some errors in the way that the points have been calculated, he is satisfied that the site scores a minimum of 10 points. When applying the reduction to the proposed residential units the parking demand is reduced to 6 spaces at a ratio of 1 space per unit plus 2 visitor spaces (8 in total). The parking reduction must however also be applied to the existing use and therefore the existing parking demand is reduced by 30% resulting in a parking demand of 12 spaces.
- 7.19 When calculating the existing and proposed parking demand, with or without the sustainability reduction, the Head of City Services (Highways) has concluded that there will be no increase in the parking demand from its current use as offices. It is therefore considered that the proposal would be in accordance Policy T4 of the NLDP and SPG: PS.
- 7.20 The applicant has submitted a plan which shows that 4 parking spaces being provided with demarcation and the access point would be altered to improve manoeuvrability and access/egress. To achieve this, part of the southern front wall would be removed and then part of the northern front wall would be extended in materials to match the existing. It is considered that the proposed arrangement would be a betterment to the existing situation and the Head of City Services (Highways) has no objections to the proposal. The site frontage is already covered in hardstanding area and it is not considered that the proposed forecourt arrangements and alterations to the walls would not unduly harm visual or general amenity. Having regard to the above, it is considered that the proposal would not be unduly harmful to local amenity, parking or highway/pedestrian safety, thereby satisfying Policies T4, GP4 of the NLDP and SPG: PS.
- 7.21 It is not proposed to install any new windows therefore the flats would rely on existing openings. Whilst it would be possible to obtain views towards neighbouring properties and their amenity spaces from some of the windows, particularly those at the upper levels on the side and rear elevations, such views are already possible and it is considered that this scheme would not unduly worsen the existing situation. In this regard, it is considered that the scheme satisfies Policies GP2 and H8(i) of the NLDP.

- 7.22 Flats do not have the benefit of permitted development rights therefore any subsequent extension, outbuilding or alteration which materially affects the external appearance of the building will require further planning permission.
- 7.23 With regards to criterion ii) of Policy H8 of the NLDP, this application is not proposing any houses in multiple occupation. It is therefore considered that this criterion is not applicable.
- 7.24 Criterion iii) of Policy H8 of the NLDP refers to noise insulation. The adjoining property is in residential use and the site would be immediately surrounded by other residential properties. In this regard, the proposed residential use of the application property would be broadly compatible with neighbouring uses.
- 7.25 The Head of Law and Regulatory Services (Public Protection) has no objections to the proposal but explain that the scheme must comply with current Building Regulations and in particular Approved Document Part E 'Resistance to the Passage of sound'.
- 7.26 Paragraph 5.3.3 of the Council's Supplementary Planning Guidance: Flat Conversions state: *"Living rooms, moreover, should not be next to, directly above or directly below a bedroom in a neighbouring property unless the fabric of the building contains suitable acoustic insulation"*. In this particular case, and as highlighted by representations made by the adjoining property, the proposed floorplans indicate that living rooms would be next to bedrooms of the neighbouring property and future residents of some of the flats.
- 7.27 The applicant's agent has provided a written response on this matter (email received 14 December 2018) and explains that it is intended to construct an independent stud wall within the building along the line of the party wall. This wall will comprise of 75mm timber studs fixed to the floor and ceiling (not the party wall) filled with dense mineral fibre insulation. The wall will be finished with 2 layers of 15mm soundblock plasterboard laid with staggered joints.
- 7.28 Notwithstanding the above, the scheme will require separate building regulations consent which will secure a specific standard of noise insulation for the development. However, for the purposes of planning matters, it is considered that a residential scheme which would be compatible with other residential uses nearby would not have a significant adverse effect upon the amenities of neighbouring properties and future occupiers of the flats. It is therefore considered that the scheme satisfies Policy H8(iii) of the NLDP and SPG: FC.
- 7.29 The final criterion of Policy H8 of the NLDP requires an adequate standard of amenity for future occupiers. In this regards, consideration is also given to Policies GP2, GP6, H2 and W3 of the NLDP and SPG: FC.
- 7.30 The SPG specifies the internal space standards for converted flats. In this case, each flat would either meet or exceed the require standards, thereby providing a spacious rather than cramped living arrangement. Within each flat, all habitable rooms would benefit from a reasonable standard of amenity, particularly with regards to light, outlook and privacy.
- 7.31 Bedroom 2 of Flat 6 in the loft would be reliant on a velux-type roof light as the only source of light and outlook. Whilst this is not ideal and not strictly compliant with SPG: FC, it is considered that, the overall standard of amenity to this flat would be, on balance, acceptable, particularly since it would have a floorspace of 76 sq.m. (SPG requirement is 60 sq.m.) and that all other habitable rooms would have a typical window.
- 7.32 It is proposed to remove the external staircase attached the side elevation of the building. Whilst this may have been used as a fire escape, all residential development will need to comply with fire regulations which are governed through building regulations and subject to separate consent. It is therefore considered that the proposed arrangement would not unduly harm the amenities, wellbeing and safety of future occupiers of the flats.
- 7.33 Outdoor amenity space would be primarily provided at the rear of the property. This space has been overgrown with vegetation and there are a few trees present. There is also a degree of hardstanding/patio available to the immediate side and rear of the building. It is proposed to clear most of the overgrowth and retain the largest trees. This will bring the



land back to use and improve the amenity of the area, particularly for future residents and those immediately adjoining.

- 7.34 The Head of City Services (Tree Officer) has visited the site and considers that a single birch tree in the rear garden offers a good level of public amenity value. The Tree Officer has subsequently made a Tree Preservation Order to protect this tree (No.1, 2019). This tree is unlikely to be adversely affected by the proposed scheme since no extensions are proposed and there is sufficient separation distance between the tree and the property. However, the Tree Officer has no objections to the proposal subject to conditions which will include protection measures to be installed during the development of the site. It is considered that the proposal satisfies Policy GP5 of the NLDP and SPG: TWHDS.
- 7.35 The forecourt of the site is covered in hardstanding with no soft landscaping whilst the side and rear of the site are at lower level. Notwithstanding the protected tree, the soft landscaping would not be significantly visible from public positions as they back onto the private gardens of neighbouring properties. The applicant's agent has explained in an email received 15 January 2019 that the landscaping and outdoor spaces would be managed by the Registered Social Landlord. Whilst no specific details of landscape maintenance has been provided with this application, it is not considered necessary to impose a planning condition to control this given the limited public visibility of the landscaping.
- 7.36 The rear of the site backs onto the rear amenity space of 35c Llanthwy Road however there are no clear boundary treatment separating the site with this property. In the interests of residential amenities, the application proposes to erect a 1.8m high close boarded fence along the entire rear boundary of the site. This fence would not be significantly visible from public positions but will ensure that privacy standards are protected. It is considered that this addresses the concerns from the occupiers of 35c Llanthwy Road with regards to the safety, security and privacy.
- 7.37 There is a red brick wall separating the site with the block flats at 59 Caerau Road whilst there is a stone wall with close boarded fencing on top separating the site with the block of flats at 57 Caerau Road. It is considered that these provide sufficient privacy and amenity to future occupiers and to neighbouring properties. The owner of 59 Caerau Road has commented that the dividing wall is a retaining wall and requires upgrading. This scheme does not involve any works to this wall nor is the change of use of the building and site to residential use has a material impact the wall. As such, limited weight could be given to this matter and other legislation (such as the Party Wall Act may apply).
- 7.38 The plans show an area for bins and recycling facilities. The location of this area has been amended and it will now be on a new raised platform to the side of the building. The new location has improved the accessibility of the bin stores, particularly during the transfer of refuse on collection days. The supporting structure for the bin store would not be significantly visible from public position since it would be below ground level and hidden by boundary treatments. Whilst the platform and enclosure would be visible from Caerau Road, it would not be unduly harmful to visual amenity. Furthermore, it would not result in any significant loss of residential amenity to neighbouring properties; especially due to existing separation distances and that similar views can already be obtained from the existing forecourt and paths. Notwithstanding this, in the absence of full details of the structure and platform, it is considered necessary to impose a condition for the bin store to be agreed.
- 7.39 Irrespective of whether the proposed six self-contained flats would be affordable or market housing, there is no evidence to substantiate the claim by the representations received that the flats would result in an increase in littering in the locality, especially when sufficient bins and recycling facilities would be provided at the site. It is also recognised that the use of the building as offices would generate waste (including commercial waste) and that six flats of 1 to 2 bedrooms would not result in such significant increases in waste. In any case, littering and associated environmental health issues are covered by separate legislation, enforced by the Public Protection Department of the Council, thereby protecting the amenities and wellbeing of residents.

- 7.40 The Head of City Services (Waste Manager) has been consulted on the proposal and comment that kerbside collection will be possible. The bin store will be capable of accommodating refuse and whilst there may be insufficient space for recycling facilities, the Waste Manager expect residents to keep these individually. It is also acknowledged that there is space within the wider curtilage to accommodate this. The Waste Manager has commented on possible issues with access to the bin store however this is a very localised issued and could be overcome by residents moving their bins to the kerb on collection days which is a common scenario for many households. Having regard to the above and since there are no overriding objections by the Waste Manager, it is considered that the proposal satisfies Policies GP2, GP6, H2, W3 and criterion iv) of Policy H8 of the NLDP and the general requirements of SPG: FC.
- 7.41 In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location.
- 4.42 In this particular case, Council policy stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations. This scheme is for 100% affordable housing and, as such, no planning contributions would be required. However, it is necessary to build-in safeguards to ensure that any flats sold or rented on the open market will be subject to planning contributions. The Head of Regeneration, Investment and Housing (Planning Contributions Manager) has outlined the relevant head of terms for a commuted sum towards affordable housing and a formula-based contribution towards education and leisure facilities. The applicant has agreed to enter into a legal agreement to secure the relevant contributions.

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

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

9. **CONCLUSION**

9.1 This application seeks consent to convert a vacant office building to 6no. self-contained flats with limited external works. The proposal would provide much needed affordable housing in this part of Newport and would not result in any unreasonable loss of employment use, nor would it be of a scale and intensity so as to harm the character of the building and locality. Also, the proposal would not have a significant adverse effect on visual amenity, neighbouring amenity, general amenity or highway/pedestrian safety. Furthermore it is also considered that the overall standard of amenity attributed to the flats would not unduly harm the amenities of future occupants.

10. **RECOMMENDATION - GRANTED WITH CONDITIONS AND SUBJECT TO A LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE IF THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF DECISION**

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

1357-PL-200 Rev. C – Site Layout  
1357-PL-201 Rev. B – Proposed Basement + Ground Floor Plans  
1357-PL-202 Rev. B – Proposed First + Second Floor Plans  
1357-PL-203 Rev. B – Proposed Elevations  
1357-PL-204 Rev. B – Forecourt Parking Details  
1357-PL-103 Rev. A – Existing and Proposed Elevations (Sheet 1)  
1357-PL-205 Rev. A – Existing and Proposed Elevations (Sheet 2)

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

**Pre- commencement conditions**

02 No development, to include demolition, shall commence until a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise (including planned working hours), vibration, dust\* and waste disposal resulting from the site preparation, any groundwork and construction phases of the development. The approved Construction Environmental Management Plan shall be adhered to at all times.

\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: In the interests of amenities – Policies GP2 and GP7.

- 03 No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night.

Reason: In the interests of residential amenities – Policies GP2, GP7 and H2.

- 04 No development shall commence until details of the proposed bin store has first been submitted to and approved in writing by the Local Planning Authority. The bin store shall be installed in accordance with the approved details prior to the beneficial occupation of any of the flats hereby approved and thereafter shall be retained in perpetuity.

Reason: In the interests of visual and residential amenities – Policies GP2, GP6, GP7 and H2.

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

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

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

Reason: To protect important landscape features within the site – Policy GP5.

- 06 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 – Policy GP5.

- 07 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 – Policy GP5.

***Pre –occupation conditions***

- 08 No flat shall be occupied until the 1.8m high close boarded fence has been erected along the entire rear boundary of the site, in accordance with drawing no. 1357-PL-200 Rev. C

Reason: In the interests of privacy and residential amenities – Policies GP2, GP6 and H2.

- 09 No flat shall be occupied until the front boundary wall and the access, parking with demarcation and circulation spaces have been completed in accordance with drawings 1357-PL-200 Rev. C and 1357-PL-204 Rev. B. The approved access, parking and circulation spaces shall be retained in perpetuity and kept available for such purposes thereafter.

Reason: In the interests of highway safety and residential amenities – Policies GP2, GP4, GP6 and H2.

***General conditions***

- 10 The materials to be used in the construction of the external surfaces of the development hereby approved shall match those used in the existing building.

Reason: In the interests of visual amenities – Policies GP6 and H2.

***NOTES TO APPLICANT***

01 This decision relates to plan Nos: 1357-PL-101 Rev. A – Existing Basement and Ground Floor Plans; 1357-PL-102 Rev. A – Existing First and Second Floor Plans; 1357-PL-103 Rev. A – Existing and Proposed Elevations; 1357-PL-104 Rev. C – Existing Elevations; 1357-PL-200 Rev. C – Site Layout; 1357-PL-201 Rev. B – Proposed Basement + Ground Floor Plans; 1357-PL-202 Rev. B– Proposed First + Second Floor Plans; 1357-PL-203 Rev. B – Proposed Elevations; 1357-PL-204 Rev. B – Forecourt Parking Details; 1357-PL-205 Rev. A – Existing and Proposed Elevations

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP18, GP2, GP3, GP4, GP5, GP6, GP7, H2, H8, T4, EM3 and W3 were relevant to the determination of this application. Also relevant were Supplementary Planning Guidance documents: Flat Conversions, Parking Standards, Affordable Housing, and Planning Obligations and Trees, Woodland, Hedgerows and Development sites.

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

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

05 The applicant/developer is advised to contact Wales & West Utilities since they have pipes and utilities in the area.

05 This decision is subject to a legal agreement.

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**APPLICATION DETAILS**

**No:** 18/0399      **Ward:** *PILLGWENLLY*

**Type:** FULL (MAJOR)

**Expiry Date:** 07-FEB-2019

**Applicant:** *G LEACH, K&W DEVELOPMENTS (WALES) LIMITED*

**Site:** *LAND TO NORTH EAST OF UNIT 8 28 EAST RETAIL PARK, DOCKS WAY, NEWPORT*

**Proposal:** *PROPOSED REGRADING OF LAND TO ACCOMMODATE AN EXTENSION OF CLASS B8 STORAGE YARD TO ACCOMMODATE SELF STORAGE CONTAINERS (AREAS A & F), BOUNDARY TREATMENTS, AND ASSOCIATED ENGINEERING OPERATIONS ON ADJOINING LAND INCLUDING STORAGE OF EXCAVATED SOIL BASED MATERIAL TOGETHER WITH ANCILLARY WORKS.*

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 The application seeks consent to change the use of land in the dock area of Newport to provide a facility for a containerised self-storage depot. The application would also involve engineering operations, mainly the regrading of land to provide a level and usable site.
- 1.2 The scheme is reported to Committee since the proposal is deemed to be a major application since the site area exceeds 1 hectare in size.

**2. RELEVANT SITE HISTORY**

14/0253	DEVELOPMENT OF A SMALL SCALE ENERGY GENERATION PLANT GRANTED WITH CONDITIONS 08/05/2014
15/0493	DEVELOPMENT OF A SMALL SCALE ENERGY GENERATION PLANT GRANTED WITH CONDITIONS 16/07/2015
16/0545	NON MATERIAL AMENDMENT TO 15/0493 APPROVED 27/06/2016
16/0712	NON MATERIAL AMENDMENT TO 15/0493 APPROVED 04/08/2016
16/1006	CHANGE OF USE TO CONTAINERISED SELF-STORAGE DEPOT WITH SITE OFFICE AND ACCESS WORKS GRANTED WITH CONDITIONS 13/01/2017
17/0285	PARTIAL DISCHARGE OF CONDITIONS 02, 03, 11, 12 AND 14 OF PLANNING PERMISSION 16/1006 APPROVED 29/06/2017
17/0474	DISPLAY OF 2NO. NON ILLUMINATED GROUND MOUNTED SIGNS AND 6NO. NON ILLUMINATED FLAG SIGNS GRANTED WITH CONDITIONS 29/06/2017
17/0641	PARTIAL DISCHARGE OF CONDITIONS 04 AND 05(a) and (b) OF PLANNING PERMISSION 16/1006 APPROVED 14/09/2017

- 17/0890 NON MATERIAL AMENDMENT OF PLANNING PERMISSION 16/1006. AMENDMENT TO REMOVE 3NO. CONTAINER AND CHANGE TO SITE LAYOUT TO ALLOW ACCESS TO ADJACENT SITE  
APPROVED WITH CONDITIONS 05/10/2018
- 17/0867 PARTIAL DISCHARGE OF CONDITION 06 OF PLANNING APPLICATION 16/1006 FOR THE CHANGE OF USE TO CONTAINERISED SELF-STORAGE DEPOT WITH SITE OFFICE AND ACCESS WORKS  
APPROVED 12/10/2018

### 3. POLICY CONTEXT

#### 3.1 Adopted Newport Local Development Plan 2011-2026 (NLDP):

Policy <b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
Policy <b>SP3 Flood Risk</b> ensures development is directed away from flood risk areas.
Policy <b>SP4 Water Resources</b> favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.
Policy <b>SP18 Urban Regeneration</b> supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
Policy <b>GP2 General Development Principles – General Amenity</b> states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
Policy <b>GP3 General Development Principles – Service Infrastructure</b> states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.
Policy <b>GP4 General Development Principles – Highways and Accessibility</b> states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
Policy <b>GP5 General Development Principles – Natural Environment</b> states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.
Policy <b>GP6 General Development Principles – Quality of Design</b> states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
Policy <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.
Policy <b>EM2 Newport Docks</b> protects the Docks and promotes any development that is complementary to and does not hinder the operational use of the Docks.
Policy <b>T1 Railways</b> sets out the Council's support for the railway system, including new stations at Llanwern, Caerleon and Coedkernew, plus other improvements to the network.
Policy <b>T4 Parking</b> states that development will be expected to provide appropriate levels

of parking.

#### **4. CONSULTATIONS**

##### **4.1 WELSH WATER**

No objections to the proposal subject to a condition relating to the submission of construction design method statement and risk assessment for the protection of a public rising main crossing the site. Advisory notes were also provided.

##### **4.2 WALES AND WEST UTILITIES**

No objections to the proposal subject to advisory notes.

##### **4.3 NETWORK RAIL**

No objections to the proposal subject to informative notes.

##### **4.4 FIRE SERVICE**

No objections to the proposal subject to informative notes.

##### **4.5 NATURAL RESOURCES WALES**

No objections to the proposal subject to a condition and a series of advisory notes.

#### Land Contamination

We note that the red line application site boundary varies between documents. We understand that the site boundary is that depicted on AH/110089/01A Site location plan dated August 2018. This includes an area of land containing a former gas holder compound. Given this we would have expected the site investigation report to have included this area; it does not.

However, we understand that the area of land containing the former gas holder compound has been subject to a planning application - 16/1006 change of use to containerised self-storage depot with site office and access and is currently being constructed. NRW was not consulted on this application but we understand condition 5 of the planning permission relates to the submission of a site investigation report, remediation strategy, completion/verification Report, and unforeseen contamination. It is further understood that application 17/0641 partially discharged this condition to the satisfaction of your Authority's scientific officer. If this is not the case, please reconsult us as we will require details on the status of the gas holder removal prior to determination of the application. Given the above, we advise the following:

With regard to the revised and updated site investigation report (reference 1 above), we agree with the conclusion that the low level of contamination observed is low risk to controlled waters. However, we request the following condition be imposed on any planning permission granted for the site.

- 1. 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.*

#### Waste and pollution prevention

A series of advisory note were provided.

##### **4.6 ASSOCIATED BRITISH PORTS**

No comments received.

#### **5. INTERNAL COUNCIL ADVICE**

##### **5.1 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION)**

No objections to the proposal.



5.2 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION - SCIENTIFIC OFFICER)

Contaminated Land

The contaminated land risk assessment submitted with this application has sufficiently assessed the site and potential risks. In particular, any storage containers on the site shall require a void space beneath to allow for adequate ventilation, avoiding the potential build-up of gases. To ensure this work is undertaken I recommended the following conditions:

1. *Photographic evidence of the void space beneath the storage containers that will allow adequate ventilation of ground gasses shall be provided to the local planning authority for approval.*

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

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

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

5.3 HEAD OF CITY SERVICES (HIGHWAYS)

The recently installed access which serves the existing storage yard is considered suitable to serve the additional storage yard proposed. Sufficient parking is also available formally and informally on the site.

The applicant has submitted trip data for a site in Exeter. The site in Exeter is significantly smaller than the proposed however the applicant has factored this in by multiplying the trip data to reflect the number of containers proposed at this site. I'm satisfied that based upon the information received, the impact on the local highway will be negligible and therefore subject to the following condition I would offer no objection to the application:

1. Submission of a CEMP which includes such details as contractor parking, contractor compound, wheel wash facilities and dust suppression

5.4 HEAD OF CITY SERVICES (LANDSCAPING)

No objections to the proposal subject to conditions

5.5 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY MANAGER)

The proposed site is allocated in the LDP as EM2 Newport Docks. The allocation is protected for B1, B2 and B8 uses. The Council will support such development where it can be demonstrated that the development is complementary to and does not hinder the operational use of the Port.

I have not found any acknowledgement of Policy EM2 in the proposals. Therefore, ABP Ports should be consulted on this application. Providing there are no objections from the Port, issues with regard to highways, the proposal for B8 is considered acceptable.

5.6 HEAD OF CITY SERVICES (ECOLOGY)

I am satisfied with the Preliminary Ecological Assessment. I would recommend that a reptile method statement be submitted as a precautionary approach to ensure that none are injured/killed during the works. Scrub clearance should be undertaken outside bird nesting season.

5.7 HEAD OF CITY SERVICES (DRAINAGE)

No comments received

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 50m of the application site were consulted (3 addresses), a site notice displayed and a press notice published in South Wales Argus.

### **6.2 COUNCILLORS:** No comments received.

## **7. ASSESSMENT**

7.1 The application seeks consent to change the use of land in the dock area of Newport to provide a facility for a containerised self-storage depot. The application would also involve engineering operations, mainly the regrading of land to provide a level and usable site. This will include depositing and storing excavated material on parcels of land to the south of the containerised self-storage depot.

7.2 Planning permission was granted in January 2017 to operate part of the site for a self-storage depot (16/1006 refer). That permission appears to have been implemented and the site is currently operational. Dainton Group Services Ltd (the applicant) has the opportunity of purchasing additional land which adjoins their consented scheme. Consequently, this latest application effectively represents the proposed extension of the newly established facility to provide more space for the containerised self-storage depot. Access to the extended part of the site would be from the access approved under 16/1006 which is from Docks Way.

7.3 The land is currently unkempt and does not appear to be under any specific use. The site is uneven and it is intended to undertake engineering works to provide a more level site. This would essentially involve a 'cut-and-fill' operation with material being taken from various parts of the site and deposited elsewhere. An existing but relatively unused access off West Way Road would provide access to part of the site where land works would take place. Any surplus excavated material would be stored on parcels of land to the south of the containerised self-storage depot.

7.4 Policies SP1, SP3, SP4, SP18, GP2, GP4, GP5, GP6, GP7, EM2, T1 and T4 of the Newport Local Development Plan (NLDP) and Supplementary Planning Guidance: Parking Standards (SPG: PS) are relevant to the determination of this application.

7.5 The site is within the urban area of Newport and is adjacent to a site that was formerly used as a gas storage facility but has since been demolished. It is also adjacent to a railway line that serves the docks. The historic use of the land is unclear however it appears to have been a buffer between the gas storage facility and the railway line whereby the contours of the land have been artificially altered. There is also a large pylon located further south of the site before reaching the main industrial areas of the docks along West Way Road.

7.6 National Planning policy is clear that Local Planning Authorities should adopt a positive and constructive approach to applications for economic development; in this case the proposal will bring back into use a currently vacant, unkempt and underutilised site for the expansion of a new storage business in Newport. Policy SP18 of the NLDP supports urban regeneration and this scheme, in principle, would promote business and employment opportunities whilst reusing vacant, unkempt and underutilised site.

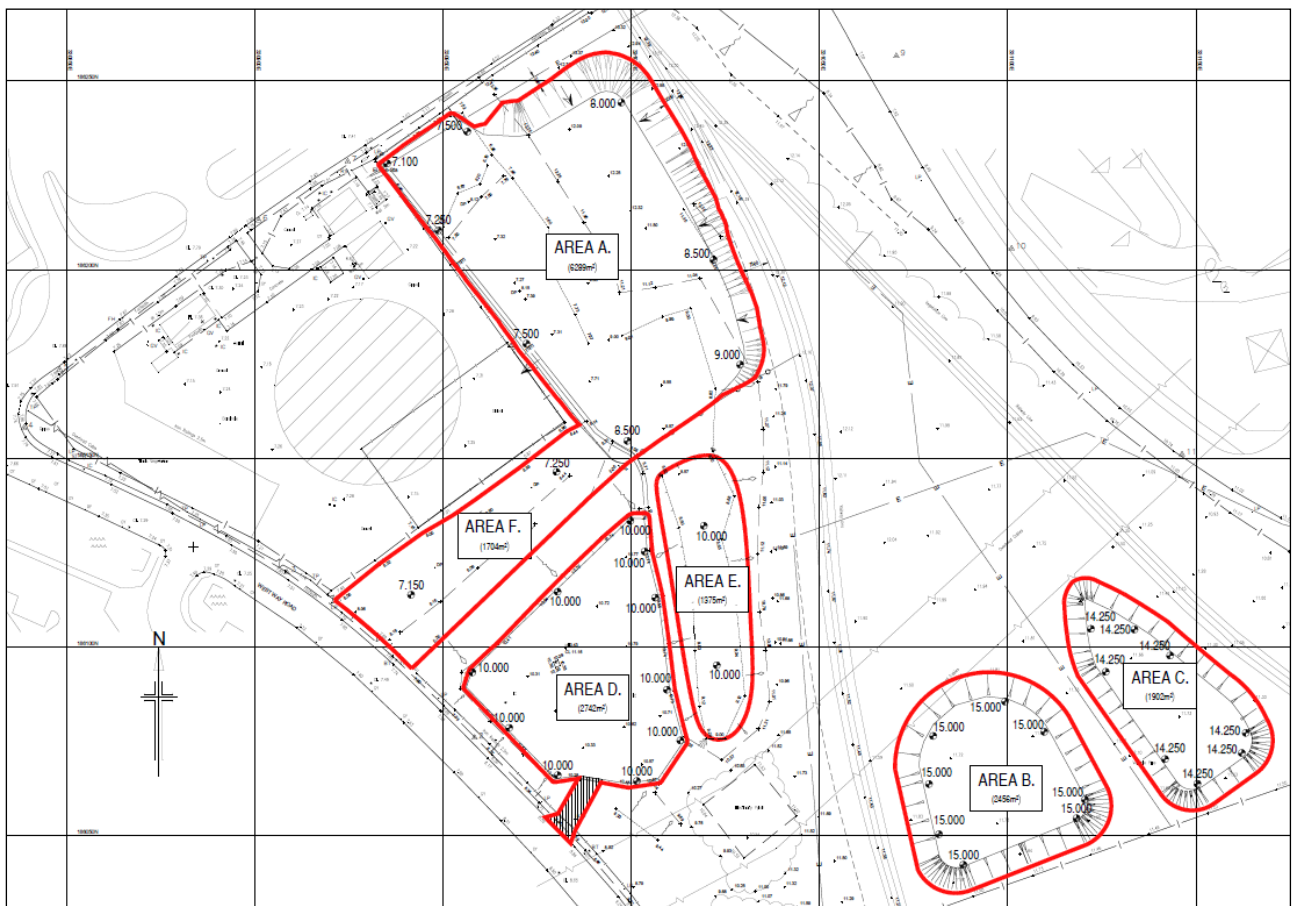
7.7 The site lies within the Newport Docks land allocation, as defined by Policy EM2 of the NLDP. This allocation protects the land for B1, B2 and B8 uses and the Council will support the development of the land for such uses where it can be demonstrated that the proposal is complementary to and does not hinder the operational use of the port.

7.8 The character of the area is a mixture of commercial, retail and employment uses, especially being within proximity of the Docks, Maesglas Industrial Estate, East Retail Park and Mendalgief Retail Park. The site is currently not used for any specific purpose by the docks and it is intended that the main access point to the site when operational would be from Docks Way rather than West Way Road. It is also intended to improve the usability of the land by undertaking engineering operations to level parts of the site. This proposal

would effectively involve storage uses falling within Use Class B8 and an expansion of an existing storage facility. Associated British Ports has been consulted however no comments have been received. Having regard to the above and to the character of the area, it is considered that the B8 storage use is acceptable in principle and would complement rather than prejudice the dock allocation, thereby satisfying Policies SP1, SP18 and EM2 of the NLDP.

- 7.9 Whilst the principle has been established, there is a need to consider the scheme against several other relevant policies of the NLDP and material planning considerations.
- 7.10 Given the industrial location of the site and being adjacent to a former gas works, there is the potential for ground contamination. The application has been accompanied by a Contaminated Land Risk Assessment which has been forwarded to the Public Protection Department and Natural Resources Wales. The Head of Law and Regulatory Services (Public Protection – Scientific Officer) consider that the assessment has sufficiently assessed the site and potential risks. Whilst the end use is of relatively low risk, namely the storage of goods and possessions, there is still a potential pollutant linkage. The agent has confirmed in an email received on 24 January 2019 that the storage containers would be marginally raised from the ground which will provide a void space beneath to allow for adequate ventilation and avoiding the potential build-up of gases. This will be subject of a planning condition. A further condition would be imposed requiring that any soil, material or aggregate imported to site needs to be chemically tested to ensure that it does not pose a risk to human health or the wider environment.
- 7.11 There is also the need to consider groundwater contamination, particularly since the site is adjacent to a re-en. Natural Resources Wales has reviewed the scheme and have no objections subject to a condition which will require the agreement of a remediation strategy for any unsuspected contamination that could be found during the development of the site that was not previously identified by the Contaminated Land Risk Assessment. A series of advisory notes are also provided by NRW. Subject to these conditions, the Head of Law and Regulatory Services (Public Protection) and NRW have no objections to the proposal. It is therefore considered that the proposal satisfies Policies GP2 and GP7 of the NLDP.
- 7.12 The site is approximately 250m away from the nearest residential properties (Mendalgief Road) and is intervened by a number of other land-uses, particularly Mendalgief Retail Park and a railway line. Having regard to this distance, the nature of the proposal and the character of the area, it is considered that the proposed development would have a significant adverse effect on the residential amenities of neighbouring properties or neighbouring land-uses. The development therefore satisfies Policies GP2 and GP7 of the NLDP.
- 7.13 The development site, as shown on several drawings (such as EW03 Rev. A), has been split into various parcels of land. See Figure 1 below:

Figure 1 – EW03 Rev. A - Site Plan with Parcels of Land



- 7.14 Areas A and F would be the new expanded self-storage site. The areas would be engineered to provide a usable and shallow gradient plateau and would wrap around the existing self-storage depot which is to the west of Area A (16/1006).
- 7.15 Area D would also be levelled and accessed from West Way Road. Areas B, C and E would be used to storage any surplus based material taken from Areas A, D and F. When the expanded depot is operational, Areas B, C, D and E would not be used for any purpose.
- 7.16 Drawing EW02 Rev. B specifies the finished levels of each parcel of land. These levels can be compared with the existing site level survey plan on Drawing EW01. In general terms, Areas A, F and D would involve the removal of material and the subsequent reduction in levels of the land, with the greatest change being approximately 4.5m in Area A.
- 7.17 Area E would involve excess material being deposited with the level of the land increasing in height with the greatest change being approximately 1.5m. Any material deposited within Area E would not exceed 10m Above Ordnance Datum level (AOD).
- 7.18 Area B would involve excess material being deposited with the level of the land increasing in height with the greatest change being approximately 3.5m. Any material deposited within Area B would not exceed 15m AOD.
- 7.19 Area C would involve excess material being deposited with the level of the land increasing in height with the greatest change being approximately 3.0m. Any material deposited within Area C would not exceed 14.250m AOD.
- 7.20 Based on the above, the greatest changes in levels would occur in Areas A (reduction), B (increase) and C (increase).
- 7.21 Whilst the character of the area is a mixture of commercial, retail and employment uses, Docks Way is subject to significant amount of traffic and public visibility along the site frontage is relatively high. Furthermore, this section of Docks Way is well landscaped, particularly due to the manicured grounds of the car sales garage which is opposite the site and areas around and within the retail parks. The site frontage currently consists of grey

palisade fencing with sporadic vegetation. The frontage of the existing self-storage depot (16/1006) also has grey palisade fencing with some grass in-front.

- 7.22 A cross section drawing has been submitted which shows the levels at the site frontage when viewed from Docks Way. This shows that the majority of the site frontage would be relatively level with the approved self-storage depot 16/1006. The land nearest to the railway line would be shielded by an embankment. Based on the proposed site levels, Area A will gradually increase in height but this would be deeper into the plot and less publicly visible.
- 7.23 A degree of soft landscaping and planting will be provided along the site frontage. This will soften the impact of the storage site when viewed from Docks Way. New 2m high palisade fencing (silver colour) would be installed behind the landscaping to secure the site and the containers. This fencing would then enclose the perimeter of the site. Since this would replace existing palisade fencing and that similar boundary treatments have been used as part of the adjoining approved site, it is considered that this aspect of the scheme would not have any significant adverse effect on visual amenity, thereby satisfying Policy GP6 of the NLDP.
- 7.24 The proposed layout of the site is shown on drawing SK09 Rev. E, in conjunction with the existing approved site. This demonstrates that both sites would form a single self-storage containerised depot, utilising the same access point with the internal road layout and boundary treatments unifying the site. The agent has confirmed in an email received on 24 January 2019 that all containers would be painted in blue colour, matching the colours of the container approved by application 16/1006.
- 7.25 The existing landscaping survey of the site has identified the presence of Japanese Knotweed. This scheme will involve its removal which is welcomed by the Council. Despite limited amount of soft landscaping being proposed, the area of greatest public visibility, namely Docks Way, would be reasonably landscaped with some additional landscaping provided along West Way Road. It is however acknowledged that the site is allocated for employment/dock purposes and the extent of landscaping and the overall appearance of the site would be proportionate and compatible with its context. The Head of City Services (Landscaping) has reviewed the proposed landscaping scheme and the associated methodology for new planting and subsequent maintenance. There are no objections to the proposal. It is therefore considered that the proposal satisfies Policies GP5 and GP6 of the NLDP.
- 7.26 A preliminary ecological survey of the site has been undertaken and reviewed by the Head of City Services (Ecology). The Council's Ecologist is satisfied with the assessment subject to a condition for a reptile method statement be submitted prior to the commencing any development and clearance works. It is also recommended to impose a condition for the development to be carried out in accordance with Section 5 (Conclusions and Recommendations) of the ecological assessment report. Subject to the above conditions, it is considered that the proposal would not have any significant adverse effect ecology/biodiversity, thereby satisfying Policies GP5 and GP6 of the NLDP.
- 7.27 It is intended to enable the double-stacking of containers on most of the site and access to the upper container would be via steel staircases and platforms. This is considered acceptable in principle and similar to that approved by application 16/1006. The applicant has recognised the public visibility of the site from West Way Road and it is proposed that the first row of containers fronting Docks Way would not be double-stacked. This is also similar to that approved by application 16/1006 and conditions would be imposed on this latest submission to control stacking, in the interests of visual amenity and to satisfy Policy GP6 of the NLDP.
- 7.28 Following the engineering and levelling works, Areas A and F would be free from any trees or vegetation but would be surfaced in compacted but permeable granular material prior to the siting of any containers. The internal road would be extended into the site and this is likely to be tarmac. These finishes in principle would be similar to that approved by application 16/1006 but in the absence of specific finishes/materials, it is considered necessary to impose a condition for their agreement.

- 7.29 The proposed expansion of the self-storage containerised depot would utilise the site access approved under application 16/1006. The Head of City Services (Highways) has reviewed the scheme and consider that the access which serves the existing storage yard is considered suitable to serve the additional storage yard proposed. Furthermore, it is concluded that sufficient parking would be available to serve the extended facility. The Highways Officer is satisfied that based upon the highway information received, the impact on the local highway will be negligible. Subject to a condition for the submission of a Construction Environment Management Plan, which would control the impact of the engineering and construction works upon the local highway network and general amenity, there are no objections to the proposal. It is therefore considered that the scheme satisfies Policies GP4 and T4 of the NLDP and SPG: PS.
- 7.30 When operational, the extended part of the self-storage depot site will be mostly covered in permeable surfacing. Surface water will therefore be able to permeate into the ground. Welsh Water has advised that the application site is crossed by a 250mm public rising main. This however is not in the area of the self-storage depot site but rather in close proximity to Areas B and C, whereby surplus material is to be deposited and stored. Welsh Water has no objections to the proposal subject to a condition which requires the submission and implementation of a construction design method statement and risk assessment for the protection of the structural condition of the public rising main crossing. Welsh Water has provided a series of advisory notes but has not raised any objections upon on-site surface water discharges. The site is within Zone B flood risk area but Technical Advice Note 15 permits development in this area. Furthermore, the use of the site will be of low vulnerability. The proposal does not have a material effect upon foul drainage. Wales and West Utilities and the Fire Service have no objections to the scheme subject to advisory notes. It is considered adequate services would be provided to facilitate the development, thereby satisfying Policies SP4, GP3 and GP7 of the NLDP.
- 7.31 Notwithstanding the works directly related to the extended self-storage depot site, this scheme will involve works to parcels of land to the south of the depot site (Areas B, C, D and E).
- 7.32 The southern part of the site would only be significantly visible from West Way Road, which is predominantly used by those visiting the industrial parts of the docks. Access to these areas would be via an existing access point off West Way Road. There is no formal track beyond the access gates and the plans indicate that compacted material would be laid to provide a track to Area D. In the absence of specific finishes/materials, it is considered necessary to impose a condition for its agreement as it would be visible from public positions and there is potential for materials to be dragged onto the highway by moving vehicles.
- 7.33 Area D, which is the nearest southern parcel of land to West Way Road, would in the context of this scheme, involve relatively minor excavation works (less than 1m). This would not have any significant adverse effect on the visual amenities of the area, particularly since the site is allocated for employment/dock purposes.
- 7.34 Areas B, C and E would result in material being deposited with the level of the land increasing in height, some by approximately 3.5m. Despite the increases, these areas are deeper into the site and away from prominent public positions. It is also noted that a very tall electricity pylon is located nearby which would reduce the impact of the height of the stockpiled material. As such, and having regard to the context of the site, it is considered that the proposed engineering and storage works would not have an unduly adverse effect on the visual amenities of the area. The submission has indicated that Areas B and C (which will represent the greatest stockpile areas) would be seeded with grass. It is considered that this will assist in softening the impact of the development and a condition has therefore been imposed to require seeding. A condition will require the development to be implemented in accordance with a list of approved drawings. Drawing EM03 Rev. A which specifies the areas that are subject to earthworks/storage and their respective levels would be included in this list. A further application would be required for any changes to those details. Subject to the above, it is considered that the proposal satisfies Policy GP6 of the NLDP.

- 7.35 The excavation, levelling and material storage between Areas B, C, D and E would not be located in the immediate vicinity of any residential property, with the nearest being over 200m (Mendalgief Road) and intervened by a railway line, trees, vegetation and commercial/employment buildings. It is therefore considered that this aspect of the scheme would not have any significant adverse effect on residential amenity. Furthermore, subject to conditions, the Head of Law and Regulatory Services (Public Protection) and NRW have no objections to the proposal, thereby satisfying Policies GP2, GP6 and GP7 of the NLDP.
- 7.36 Since the entire site is adjacent to the railway line, Network Rail has been consulted. They have no objections to the proposal subject to a series of informative notes. Some of the matters they have raised could also be mitigated by the Construction Environment Management Plan (CEMP) recommended by the Head of Law and Regulatory Services (Public Protection) and the Head of City Services (Highways). Also a condition limiting the development to the specific drawings would control the location and height of any earthworks. Having regard to the above, it is considered that the scheme satisfies Policies GP2, GP6, GP7 and T1 of the NLDP.
- 7.37 This proposal which is essentially a storage use and engineering operations does not require the need for any planning contributions.
- 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 ***Newport's Well-Being Plan 2018-23***  
The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and

objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **9. CONCLUSION**

- 9.1 The application seeks consent to change the use of land to provide a facility for a containerised self-storage depot. The application would also involve engineering operations, mainly the regrading of land, to provide a level and usable site.
- 9.2 The application is recommended for approval since the development complies with Council policy. The proposal will bring back into use a currently vacant, unkempt and underutilised site for the expansion of a new storage business in Newport. This use is considered to be complementary to and does not hinder the operational use of the port. The development would not have a significant adverse effect on visual amenity, residential amenity, general amenity, contamination/pollution, ecology/biodiversity, drainage/utilities or highway/pedestrian and public safety.

## **10. RECOMMENDATION – GRANTED WITH CONDITIONS**

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

AH/110089/01A – Site Location Plan  
SK09 Rev. E – Proposed Extended Site Plan  
SK03 – Proposed Storage Containers  
EW01 – Existing Levels  
EW02 Rev. B – Proposed Earthworks Details  
EW03 Rev. A – Proposed Planning Boundaries  
2018/.96 – Rev. B – Landscape Existing and Overlay  
2018/.105 – Rev. B – Landscape Proposals

Planting Schedule – Revised 23 November 2018  
Planting Methodology and Aftercare – Revised 23 November 2018

Method Statement (C5089 Rev. A, 10 March 2018))

Section 5 (Conclusions and Recommendations) of Preliminary Ecological Appraisal (WWE18015, February 2018, conducted by Wildwood Ecology)

Email from D. Brown (agent) dated 24 January 2018 confirming external colour of all containers

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

### ***Pre- commencement conditions***

- 02 Notwithstanding the requirements of Condition 01, no development (including any site clearance, engineering operation and earthworks) shall commence until a construction design method statement and risk assessment for the protection of the structural condition of the public rising main crossing the site has been submitted to and approved in writing by the Local Planning Authority. No other development pursuant to this permission shall be carried out until the approved protection measures have been implemented and completed. Thereafter, the protection measures shall be retained at all times during the lifetime of this permission. Reason: To protect the integrity of the rising main and avoid damage thereto – Policies GP3, SP4 and GP7.
- 03 No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise,



air quality\*, vibration, dust\*\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The Plan shall also include details of wheel washing facilities, dust suppression and the provision of a site compound and contractor parking and means of enclosure to restrict public access to the site. The approved Construction Environmental Management Plan shall be adhered to at all times.

\* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

\*\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: In the interests of general amenity, residential amenity and highway safety – Policies GP2, GP4 and GP7.

- 04 No development (including any site clearance, engineering operation and earthworks) shall commence until a reptile method statement has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved method statement.

Reason: In the interests of ecology – Policy GP5.

- 05 No development shall commence until the final wearing course of the internal road and circulation spaces within Areas A and F and the access track serving Area D, as identified on drawings SK09 Rev. E and EW03 Rev. A have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the first beneficial use of the development and shall then be maintained as such thereafter in perpetuity.

Reason: In the interests of visual amenity, highway safety and general amenity – Policies GP2, GP4 and GP7.

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

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed – Policies GP2 and GP7.

### **General conditions**

- 07 Notwithstanding the requirements of Condition 01, the containers hereby approved shall be sited in accordance with the remediation strategy specified within the email from D. Brown (agent) dated 24 January 2018.

Reason: In the interests of public health and safety – Policies GP2 and GP7.

- 08 The approved landscaping scheme (drawing 2018/105 Rev. B) and the planting schedule (revised 23 November 2018) 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 in accordance with the approved planting methodology and aftercare (revised 23 November 2018). If within a period of five years from the date of the planting that any tree or shrub is removed, uprooted, damaged, destroyed or dies, another tree or shrub of the same species and size as that originally planted shall be planted at the same location

within the next planting season. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner – Policies GP5 and GP6.

- 09 Areas B and C, as shown on drawing 2018/.105 Rev. B, shall be seeded in its entirety with grass by a date not later than the end of the full planting season immediately following the completion of the development. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner – Policies GP5 and GP6.

- 10 No floodlighting or any external illumination shall be installed within the site until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details of the siting, design and appearance of all fixtures and the orientation, colour, duration, intensity and the extent of the source of illumination. Development shall be carried out in accordance with the approved scheme.

Reason: In the interests of visual and general amenities, highway safety and ecology – Policies GP4, GP5 and GP6

- 11 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with and a timetable for implementation. The remediation strategy shall be implemented in accordance with the approved strategy and timetable.

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 – Policies GP2 and GP7.

- 12 The use hereby permitted shall not be open to customers outside the following times:-

Daily: 06:00 hours - 21:00 hours

Reason: In the interests of general amenity – Policy GP2.

- 13 Notwithstanding the requirements of Condition 01:

- i) Within the first row of containers fronting Docks Way, as shown on drawing number “1649.SK09 Rev.E – Proposed Extended Site Plan”, no single container, or multiple stacked containers in total, shall exceed 3.1m in height from ground level at any time.
- ii) Elsewhere within the site, no single container, or multiple stacked containers in total, shall exceed 6.2m in height from ground level.

Reason: In the interests of visual amenities – Policy GP6.

- 14 There shall be no relocation of the containers onto any area other than the designated storage areas, as shown on drawing number SK09 Rev.E at any time.

Reason: In the interests of visual amenity and to protect the general amenities of the area – Policy GP6.

## NOTES TO APPLICANT

01 This decision relates to plan Nos: AH/110089/01A – Site Location Plan; SK09 Rev. E – Proposed Extended Site Plan; SK03 – Proposed Storage Containers; EW01 – Existing Levels; EW02 Rev. B – Proposed Earthworks Details; EW03 Rev. A – Proposed Planning Boundaries; 2018/.95 – Rev. B – Landscape Existing; 2018/.96 – Rev. B – Landscape Existing and Overlay; 2018/.105 – Rev. B – Landscape Proposals; Planting Schedule – Revised 23 November 2018; Planting Methodology and Aftercare – Revised 23 November 2018; Method Statement (C5089 Rev. A, 10 March 2018); Site Investigation Report (12249/LP/18/SI/RevA, September 2018, conducted by Intégral Géotechnique); Section 5 (Conclusions and Recommendations) of Preliminary Ecological Appraisal (WWE18015, February 2018, conducted by Wildwood Ecology); Email from D. Brown (agent) dated 24 January 2018 confirming external colour of all containers; Email from D. Brown (agent) dated 24 January 2018 confirming the siting of all containers in relation to ground contamination.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP4, SP18, GP2, GP4, GP5, GP6, GP7, EM2, T1 and T4 were relevant to the determination of this application. Also relevant was Supplementary Planning Guidance: Parking Standards.

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

04 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155. The proposed development site is crossed by a public sewer. The applicant/developer is advised that the precise position of the sewer should be accurately located and marked out on site before works commence and no operational development should be carried out within 3 metres either side of the centreline of the public sewer. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. The applicant is also advised there may be unrecorded water services crossing the site. The presence of such assets may affect the proposal. The applicant is advised to contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of any apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

05 The applicant/developer is advised to contact Wales and West Utilities prior to commencing any development since their apparatus may be located within the site and affected by the proposal.

06 The site is adjacent to railway infrastructure and the applicant/developer is advised that no part of the development should adversely impact the safety, operation and integrity of the railway. Network Rail have provided detailed informative notes regarding asset protection matters. These can be viewed online by viewing the contents of planning application on the Council's Planning Pages.

07 The applicant is advised that the storage of surplus soil on site may require a Waste Environmental Permit from Natural Resources Wales. Excavated materials that are recovered via a treatment operation can be re-used on-site under the CLAIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Natural Resources Wales should be contacted for advice at an early stage to avoid any delays. Natural Resources Wales recommends that developers should refer to our: - Position statement on the Definition of Waste: Development Industry Code of Practice and website at [www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk) for further guidance. Contaminated soil that

is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation. During reprofiling, adequate pollution prevention methods should be implemented by the applicant to avoid the risk of silt and run-off entering the surface water/roads of the surrounding area.

08 The developer should consider the need for the provision of adequate water supplies on the site for firefighting purposes and access for emergency firefighting appliances.

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## **APPLICATION DETAILS**

No: 18/00399 Ward: **PILLGWENLLY**

Type: Full

Expiry Date: 07-FEB-2019

Applicant: **G LEACH, K&W DEVELOPMENTS (WALES) LIMITED**

Site: **LAND TO NORTH EAST OF UNIT 8, 28 EAST RETAIL PARK, DOCKS WAY, NEWPORT**

Proposal: **PROPOSED REGRADING OF LAND TO ACCOMMODATE AN EXTENSION OF CLASS B8 STORAGE YARD TO ACCOMMODATE SELF STORAGE CONTAINERS (AREAS A & F), BOUNDARY TREATMENTS, AND ASSOCIATED ENGINEERING OPERATIONS ON ADJOINING LAND INCLUDING STORAGE OF EXCAVATED SOIL BASED MATERIAL TOGETHER WITH ANCILLARY WORKS**

## **1. LATE REPRESENTATIONS**

1.1 The following comments have been received from the owner/occupier of 71 Adeline Street:

*I wish to inform you that the area of land in this planning application has always been known as "The Newtie" because of the numbers of newts and tadpoles that we always went to observe every year from my childhood in the 50's. I know that they were still there up until recently.*

*I was alarmed when I saw the previous development adjacent to this application, but felt that it was too late. However, it may not be too late to save any remaining newts/tadpoles in the land referred to in this application.*

1.2 Although the Head of City Services (Ecology) has not made specific comments on this matter, regard is given to the Preliminary Ecological Appraisal conducted by Wildwood Ecology (February 2018) which has been submitted within the application.

1.3 The Ecology Report has made a search of the records for the last 10 years for any protected and priority species within 2km of the site. There are no records of a Great Crested Newt whilst there are a small number of records for amphibians, with the nearest being a common toad 1.32km from the site.

1.4 Paragraphs 4.16 - 4.18 of the Ecology Report discusses the characteristics of the application site and the likelihood of encountering newts. The report notes:

*"The standing water offers some habitat suitable for amphibians and great crested newt, with emergent vegetation present for potential egg-laying. Despite this, there is very limited associated vegetation or connectivity to other ponds for the terrestrial life-stages, suggesting that any amphibian populations present would be unsustainable in the long-term due to the effects of habitat fragmentation. The reed is to be retained and so if great crested newt (or other amphibians) is present, there is unlikely to be a negative impact on them as a result of the proposed development."*

- 1.5 Whilst the likelihood of encountering newts and amphibians on the site is low, this has not been completely discounted by the ecology report. It is therefore considered prudent to amend condition 04 (reptile method statement) to include newts and amphibians, to ensure that there is an appropriate protocol in place should any of the species be found on site.
- 1.6 An email has been received from the planning agent requesting an amendment to the wording of Condition 12 so that it specifically refers to the storage yard. It is considered that change would provide more clarity to the wording of the condition without materially affecting its requirements and purpose.

## **2. OFFICER RECOMMENDATION**

- 2.1 As per original report - Granted with Conditions with amendments to the following conditions:

- 04 No development (including any site clearance, engineering operation and earthworks) shall commence until a reptile, newt and amphibian method statement has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved method statement.

Reason: In the interests of ecology – Policy GP5.

- 12 The Class B8 storage yard hereby permitted shall not be open to customers outside the following times: -

Daily: 06:00 hours - 21:00 hours

Reason: In the interests of general amenity – Policy GP2.

**APPLICATION DETAILS**

**No:** 18/0912      **Ward:** LLISWERRY

**Type:** FULL

**Expiry Date:** 06-FEB-2019

**Applicant:** B WOOLEY

**Site:** 27, PORTSKEWETT STREET, NEWPORT, NP19 0GJ

**Proposal:** CONVERSION OF DWELLING HOUSE TO 4NO. BEDROOM HOUSE IN MULTIPLE OCCUPATION

**Recommendation:** Granted with Conditions

**1. INTRODUCTION**

This application seeks planning permission for the conversion of a dwelling to a four bedroom house in multiple occupation (HMO) at 27 Portskewett Street. The property is an end of terrace dwelling situated on the corner of Portskewett Street and Gaskell Street.

- 1.2 The main considerations of this application are the potential impacts of the change of use on parking provision and highway safety as well as the impact on the character and amenity of the surrounding area and neighbouring properties.
- 1.3 The proposals were originally for a five bedroom HMO but have been reduced to four bedrooms during the course of the application in order to provide a communal first floor room for refuge in the event of flooding. This application is reported to Committee at the request of Councillor Jeavons who has expressed concerns regarding parking.

**2. RELEVANT SITE HISTORY**

None.

**3. POLICY CONTEXT**

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

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

Policy GP4 'General Development principles – highways and accessibility' states that development proposals should make adequate provision for car parking and ensure that development would not be detrimental to highway or pedestrian safety.

Policy H8 Self Contained Accommodation and Houses in Multiple Occupation sets out the criteria for subdividing a property into self-contained flats. The scheme must be of appropriate scale and intensity not to unacceptably impact on the amenity of neighbouring occupiers and create parking problems; proposals must not create an over concentration in any one area of the city; and adequate noise insulation is provided and adequate amenity for future occupiers.

***Supplementary Planning Guidance (SPG)***

Houses in Multiple Occupation (HMOs) updated January 2017 and  
Newport City Council's Parking Standards 2015.

#### **4. CONSULTATIONS**

- 4.1 GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): No comments received.
- 4.2 DWR CYMRU – WELSH WATER: No objection.
- 4.3 NATURAL RESOURCES WALES: Given the nature of the proposed development we consider the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development.

#### **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): The applicant must confirm the existing number of bedrooms at the property in order for the parking demand to be determined in accordance with the Newport City Council Parking Standards.  
The proposed 5 bed HMO generates a parking demand of 6 spaces at a ratio of 1 space per bedroom plus 1 visitor space. The maximum parking generation associated with the existing property will be 3 spaces and therefore there will be a minimum parking increase of 3 spaces.  
Demand for on street parking in the area appears to be high and therefore availability is limited. On street parking will only be considered following submission of a parking survey which assesses the on street parking stress/capacity in the area in accordance with the Lambeth Methodology.  
Unless it can be demonstrated that the parking requirements can be satisfied I must oppose the application and recommend refusal.
- 5.2 HEAD OF LAW AND REGULATION (HMO LICENSING): I can confirm that we would have no objections to this property being converted to a 5 bedroom house in multiple occupation provided the following items are taken into consideration:
- Based on the proposed floor plans provided, there is an inner room layout on the ground floor with the means of escape from the bedroom 2 being via the lounge which is a high risk room for fire. As such an alternative means of escape would be required, such as a suitable escape window within the bedroom that leads to an appropriate final point of safety, which is at least as far away from the building as the building is high. Any window provided for emergency escape purposes should have an unobstructed openable area of at least 0.33m<sup>2</sup> and have a minimum 450mm height and width. (Please note that 450mm x 450mm does not achieve the required 0.33m<sup>2</sup> area required). The bottom of the openable area should be between 800 - 1100mm above the floor. The escape window should be fitted only with fastenings which can be easily operated without the use of a removable key. Any fixed steps necessary to afford access through the window opening shall be constructed with flat treads and all necessary hand grips, foot holds and ledges shall be provided.
  - Suitable additional fire protection measures such as fire detection, fire doors and fire blanket are not indicated on the floor plans and will be required for this type of property. These can be determined upon inspection.
  - There would need to be adequate external ventilation to the bathroom 1, as such mechanical ventilation or a window would be required to ensure there is adequate air changes.
  - Ensure there are adequate kitchen facilities within the kitchen for the proposed 6 occupants, as outlined in the attached guidance notes.
  - The property was inspected earlier 2018 and works were identified as being required. The landlord was provided with a schedule of works however the property became vacant. These works should be addressed prior to the property being re-occupied.
  - Appropriate waste management arrangements must be in place at the beginning of the properties use as a licensed HMO and thereafter maintained for the duration of the HMO use.
- 5.3 HEAD OF CITY SERVICES (WASTE): No objection. Individual bins and recycling containers are to be presented at curtilage for collection.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: Properties within 50m were consulted (55no properties). 3no responses received objecting to the proposals for the following reasons:
- The proposed use would be out of character with the area;
  - Parking is already an issue in the street with many households having more than one car and business premises nearby and the proposals would make this worse;
  - The Portskewett Street/Corporation Road junction is very busy and the change of use would put added pressure on this;
  - The change of use could potentially result in anti-social behaviour caused by unrelated people sharing a single kitchen and bathroom;
  - Noise from fire doors and main doors closing will be a nightmare as we can hear the T.V. on in next door and someone or two could be living in that room as well as visitors which could be very loud. We can also hear our other neighbours' children crying at night and playing with toys in the daytime as well as the hover as the walls are very thin. I work early and go to bed early and the noise will affect us sleeping;
  - A house in multiple occupation will affect the value of our house;
  - Family housing is needed not bedsits;
  - The applicant has been working in the house from 8 am until 6 pm on Saturday and also working some evenings throughout the week and the noise is unbearable, we had to contact the environmental health;
  - The applicant does not care about rules of regulations or how it might affect others.
- 6.2 COUNCILLOR ROGER JEAVONS: Objects to the application due to parking concerns. Requests that the application is determined by Planning Committee is officers are minded to grant it.

## **7. ASSESSMENT**

- 7.1 The proposed layout of the property would comprise two bedrooms, lounge, kitchen and two bathrooms at ground floor with two further bedrooms and a communal room at first floor. There are double gates to the rear garden of the property which provides an off-street parking space. There are also two garages at the bottom of the rear garden serving the dwelling.
- 7.2 The Newport City Council Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015, updated January 2017) seeks to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity. It also states that the Council will not support a planning application that would take the number of HMOs above 15% within defined areas, measured within a 50 metre radius of the application property. A 50m radius captures 34no properties and of these there are no existing HMOs. Therefore, the proposed conversion does not conflict with the Council adopted SPG insofar as this threshold is concerned.
- 7.3 Notwithstanding the above, whilst the proposed change of use would not result in the number of HMO's in the area exceeding 15% it is necessary to consider whether the proposal is acceptable in respect of other material considerations. The impact of HMOs on social cohesion and community wellbeing is a material consideration. Evidence of problems associated with HMO's can include inadequate refuse storage arrangements or poorly maintained frontages, or quantified evidence of impacts on community cohesion. There was little evidence of this during a recent visit to the site. In this instance the property has the benefit of a small enclosed front garden and a small amenity area at the rear to enable residents to dry clothes etc. and the property would provide a good level of amenity for future occupants. The façade and front garden of the property appears to be in a relatively good condition and the same can be said of most of the properties in the area. There is sufficient space within the front garden for recycling storage boxes and waste bins.
- 7.4 An internal research paper (unpublished) was prepared by Newport Council's planning team as a background report to the SPG to evaluate any evidence of harm caused by concentrations of HMO's within the city (see copy of report attached as Appendix A). The number of HMO's was compared to the actual number of households within a defined geographical area, namely lower layer super output areas (LSOA), which are used for the Census. Information was pulled together relating to complaints linked to licenced HMO's and crime rates within these areas.



- 7.5 Portskewett Street falls within Lower Super Output Area Liswerry W010016440, which is shown to have the 24<sup>th</sup> highest concentration of HMO's (0.710 out of 44 Lower Super Output Areas). The paper concludes that the evidence collected does demonstrate that there is a correlation between high concentrations of HMOs and negative complaints made to the Council, and recorded crime and that therefore the Council should continue to try and control the concentration of HMOs. The Council has recently refused planning permission for a HMO (18/0459 3 York Place) based on the findings of this paper which showed that in that particular instance, despite not exceeding the threshold within the SPG, the ward in which the HMO was located was shown to have the highest concentration of HMO's (7%), the highest number of complaints (33) and the highest numbers of recorded crime (1441 incidents) in the city. The paper shows that 16 complaints were received by the Council's Environmental Health department in a period of 18 months relating to HMO's in the area in which the application site is located. To give this some context, the highest number of complaints relates to the Stow Hill W01001687 lower super output area where 33 complaints were received in the same period. This decision was subject to an appeal which was recently allowed. On the matter of such data the Inspector noted that whilst local residents and the Council have genuine concerns about the potential for an increase in anti-social behaviour, there is no firm evidence to attribute this to existing HMO's within the vicinity. In any case, in this instance given that the change of use would not result in an exceedance of the 15% threshold it is considered that the Council would struggle to identify harm resulting from the presence of a further HMO in the area and it is not considered that the addition of a HMO in the area would be detrimental to the character of the area and the amenity of neighbouring residents contrary to policies H8 and G2 of the Council's LDP.
- 7.6 The applicant has provided a copy of a 'Declaration of Understanding' which is a contract between the Council and the landlord. The document details such matters including fire precautions, waste management and anti-social behaviour and states that failure to comply with the terms may result in prosecution. In addition, the applicant has provided a copy of the tenancy agreement which includes such obligations for tenants as keeping the property in good condition and prohibiting any behaviour which may be of nuisance to neighbouring occupants. Whilst these documents and their requirements are assumed to be enforceable via other legislation and cannot be controlled by the planning system, their content is noteworthy in the consideration of this application.
- 7.7 In response to the proposals the Head of City Services (Highways) has advised that the applicant must confirm the existing number of bedrooms at the property in order for the parking demand to be determined in accordance with the Newport City Council Parking Standards. However, the maximum parking generation associated with the existing property will be 3 spaces. The proposed 4 bed HMO generates a parking demand of 5 spaces at a ratio of 1 space per bedroom plus 1 visitor space. Therefore, there will be a minimum parking increase of 2 spaces. The Head of City Services states:
- "...demand for on street parking in the area appears to be high and therefore availability is limited. On street parking will only be considered following submission of a parking survey which assesses the on street parking stress/capacity in the area in accordance with the Lambeth Methodology.*
- Unless it can be demonstrated that the parking requirements can be satisfied I must oppose the application and recommend refusal."*
- 7.8 As noted above, the property does benefit from an off-street parking space within the rear garden of the property and two garages at the bottom of the rear. No dimensions of these parking spaces have been provided and it is not known whether the spaces would comply with the Council's Parking Standards. However, notwithstanding this the proposed conversion would result in an increased demand for parking above the existing use of three parking spaces. Therefore, even if the property is considered to have three existing vehicle spaces the proposals would still result in an increased parking demand of two parking spaces. Properties within the vicinity are of a terrace nature and most do not benefit from any off-street parking and consequently there is a high demand for on-street parking. It is noteworthy that objections have been received from neighbouring residents siting parking as a concern. Neighbours state that commercial premises within the area also compete for on-street parking and given that there are parking restrictions along Corporation Road to

the front of the shops, salons and takeaway premises this is likely to push demand for parking on to neighbouring streets such as Portskewett Street.

- 7.9 The site is within a sustainable location within a short walking distance of shops and services and is just over 500m away from the Corporation Road District Centre. Officers have undertaken several site visits to assess the availability of on-street parking near to the property. The parking availability was observed on a Thursday evening at 6.15, Saturday afternoon at 1.30 and Sunday morning at 11.45. There was a good level of on-street parking available at the time of the visits. In particular, there was good availability of on-street parking to the side of the property on Portskewett Street with no vehicles parked along the whole of the length of the property and its rear garden at the time of the site visit on Sunday morning. The applicant has provided photographs showing the availability of on-street parking in the vicinity. According to the applicant the photographs were taken on five different days (16<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> January) and at different times of the day. The photographs are of limited benefit due to the quality. However, it is noted that many of the photographs show a good level of on-street parking availability, particularly to the side of the property and this is the case on both weekdays and weekends which reflects the findings of officers. It is considered that there is sufficient on-street capacity in the area to accommodate the 2no spaces that the proposed HMO would result in and the Council would struggle to show a demonstrable harm resulting from the proposals in terms of either highway safety or neighbouring amenity.
- 7.10 The Head of Law and Regulation has advised that he has concerns about the layout of the proposed HMO and fire detection however this is not a planning consideration as these matters would be dealt with under separate legislation.
- 7.11 The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the application site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Usk, a designated main river.
- 7.12 NRW note that no new self-contained dwellings are proposed and that given the nature of the proposed development (House in Multiple Occupancy (HMO)), NRW considers the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development. The proposals include bedrooms at ground floor level and in order to ensure that the occupiers of these rooms would have first floor refuge in the event of a flood the applicant proposes a first floor communal room. Subject to this it is considered that the flood risk arising from the proposals would be no worse than the fall-back use of the property as a single dwelling.
- 7.13 Comments from neighbours concerning anti-social behaviour are duly noted. However, as noted above the Lower Super Output information does not identify anti-social behaviour associated with HMO's being of demonstrable harm in this area. It should be noted that property value is not a material planning consideration.

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

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

**9. CONCLUSION**

9.1 The proposal is not considered to result in an overconcentration of HMO's within the area, or have an adverse impact on the character of the area. The proposal would increase the parking demand at the property, however it is considered that this can be accommodated on street without adversely impacting highway safety or neighbouring amenity.

9.2 The proposal is therefore considered to comply with Policies GP2, GP4 and H8 of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the Parking Standards 2015 SPG (adopted August 2015) and Houses in Multiple Occupation (HMOs) SPG (Updated January 2017) and it is recommended that the application is granted subject to the following conditions.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Plans received 19<sup>th</sup> September 2018.

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

***General Conditions***

02 The property shall have a maximum of 4 bedrooms and a first floor communal room shall be kept available at the property at all times.

Reason: To protect the amenity of adjoining occupiers, in the interests of highway safety and flood risk.

***NOTE TO APPLICANT***

01 This decision relates to plans received 19<sup>th</sup> September 2019.

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

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

## **Appendix A**

### **HOUSES IN MULTIPLE OCCUPATION**

#### **EVIDENCE TO SUPPORT THE COUNCIL'S HMO THRESHOLD STANCE**

##### **Introduction**

The Council understands the contribution HMOs make to housing provision in Newport. They can provide accommodation for a wide range of groups, including young professionals, students, migrants and persons on low income. In clusters, however, they can detract from the character and appearance of an area and potentially lead to social and physical problems.

The Welsh Government's publication 'Houses in Multiple Occupation: Review & Evidence Gathering – April 2015' states that the problems associated with high concentrations of HMOs are generally accepted to be:

- Damage to social cohesion with higher levels of transient residents and fewer long term households and established families; leading in the long term to communities which are not balanced and self-sustaining;
- Access to the area for owner occupiers and first time buyers becoming much more difficult because of increased house prices and competition from landlords, with a reduction in the number of family homes;
- Increases in anti-social behaviour, noise, burglary and other crime;
- Reduction in the quality of the local environment and street scene as a consequence of increased litter, refuse and fly tipping, increased levels of disrepair and prevalent letting signs.
- A change of character in an area through tendency for increased numbers of takeaways, discount food stores, letting agencies and so on;
- Increased pressure on parking;
- Reduction in provision of community facilities for families and children in particular pressure on schools through falling rolls.

(Houses in Multiple Occupation: Review & Evidence Gathering – April 2015, pages 5 and 6)

This Council already has a threshold guideline set out in its adopted SPG in order to avoid concentrations of HMOs. This paper examines the relationship between concentrations of HMOs and some of the problems outlined above and aims to establish whether quantitative evidence exists which would prove or disprove a correlation.

## Methodology

### Is there a correlation between high concentrations of HMOs and recorded complaints?

The Council records all complaints made regarding HMO properties. Complaints are usually received by the Council's Contact Centre and are then forwarded to the relevant Council department. All complaints relating to HMOs are sent to Environmental Health. Officers in Environmental Health then take appropriate action. Environmental Health record all complaints relating to HMOs in a specific database. The complaints are categorised and cover the following issues:

- Anti-social behaviour
- Harassment complaints
- Nuisance complaints
- Rogue landlords referral
- Issues with poor maintenance of services – poor living standards
- Emergency repairs required
- Structural issues
- Filthy and verminous – poor living conditions
- Alleged pest/rodent infestation
- Dumping of rubbish
- Parking problems
- Overgrown garden
- Suspected Illegal eviction
- Suspected illegal immigration problems
- Overcrowding

For the purposes of the evidence gathering, complaints/enquiries which relate to HMO licensing, inspection requests and alleged unlicensed properties have all been removed from the research. Therefore only 'negative' complaints covering the above issues, which are linked to **licensed** HMO properties, have been considered in this paper. In order to acquire a meaningful level of data, complaints dating back for the last 30 months have been considered (April 2015 – October 2017). In total, 250 complaints have been recorded against 466 licensed HMO properties.

Each complaint can be attributed to an individual HMO property, with an address. Therefore it is possible to identifying the location of the HMOs and the complaints linked to them. The evidence will unveil whether there is a link between high concentrations of HMOs and high levels of complaint.

In order to establish the locations of the high concentrations of HMOs, the number of HMOs must be compared to the actual number of households within a defined geographical. Lower layer super output areas (LSOA) are considered an appropriate geographical area to base the research on. These are geographical areas identified by The Office of National Statistics and are used for the Census. LSOAs are relatively confined areas typically containing approximately 600 homes.

The location of each licensed HMO will be placed within its relevant LSOA. Then the percentage of HMOs can be established when compared to the overall number of households in that specific LSOA (as determined by the 2011 Census). For example, if LSOA 1 contained 600 households and 30 of these were HMOs, then the concentration of HMOs would be 5%.

The complaints for individual HMOs will also then be attributed to specific LSOAs. A picture will emerge as to whether high concentrations of HMOs also attract high numbers of complaints.

### Is there a correlation between high concentrations of HMOs and recorded crime?

In addition to the evidence collected on complaints, the Welsh Government publication also states that 'anti-social behaviour, noise, burglary and other crime' are associated with high concentrations of HMOs. The website [www.ukcrimestats.com](http://www.ukcrimestats.com) allows the user to extract crime figures at a LSOA level. In order to see whether there is any evidence linking higher crime rates with higher concentrations of HMOs, this website will be used to record crime number for the past 12 months in each LSOA (1 October 2016 to 30 September 2017). Figures for shoplifting will be excluded from the evidence as not all LSOAs will contain shops. Therefore for the purposes of evidence gathering, recorded crimes will include:

- Bike theft
- Theft from a person
- Other theft
- Possession of weapons
- Public order
- Other crime
- Anti-social behaviour
- Burglary
- Robbery
- Vehicle crime
- Violent crime
- Drugs
- Criminal damage and arson

The evidence collected on concentrations of licensed HMOs will be compared to crime numbers in that specific LSOA. Again, a picture will emerge as to whether high concentrations of HMOs are also associated with higher levels of crime.

#### **Concentrations of Licenced HMOs – The Evidence**

As of November 2017, the Council has 466 licenced HMO properties. Each HMO has been placed within its geographical LSOA. Table 1 below identifies the location of HMOs within specific LSOAs and ranks these in terms of their concentration.

**Table 1: Location and concentration of licenced HMOs in Newport**

Ward	LSOA	Households	No of HMOs	% of HMOs
Stow Hill	W01001687	876	62	7.078
Victoria	W01001693	643	30	4.666
Allt-yr-yn	W01001603	588	25	4.252
Pillgwenlly	W01001661	917	36	3.926
Victoria	W01001692	837	32	3.823
St Julians	W01001675	614	23	3.746
Stow Hill	W01001685	762	28	3.675
St Julians	W01001676	694	21	3.026
Allt-yr-yn	W01001605	617	18	2.917
Stow Hill	W01001686	562	14	2.491
Victoria	W01001691	770	19	2.468
Beechwood	W01001612	603	14	2.322
Pillgwenlly	W01001660	626	14	2.236
Pillgwenlly	W01001659	760	16	2.105

Pillgwenlly	W01001662	623	10	1.605
Shaftesbury	W01001681	654	10	1.529
Victoria	W01001690	956	14	1.464
Allt-yr-yn	W01001601	636	8	1.258
St Julians	W01001680	510	6	1.176
Beechwood	W01001613	616	7	1.136
Shaftesbury	W01001684	638	6	0.940
Caerleon	W01001628	509	4	0.786
Caerleon	W01001623	658	5	0.760
Liswery	W01001644	1126	8	0.710
Always	W01001608	638	4	0.627
Shaftesbury	W01001683	486	3	0.617
St Julians	W01001677	649	4	0.616
Caerleon	W01001626	579	3	0.518
Allt-yr-yn	W01001602	673	3	0.446
Caerleon	W01001625	577	2	0.347
Allt-yr-yn	W01001600	661	2	0.303
Beechwood	W01001614	777	2	0.257
Bettws	W01001618	492	1	0.203
Langstone	W01001641	536	1	0.187
Marshfield	W01001913	551	1	0.181
Liswery	W01001643	563	1	0.178
Bettws	W01001619	599	1	0.167
Beechwood	W01001616	619	1	0.162
Caerleon	W01001627	629	1	0.159
Ringland	W01001663	692	1	0.145
Ringland	W01001665	745	1	0.134
Liswery	W01001642	779	1	0.128
Rogerstone	W01001671	822	1	0.122
St Julians	W02000351	2704	2	0.074

Stow Hill LSOA W01001687 has the highest concentration of HMOs in Newport. It is worth noting that the above table is not a complete list of all LSOAs in Newport. It is only a list of LSOAs which contain at least one HMO. As the purpose of this research is to understand whether there is a link between high concentrations of HMOs and complaints/crime, then it was considered that there would be no point in recording data on LSOAs which contained no HMOs.

#### Is there a correlation between high concentrations of HMOs and recorded complaints?

Now the locations of the high concentration of HMOs have been identified, the data collected on complaints held by Environmental Health can be added to the sample.

Table 2 ranks the LSOAs by number of complaints received over an 18 month period.

**Table 2: HMO areas ranked by complaints received in 18 month period**

Ward	LSOA	Households	No of HMOs	% HMOs	Complaints
Stow Hill	W01001687	876	62	7.078	33
Pillgwenlly	W01001659	760	16	2.105	28
St Julians	W01001675	614	23	3.746	25
Victoria	W01001693	643	30	4.666	23
St Julians	W01001676	694	21	3.026	21

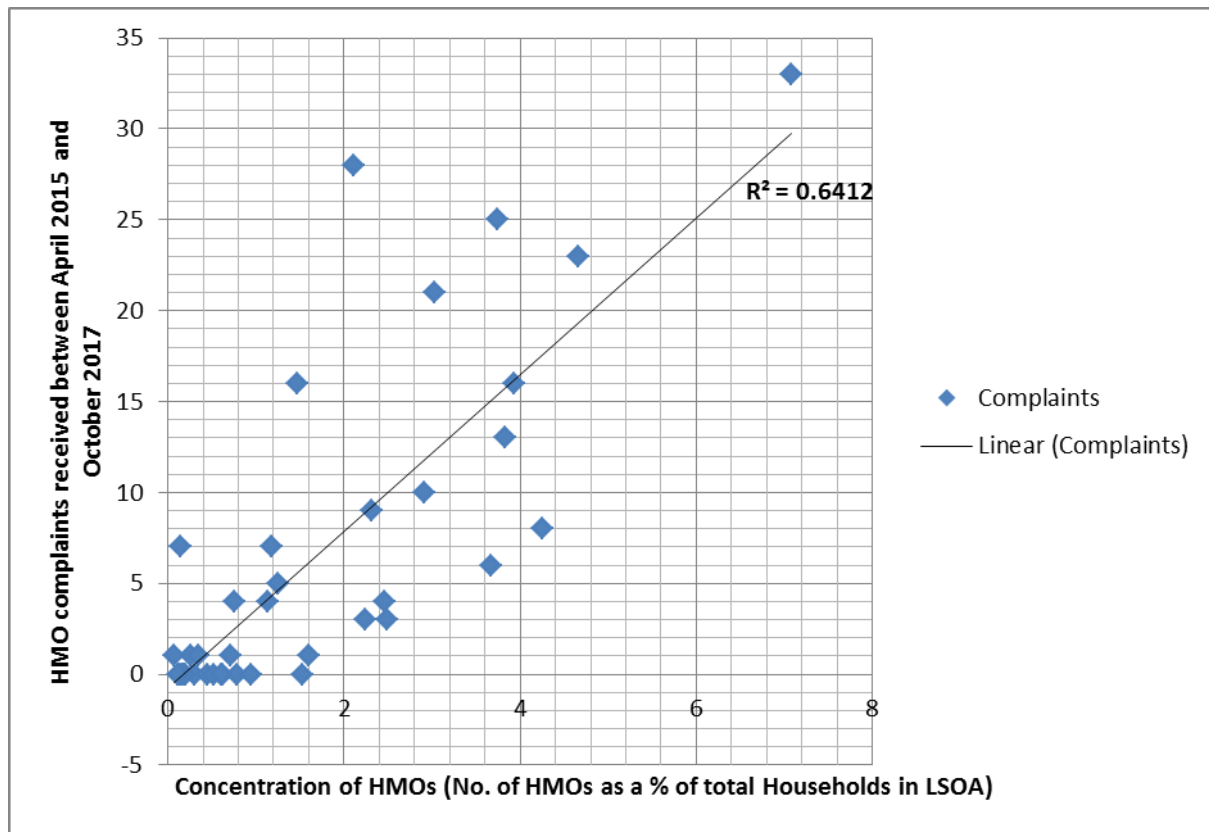
Pillgwenlly	W01001661	917	36	3.926	16
Victoria	W01001690	956	14	1.464	16
Victoria	W01001692	837	32	3.823	13
Allt-yr-yn	W01001605	617	18	2.917	10
Beechwood	W01001612	603	14	2.322	9
Allt-yr-yn	W01001603	588	25	4.252	8
Ringland	W01001663	692	1	0.145	7
St Julians	W01001680	510	6	1.176	7
Stow Hill	W01001685	762	28	3.675	6
Allt-yr-yn	W01001601	636	8	1.258	5
Beechwood	W01001613	616	7	1.136	4
Caerleon	W01001623	658	5	0.760	4
Victoria	W01001691	770	19	2.468	4
Pillgwenlly	W01001660	626	14	2.236	3
Stow Hill	W01001686	562	14	2.491	3
Beechwood	W01001614	777	2	0.257	1
Caerleon	W01001625	577	2	0.347	1
Liswery	W01001644	1126	8	0.710	1
Pillgwenlly	W01001662	623	10	1.605	1
St Julians	W02000351	2704	2	0.074	1
Allt-yr-yn	W01001600	661	2	0.303	0
Allt-yr-yn	W01001602	673	3	0.446	0
Always	W01001608	638	4	0.627	0
Beechwood	W01001616	619	1	0.162	0
Bettws	W01001618	492	1	0.203	0
Bettws	W01001619	599	1	0.167	0
Caerleon	W01001626	579	3	0.518	0
Caerleon	W01001627	629	1	0.159	0
Caerleon	W01001628	509	4	0.786	0
Langstone	W01001641	536	1	0.187	0
Liswery	W01001642	779	1	0.128	0
Liswery	W01001643	563	1	0.178	0
Marshfield	W01001913	551	1	0.181	0
Ringland	W01001665	745	1	0.134	0
Rogerstone	W01001671	822	1	0.122	0
Shaftesbury	W01001681	654	10	1.529	0
Shaftesbury	W01001683	486	3	0.617	0
Shaftesbury	W01001684	638	6	0.940	0
St Julians	W01001677	649	4	0.616	0

LSOA Stow Hill W01001687 is again at the top of the table. This LSOA has the highest concentration of HMOs and also has the highest number of received complaints. The fact that this LSOA appears at the top of both tables would suggest there is a link between high concentrations of HMOs and high numbers of complaints. However, in comparison, LSOA Shaftesbury W01001683 contains 10 HMOs and has a concentration of 1.529%, but has received no complaints in the last 18 months.

In order to understand the relationship better, the data has been plotted on a scatter graph (see below).



Figure 1: Relationship between concentrations of HMOs and complaints received



The above graph demonstrates that there is a correlation between high concentrations of HMOs and higher numbers of complaints. A linear trendline has been added to the scatter graph, creating a 'Goodness-of-Fit Linear Model'. In general, it is relatively clear that as the concentration of HMOs increases, so does the number of complaints received.

The scatter graph shows a cluster of LSOAs with HMO concentrations of less than 1% which have received no complaints in the last 18 months, or just one complaint. However, the graph evidently shows that once the concentration of HMOs in a LSOA goes above 1%, then the number of complaints increases. Therefore underlining the fact a clear correlation exists.

The R-squared value of the linear trendline is 0.6412. R-squared is a statistical measure of how close the data are fitted to the trendline. R-squared is always between zero and one. Zero indicates that there is no relationship between the data, where one indicates there is a perfect relationship and the trendline passes through all of the plotted points. The higher the R-squared value, the better the model fits the data.

There are varying interpretations of what represents a strong R-squared value. In the field of physics and engineering, a high R-squared value of 0.9 would be considered substantial, however, in more real world examples, academics have suggested the following:

- Less than 0.25 = no relationship
- 0.25 to 0.5 = weak relationship
- 0.5 to 0.75 = moderate relationship
- 0.75 to 1 = substantial relationship

With a value of 0.6412, the relationship between high concentrations of HMOs and high numbers of complaints sit comfortably within the 'moderate relationship'.

Is there a correlation between high concentrations of HMOs and recorded crime?

Table 3 below ranks the HMO areas by the recorded crime figures captured over the last 12 months. As noted in the methodology, figures for shoplifting have been excluded as not all LSOAs will include shops, therefore the inclusion of shoplifting data could have unfairly skewed the evidence.

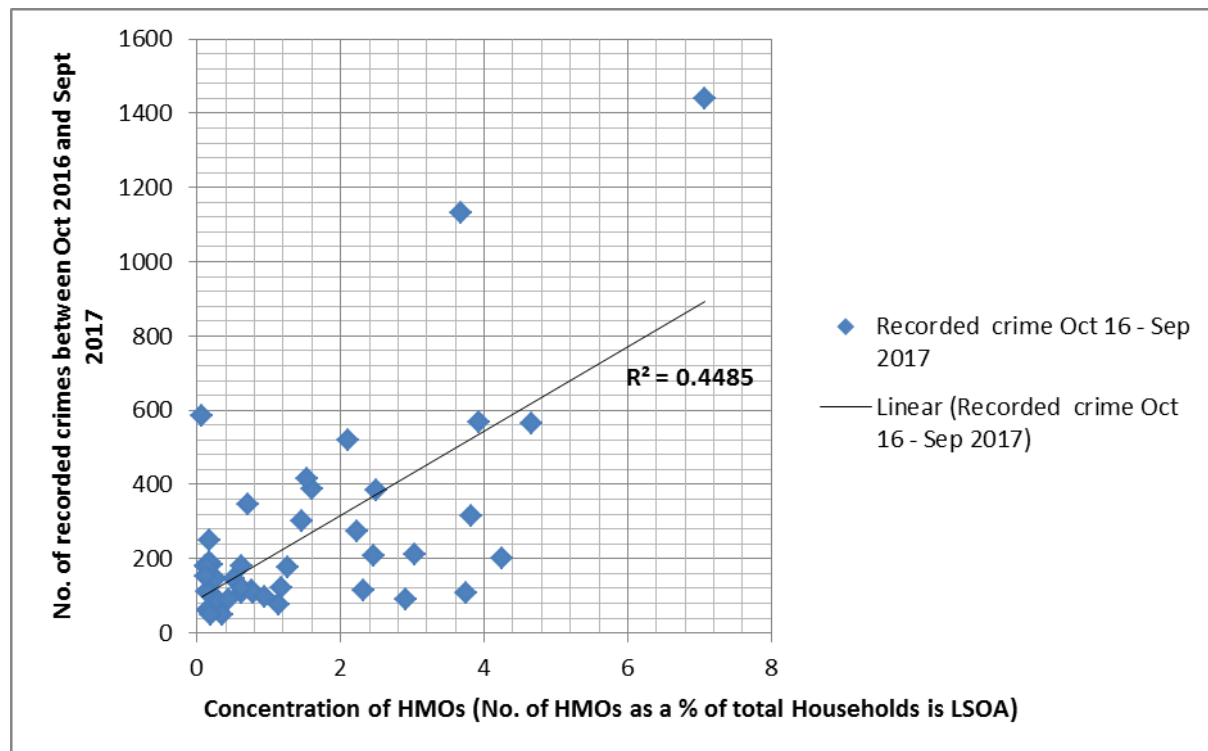
**Table 3: HMO areas ranked by recorded crime over a 12 month period**

Ward	LSOA	Households	No of HMOs	% HMOs	Recorded Crime
Stow Hill	W01001687	876	62	7.078	1441
Stow Hill	W01001685	762	28	3.675	1132
St Julians	W02000351	2704	2	0.074	586
Pillgwenlly	W01001661	917	36	3.926	567
Victoria	W01001693	643	30	4.666	566
Pillgwenlly	W01001659	760	16	2.105	519
Shaftesbury	W01001681	654	10	1.529	414
Pillgwenlly	W01001662	623	10	1.605	388
Stow Hill	W01001686	562	14	2.491	384
Liswery	W01001644	1126	8	0.710	346
Victoria	W01001692	837	32	3.823	316
Victoria	W01001690	956	14	1.464	301
Pillgwenlly	W01001660	626	14	2.236	274
Bettws	W01001619	599	1	0.167	249
St Julians	W01001676	694	21	3.026	211
Victoria	W01001691	770	19	2.468	207
Allt-yr-yn	W01001603	588	25	4.252	200
Liswery	W01001643	563	1	0.178	191
Bettws	W01001618	492	1	0.203	183
Liswery	W01001642	779	1	0.128	182
Shaftesbury	W01001683	486	3	0.617	180
Ringland	W01001663	692	1	0.145	178
Allt-yr-yn	W01001601	636	8	1.258	176
Rogerstone	W01001671	822	1	0.122	152
Beechwood	W01001614	777	2	0.257	147
Caerleon	W01001626	579	3	0.518	146
St Julians	W01001677	649	4	0.616	123
St Julians	W01001680	510	6	1.176	122
Beechwood	W01001612	603	14	2.322	114
Caerleon	W01001623	658	5	0.760	113
Ringland	W01001665	745	1	0.134	111
Marshfield	W01001913	551	1	0.181	109
St Julians	W01001675	614	23	3.746	109
Always	W01001608	638	4	0.627	106
Caerleon	W01001628	509	4	0.786	106
Shaftesbury	W01001684	638	6	0.940	97
Allt-yr-yn	W01001602	673	3	0.446	92
Allt-yr-yn	W01001605	617	18	2.917	91
Allt-yr-yn	W01001600	661	2	0.303	86
Beechwood	W01001613	616	7	1.136	76
Beechwood	W01001616	619	1	0.162	62
Caerleon	W01001627	629	1	0.159	59
Caerleon	W01001625	577	2	0.347	50
Langstone	W01001641	536	1	0.187	48

There is a common theme occurring with Stow Hill W01001687 sitting at the top of the table again. Recorded crime in the two Stow Hill LSOAs is significantly more than all other LSOAs. The higher levels of recorded crime reflect their inner city locations.

As with the complaints data, the recorded crime data has been plotted on a scatter graph below.

**Figure 2: Relationship between concentrations of HMOs and recorded crime**



A linear trendline has been added to this scatter graph. There does appear to be a correlation between the concentration of HMOs and recorded crime, however the relationship does not appear as strong as the correlation between HMOs and complaints. The R-squared value is 0.4485 which confirms a weak relationship, but nevertheless, a relationship exists.

There are obviously numerous factors that cause crime, but in accordance with the Welsh Government publication, the evidence from Newport does suggest that there is a relationship between higher concentrations of HMOs and higher numbers of recorded crime.

## CONCLUSION

The evidence collected does demonstrate that there is a correlation between high concentrations of HMOs and negative complaints made to the Council, and recorded crime. Therefore the Council should continue to try and control the concentration of HMOs.

The Council seeks to control the concentration of HMOs through its two-tier threshold approach set out in the adopted SPG. This approach limits the number of HMOs to 15% within a 50m radius within a defined area of Newport (as per the SPG), and 10% in all other areas of the City.

With regard to the correlation between high concentrations of HMOs and number of complaints, there does appear to be a pattern which suggests that LSOAs which have a HMO concentration of 1% or lower, record a very low number of complaints. Once the HMO concentration of a LSOA exceeds 1%, there is a clear increase in the number of complaints received. Therefore there is an argument to suggest that 1% is

the 'tipping point' where the number of HMOs goes from acceptable to unacceptable. Then again, if the linear trendline of Figure 1 is followed, then a HMO concentration of 2% would result in 8 complaints being received over an 18 month period. There is an additional argument to suggest that 8 complaints would be a manageable level. Similarly, 4% would result in 16 complaints. Therefore defining the 'tipping point' is a difficult task.

In addition, it would be difficult to define a 'tipping point' using LSOAs as the geographical area. For example, if a tipping point of 2% was applied, a LSOA consisting of 600 households would be acceptable with 11 HMOs, but a planning application for a 12<sup>th</sup> HMO would hit the 2% concentration level. All 12 HMOs could be neighbouring properties, or all 12 could be evenly dispersed around the LSOA. Therefore a tipping point based on the concentration of HMOs within a LSOA is not considered appropriate.

Also, the relationship between HMO concentrations and recorded crime is weaker, and the pattern identified is not as strong and consequently it is even less obvious where a tipping point would be.

Therefore in conclusion, this research has demonstrated a correlation between high concentrations of HMOs and complaints and recorded crime. As a result, it is considered that the Council is justified in trying to control the concentrations of HMOs. The mechanism used to control concentrations of HMOs is set out in the adopted SPG. It applies a 50m radius to a HMO planning application site and establishes the percentage of HMOs within that radius. Within the SPG defined area, the percentage of HMOs should not exceed 15%, and outside of the defined area, the percentage of HMOs should not exceed 10%. This threshold approach has the benefit of controlling HMO concentrations. Whereas it is acknowledged that the 15% and 10% are arbitrary figures, it is argued that they are reasonable figures and appropriate figures which will help the Council in controlling the concentration of HMOs. If the threshold figures were higher, then the evidence would suggest that this would result in more negative complaints and higher recorded crime. Consequently, it is considered that the need for a threshold is necessary.

The evidence in this report has established that there is a relationship between high concentrations of HMOs and complaints and recorded crime. As a result, the Council is justified in trying to control and limit concentrated areas of HMO properties. It is considered that the most effective and most reasonable way of doing this is through a threshold approach, as set out in the Council's adopted HMO SPG.

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**APPLICATION DETAILS****No:** 18/0973**Ward:** LLISWERRY**Type:** OUTLINE (MAJOR)**Expiry Date:** 02-DEC-2018**Applicant:** LYNWOOD INVESTMENTS LTD**Site:** LAND AND PROPERTY FORMERLY KNOWN AS ROBERT PRICE  
TRANSPORT YARD, CORPORATION ROAD, NEWPORT**Proposal:** OUTLINE APPLICATION FOR MIXED USE DEVELOPMENT COMPRISING C2  
RESIDENTIAL INSTITUTIONS AND C3 RESIDENTIAL AND DRIVE THRU  
COFFEE SHOP (A1/A3) ALONG WITH ASSOCIATED INFRASTRUCTURE AND  
FACILITIES**Recommendation:** granted with conditions subject to a section 106 agreement with  
delegated authority to refuse permission if the agreement is not signed within 3 months of  
the decision to grant permission.**1. INTRODUCTION**

- 1.1 The applicant is seeking outline permission for the redevelopment of this riverfront site primarily for flats (C3), but also for a carehome (C2) and a 'drive thru' coffee shop (A1/A3). All matters are reserved other than access but the applicant has provided further information as to how the site might be developed in the future. Indicatively the applicant shows the Drive thru in the eastern part of the site adjacent to Corporation Road. The residential blocks are shown as fronting Spyttu Pill. Maximum proposed dimensions for the development are:

Block	Height (m)		Depth (m)		Length (m)		Storeys (No.)
	Min	Max	Min	Max	Min	Max	
A	3	6	10	15	14	17	1
B	3	16	9	17	20	25	9
C	3	19	9	17	20	25	4
D	3	26	9	17	40	52	4-6
E	3	16	11	18	18	21	4
F	3	11	15	34	20	25	2

Parking, circulation and access are accommodated behind the buildings in the northern part of the site.

**2. RELEVANT SITE HISTORY**

Ref. No.	Description	Decision & Date
92/1013	ERECTION OF SINGLE STOREY STEEL FRAMED WORKSHOP BUILDING	GC 27 November 1992
06/0241	DEVELOPMENT OF BUILDERS MERCHANTS PREMISES AFFECTING PUBLIC RIGHT OF WAY 395/3 LISWERRY	R 11 October 2006 Appeal Dismissed
07/0947	FLOOD DEFENCE WORKS (THROUGH GENERAL LAND RAISING)	GC 20 September 2007
07/1254	DEVELOPMENT OF BUILDERS MERCHANT PREMISES AFFECTING PUBLIC RIGHT OF WAY 395/3 LLISWERRY (RESUBMISSION FOLLOWING REFUSAL OF 06/0241)	R 30 January 2008 Appeal Allowed
18/0813	EIA SCREENING OPINION FOR DEVELOPMENT OF 6NO. RESIDENTIAL CARE UNITS, 12NO. ASSOCIATED LIVING UNITS.	ES not required 22 August 2018

### 3. POLICY CONTEXT

#### 3.1 Relevant Policies of the adopted Newport Local Development Plan 2011-2026 are:

Policy	Wording
SP1 – Sustainability	<p>Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to:</p> <ul style="list-style-type: none"> <li>i) the efficient use of land;</li> <li>ii) the reuse of previously developed land and empty properties in preference to greenfield sites;</li> <li>iii) providing integrated transportation systems, as well as encouraging the co-location of housing and other uses, including employment, which together will minimise the overall need to travel, reduce car usage and encourage a modal shift to more sustainable modes of transport;</li> <li>iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources;</li> <li>v) the minimisation, re-use and recycling of waste;</li> <li>vi) minimising the risk of and from flood risk, sea level rise and the impact of climate change;</li> <li>vii) improving facilities, services and overall social and environmental equality of existing and future communities;</li> <li>viii) encouraging economic diversification and in particular improving the vitality and viability of the city centre and district centres;</li> <li>ix) conserving, enhancing and linking green infrastructure, protecting and enhancing the built and natural environment;</li> <li>x) conserving and ensuring the efficient use of resources such as water and minerals.</li> </ul>
SP2 - Health	<p>Development proposals should seek to maximise their positive contribution to health and well-being, and minimise any negative effects by being located in the most sustainable locations, close to public transport links and providing efficient walking and cycling routes and other green infrastructure as part of development schemes.</p>
SP3 – Flood Risk	<p>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.</p>
SP8 – Special Landscape Areas	<p>Special Landscape Areas are designated as follows within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features:</p> <ul style="list-style-type: none"> <li>iv) River Usk</li> </ul>
SP9 – Conservation of the Natural, Historic & Built Environment	<p>The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.</p>
SP10 – House Building Requirement	<p>Provision is made for 11,623 units to deliver a housing requirement of 10,350 units over the plan period. the affordable housing target for the plan period is set at 2,061 units.</p> <p>The land will be provided primarily on previously developed land in the following ways:</p>

	<p>i) sites with planning permission, including sites under construction;</p> <p>ii) the eastern expansion area;</p> <p>iii) allocations set out in policy h1; and</p> <p>iv) infill, windfall and small sites.</p>
SP13 – Planning Obligations	<p>Development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of its location.</p> <p>This list is not exhaustive, but the following are infrastructure priorities that developments will be expected to provide or contribute to in order to mitigate any negative consequences of development:</p> <ul style="list-style-type: none"> <li>• educational facilities and/or their upgrades;</li> <li>• affordable housing;</li> <li>• improvements to the highway network, including walking and cycling routes and public transport;</li> <li>• outdoor recreation;</li> <li>• protection, enhancement and management of the natural, historic and built environments;</li> <li>• community facilities and/or their upgrades; and</li> <li>• improvements to the public realm.</li> </ul>
SP18 – Urban Regeneration	<p>Proposals will be favoured which assist the regeneration of the urban area, particularly where they contribute to:</p> <p>i) the vitality, viability and quality of the environment of the city centre;</p> <p>ii) the provision of residential and business opportunities within the urban area;</p> <p>iii) reuse of vacant, underused or derelict land;</p> <p>iv) encourage the development of community uses where appropriate.</p>
SP19 – Assessment of Retail Need	<p>Retail and associated uses best located in a city centre will be subject to an assessment of need if not within a defined centre, and application of the sequential test if not within the city centre.</p> <p>Development will be located according to the following hierarchy of retail centres:</p> <ol style="list-style-type: none"> <li>1. Newport City Centre</li> <li>2. District Centres (as referenced under policy R6)</li> </ol> <p>Newport local development plan 2011 – 2026 January 2015</p> <ol style="list-style-type: none"> <li>3. Local Centres</li> <li>4. Out of centre retail sites</li> </ol>
GP1 – Climate Change	<p>Development proposals should:</p> <p>i) be designed to withstand the predicted changes in the local climate and to reduce the risk of flooding on site and elsewhere by demonstrating where appropriate that the risks and consequences of flooding can be acceptably managed, including avoiding the use of non-permeable hard surfaces;</p> <p>ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on site energy provision where practicable;</p> <p>iii) be designed to reuse or recycle existing construction materials present on the site;</p> <p>iv) meet the relevant breem or code for sustainable homes level.</p>
GP2 – General Amenity	<p>Development will be permitted where, as applicable:</p> <p>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;</p> <p>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</p>

	<p>surrounding area;</p> <p>iii) the proposal seeks to design out the opportunity for crime and anti-social behaviour;</p> <p>iv) the proposal promotes inclusive design both for the built development and access within and around the development;</p> <p>v) adequate amenity for future occupiers.</p>
GP3 – Service Infrastructure	<p>Development will be permitted where, as applicable:</p> <p>i) necessary and appropriate service infrastructure either exists or can be provided;</p> <p>ii) in areas served by the public foul sewer, there is capacity for the development within the system or, if not, satisfactory improvements are provided by the developer; in areas served by the public foul sewer, development will not be permitted with connections to private facilities unless there are exceptional circumstances that prevent connection to the public sewer.</p>
GP4 - Highways & Accessibility	<p>Development proposals should:</p> <p>i) provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;</p> <p>ii) be accessible by a choice of means of transport;</p> <p>iii) be designed to avoid or reduce transport severance, noise and air pollution;</p> <p>iv) make adequate provision for car parking and cycle storage;</p> <p>v) provide suitable and safe access arrangements;</p> <p>vi) design and build new roads within private development in accordance with the highway authority's design guide and relevant national guidance;</p> <p>vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.</p>
GP5 – Natural Environment	<p>Development will be permitted where, as applicable:</p> <p>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 U.K., Welsh and/or Newport biodiversity action plans;</p> <p>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;</p> <p>iii) the proposal will not result in an unacceptable impact on water quality;</p> <p>iv) the proposal should not result in the loss or reduction in quality of high quality agricultural land (Grades 1, 2 and 3a);</p> <p>v) there would be no unacceptable impact on landscape quality;</p> <p>vi) the proposal includes an appropriate landscape scheme, which enhances the site and the wider context including green infrastructure and biodiversity networks;</p> <p>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.</p>
GP6 – Quality of Design	<p>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:</p> <p>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;</p> <p>ii) access, permeability and layout: all development should maintain a high</p>



	<p>level of pedestrian access, connectivity and laid out so as to minimise noise pollution;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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.</p>
GP7 – Environmental Protection & Public Health	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.
CE1 – Routeways, Corridors & Gateways	<p>Development proposals should protect and enhance the appearance and connectivity of existing and future main route corridors and gateways into the city. the routes include:</p> <p>v) the A455, the southern distributor road, the A4042 docks way and the Usk Way;</p> <p>ix) other principal transport routes in the urban area.</p>
CE6 - Archaeology	<p>Development proposals will normally be required to undertake an archaeological impact assessment before the proposal is determined:</p> <p>i) where groundworks and/or the installation of services are proposed within the archaeologically sensitive areas of Caerleon, the Levels, Lower Machen and the city centre , or;</p> <p>ii) within other areas of recognised archaeological interest.</p>
CE9 – Coastal Zone	<p>Development will not be permitted in the coastal area or adjoining the tidal river unless:</p> <p>i) in the undeveloped coastal area such development is required to be on the coast to meet an exceptional need which cannot reasonably be accommodated elsewhere;</p> <p>ii) the area is not itself at risk nor will the proposed development exacerbate risks from erosion, flooding or land instability</p> <p>Development which requires a coastal location should be sited within the developed coastal zone.</p>
H2 – Housing Standards	Residential development should be built to high standards of environmental and sustainable design, taking into account the whole life of the dwelling.
H3 – Housing Mix & Density	<p>Residential development of 10 dwellings or more should be designed to provide a mix of housing to meet a range of needs and should be built at a density of at least 30 dwellings per hectare. a lower density will only be acceptable where it is demonstrated:</p> <p>i) physical or infrastructure constraints prevent the minimum density from being reached, or;</p> <p>ii) the minimum density would have an unacceptable impact on design/character of the surrounding area, or;</p> <p>iii) there is a particular lack of choice of housing types within a local</p>

	community.
H4 - Affordable Housing	<p>On-site provision of affordable housing will be required on all new housing sites of 10 or more dwellings within the settlement boundary, or 3 or more dwellings within the defined village boundaries.</p> <p>the authority will seek the provision of affordable housing in accordance with the relevant submarket area target noted below;</p> <ul style="list-style-type: none"> <li>• 20% east Newport</li> </ul> <p>Specific site targets may vary subject to viability and negotiation.</p>
EM3 – Alternative Uses of Employment Land	<p>Development proposals promoting alternative uses on existing employment sites will be resisted unless:</p> <p>i) the site has been marketed unsuccessfully for employment purposes for a minimum of 12 months;</p> <p>ii) there remains a sufficient range and choice of employment land and premises to meet LDP requirements and local demand;</p> <p>iii) the development has no adverse impact on existing or allocated employment sites;</p> <p>iv) the development has no adverse impact on amenity or the environment.</p>
T3 – Road Hierarchy	<p>In order to facilitate the effective and safe use of the highway network a hierarchy of roads will be established. this road hierarchy will be used to determine the principle of access for new developments, it comprises the following:</p> <p>iv) access routes – these provide access to residential areas, industrial areas, the city centre and small rural communities and businesses. if necessary, and for reasons of safety and amenity, traffic movements and speed will be restricted. walking, cycling and bus routes will be incorporated into layouts where appropriate. these roads will often give greater priority to pedestrians and cyclists.</p>
T4 - Parking	<p>Development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards.</p>
R8 – Small Retail Proposals	<p>Proposals for new local retail facilities, extension of floorspace of existing retail outlets or the change of use of existing buildings to retailing outside the city and district centres, will be permitted only where:</p> <p>i) new residential development would be served or the provision would cater for under-provision in the area;</p> <p>ii) the proposal is of a scale appropriate to the locality;</p> <p>iii) there would be no adverse effects on the viability and vitality of any defined centre;</p> <p>iv) there would be no unacceptable effect on the local residential amenities or the general character of the area in terms of noise and disturbance or extra traffic generated.</p>
CF2 – Outdoor Play Space Requirement	<p>Where development results in the loss of open space or a requirement for open space is demonstrated in conjunction with Policy SP13, provision in accordance with the fields in trust standard (or as amended) will be sought. The developer will be required to pay a commuted sum to cover future maintenance.</p>

### 3.2 The following adopted Supplementary Planning Guidance is also relevant:

- Planning Obligations
- Affordable Housing
- Archaeology and Archaeological Sensitive Areas
- New dwellings
- Parking Standards

- Outdoor Play Space Provision

## 4. CONSULTATIONS

### 4.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): In regard to flooding CNC/NRW comment as follows:

- In the 0.5% (1 in 200 year) plus climate change event both the residential and commercial buildings are predicted to be flood free and therefore meet the guidance in A1.14.
- In the 0.5% (1 in 200 year) plus climate change flood event neither the residential and commercial ancillary areas are predicted to be flood free and therefore do not meet the guidance in A1.14.
- In the 0.1% (1 in 1000 year) plus climate change event the residential buildings are predicted to be flood free and the commercial building is predicted to flood to a depth of 225mm. Both, therefore, meet the maximum depth of flooding criterion in A1.15.
- The velocities within the commercial building have not been assessed. However, these should not exceed 0.15 m/sec internally and would meet the maximum velocity of floodwaters guidance in A1.15.
- The rate of rise and speed of inundation is assessed as being limited to the rising tide which, bearing in mind the vast area of the flood cell and dispersal of floodwaters within it, would be tolerable. We advise this meets the relevant guidance in A1.15.
- The areas near the site access point are predicted to flood up to a depth of 1.430 metres with a corresponding velocity of 2.66 m/sec. This equates to a 'Danger for All' (includes Emergency Services) flood hazard rating. This does not meet the guidance in A1.15.
- The site is within a NRW Flood Warning Area and may be registered to receive such warnings
- The FCA states that the nearest safe evacuation point outside the influence of extreme events would be Somerton Road to the north west of the site which can be reached by foot and vehicles via Marshfield Street, Hampden Road and Cromwell Road. However, based on NRW data (Table 6 – ATI 15403a) the flood hazards along this route have been identified as a 'Danger for Most' to a 'Danger for All'
- A Flood Management and Evacuation Plan has been submitted. You should consider consulting other advisors on the acceptability of the plan as we cannot advise on the efficacy of emergency plans or procures
- The changes in existing ground levels will have no resultant increase in flooding elsewhere.

In terms of protecting the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) CNC/NRW are seeking conditions to control the following:

- A Landscape Management Plan
- Control over construction hours
- A pollution prevention plan
- Conditions to deal with land contamination and to protect controlled waters

Additionally CNC/NRW has expressed concerns over potential light spill from the development towards Spyty Pill and the potential to disturb otters, a European Protected Species and one of the features of the SAC.

#### 4.2 DWR CYMRU / WELSH WATER (DCWW):

With reference C-101 Rev 06 we acknowledge the developer has noted our concerns with regard to the encroachment of various easements of the existing on-site public sewers and has now amended the site layout to take into account these easements which is a positive outcome. In relation to foul and surface water flows, we note that it is proposed to discharge foul flows to the 9 inch public foul only sewer located in Corporation Road and have no objections to this. However we do note that it is still proposed to connect surface water to the existing 1800mm foul sewer overflow. We reiterate that this is a large diameter asset of which we would not permit a new direct connection onto. We also reiterate that there are other sustainable methods of surface water disposal available such as a new connection to the watercourse or to possible existing highway drainage located adjacent to the site. For the above reasons we recommend the developer to amend the proposed drainage layout to show that surface water is to be sustainably disposed of and that we are re-consulted on this application of which we can then provide further comments.

However, we request that if you are minded to grant Planning Consent for the above development that the **Conditions and Advisory Notes** listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

##### **Conditions**

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

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

##### **Advisory Notes**

The proposed development site is crossed a number public sewers/assets with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located and marked out on site before works commence and no operational development shall be carried out within 6 metres either side of the centreline of 1200mm abandoned CSO, 9m either side of the 1800mm CSO & 6m either side of the 21inch public foul rising main.

DCWW confirm an adequate supply of water can be provided to the site.

- 4.3 WALES & WEST UTILITIES: Advise they have equipment in the area and that the developer should contact them prior to commencing works. Building over or enclosing W&W plant or apparatus is prohibited.
- 4.4 WESTERN POWER DISTRIBUTION: advise of equipment in the area and safe working practices.
- 4.5 ESP UTILITIES: advise of equipment in the area and safe working practices.
- 4.6 CSP PLANT: advise they have no equipment in the area.
- 4.7 GWASANAETH TAN AC ACHUB DE CYMRU / SOUTH WALES FIRE & RESCUE SERVICE: the developer should consider the need to provide an adequate supply of water for firefighting and how firefighting appliances would access the site.
- 4.8 HEDDLU GWENT POLICE (DESIGNING OUT CRIME OFFICER):

With regards to the planning application received I have no objections to the proposals but would like the following points below to be considered:

- 'habitable rooms' i.e. kitchens, dining rooms and living rooms to overlook all public areas, particularly any car parking
- The rear of the apartment blocks could be more vulnerable to crime with the cycle path running parallel to the blocks, therefore I recommend a boundary treatment minimum height of 1.8m to provide security (and privacy) to the dwellings
- Any planting to the front of the dwellings, particularly around the car parks should be low growing, no more than 1m and not provide any areas of concealment
- A change in road surface and signage to confirm that the car parking for the apartment blocks is 'Private/Residents only' that it does not become an overspill car park for the coffee shop
- Any lighting should be to B.S. 5489 and entrances be provided with 'dusk til dawn' lighting and not PIR (Passive Infrared)
- Windows and doors should meet the security standard PAS 24:2016

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS): Following provision of initial comments and revised / additional information; no objections.

5.2 HEAD OF REGENERATION, INVESTMENT & HOUSING (HOUSING MANAGER): I can confirm that discussions have taken place between the applicant and a partner housing association of the City Council to deliver the appropriate level of affordable housing on site. This would include a supported housing scheme for residents requiring an element of support to enable them to live independently. As the proposal addresses housing needs for this area of the City and supported housing, similar to developments elsewhere in Newport, the housing department would support this application. The properties would need to be built to Welsh Government standards and be allocated through the Common Housing Register.

5.3 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY):

The following designations apply to the application site:

- The site is within the urban boundary.
- C1 Flood Risk Area.
- Adjacent to River Usk Special Area of Conservation and Site of Special Scientific Interest.
- Adjoins the River Usk Special Landscape Area.
- The Long Distance Riverfront Cycle/Walkway borders the site.

Redevelopment of the site meets a number of key sustainable regeneration objectives, including the reuse of a brownfield site. It also provides an opportunity to redevelop a long standing vacant site and complete this stretch of the River Usk riverfront frontage and walkway. The proposed land uses are considered to be compatible with the existing uses within the locality which consist of a mix of residential and commercial uses.

In relation to the retail need for the 130sqm coffee shop proposed as part of the above scheme. The points raised by the applicant noting that as there are no comparable coffee shops within the area or local/district centres and the level of residential growth in the area would indicate a notable gap/under provision in the area are considered reasonable. Given the scale of the unit (130sqm) and its location within an existing urban area, surrounded by a significant local population and other commercial uses the points raised by the applicant are considered to be sufficient to demonstrate that there is an appropriate level of need to support the unit.

Issues relating to impact on defined centres and the sequential approach were sufficiently addressed in the original planning statement. There are no planning policy objections to the scheme, subject to satisfying policy considerations previously highlighted.

5.4 PUBLIC PROTECTION MANAGER (NOISE)

However in order to be in a position to make a fully informed comment I request that the following matters are addressed. The report provides:

During the daytime, the majority of the site is below 55 dB LAeq,16hr. However, there is a strip of land which is above 55 dB LAeq,16hr.

During the night time, the majority of the site is below 45 dB LAeq,8hr. However, there is a strip of land which is above 45 dB LAeq,8hr.

Clarification is sought on the source(s) of noise giving rise to these reported levels

- The report has full regard to noise levels within the development site against WHO guidelines and BS 8233: 2014. However regard must also be given to Planning Guidance Wales – Technical Advice Note 11 and in particular Noise Exposure Categories produced for the areas of residential development.
- The report has not distinguished between the various noise sources which may be impacting on the development site. Of particular interest is noise from the adjacent car dealership (garage and workshop) which could be a potential source of disturbance to future residents, complaints of which this section would not necessarily be in a position to resolve using the legislation within our remit if the best practicable means to avoid causing a noise nuisance was being taken.
- The applicant should therefore be requested to provide further information specifically assessing the noise impact of the existing adjacent car dealership site with regard to the proposed residential accommodation. This should include, if appropriate, measures to be taken to mitigate excess noise impact. Of particular interest will be the impact on any outdoor amenity use and the current proposed open window strategy.
- The information should be prepared by a person with appropriate acoustic qualifications and should be with full regard to BS 4142:2014 'Methods for rating and assessing industrial and commercial sound' and any other relevant guidance.
- The report does not look at noise arising from the proposed Drive thru Coffee Shop and the impact this may have on existing /proposed residents in the area. A noise impact assessment is required (recommend the impact from customers especially during evening/night time and early mornings is considered). Can the applicant confirm the hours of use, delivery times and the waste storage location for the Drive thru Coffee Shop.

#### 5.5 PUBLIC PROTECTION MANAGER (CONTAMINATED LAND):

Historically the area was occupied by industrial activities that may have contributed contamination to the underlying soils. I therefore agree with the recommendations of the contaminated land desk top study that a contaminated land site investigation and risk assessment is undertaken, this should be conditioned with the following:

*No development, (other than demolition) shall commence until:*

*a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.*

*b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.*

*c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.*

*No part of the development hereby permitted shall be occupied until:*

d) *Following remediation a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.*

e) *Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.*

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

## Air Quality

Advisory – To encourage the uptake of zero emission vehicles in efforts to reduce air pollution it is recommended a number of the parking spaces are installed with electric vehicle charging points. Cabling could be installed in the remainder of the parking spaces to allow for additional charging points to be installed at a later stage.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

All properties within 50m of the application site were consulted (32 properties), a site notice was displayed, and a press notice published in South Wales Argus. One objection was received making the following points:

- There is no need for a coffee shop in this location;
- Concerns over the characteristics of the occupiers of the assisted living units;
- Disturbance from construction noise;
- Risk of further crime in an area with high existing crime rates.

## 7. ASSESSMENT

### 7.1 The Site

7.1.1 The site is bounded by Corporation Road to the east, a commercial car dealership / repair garage to the north (Sinclair Volkswagon), an existing flatted block at Amelia Way to the north west and Spyty Pill to the west and south. The riverfront path has been completed around the site's southern and western boundary and this consists of a wide tarmacked path, areas of landscaping and a metal bow topped fence along the site's boundary with Spyty Pill. The site itself is currently empty and consists of several level platforms created when the flood protection works were completed in the early 2000s. There is an existing access road from Corporation Road giving access to the Sinclair site and the unit to its rear. The site is secured by a variety of fencing forms on its other boundaries including mesh fencing, Herris fencing and close board fencing (Amelia Way). The site is being reclaimed by scrub.

### 7.2 The Proposal

7.2.1 The applicant is seeking outline planning permission for use of the site for residential use (C3), an assisted living unit (C2) and a 'drive thru' coffee shop (A1/A3). All matters are reserved other than the access for which detailed permission is being sought. As such the scale and appearance of the buildings and the landscaping and layout of the site is not for detailed consideration under this application. That said the applicant has provided maximum dimensions for buildings as part of this submission and is effectively seeking to develop the site as a series of flatted blocks of varying heights. In his Design & Access Statement the applicant suggests the site will provide:

- 6no. C2 residential care units providing fulltime care for young adults. There will be scope for 2 staff per resident.
- 12no. assisted living units with an on-site warden. These units would form the affordable housing element of the scheme.
- 50no. flats for private sale (21 one bed units and 29 two bed units)
- Drive thru coffee shop

### 7.3 Key Issues

#### 7.3.1 The key issues are:

- Acceptability of the junction arrangements.
- Flooding
- Noise
- Lighting
- Appropriate Assessment
- Regeneration
- Retail Policy

#### 7.3.2 Minor issues are:

- Massing & Neighbouring Amenity
- Parking
- Drainage
- Contamination
- S106

### 7.4 Junction Arrangements

7.4.1 Highways have confirmed the submitted junction details are acceptable. The site can be safely accessed and Policy GP4 is complied with.

### 7.5 Flooding

7.5.1 The site lies within Zone C1 of the Welsh Government's Development Advice Maps, a defended floodplain. Development within floodplains must be justified in that location. The relevant tests are contained at Paragraph 6.2 of Technical Advice Note 15 (TAN15). They are as follows:

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

7.5.2 In this case the site is within the urban boundary and its redevelopment would support the existing settlement. The land is also brownfield. As such for the above test to be fully met the proposal must be shown to be suitably flood resilient. In addition to the above test, the Welsh Government provided additional advice on requirements for housing developments in flood plains following flood events on the Somerset Levels in 2014.

7.5.3 In terms of the submitted Flood Consequences Assessment (FCA) the proposed residential buildings are shown to be flood free in the 1 in 200 year tidal flood and the 1 in 1000 year tidal flood; allowing for climate change over the 100 year lifetime of the development. This assumes a finished floor level of 9.865m above ordnance datum which could be secured under condition. This is compliant with the advice of Technical Advice Note 15.

7.5.4 In terms of the commercial building, this would be flood free in the 1 in 200 year tidal flood allowing for climate change over the 75 year lifetime of the development and would flood to a depth of 0.225m in the extreme 1 in 1000 year tidal flood assuming finished floor levels are raised to 9.345m AOD. CNC/NRW also accept flood velocities within the building would be within the specified limits. This would be compliant with TAN15.



- 7.5.5 CNC/NRW advise that the rate of rise of flood waters and the speed of inundation would also be within tolerable levels due to the tidal nature of the flooding so this is also TAN compliant.
- 7.5.6 However the wider site would not be flood free in the 1 in 200 year flood. In effect parts of the access road and the carpark would be flooded during this flood within the lifetime of the development. The anticipated depths are 1.01m near the site entrance with reduced flood levels higher up the car park as the land grades up to the platforms the buildings will be constructed on. Higher parts of the carpark will not flood at all. This is not compliant with TAN15 since the entirety of the site should be flood free in the 1 in 200 year flood event. However it should be considered that not all of the carpark and access road will flood, significant parts of the site would be dry and would fall within the TAN requirements.
- 7.5.7 In terms of the extreme 1 in 1000 year flood the site entrance would flood to 1.43m deep and the higher parts of the carpark would flood to 0.115m. TAN15 advises that flood depths should not be beyond 0.6m during the extreme event so again the suggested limits are exceeded on part of the carpark and access road but not on all of it.
- 7.5.8 In terms of site egress the applicant has identified a vehicular route off the site via Corporation Road, along Cromwell Road and onto higher flood free ground where Somerton Road crosses the main South Wales Railway Line. This is shown to flood beyond tolerable levels (0.6m) for the 1 in 200 year flood allowing for climate change with there being significant exceedances especially along Cromwell Road. CNC/NRW advise that the flood hazards along this route have been identified as a 'Danger for Most' to a 'Danger for All' given the depth and speed of water. Realistically flood evacuation routes will not be available in the event of a significant flood and residents will be contained on the site. In this case even in the extreme event the residential elements will be dry which would limit the risk to contained residents. The Flood Consequences Assessment notes the period of containment would be one tide cycle of 6-9 hours, meaning residents could safely leave after this period of time. Officers judge that this would be an acceptable duration for containment whilst waiting for evacuation routes to become available again. There is a residual risk that occupants may experience some sort of emergency that cannot be attended during the flood event but given the limited duration of 6-9 hours this is not seen as an unacceptable risk. The applicant also points to the predictable nature of tidal flooding and the intention to put in place a flood management plan which would further reduce risk since residents would be able to evacuate ahead of time or make preparations for containment in the event they chose to stay.
- 7.5.9 In effect the main residual risk is to the parts of the parking areas and access road which will flood in the 1 in 200 year event when they should be dry and to those same areas which will flood beyond tolerable levels in the extreme (1 in 1000 year flood). This is a risk to property rather than to life, however it remains an important consideration. In this case the property at risk will be vehicles which are eminently moveable. The risk to the proposed parking areas for the Drive Thru are considered negligible since no one can be reasonably expected to stay at the site or enter it in the event of a tidal flood. Since the anticipated rate of rise and speed of inundation will be low (based on the rising tide) then customers will have adequate time to leave the site. However it is possible that some residents may choose to stay at the site and keep their vehicles with them. The applicant advises that there is scope to move vehicles to the parts of the site that are dry or marginally flooded as part of the flood management plan. This seems to be an appropriate response. As such although the carpark and access will not be TAN15 compliant the risks are considered to be low and sufficiently manageable so as not to constitute a reason to object on flood grounds.
- 7.5.10 Overall the proposal does not comply with Policy SP3 (Flood Risk) of the adopted Newport Local Development Plan (NLDP) since it does not fully accord with the advice of Technical Advice Note 15. However Policy GP1 (Climate Change) requires that the risks and consequences of flooding on the site should be acceptably managed and on this occasion it is judged that the risks can be effectively managed and therefore the harm to national and

local policy is judged to be modest and of comparatively little weight in the decision making process.

7.5.11 The applicant has completed an assessment of the flood risk on the site against the tests set out by Welsh Government for highly vulnerable development on floodplains. This is attached at Appendix 2 of this report. It identifies that the tests are passed other than in relation to the matters addressed in this section. That is:

- The site is not flood free in the 1 in 200 year tidal flood allowing for climate change.
- The acceptable flood levels are exceeded during the extreme flood (1 in 1000) within the car park but not within the buildings. The residential buildings will not flood at all.
- The access routes will not be available since they will flood beyond tolerable levels. People will be contained on the site for one tide cycle during the extreme event.

## 7.6 Noise

7.6.1 The applicant has submitted a noise assessment report for the site based upon the proposed mix of uses. The report concludes that under the existing measured noise environment noise mitigation will be required in order to meet the required standards of 30 dB L<sub>Aeq,8hr</sub> for a bedroom between 2300 and 0700 and 35 dB L<sub>Aeq,16hr</sub> for a bedroom between 0700 and 2300. Noise sources are nearby workshops (Sinclairs) and Corporation Road and the Southern Distributor Road.

7.6.2 The noise report concludes that internal noise levels can be controlled by the installation of appropriate double glazing which will achieve the necessary level of acoustic protection. Ventilation can be provided via trickle vents and purge ventilation can be achieved by opening windows. The assessment concludes that noise from the proposed Drive Thru will be negligible given the anticipated trip generation and wouldn't be significant from a noise perspective.

7.6.3 The Public Protection Manger has raised a series of concerns which the applicant has responded to.

*Clarification of Noise Sources: the dominant noise source in the local area is road traffic noise on Corporation Road and the A48 Southern Distributor Road. The results from the monitoring have been used to verify the noise modelling.*

*Technical Advice Note 11: The results of the monitoring and modelling indicate that the southern part of proposed residential development site falls into TAN 11 NEC B for the daytime and night time. The northern part falls into NEC A during the daytime ad NEC B during the night time.*

*Where the development falls into NEC B, TAN 11 states that "Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection".*

*This can be covered by a suitably worded planning condition.*

*Impact of the car dealership as a noise source on windows and outdoor areas: There are no amenity areas between the proposed residential blocks and the garage. All windows can be opened and where ventilation beyond trickle ventilation is required mechanical extraction can be installed. This can be secured by condition.*

Further information is required in relation to the coffee shop:

*The report has examined the potential effects of noise arising from the "Drive Thru" coffee shop (reference to paragraph 5.18 and illustrated upon Figure 3.1 and 3.2 of SMA Noise Assessment Report dated October 2018). It should be noted that there are no windows proposed on the eastern elevation of Block B as the layouts are such that windows can be accommodated to the rooms on the north and south elevations.*

*A worst case assessment for the drive through facility has been undertaken. This has used trip rates associated with more intensive drive through facilities (see Transport Statement paragraph 5.11 and Appendix F).*

*Specifically in response to information requested for the evening/night time and early mornings see the corresponding trip generation below:*

*Appendix F – from Transport Statement*

<i>Time</i>	<i>Arrivals</i>	<i>Departures</i>	<i>Two Way</i>
<i>1900 - 2000</i>	<i>10</i>	<i>11</i>	<i>21</i>
<i>2000 - 2100</i>	<i>6</i>	<i>6</i>	<i>12</i>
<i>2100 - 2200</i>	<i>4</i>	<i>5</i>	<i>9</i>
<i>2200 - 2300</i>	<i>2</i>	<i>2</i>	<i>4</i>
<i>2300 - 2400</i>	<i>0</i>	<i>1</i>	<i>1</i>
<i>0500 - 0600</i>	<i>1</i>	<i>0</i>	<i>1</i>
<i>0600 - 0700</i>	<i>1</i>	<i>1</i>	<i>2</i>
<i>0700 - 0800</i>	<i>3</i>	<i>3</i>	<i>6</i>

*With regard to the waste storage location, it is located on the western side of Block A as indicated on Powell Dobson Architects drawing 18061 (05) 200 D dated 01-08-2018. The opening times and delivery times can be agreed on at a later date and this can be covered by a suitably worded planning condition.*

- 7.6.4 In terms of the information submitted appropriate internal noise levels can be achieved by a suitable mix of glazing and ventilation which can be achieved under condition. Concerns often arise over purge ventilation being achieved by open window which can lead to noise exceedances internally. However there are mechanical ventilation systems which can address such concerns and the applicant agrees this is appropriate when trickle ventilation is inadequate. Subject to an appropriate condition there is no reason to think that internal noise levels and suitable ventilation cannot be achieved.
- 7.6.5 In terms of the proposed commercial use the applicant point out that the indicative layout submitted shows a suitable level of separation can be achieved and that it is unlikely any residential block would have windows facing the commercial site. The likely level of trip generation is low at night but opening hours can be conditionally controlled as necessary since such uses can generate intrusive noise particularly when background noise levels drop off at night-time, for example voices, car doors and car stereos. Given the scope for separation within any future layout submission and the application of conditional controls noise from the Drive Thru could be acceptably dealt with.
- 7.6.6 In terms of external noise, the indicative layout does not show any outdoor amenity space between the residential blocks and the garage use. However layout is not a consideration under this application and it is possible an alternative layout could come forward unless the Council is minded to condition that any future proposal broadly accords with the indicative drawings. An alternative approach is to condition that any future layout should be accompanied by a further noise assessment informed by the finalised layout showing external amenity areas can meet the required external noise standards. Additionally the proposed residential units are flats. Residents will not expect private garden space and the indicative layout shows potential for outdoor amenity space between any blocks and the riverfront where noise from the Sinclair workshop will be screened by the new buildings. However background noise from Corporation Road and the SDR are likely to continue to be an issue although the site visit indicated neither would be unacceptably noisy or diminish the utility of outdoor amenity space to an unacceptable degree.
- 7.6.7 Subject to conditional controls to achieve acceptable levels of internal and external noise and control over the hours of operation of the proposed Drive Thru unit officers conclude that noise on the site can be acceptably managed in the interests of the amenities of future residents. Policies GP2i (amenity) and GP7 (Environmental Protection) are complied with.
- 7.7 Lighting
- 7.7.1 Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) have expressed concerns over potential light spill from the site towards Spytty Pill which is known otter habitat. Otter

are a European Protected Species and one of the features of the River Usk Special Area of Conservation. As such they benefit from significant legal and policy protection.

- 7.7.2 The applicant has provided an External Lighting Report which identifies the current light levels along the river bank and considers the likely impact of the proposed development in terms of its lighting. The report notes some areas of light spill onto the sensitive river bank already exist from lighting installed on the riverside walk and along Corporation Road. However the section of walkway by the application site is unlit and the primary light source is from Corporation Road and the Sinclair buildings. It is concluded that the proposed buildings will block this light source out and light spill from domestic windows will not be sufficient to noticeably increase light levels along the river bank. The report notes that the development on Amelia Way does not cause unacceptable light spill to the river bank and that the proposed flats would have a similar relationship. As such the flats will not cause any unacceptable light spill to the river and the installation of external lighting can be controlled under condition.
- 7.7.3 The Drive Thru would have a loop road around it and this would be close to the river front path. However the lighting assessment identifies the proposed lighting and shows light spill to the riverfront path would be minimal, below 0.1lux and therefore even less to the river bank. For comparison full moonlight would be 1 lux. Additionally conditions can require the lighting is turned off outside of any conditioned hours of operation further reducing risk of disturbance to the river bank.
- 7.7.4 Subject to appropriate conditions unacceptable levels of light spill to the river bank can be avoided and harm to the interests of otters can be controlled. Policy GP5i & ii are met since habitats are protected and habitat connectivity maintained.

#### 7.8.1 Appropriate Assessment

- 7.8.1 The River Usk has been designated because the following species are special features to the River Usk:-
- Allis Shad;
  - Twaite Shad;
  - Bullhead;
  - River Lamprey;
  - Brook Lamprey;
  - Sea Lamprey;
  - Atlantic Salmon;
  - Otter;
  - Water Crowfoot.
- 7.8.2 The conservation objectives of the SAC are attached as an Appendix. The Usk is considered one of the best examples of a near natural river system in England and Wales. The range of plants and animals reflects a transition from nutrient poor to naturally rich. It was notified to protect a wide range of habitats and features. It also acts as an important wildlife corridor, an essential migration route and a key breeding area for nationally and internationally important species, including otter.
- 7.8.3 In previous consultation responses on this site CNC/NRW identified the following as key areas of concern:
- Otter Features:**
- 7.8.4 Particular threats to the otter features of the River Usk posed by the development were identified as being:
- The design and location of the development
  - Site clearance and Construction
  - Site Operation, and
  - The effectiveness of mitigation proposals

- 7.8.5 The proposed scheme is a residential development of flats and a commercial element consisting of a Drive Thru coffee shop. The dwellings will be set back from the top of the river bank by the distance of the intervening riverfront walk. This is a distance of approximately 7m between the proposed facades and the edge of the scrub along the side of the Pill. The riverfront path provides a developed corridor along the edge of the Pill so this is an area where intrusion by people and dogs can already be expected. The indicative layout of the site would for the most part close off the parking and circulation areas of the development from the riverbank with limited scope for disturbance beyond the front façade of the buildings due to the relatively small areas of amenity space and the lack of circulation space for vehicles. Activity on the frontage of the buildings is not likely to have a greater impact than existing activity along the riverfront walk and as noted above external lighting can be controlled to minimise / prevent light spill.
- 7.8.6 The Drive Thru would have circulation space between the building and the riverfront but the key concerns would be lighting which has been shown to have minimal impact on the protected habitat and conditions will limit night-time activity and lighting further reducing potential impacts. As such the commercial element of the scheme is not seen as harmful to the interests of the SAC.
- 7.8.7 The site has been cleared but was formerly in industrial use and is very likely to be contaminated. Recent flood prevention works have raised the level of the site but not uniformly and ground contamination remains a risk to future occupiers and to nearby controlled waters (the River Usk). The risks posed to the river would arise from:
- the mobilisation of sediment which could wash into the river,
  - run-off of / or the percolation of contaminated waters (derived from the ground contamination on the site) into the river,
  - the facilitation of the movement of contaminated waters vertically through the soil profile,
- 7.8.9 Proposed conditions seek the submission of a Construction Environmental Management Plan (CEMP) which will require details of the working methods to be employed on the site. Specific clauses refer to control of run-off which should ensure that waters which are polluted by either contamination or sediment do not enter the river. Another requirement of the CEMP relates to specific measure to be taken in the sensitive river front area to limit or prevent direct disturbance to the sensitive river bank environment.
- 7.8.10 Further conditions relate to the storage of fuels and hydrocarbons so that they are stored in such a manner that reduces the risk of contamination to ground and surface waters. Conditions put in place controls over any piling methodology reducing the risk of the mobilisation of contaminated waters through the soil profile.
- 7.8.11 De-contamination of the site will also be required under condition. At the current time the extent of contamination is not known and there is no proposed decontamination methodology before the Council. However the condition is comprehensive requiring an assessment of the current conditions, the formulation of a decontamination strategy and subsequent decontamination and decontamination verification. Unforeseen contamination is also addressed in the condition. Subject to the application of a condition risks to controlled waters can be satisfactorily addressed.
- 7.8.12 Overall it is considered that the proposed conditional controls acceptably control the risk posed by the otter interest of the River Usk during the construction phase of the development.
- Risks from site operation to the otter interest arise from:
- direct disturbance by people and dogs
  - disturbance by lighting
  - hydrocarbon contamination from motor vehicles
- 7.8.13 Proposed conditions will place controls over external lighting which will ensure that the sensitive river bank environment remains unlit and that the chances of disturbance to otters is reduced. Proposed Conditions will require that surface water drainage from areas where

hydro-carbons may be spilled from motor vehicles is cleansed of hydrocarbons. This will reduce the risks of contaminated run-off reaching the river.

- 7.8.14 This site is separated from the sensitive scrub habitat along the river bank by an existing riverfront path that is hard paved and flat. The path is popular and is frequently used by people and their pet dogs. It is not anticipated that the development proposal would create any significantly greater impact on the river than the current situation particularly if conditional controls are taken into account.

### **Fish Features**

- 7.8.15 Risk to fish features of the River Usk would arise primarily from:
- contaminated run-off from the site entering the river (sediment load and chemical content)
  - direct effects upon the river from construction and operation of the site; noise, vibration & lighting.
- 7.8.16 Particular Risks will accrue at the following stages:
- The design and location of the development
  - Site clearance and Construction
  - Site Operation, and
  - The effectiveness of mitigation proposals
- It is not considered that the design and location of the development will have an adverse effect upon fish features of the river.
- 7.8.17 Site clearance and operation has the potential to release contaminants or sediment but the proposed CEMP condition in association with the proposed decontamination verification / contingency condition would control these risks.
- 7.8.19 Site operation could adversely affect water quality. Proposed conditions requires run-off from areas where 'oil-drop' may be present to be cleansed of hydrocarbons. Other conditions require general control over foul and surface water drainage.
- 7.8.20 These conditions are considered adequate to prevent adverse impacts on the conservation interests of the river during the operational phase of the development.

### **Water quality / Hydrology and Drainage**

- 7.8.22 Risks to water quality would arise from:
- Run-off contaminated with sediment or chemicals leached from polluted ground entering the river,
  - Mobilisation of contaminated waters vertically through the soil profile,
  - Groundwater movement of contaminated waters through the soil to the river.
- 7.8.23 Particular Risks will accrue at the following stages:
- The design and location of the development
  - Site clearance and Construction
  - Site Operation, and
  - The effectiveness of mitigation proposals
- 7.8.24 The design and location of the proposal is not considered to pose any inherent risk to water quality over and above that posed by the existing unmitigated site. The provision of hard surfaces and the adequate treatment of run-off from these surfaces will reduce infiltration and potential risks to ground waters.
- 7.8.25 The proposed CEMP condition will protect the river during the construction phase as will conditions relating to piling details reducing risks to the conservation interests of the River Usk. During the operational phase proposed conditions will deal with run-off requiring the removal of hydro-carbons as required and requiring a generalised control over foul and surface water run-off. The proposed conditions are considered adequate to prevent risk to the conservation interests of the river during the varying phases of the development.

## Overall consideration

- 7.8.26 The concerns regarding the potential for impact on the River Usk SAC are impacts on the otter feature including via the design and location of development, site clearance and construction, disturbance during the operation phase and mitigation; impacts on fish features; contamination risks; impacts on water quality, hydrology and drainage.
- 7.8.27 Risks arise from the possible discharge of contaminated surface and groundwater water drainage with the potential resultant impacts on the fish and otter features of the SAC. There is the potential for significant effect on the migratory fish and otter features of the River Usk SAC. The specific concerns relate to: how surface water would be disposed of during construction and operation; how potential contamination of groundwater on the site will be addressed; and what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction as a result of disturbance of ground contamination and operational phases of the development. It is therefore recommended that should planning permission be granted conditions are imposed to provide suitable protection.
- 7.8.28 The current and previous uses of the site raise the question of contamination. It is therefore recommended that conditions be imposed to ensure that any contamination on the site is effectively addressed.
- 7.8.29 In terms of foul drainage, Conditions require full details of provision so as to ensure there is sufficient capacity in the system thereby avoiding contamination of waters entering the River Usk SAC.
- 7.8.30 It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significant adverse effect on the River Usk SAC.
- 7.8.31 Other risks to the river front, particularly the otter feature are addressed via the proposed layout of the site and conditional controls.
- 7.8.32 In terms of in combination effects of the development other developments have taken place along the Usk river frontage in the vicinity of the site. Redevelopment sites to the north of the application site, south of the Town Bridge (Newport Bridge) have been subject to appropriate assessment and the issues that have arisen on these sites reflect those on this site. Those sites were also subject to a suite of planning conditions to control risks to the bio-diversity interests of the River Usk. These sites are mostly completed and given conditional compliance the in-combination effects of those sites with this site would be negligible.

## 7.9 Regeneration

- 7.9.1 The site is currently vacant and is becoming reclaimed by scrub it currently offers nothing to the wider environment in a location that is prominent from two principal routes; Corporation Road and the Southern Distributor Road. The proposed scheme subject to an appropriate design solution can enhance this currently poor site whilst providing accommodation and a small business. Overall the benefits of regeneration of the site would be beneficial and can be given significant weight. Redevelopment of the site complies with Policy SP18 (Urban Regeneration) and CE1 (Routeways, Corridors and Gateways) since the appearance of the site would be enhanced.

## 7.10 Retail Policy

- 7.10.1 The site is outside any recognised retails centre. Policy SP19 places such locations at the bottom of the retail hierarchy, they are the least desirable location and sites within existing retails centres are preferable. The policy requires that retails development outside of a centre should be shown to be needed and that no suitable location within a centre exists.

Policy R8 considers small scale retail proposals to be acceptable where they are shown to be needed, they are at an appropriate scale to serve that need, they would not impact adversely on an existing centre and would have no other unacceptable adverse effects in terms of highways, residential amenity and so forth.

7.10.2 In this case the proposal is for a small A1/A3 Drive Thru unit that would have a road side presence on Corporation Road and would be visible from the SDR. It is shown indicatively to have a floor area of about 145 square metres which is typical of such units. As a drive thru the unit has particular site needs; circulation space and parking which mean that traditional locations are not suitable for the proposed use. As such locations within traditional centres are not suitable. In terms of need the applicant points to the presence of other commercial uses in the area which generate trade and therefore the scope for some element of combined trips with the coffee shop being complementary to existing commercial uses near the Corporation Road / SDR junction. The applicant also points to the recent regeneration along the riverfront boosting the local population and demand for goods and services in the area. Additionally the proposed unit would almost amount to a destination at the end of the riverfront walk since on-going routes are away from the river in this locality. As such the café would attract walk up trade from local housing and people walking along the riverfront. Given the very limited scale of the unit no adverse impacts on existing centres are expected, primarily the Corporation Road District Centre which is approximately 1Km to the north west. The applicant also suggests that in qualitative terms there is no similar offer nearby to the site within its natural catchment and so the unit would offer a better qualitative offer than currently available as well as meeting a quantitative need.

7.10.3 In terms of amenity the key concerns related to noise disturbance to dwellings and disturbance to the River Usk SAC both of which have already been addressed earlier in this report and found to be acceptable.

7.10.4 Overall the commercial element of the proposal meets the requirements of Policy SP19 and R8, no suitable site is available within centre, there is sufficient local quantitative need and the units would not contravene any other planning requirements. It is considered appropriate to control the overall scale of the building at this stage via the conditional regime given scale is a reserved matter.

## 7.11 Massing & Neighbouring Amenity

7.11.1 The applicant has provided indicative criteria for scale which is a reserved matter and not for consideration at this time. The proposed scale of the buildings is considered acceptable in this location on the riverfront. As noted above control over the scale of the A1/A3 unit is appropriate at this point in order to protect defined centres. In terms of neighbouring amenity the key concern related to the nearest residential block on Amelia Way. However the applicant has demonstrated that the nearest proposed block, Block F would not cut through the 25 degree light splay from any protected window given that the nearest part of Block F would be at single storey.

7.11.2 The riverside walk looks out over a wide area of scrub at this point and although the proposed buildings would be tall and close to the path there would not be any sense of tunnelling or any sense of oppressive effect on users of the walk. As such the massing as indicated would be acceptable and local amenity would be protected.

## 7.12 Parking

7.12.1 The applicant has indicatively shown the following parking:

	Car spaces	Other	Minimum SPG Requirement
Care Home (6)	6		Not specified
Assisted Living (12)	8		7
Flats (50)	61		60 (allowing for sustainability reduction)
Drive Thru	14	1 Delivery vehicle	14 (assuming 200 square metre



			dining area) 1 space for a delivery vehicle 6 waiting spaces in the drive thru
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- 7.12.2 Although layout is a reserved matter the applicant has provided an indicative 'proving' layout. In terms of the care home 6 spaces are shown. The likely profile of the residents means that they would not drive so allowing for a 1:1 staffing ratio means the parking is likely to be sufficient and there would be room for an ambulance to attend and turn if necessary. The indicated parking is judged adequate.
- 7.12.3 The assisted living units if treated as analogous to wardened accommodation for elderly person would need minimally 3 spaces for residents, 3 spaces for visitors, 1 space for the warden and 1 space per two ancillary staff. In the light of this the indicated parking would be adequate.
- 7.12.4 Allowing for a sustainability reduction the flats would need one space each and 10 visitor spaces which could be met.
- 7.12.5 The Drive Thru with an estimated dining area of 200 square metres and allowing for a 20% sustainability reduction would need 11 customer spaces leaving three spaces for staff i.e. enough spaces for up to 9 staff. The indicative layout shows space for a delivery vehicle and sufficient space for 6 queuing vehicles at the order window.
- 7.12.6 The applicant has also track tested the layout for a suitable delivery vehicle and shown it can acceptably manoeuvre around the indicative layout. Overall the applicant has demonstrated that the indicative layout could provide an adequate level of parking subject to reserved matters approval of a future more detailed submission. That parking should accord with the Council's adopted standards can be conditioned at this stage if the application is granted.

#### 7.13 Drainage

- 7.13.1 The applicant submitted a Drainage Strategy Report (August 2018) which explores the potential surface water drainage solutions for the site. Dwr Cymru / Welsh Water were satisfied with the proposed arrangements to drain foul water from the site but objected to the proposed arrangements for surface water flows. The applicant has identified other possible means to dispose of surface waters and DCWW appear to accept that these could be viable since they advise a condition to control future drainage arrangements. Subject to such a condition suitable drainage can be achieved.

#### 7.14 Contamination

- 7.14.1 The site is brownfield and is very likely to be contaminated. The Public Protection Manager has advised conditions are applied to detail with contamination and this would not be a reason to object to the proposal.

#### 7.15 Section 106 Planning Obligation matters

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

Service Area that requires planning	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
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<b>obligation</b>				
<i>Regeneration, Investment and Housing</i>	<i>to provide on site affordable housing</i>	<i>e.g. 20% of the units to be provided as affordable housing at no more than 50% of the Welsh Government's Acceptable Cost Guidelines. Mix and type to be agreed by the Council.</i>	<i>As requested</i>	<i>No</i>
<i>Education</i>	<i>Primary Education: Saint Andrews Primary School and Ysgol Gymraeg Casnewydd</i>	<i>£48,345 (based on the indicative scheme) but secured on a formula basis in the event the development proceeds in a different form or circumstances change</i>	<i>As requested</i>	<i>No</i>
<i>Education</i>	<i>Secondary &amp; Post 16 Education</i>	<i>£0.00 (based on the indicative scheme) but secured on a formula basis in the event the development proceeds in a different form or circumstances change</i>	<i>As requested</i>	<i>No</i>
<i>Streetscene &amp; City Services</i>	<i>Improvements at Lysaghts Park and / or Lliswerry Recreation Ground</i>	<i>£63,928 (based on the indicative scheme) but secured on a formula basis in the event the development proceeds in a different form or circumstances change</i>	<i>As requested</i>	<i>No</i>

7.15.2 The applicant has agreed to the above Heads of Terms. The sums cited are based on the indicative scheme provided as part of this submission. However the Section 106 agreement will incorporate formulas which will secure the contributions dependant on what form the reserved matters takes.

7.15.3 In terms of affordable housing the LDP Inspector concluded at Paragraph 5.12 of his report

*I conclude that the affordable housing policy provisions of the Plan, (as amended by the MACs), are supported by robust and credible evidence, are consistent with national policy objectives concerning affordable housing provision and are sufficiently flexible to recognise the circumstances of individual sites.*

As such the Policy requirements of the adopted NLDP in terms of affordable housing are entirely robust and justified and the applicant has provided no information to suggest the affordable housing requirements should not be met in this case. In any event the applicant has agreed to provide the amount of affordable housing that is sought under the Policy.

7.15.4 The educational requirements are justified under NLDP Policy SP13 and are based on formulas that calculate the likely pupil generation from the development. Consideration is then given to the actual availability of places within the local catchment schools. In this case local capacity will be exceeded in relation to primary schools and the need for contributions is triggered.

7.15.5 In this case Leisure contributions are triggered due to the lack of 'equipped play space' and 'informal' recreation space within the locality whilst considering the likely population of the development and the demand it will exert for leisure facilities. There is no on-site provision for equipped play on this site but suitable facilities are located nearby at Lysaghts Park and Lliswerry Recreation Ground and contributions from this site can be used to maintain and enhance these facilities.

## 7.16 Planning Balance

7.16.1 The key weakness in the submission is the failure to meet the recommendation of TAN15 in relation to flooding. The principle problems relate to the site not being dry during the 1 in

200 year tidal flood allowing for climate change over the lifetime of the development. However the submitted data shows that over time the area of inundation would increase as the flood event worsens due to climate change. However the buildings would remain dry and the main risk is to residents' motor vehicles. However these could be moved offsite since tidal floods are predictable or alternatively to higher parts of the parking areas.

7.16.2 The second concern in relation to flooding is that the egress route would be unavailable since it would flood beyond TAN recommendations. However the residential buildings would be flood free even in the extreme event and therefore containment is seen as acceptable in this case given that the containment period would be limited to one tide cycle.

7.16.3 The key benefit to the scheme is the regeneration of the site which is seen as a significant benefit. The provision of a small care home, supported living and accommodation are all seen as significant benefits of the scheme. The Drive Thru will not adversely impact on any identified retail centres and will provide a service to local need in both qualitative and quantitative terms. On balance the risks of flooding are seen as acceptable when balanced out against the acknowledged benefits of the scheme and officers recommend that permission should be granted subject to conditions.

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

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which

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

## **9. CONCLUSION**

- 9.1 On balance the application is acceptable and permission should be granted subject to planning conditions and a Section 106 agreement to secure contributions necessary to make the development sustainable.

## **10. RECOMMENDATION**

**GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THE DECISION TO GRANT PERMISSION.**

### *Plans*

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

- Drawing 6050.007 B – Proposed Access Arrangements

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based and to comply with the advice of Paragraph 5.30 of Welsh Government Circular 016/2014.

### ***Pre- commencement conditions***

#### *Provision of Access*

02 No other development shall be completed on the site until the approved access has been laid out as approved and provided minimally to base course level and the necessary works to provide the protected right turn lane have been provided in Corporation Road.

Reason: to ensure the site can be safely accessed (Policy GP4 of the adopted Newport Local Development Plan 2011-2026).

#### *Contamination*

03 No development, (other than demolition) shall commence until:

a) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.

b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.

c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby permitted shall be occupied until:

d) Following remediation a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed. Policies GP2, GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

#### *Display of Vehicles for Sale*

04 The approved access shall not be used until a scheme has been submitted to and agreed in writing by the Council showing how vehicles being displayed for sale at the

adjacent Sinclairs Garage will not impede the safe use of the access. Following the Council's written agreement the scheme shall be implemented as agreed going forwards. Reason: to ensure the site can be safely accessed (Policy GP4 of the adopted Newport Local Development Plan 2011-2026).

#### *Construction Environmental Management Plan*

05 No development, to include demolition, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following during development:

- Dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities';
- Noise mitigation measures;
- Details of temporary lighting;
- Details of enclosure of working areas;
- A drainage strategy to operate setting out controls of contamination, including controls to surface water runoff, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.
- Pollution prevention and contingency measures.
- Location and height of site office and welfare facilities
- Location and height of any on-site plant
- Location of storage / laydown areas including height of stockpiles of materials, soil, waste, aggregates or other voluminous material.
- On-site contractor parking arrangements

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

Reason: To protect the amenities of nearby residents and in the interests of ecology including European protected species and in the interest of safeguarding the features of the Severn Estuary European sites and SSSI and the River Usk SAC and SSSI. Policies GP2 & GP5 of the adopted Newport Local Development Plan 2011-2026.

#### ***Conditions that may require the submission of information***

##### *Shad & Lamprey Migration*

06 No piling works anywhere on the site shall be undertaken during the period from 1 March to 30 June unless the applicant has provided a method statement showing these activities will not cause unacceptable levels of noise or vibration and that Method Statement has been agreed in writing by the Council. Thereafter the works shall be carried out fully in accordance with the Method Statement.

Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC and its conservation objectives. Policies GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

##### *Outdoor noise*

07 Should reserved matters be submitted that materially differ from the indicative material provided as part of this submission in terms of layout and massing then a noise assessment shall be provided with those reserved matters showing that external noise can be limited to *50 LAeqT* within identified outdoor amenity areas during the daytime.

Reason: to protect residential amenity. Policies GP2 & GP7 of the adopted Newport Local Development Plan 2011-2026.

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

##### *Site Sections*

08 Prior to the construction of any road or building a comprehensive set of sections confirming the final levels to be achieved on the site and its relationship with neighbouring ground shall be submitted to the Council. Any means of ground retention shall be specified as part of the details. Following the Council's written agreement, the development shall proceed in accordance with the approved sections.

Reason: to mitigate flooding and to control the impact on neighbouring occupiers. Policies SP3, GP1 & GP2 of the adopted Newport Local Development Plan 2011-2026.

#### *Drainage details*

09 No construction of any drainage system shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system. Reason: to prevent overloading of the local foul and surface water drains, to prevent flooding and to protect residential amenity. (Policies GP2 & GP7 of the adopted Newport Local Development Plan 2011-2026).

#### *Treatment of run-off for hydro-carbons*

10 Surface water drainage from roads, parking areas and any other surfaced areas where motor vehicles park or transit shall be passed through a mechanism to remove hydrocarbons prior to being discharged to any surface waters. The design and capacity of the means to remove hydrocarbons shall be submitted to the Council in writing. Following the Council's written agreement the agreed mechanism shall be fully installed at the time the area it serves is constructed and it shall be retained thereafter. Reason: to protect surface waters and the River Usk SAC from hydrocarbon pollution. Policies GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

#### *Piling*

11 No piled foundations shall be used on the site until their details have been submitted to and agreed in writing by the Council. Any submitted details shall demonstrate that the chosen piling method will not mobilise pollutants through the soil profile or pose any risk to controlled waters and the River Usk SAC. Reason: to protect controlled waters, the River Usk SAC and Human Health. Policies GP2, GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

### ***Pre –occupation conditions***

#### *Internal noise*

12 The residential units hereby approved shall not be occupied until a scheme of noise mitigation has been submitted to and agreed in writing by the Council. The scheme shall achieve internal noise levels of 35 dB LAeq,16hr between 0700 and 2300 & 30 dB LAeq,8hr between 2300 and 0700. The scheme shall demonstrate the units can be adequately ventilated with closed windows and shall include means to achieve purge ventilation with closed windows. Reason: to protect residential amenity. Policies GP2 & GP7 of the adopted Newport Local Development Plan 2011-2026.

#### *Electric Vehicle Charging Points*

13 A scheme allowing for the provision of a charging point(s) for electric vehicles for each dwelling, the care home and the commercial unit hereby approved shall be submitted in writing to the Council. Following the Council's written agreement the scheme shall be implemented as agreed prior to the occupation of the building to which the charging point relates. Where parking and the building are divorced from one another the scheme shall make provision at the relevant parking point. In the event the provision of charging points is not technically feasible or is impractical the scheme shall demonstrate this. Reason: in the interest of general sustainability. Policy SP1 of the adopted Newport Local Development Plan 2011-2026 and the Welsh Government's wider sustainability agenda.

#### *Lighting*

14 Full details of external lighting shall be provided to the Council in writing in relation to adopted roads & footways / cycleways, unadopted roads & footways / cycleways and other areas of public access including car parks, parking courts and areas of public open space. Following the Council's written agreement the lighting shall be provided as agreed prior to the first beneficial use of the areas to be lit. Any lighting scheme submitted shall have

regard to maintaining dark corridors along the river bank. No external lighting other than as agreed shall be installed.

Reason: to protect residential amenity, public safety and ecological interests including the conservation objectives of the River Usk SAC. Policies GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

#### *Fume Extraction*

15 No hot food shall be prepared at the A1/A3 unit hereby approved until details of a system of mechanical fume extraction including details of odour control and acoustic properties has been submitted to and agreed in writing by the Council. After the Council's written agreement the agreed scheme shall be implemented as agreed and maintained as approved so long as hot food is prepared at the unit.

Reason: to prevent odour and noise nuisance to adjacent residents (Policy GP2 of the adopted Newport Local Development Plan 2011-2026).

#### *Parking to accord with the SPG*

16 Future reserved matters submissions shall show parking provision to comply with Newport City Council's adopted 'Parking Standards' Supplementary Planning Guidance (August 2015). Following the Council's written approval of any such reserved matters the parking shall be provided as agreed prior to the occupation of the site, or any part of the site as pertinent to a phased scheme and shall be retained thereafter.

Reason: to provide adequate parking in the interest of highway safety and residential amenity. Policies GP2, GP4 and T4 of the adopted Newport Local Development Plan 2011-2026).

#### ***Directive conditions***

##### *Otter migration*

17 No work of excavation, land raising or construction shall take place within 10 metres of the edge of the riverside scrub along the top of the riverbank between one hour prior to sunset and one hour after sunrise.

Reason: To ensure no disturbance is caused to otters migrating up or down the river. Policies GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

##### *Hydrocarbon Storage*

18 Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks the compound shall be at least equivalent to the capacity of the largest tank or the combined capacity of inter-connected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: to prevent pollution of the water environment. Policies GP5 & GP7 of the adopted Newport Local Development Plan 2011-2026).

##### *Protection of Retail Centres*

19 The Commercial Unit hereby approved shall only be used as a café with ancillary Drive Thru facilities.

Reason: to prevent the use of the building purely as an A1 unit and to protect retail outlets in designated centres (Policy SP19 of the adopted Newport Local Development Plan 2011-2026).

##### *A1/A3 opening hours*

20 The commercial unit hereby approved shall be closed to the public between the hours of 22:00 and 07:00. All customers shall vacate the premises between these hours and no takeaway sales shall be made. All external lighting that illuminates the riverfront path / river bank shall be turned off when the unit is closed to the public including any lighting along roadways or footways serving the unit.

Reason: to protect residential amenity and the ecological interests of the River Usk SAC. Policies GP2 & GP5 of the adopted Newport Local Development Plan 2011-2026).

*Finished floor levels*

21 The finished floor level of the residential units hereby approved shall be set no lower than 9.865m AOD. The finished floor level of the commercial unit approved shall be set no lower than 9.345m AOD.

Reason: to mitigate the risk of flooding. Policies GP2 & GP7 of the adopted Newport Local Development Plan 2011-2026).

*NOTE TO APPLICANT*

01 This decision relates to plan Nos:

- Letter from Orion Heritage dated 06 August 2018
- Desk Study Report (12274/LP18/DS) (August 2018)
- Letter from LRM Planning dated 05 October 2018
- Drainage Strategy Report (August 2018)
- Noise Assessment Report (October 2018)
- Planning & Retail Statement (October 2018)
- Pre-Application Consultation Report (October 2018)
- Ecological Appraisal (October 2018)
- Transport Statement (October 2018)
- Note from applicant dated 12 November 2018 relating to noise queries
- Drainage Strategy Report (October 2018)
- Letter from Quad Consult dated 22 November 2018 (18214/FCA/ADD/MP/221118)
- Addendum Stage 1 Road Safety Audit December 2018
- Flood Consequences Assessment (Revision 05)
- Flood Management and Evacuation Plan (Revision 02)
- Letter from LRM Planning 06 December 2018
- Stage 1 Road Safety Audit October 2018
- Supplementary Note to the Transport Statement
- Summary of TAN15 Highly Vulnerable Development Requirements
- Drawing 6050.002 D – Proposed Access Arrangements
- External Lighting Baseline / Proposed Lighting Report (10 January 2019)
- Drawing C11298-HYD-XX-00-DR-E-0010 P01 – Existing Lighting Levels
- Drawing C11298-HYD-XX-00-DR-E-0020 P01 – Proposed Lighting Levels
- ECOLOGY NOTE (OTTERS & LIGHTING)
- Email from Michael Rees 16/01/2019 16:26
- Addendum Stage 1 Road Safety Audit January 2019

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP8, SP9, SP10, SP13, SP18, SP19, GP1, GP2, GP3, GP4, GP5, GP7, CE1, CE2, CE3, CE6, CE9, H2, H3, H4, T4, R8, CF2 & CF4 were relevant to the determination of this application.

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

04 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations (application 18/0813) and it is considered that an Environmental Statement is not required.

05 When Reserved matters are submitted the applicant should have regard to the space requirements in the Council's adopted SPG New Dwellings (August 2015), including balcony space and outdoor amenity space. Any affordable dwelling will need to meet national standards as appropriate.



06 The following adopted Supplementary Planning Guidance was relevant to the determination of this application:

- Planning Obligations
  - Affordable Housing
  - Archaeology and Archaeological Sensitive Areas
  - New dwellings
  - Parking Standards
  - Outdoor Play Space Provision
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## **APPENDIX A – CONSERVATION OBJECTIVES OF THE RIVER USK SPECIAL AREA OF CONSERVATION (SAC)**

### **4. CONSERVATION OBJECTIVES**

Background to Conservation Objectives:

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

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

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

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

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

*Conservation planning and management.*

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

*Assessing plans and projects.*

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

*Monitoring and reporting.*

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

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

#### **b. Format of the conservation objectives**

There is one conservation objective for each feature listed in part 3. Each conservation objective is a composite statement representing a site-specific description of what is considered to be the favourable conservation status of the feature. These statements apply

to a whole feature as it occurs within the whole plan area, although section 3.2 sets out their relevance to individual management units.

Each conservation objective consists of the following two elements:

1. Vision for the feature
2. Performance indicators

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

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

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

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

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

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

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

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

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

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

The river planform and profile should be predominantly unmodified. Physical modifications having an adverse effect on the integrity of the SAC, including, but not limited to,

revetments on active alluvial river banks using stone, concrete or waste materials, unsustainable extraction of gravel, addition or release of excessive quantities of fine sediment, will be avoided.

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

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

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

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

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

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

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

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

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

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

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

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

<p>Vision for features 1-5</p> <p>The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:</p>	
<b>FCS component</b>	<b>Supporting information/current knowledge</b>
<p>The conservation objective for the water course as defined in 4.1 above must be met.</p> <p>The population of the feature in the SAC is stable or increasing over the long term.</p>	<p>Refer to sections 5.1 to 5.5 for current assessments of feature populations.</p> <p>Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates.</p> <p>Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of disease.</p>
<p>The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms e.g. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions e.g. food supply (as described in sections 2.2 and 5). Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4</p> <p>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.</p>	<p>Some reaches of the Usk SAC are more suitable for some features than others e.g. the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in section 3.2. Further details of feature habitat suitability are given in section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.</p> <p>The characteristic channel morphology provides the diversity of water depths, current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches e.g. through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.</p> <p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p> <p>Shad and salmon migration can be affected by acoustic barriers and by high</p>

	<p>sediment loads, which can originate from a number of sources including construction works.</p> <p>Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.</p>
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#### Performance indicators for features 1-5

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

Sea lamprey *Petromyzon marinus* :

*Performance indicators for feature condition*

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> .	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered overtime. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable .	1-5
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites each not less than 5km apart.	This standard CSM attribute establishes a minimum occupied spawning range, within any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute.	2 - 5
	Overall catchment mean >0.1m <sup>-2</sup> (Harvey & Cowx 2003) <sup>1</sup>	Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes m <sup>-2</sup> in suitable habitat <sup>2</sup> ,	

		therefore 0.1 m <sup>-2</sup> is a conservative threshold value for unfavourable condition.	
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Brook lamprey *Lampetra planeri* and River lamprey *Lampetra fluviatilis* :  
*Performance indicators for feature condition*

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Age/size structure of ammocoete population	Samples < 50 ammocoetes ~ 2 size classes  Samples > 50 ammocoetes ~ at least 3 size classes	This gives an indication of recruitment to the population over the several years receding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability, therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment.	2-10
(b) Distribution of ammocoetes within catchment	Present at not less than 2/3 of sites surveyed within natural range	The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit i.e. all except unit 1. Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment.	2-10
	No reduction in distribution of ammocoetes	Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment.	
(c) Ammocoete density	Optimal habitat: >10m <sup>-2</sup>  Overall catchment mean: >5m <sup>-2</sup>	Optimal habitat comprises beds of stable fine sediment or sand >15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2-10

Twaite shad *Alosa fallax* and Allis shad *Alosa alosa* :  
*Performance indicators for feature condition*

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites	1-5

		within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	
<i>Performance indicators for factors affecting the feature</i>			
(a) Flow	Targets are set in Relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period.	1-5
Atlantic salmon <i>Salmo salar</i> : <i>Performance indicators for feature condition</i>			
(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-seawinter component.  As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality. Assessed using electro fishing data.	6-10
<i>Performance indicators for factors affecting the feature:</i> Water quality			
(a) Biological quality	Biological GQA class A	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6-10



(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3].	All
<i>Performance indicators for factors affecting the feature:</i> Hydromorphology			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
Bullhead <i>Cottus gobio</i> : <i>Performance indicators for feature condition</i>			
a) Adult densities	No less than 0.2 m <sup>-2</sup> in sampled reaches	CSM guidance states that densities should be no less than 0.2 m <sup>-2</sup> in upland rivers (source altitude >100m) and 0.5 m <sup>-2</sup> in lowland rivers (source altitude <100m). A significant reduction in densities may also lead to an unfavourable condition assessment.	2-10
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by ongoing monitoring will result in an unfavourable condition assessment.	2-10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment.	2-10
4.3 Conservation Objective for Feature 6: - European otter <i>Lutra lutra</i> (EU Species Code: 1355)			
Vision for feature 6 The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:			
FCS component		Supporting information/current knowledge	
The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour. The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable		Refer to section 5.9 for current assessment of feature population.  Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of	

<p>future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole area of the Usk SAC is considered to form potentially suitable breeding habitat for otters. The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.</p> <p>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.</p>	<p>breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance.</p> <p>The decline in eel populations may be having an adverse effect on the population of otters in the Usk.</p> <p>Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.</p>		
<p>Performance indicators for feature 6</p> <p>The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.</p>			
Attribute	Specified Limits	Comments	Relevant Unit(s)
<i>Performance indicators for feature condition</i>			
(a) Distribution	Otter signs present at 90% of Otter Survey of Wales sites	Ref: CCW Environmental Monitoring Report No. 19 (2005) <sup>3</sup>	All
(b) Breeding activity	2 reports of cub/family sightings at least 1 year in 6	Ref: CCW Environmental Monitoring Report No. 19 (2005) <sup>3</sup>	All
(c) Actual and potential breeding sites	No decline in number and quality of mapped breeding sites in subcatchments (see Ref)	Ref: CCW Environmental Monitoring Report No. 19 (2005) <sup>3</sup>  In the Usk catchment, 77 actual or potential breeding sites have been identified, distributed throughout the catchment on the main river and tributaries.	All

## **Appendix 2 – Applicant's Assessment of the Flood Tests for Highly Vulnerable Development**

### **Summary of TAN15 Highly Vulnerable Development Requirements**

#### Test 1 - Justification Criteria

Its location in Zone C is necessary to assist, or be a part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement. The site is located within an existing settlement boundary and will form part of the regeneration of the eastern bank of the River Usk. The Development is proposed to be mixed use; however, it will be predominantly Residential, therefore, the proposed scheme is classed as "Highly Vulnerable" in accordance with Tan 15 Section 5 Figure 2.

The mixed-use scheme will provide a range of residential homes including specialist needs units and employment.

The existing site is Brownfield and coincides with the aims on Planning Policy Wales (PPW) and meets the definition of previously developed land:

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

The FCA has been produced and demonstrates that the potential consequences of a flood even up to the extreme flood event (1 in 1000 chance of flooding in any year) meets the following:

Acceptability Criteria:

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

The existing "East bank" flood defences run along the southern and eastern boundaries of the development site. These defences will form part of the development. The East bank defences have been engineered to prevent breach / fail in extreme flood events.

Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales. Newport is covered by the Severn Estuary shoreline Management plan (SMP) of which the proposed site is covered by Policy NEW 4 to "Hold the Line" (HTL) which indicates the intention to keep the line of defence in approximately the same location as it is now, replacing and maintaining defences and where practicable raised in line with Climate Change to maintain current levels of protection. However, the SMP does not guarantee that the existing defences and the HTL policy will result in upgrading or improvements to the existing defences over the next 100 years.

Further flood mitigation measures are proposed as part of the development in the form of raising the levels of the site and ensuring Finished Floor levels are above predicted flood levels.

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

All future occupiers will be advised to sign up to NRW's Flood Alert / Warning System to inform residents / employers / employees if a dangerous situation is likely to occur and allows for temporary protection measures and evacuation procedures to be actioned in line with the Flood Management and Evacuation Plan.

Test 5 - Effective flood warnings are provided at the site

Any extreme flood event will be tidal in nature and predictable with a high degree of accuracy. End users are to be provided with the Flood Management and Evacuation Plan and will be advised at the point of sale / occupation how to subscribe to the Flood line service, thereby managing the consequence of flooding.

Test 6 - Escape/evacuation routes are shown by the developer to be operational under all conditions. The most direct evacuation route from the Development site to a flood free area which permits connectivity to the wider highway network is onto Somerton Road, heading north towards the railway line. During a worst-case scenario event NRW require potential failure / breach of the existing defences to be considered. Somerton Road experiences flooding during extreme events.

The maximum flood depths relating to the vehicular access/egress route at the site boundary during the 1 in 1000 event would be 1.43m. The velocity would be 2.71m/s. This represents a flood hazard rating as "danger for all". Access is predicted to become compromised to emergency vehicles in the most extreme 1 in 1000 scenario when climate change factors are introduced.

The speed of inundation would be limited to that of the rising tide. The duration of the flood waters is influenced by the 6-hour tide cycle of low to high tide. The carparking and access is likely to fully drain in accordance with the tide, i.e. between 6 to 9 hours.

Test 7 - Flood emergency plans and procedures produced by the developer must be in place. A Flood Management and Evacuation Plan has been produced. Refer to Document.

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

The Residential properties have been designed to be flood free in the 1 in 200 and 1 in 1000 year with climate change fluvial or tidal event.

Should residents opt to leave vehicles in the carpark during an extreme flood event, the flood management plan requires moving their car to higher levels of the carpark.

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

The Residential development has been designed to be flood free in the 1 in 200 and 1 in 1000 year with climate change fluvial or tidal events.

The Commercial development has been designed to be flood free in the 1 in 200 with climate change and will flood to 0.225m in the 1 in 1000 year with climate change fluvial or tidal event.

Test 10 - No flooding elsewhere.

Any level changes or placement of structures will have negligible impact in terms of displacement given the tidal source of flood risk. The displaced volume would have no adverse effect on third parties.

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

Residential Finished Floor Levels have been raised above the extreme 1 in 1000 scenario when climate change factors are introduced, therefore the units are predicted to be flood free for the lifetime of the development. (Therefore fully compliant with A1.14).

Commercial Finished Floor Levels have been raised above the extreme 1 in 200 scenario when climate change factors are introduced. (Therefore fully compliant with A1.14)

Carpark compliance with A1.14

Raising the carpark would not result in the access point being flood free and would remain at a maximum flood depth relating to the vehicular access/egress route at the site boundary. At the site entrance off Corporation Road, the 1 in 200 event estimates a maximum flood depth of 1.01m, during the 1 in 1000 event a maximum flood depth of 1.43m is expected. The velocities would be

2.66m/s and 2.71m/s respectively. This represents a flood hazard rating as “danger for all”. Access is predicted to become compromised to emergency vehicles in the most extreme events in both scenarios for the surrounding areas.

The carparking levels vary, during the 1 in 200 events with climate change factors introduced, expected levels suggest that the carpark will flood to a depth of 1.01m near the site entrance to no flooding at the higher level of the carpark. However, the extreme 1 in 1000 scenario with climate change factors introduced, suggests that the site entrance will flood to a depth of 1.43m to 0.115m at the higher level of the carpark.

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

The Residential development has been designed to be flood free in the 1 in 200 and 1 in 1000 year with climate change fluvial or tidal events. (Therefore fully compliant with A1.15)

The Commercial element of the scheme has been designed to be flood free in the 1 in 200 year with climate change fluvial or tidal event, and the 1 in 1000 year with climate change fluvial or tidal event would flood to a maximum depth of 0.225m, below the 600mm maximum depth of flooding stated within TAN15 section A1.15. (Therefore fully compliant with A1.15)

The residential carparking areas will flood to a depth of 1.43m near the site entrance to 0.115m at the higher carpark level during the 1 in 1000 scenario when climate change factors are introduced.

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#### **APPLICATION DETAILS**

**No:** 18/0973      **Ward:** LLISWERRY

**Type:** OUTLINE

**Expiry Date:** 30-AUG-2018

**Applicant:** LYNWOOD INVESTMENTS LTD

**Site:** LAND AND PROPERTY FORMERLY KNOWN AS ROBERT PRICE  
TRANSPORT YARD, CORPORATION ROAD, NEWPORT

**Proposal:** OUTLINE APPLICATION FOR MIXED USE DEVELOPMENT COMPRISING C2  
RESIDENTIAL INSTITUTIONS AND C3 RESIDENTIAL AND DRIVE THRU  
COFFEE SHOP (A1/A3) ALONG WITH ASSOCIATED INFRASTRUCTURE AND  
FACILITIES

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

- 1.1 Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) has provided the following comments following receipt of the ‘Lighting Report’:

**We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirement and you attach the conditions listed below. Otherwise, we would object to this planning application.**

Concerns raised are as follows:

- Further information is required prior to determination to demonstrate that the risks and consequences of flooding can be managed to an acceptable level in accordance with TAN15.

- The submitted lighting plan should be adhered with to prevent harm to protected species.
- A landscape management plan is required to ensure no adverse impact on protected species.
- Construction hours should be controlled.
- A pollution prevention strategy should be required under conditional controls.
- Decontamination conditions and a Construction Management Plan are required to protect controlled waters.
- An 'Appropriate Assessment' is required under the Habitat Regulations.

For clarification, CNC/NRW were consulted following submission of the Lighting Report but have reiterated comments made in earlier responses. The earlier responses have been addressed in the published Officer Report.

## **2. OFFICER RESPONSE**

- 2.1 The proposal is understood not be TAN 15 compliant for the reasons outlined in the Officer Report. Officers consider that the applicant has demonstrated that the risk of flooding on the site can be managed down to an acceptable level and that identified risk is outweighed by the benefits of the scheme. Mitigation involving partial site raising will leave the residential units flood free even in the extreme event. The commercial unit will flood within tolerable levels. The residual risk is to the car parking areas. Risk to the commercial element is considered low since customers will leave the site and not reenter it in the event of a tidal flood. Risk to the residential parking can be mitigated by people moving vehicles either offsite or to higher parts of the site in the event of a flood. Officers conclude the flood risk on the site can be acceptably managed.
- 2.2 External Lighting is subject to conditional control; proposed condition 14.
- 2.3 Landscaping is a reserved matter; it will be appropriate to condition a landscape management plan on submission of that reserved matter if one is not provided with the submission. However if Committee is so minded a condition requiring any submission for landscaping to be accompanied by a management plan can be applied. This would streamline the application process for any future applicant by clarifying CNC/NRW requirements at an early stage. However such a condition is not considered strictly necessary at this stage of the application process and can be omitted without relinquishing any control in the view of Officers.
- 2.4 Construction hours are specifically controlled to protect otters, proposed condition 17 and to prevent piling during the shad & lamprey migrations, proposed condition 06. No conditions beyond these have been recommended by CNC/NRW.
- 2.5 Proposed condition 05 requires the submission of a Construction Environmental Management Plan which requires submission of a pollution control plan.
- 2.6 The standard decontamination condition is proposed, condition 03.
- 2.7 An 'Appropriate Assessment' has been completed, see Paragraph 7.8 of the Officer Report.

## **2. OFFICER RECOMMENDATION**

- 2.1 That the application should be granted subject to conditions as per the Officer Report.

8

**APPLICATION DETAILS**

**No:** 18/1069      **Ward:** *RINGLAND*

**Type:** FULL

**Expiry Date:** 08-FEB-2018

**Applicant:** *DAVID PRICE, NEWPORT CITY COUNCIL*

**Site:** *282, RINGLAND CIRCLE, NEWPORT, NP19 9PS*

**Proposal:** *DEMOLITION OF EXISTING LIBRARY BUILDING WITH EXTERNAL ALTERATIONS TO EXISTING COMMUNITY BUILDING TO CREATE MULTI-USE HUB FACILITY*

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks permission to demolish an existing library building and make a number of external physical alterations to this existing, and prominent, community building at Ringland Circle.
- 1.2 Although the octagonal library building is proposed to be demolished, the library facility will not be lost and will be incorporated within the hub building.
- 1.3 The proposal does not seek to change the use of the building as the mix of uses within it is to remain largely the same albeit on a reduced footprint. Overall, the aim is to expand the proportion of space accessible to the public by reducing office space whilst updating it to modern standards. The centre will continue to offer a creche space and changing rooms for local sports teams.
- 1.4 Beyond the demolition of the library building, the physical alterations proposed comprise a small extension to the front of the community building to create a new main entrance,

community based artwork to the facades of the building, replacement of windows and doors, new rainwater goods, replacement cladding and external lighting as well as landscaping works.

- 1.5 This application is presented to committee as Council owned.

## **2. RELEVANT SITE HISTORY**

- 2.2 NONE

## **3. POLICY CONTEXT**

Policy **SP12 Community Facilities** promotes development of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas, concert halls, allotments, leisure use etc. Development that affects existing community facilities should be designed to retain or enhance essential facilities.

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

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

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

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

## **4. CONSULTATIONS**

- 4.1 DWR CYMRU WELSH WATER: advise that no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network to prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF CITY SERVICES (HIGHWAYS): The use of the proposed building will be comparable with the existing. The proposed building is also smaller than the existing and therefore satisfied that there will be no increase in parking demand.

A CEMP is required to cover both the demolition and construction phases and must include such details as wheel wash facilities, dust suppression, contractor parking and parking compound.

Subject to the above I would offer no objection to the application.

- 5.2 HEAD OF CITY SERVICES (TREE OFFICER): No objections subject to conditions for a tree protection plan, root protection barrier, tree replacement details and appointment of



arboriculturalist being attached to any permission granted. It is recommended that trees T1, T4 and T5 are felled.

5.3 HEAD OF CITY SERVICES (ECOLOGY): No objection.

5.4 HEAD OF CITY SERVICES (ACTIVE TRAVEL COORDINATOR): Active Travel  
Comments: In line with Newport City Council's Parking Standards 2015, the Ringland Community Centre development must include cycle parking for both staff (secure and covered) and visitors (secure, situated close to the entrance, both adult and child sized cycle stands). Please refer to the Parking Standards for further details.

5.5 HEAD OF CITY SERVICES (DRAINAGE): Given the proposals may result in the reduction in impermeable area across the site, the implications on flood risk and drainage are unlikely to be significant. As such, we would have no objection to the application subject to the inclusion of a suitable worded condition requiring the production of a detailed drainage strategy.

5.5 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION): No objection but recommend the use of conditions to require a construction and environmental management plan and a waste management plan

## **6. REPRESENTATIONS**

6.1 NEIGHBOURS: 9 neighbours were consulted and a site notice was erected on Ringland Circle. No objections have been received.

## **7. ASSESSMENT**

7.1 An ecological impact assessment report and a tree survey and arboricultural method statement have been submitted in support of this application. The ecological report concluded that the majority of the site is to be of negligible or low ecological value. Mitigation and enhancement measures are proposed in order to minimise the ecological impact of the scheme and enhance it for wildlife. No evidence of bats or nesting birds were found in the library building. The Head of City Services (Ecology) has not objected to the proposal.

7.2 A total of 7 trees are proposed to be removed, a mature poplar and field maple along with 5 low quality trees. The majority of the work will be in areas of existing hard paving and will have little impact on the trees to be retained. The Head of City Services (Trees) has not objected to the proposal and has in fact advised that an additional tree is felled. A number of conditions have however been recommended to ensure protection of the existing trees and that the proposed works are carried out in an acceptable manner.

7.3 The landscape plan details the implementation of various surface treatments including new areas of soft landscape, brick paving, coloured asphalt and self-binding aggregate. Rocks and boulders are to be installed as well as an art trail with low retaining walls and stepping logs and planters. A cycle stand is also proposed. Details of these finishes and features will be required by a condition attached to any permission granted.

7.4 The proposed external cladding with artwork will be bold and its siting to the facades of the building and particularly to the 2-storey element will command attention in this prominent location. However, this is a community building in an urban estate and the proposals will identify it as a place where members of the community are welcome. The proposed lobby extension is very limited in size and the majority of its footprint is existing. It will comprise a glass face which will be in-keeping with the contemporary amendments to the remainder of the building. The proposed external alterations are considered to improve the external appearance of the building within the locality and will not have an adverse impact upon visual amenity. The loss of the library building will improve its visual appearance within its setting and facilitate upgrades to accessibility. The Head of Law and Regulation (Public

Protection) and the Head of City Services (highways) have advised that a condition is attached to any permission granted to require that a Construction and Environmental Management Plan is submitted to ensure the demolition and construction works do not have an adverse impact upon amenity and road safety.

- 7.5 The Head of Law and Regulation (Public Protection) has advised that a waste management plan is submitted. A condition will therefore be attached to any permission granted to require the submission of details of waste storage. The Head of city Services (Active Travel Coordinator) has confirmed that cycle parking is required at the community centre. The landscape plan confirms that these are to be provided but the detail will be requested by condition.

## **8. OTHER CONSIDERATIONS**

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

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

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

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

- 8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

## **9. CONCLUSION**

- 9.1 The existing building is of no architectural merit and the proposed works will improve the condition and appearance of an existing community building within this area, whilst

providing an exciting and interactive external landscape for the community to enjoy, particularly children. The proposals are considered to be compliant with policies GP2, GP5, GP6 and GP7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and planning permission is granted subject to the following conditions.

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents: tree survey and arboricultural impact assessment, ecological impact assessment, existing room schedule, email from Federico Putzu dated 12 Dec 18, Landscape Approach, proposed roof plan, proposed elevations, proposed ground floor plan, proposed external arrangements, design and access statement. .

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

#### ***Pre- commencement conditions***

02 Prior to the commencement of development, to include demolition, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality, vibration, dust\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. Submitted details shall also include full details of wheel wash facilities, contractor parking and parking compound to be employed during the development. The approved Construction Environmental Management Plan shall be adhered to during the duration of the development.

\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interest of highway safety and in accordance with Policies GP4 and GP7 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

03 No development, to include demolition, shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has implemented in accordance with Mackley Davies Associates Tree Survey 15 November 2018. The development shall be carried out in accordance with the approved Tree Protection Plan.

Reason: To protect important landscape features within the site and in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

04 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. Erect all weather notices on Heras fencing, 1 per 10 panels, stating ' CONSTRUCTION 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 and in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

05 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 -

- (g) Supervision and monitoring of the approved Tree Protection Plan;
- (h) Supervision and monitoring of the approved tree felling and pruning works;
- (i) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (j) Oversee working within any Root Protection Area including “no dig method of construction” -3 dimensional cellular confinement as described in Mackley Davies Associates Tree Survey 15 November 2018
- (k) Reporting to the Local Planning Authority;
- (l) 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 and in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)..

06 Prior to the felling of trees T1,T4 and T5 (poplars) in Mackley Davies Associates Tree Survey 15 November 2018 full details of replacement trees shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the position, species and size of the replacement trees. The replacement trees as approved shall be planted within the first full planting season (October to April) following the felling of the existing T1,T4,T5 trees.

Reason: To protect important landscape features within the site and in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

07 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall then be carried out using the approved materials.

Reason: to ensure that the development is completed in a manner compatible with its surroundings and in accordance with Policy GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015)

08 Prior to the commencement of development full details of how waste shall be managed shall be submitted to and approved in writing by the Local Planning Authority. This shall include an area for the storage of waste, to include elevations and finish detail. The approved details shall be fully implemented as approved and then maintained thereafter in that state.

Reason: To ensure adequate bin storage is provided for the site in the interest of visual and residential amenity and in accordance with Policy W3 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

09 Prior to the commencement of development full details of the proposed cycle storage, to include elevational drawings and identification of location, shall be submitted to and approved in writing by the local planning authority and retained in that condition in perpetuity.

Reason: In the interest of encouraging sustainable means of travel in accordance with Policies SP1 and GP4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: tree survey and arboricultural impact assessment, ecological impact assessment, existing room schedule, email from Federico Putzu dated 12 Dec 18, Landscape Approach, proposed roof plan, proposed elevations, proposed ground floor plan, proposed external arrangements, design and access statement, site location plan, existing ground floor plan, existing elevations, existing external arrangements, existing roof plan .

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP5, GP6 and GP7 were relevant to the determination of this application.

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

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

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## 9

### **APPLICATION DETAILS**

**No:** 18/1116      **Ward:** CAERLEON

**Type:** FULL

**Expiry Date:** 24-JAN-2019

**Applicant:** IBRAR MIAN, CAPITAL WORKS

**Site:** LAND ENCOMPASSING 40 TO 78, CAESAR CRESCENT, CAERLEON, NEWPORT

**Proposal:** INSTALLATION OF EXTERNAL WALL INSULATION. RENEWAL OF ROOF COVERING INCLUDING REPLACEMENT SOFFITS, FASCIAS & RAINWATER GOODS, REMOVAL OF CHIMNEYS.

**Recommendation:** GRANTED WITH CONDITIONS

#### **1. INTRODUCTION**

- 1.1 This application seeks consent for the installation of external wall insulation, the renewal of the roof covering, the replacement of soffits, fascias and rainwater goods and the removal of the chimneys at 40-78 Caesar Crescent. The properties are residential blocks of flats which consist of 5no blocks each containing 4no flats.

#### **2. RELEVANT SITE HISTORY**

No relevant site history.

#### **3. POLICY CONTEXT**

- 3.1 Policies GP2 (General Amenity), GP6 (Quality of Design) and CE7 (Conservation Areas) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: 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.

3.3 Policy GP6 (Quality of Design) states: 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.

#### **4. CONSULTATIONS**

4.1 None.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 None.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All neighbours with a common boundary were consulted on the application and one response has been received;

- I am a leaseholder of no.68, this planning should not be granted (only the wall insulation). The soffits, fascias and rainwater goods were all cleaned a few months ago, I haven't heard of anybody being flooded only minor leaks.
- As for the removal of the chimneys, why is this needed when TV aerials are attached.

#### **7. ASSESSMENT**

7.1 The properties 40-78 Caesar Crescent are residential blocks of flats which consist of 5no blocks each containing 4no flats, totalling 20no flats. The properties are located within the Caerleon ward.

7.2 The properties are currently finished in red/brown brick with cavity wall insulation. It is proposed to install 'rendabrick' external wall insulation which will be finished in a block colour to match the existing as far as practicable. The rendabrick is 100mm thick and will be installed over the external façade of the existing building. There are currently concrete roof tiles on the properties which are to be replaced with new concrete roof tiles. The roof verge will be extended by 150mm and a new UPVC bargeboard will be installed. It is also proposed to remove the redundant chimneys and to replace the existing soffits, fascias and rainwater goods. The soffits and fascia will be white upvc and the rainwater goods black upvc. It is considered that the development is in keeping with the character of the area, and is not detrimental to the amenity of neighbour occupiers, thus in accordance with policy GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

- 7.3 When taking into consideration concerns that have been raised by neighbours, only material planning considerations can be given weight. The neighbour has requested the need for this work, however, this is not something that the Local Planning Authority considers as part of the application, it is being assessed whether the proposal is acceptable in accordance with local policies.

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

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

## **9. CONCLUSION**

- 9.1 It is considered that the proposed development is acceptable and in accordance with the relevant policies in the Newport Local Development Plan 2011-2026 (adopted January 2015).

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

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

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

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: Proposed Specification, Site Location Plan, Site Plan, Existing Elevations Received 29/11/2018 and Proposed Elevations.

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

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

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

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**APPLICATION DETAILS**

**No:** 18/0967      **Ward:** ALLT-YR-YN

**Type:** DISCHARGE CONDITIONS

**Expiry Date:** 08-FEB-2019

**Applicant:** CHRIS DAVIDSON

**Site:** LAND TO REAR OF AND INCLUDING 1 AND 3, LLANTHEWY ROAD, NEWPORT

**Proposal:** PARTIAL DISCHARGE OF CONDITIONS 4, 5, 8 AND 9 OF PERMISSION 14/0022, CONDITIONS 2, 4, 8 AND 9 OF PERMISSION 17/0960 AND CONDITIONS 2, 4, 8, 9, 14 AND 15 OF PERMISSION 17/1081 (RESIDENTIAL DEVELOPMENT)

**Recommendation:** APPROVED

**1. INTRODUCTION**

- 1.1 The site comprises a pair of large, semi-detached dwellings known as 1 and 3 Llanthwy Road. The dwellings are situated within a large plot due to an amalgamation of a parcel of land at the rear which is elevated relative to the dwellings.
- 1.2 The site is located within a mixed commercial/residential area with properties to the north and east occupied by offices/businesses and No.5 Llanthwy Road in use as a dwelling. The site has the benefit of being within easy walking distance of the city centre and therefore has excellent opportunities for users to utilise public transport. The application site is located at a lower level than No.5 and the existing buildings, being two storey, are at a notably lower level than the properties to the north on Clytha Park Road at a four storey height.
- 1.3 There is extensive planning history associated with the site which is summarised in Section 2 of this report. In essence, outline permission was granted with conditions for residential development of up to 12 units at the site in a two-phase manner.
- 1.4 Phase 1 comprised the construction of 4no. 2-bedroom residential units at the rear of the site and the relevant reserved matters application was approved with conditions by the Planning Committee in February 2018.
- 1.5 Phase 2 represents the development at the front of the site and consists of the enlargement and conversion of 1-3 Llanthwy Road to 6 x 2-bedroom flats. The relevant reserved matters application was approved with conditions by the Planning Committee in May 2018.
- 1.6 This application seeks to discharge conditions imposed to outline planning permission for residential development at 1-3 Llanthwy Road (14/0022) and to the two subsequent reserved matters applications (17/0960 – Phase 1 and 17/1081 – Phase 2).
- 1.7 This application is referred to Committee since the applicant is the spouse of a staff member of the Local Planning Authority.

**2. RELEVANT SITE HISTORY**

07/1594	Residential Development (outline)	Refused	and
		allowed at appeal	
11/1017	Variation of condition 01 (submission of reserved	Granted	with

	matters) of appeal decision app/g6935/a/10/2128834 for residential development.	conditions	
14/0022	Variation of Conditions 2 and 3 relating to planning permission 11/1017 for outline residential development (to allow extension of time for submission of reserved matters and commencement of development)	Refused and allowed on appeal	
17/0960	Reserved matters application (access, appearance, landscaping, layout and scale) relating to Phase 1 (Construction of 4no. 2 bedroom residential units over ground floor garages and associated works) of permission 14/0022 (Variation of conditions 2 and 3 of permission 11/1017 for residential development)	Approved conditions	with
17/1081	Reserved matters application (access, appearance, landscaping, layout and scale) relating to Phase 2 (Alterations to existing buildings including new bay windows to front elevations and increased height to 12m and conversion to 8no. 2-bedroom flats with associated off-road parking) of planning permission 14/0022 (Variation of condition 2 and 3 of permission 11/1017 for residential development).	Approved conditions	with

### 3. POLICY CONTEXT

#### 3.1 Adopted Newport Local Development Plan 2011-2026 (NLDP):

Policy <b>GP2 General Development Principles – General Amenity</b> states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
Policy <b>GP4 General Development Principles – Highways and Accessibility</b> states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
Policy <b>GP6 General Development Principles – Quality of Design</b> states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
Policy <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.
Policy <b>H2 Housing Standards</b> promotes high quality design taking into consideration the whole life of the dwelling.

### 4. CONSULTATIONS

#### 4.1 None.

### 5. INTERNAL COUNCIL ADVICE

#### 5.1 HEAD OF CITY SERVICES (HIGHWAYS)

No objections to the proposal.

#### 5.2 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION)

To support the discharge of this condition a CEMP has been provided by the applicant dated Sept 18. There is information contained in the CEMP in relation to:

1. Noise and vibration management - general info provided no specific restriction on hours of work deliveries etc
2. Dust and dirt management – No wheel wash proposed due to small scale nature
3. Housekeeping and waste
4. Construction parking and storage
5. Loading and unloading

To accept the partial discharge of this condition I am of the opinion that hours of on-site demolition / construction activity should be included in the CEMP. Please can the applicant confirm the demolition/construction hours on site?

I would recommend that hours of on-site operation involving construction/demolition should be restricted to 08:00 to 18:00 Mon –Fri, 08:00-13:00 Sat with no work on Sunday or Bank holidays.

## **6. REPRESENTATIONS**

6.1 None.

## **7. ASSESSMENT**

7.1 This application seeks to discharge conditions imposed to outline planning permission for residential development at 1-3 Llanthewy Road (14/0022) and to the two subsequent reserved matters applications (17/0960 – Phase 1 and 17/1081 – Phase 2). The respective conditions are worded as follows:

### **7.2 14/0022 – Outline Planning Permission**

- 04 Development shall not begin on each phase before detailed plans showing the finished slab level of the building (s) hereby approved for that phase, together with cross sections through the site, have been submitted to and approved in writing by the local planning authority, and the development shall be undertaken in accordance with the approved details within that phase.

Reason: In the interests of visual amenities.

- 05 Development shall not begin on either phase until details of the junction between the proposed service road and the highway, together with an indication of how the highway, parking and circulation would be provided and linked for the other phase, have been submitted to and approved in writing by the local planning authority. The junction to the highway, together with the highway, parking and circulation areas within that phase, shall be constructed in accordance with the approved details prior to the occupation of any building within than phase.

Reason: To ensure that the development is carried out in a proper and coordinated manner.

- 08 No development shall take place on each phase until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected for that phase. The boundary treatment shall be completed before any building for that phase is occupied or in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual and residential amenity.

- 09 No development shall take place, to include demolition, on each phase, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement for that phase shall be adhered to throughout the construction period. The Statement for each phase shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interest of public and residential amenity.

### 7.3 **17/0960 – Reserved Matters Phase 1**

- 02 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments (including those serving 1 and 3 Llanthwy Road) to be erected. The boundary treatments shall be completed in accordance with the approved details and prior to the beneficial occupation of any of the dwellings hereby permitted.

Reason: In the interests of visual and residential amenities.

- 04 Notwithstanding the submitted plans, no development shall commence until the external appearance and final wearing course of the accesses, driveways, walkways and turning and parking areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be completed in accordance with the approved details and prior to the beneficial occupation of any of the dwellings hereby permitted.

Reason: In the interests of visual amenity and highway safety.

- 08 No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality\*, vibration, dust\*\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The Plan shall also include details of transport and pedestrian management, including the location of a site compound, provision of contractor parking and means of enclosure to restrict public access to the site. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

\* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

\*\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: In the interests of general amenity, residential amenity and highway safety.

- 09 Notwithstanding the submitted plans, no development shall commence until a scheme for the provision of highway signage to be installed on locations within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of signage which identifies the vehicular entry and exit points, in accordance with the directions specified on drawing titled 'Proposed Site Layout [LL1 Option 2 (16/1/18)]. The signage shall be installed in accordance with the approved scheme and prior to the beneficial occupation of any of the dwellings hereby permitted. The signage shall then be retained in perpetuity.

Reason: In the interests of amenity and highway safety.

#### 7.4 17/1081 – Reserved Matters Phase 2

- 02 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed in accordance with the approved details and prior to the beneficial occupation of any of the flats hereby permitted.

Reason: In the interests of visual and residential amenities.

- 04 Notwithstanding the submitted plans, no development shall commence until the external appearance and final wearing course of the accesses, driveways, walkways and turning and parking areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be completed in accordance with the approved details and prior to the beneficial occupation of any of the flats hereby permitted.

Reason: In the interests of visual amenity and highway safety.

- 08 No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality\*, vibration, dust\*\* and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The Plan shall also include details of transport and pedestrian management, including the location of a site compound, provision of contractor parking and means of enclosure to restrict public access to the site. The approved Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

\* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

\*\* The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: In the interests of general amenity, residential amenity and highway safety.

- 09 Notwithstanding the submitted plans, no development shall commence until a scheme for the provision of highway signage to be installed on locations within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of signage which identifies the vehicular entry and exit points, in accordance with the directions specified on drawing titled 'Proposed Site Layout [dated 03/04/2018]. The signage shall be installed in accordance with the approved scheme and

prior to the beneficial occupation of any of the flats hereby permitted. The signage shall then be retained in perpetuity.

Reason: In the interests of amenity and highway safety.

- 14 No development shall commence until details of 1.8m high solid screens to be fitted on the outer ends of the first and second floor rear balconies for their entire projection has been submitted to and approved in writing by the Local Planning Authority. The screens shall be fitted in accordance with the approved details prior to the occupation of any flat located on the first and second floor and shall then be retained in perpetuity.

Reason: In the interests of residential amenities.

- 15 No development shall commence until full details and specification of the following have been submitted to and approved in writing by the Local Planning Authority:

- i) all windows and external doors,
- ii) design detail and appearance of the bay windows and associated gable roof overhang on the front elevation

Development shall be carried out in accordance with the agreed details and specifications.

Reason: In the interests of visual amenity.

#### 7.5 14/0022 – Outline Planning Permission

Condition 04 of the outline planning permission 14/0022 requires the agreement of the slab level of all buildings to be approved. In this particular case, only Phase 1 (17/0960) of the development would involve the construction of new buildings whereas Phase 2 (17/1081) would involve the extension and alteration of the existing buildings comprising 1-3 Llanthwy Road.

- 7.6 In the consideration of the Phase 1 application a section drawing was supplied which showed the finished slab level of the new building and its relationship to 1-3 Llanthwy Road (Section A-A, amended 16.1.18). The slab level is considered to be sympathetic to its surroundings and would not have any significant adverse effect on visual or residential amenities. It is therefore considered that the details submitted satisfy Policies GP2, GP6 and H2 of the NLDP and the condition can be partially discharged.
- 7.7 Condition 05 of 14/0022 relates to the highway related details of the residential development. The two reserved matters applications included the details relating to the site access points and its connectivity to the public highway, parking and circulation spaces. The relevant plans have been referenced in the applicant's latest submission and there are no objections to the proposal from the Head of City Services (Highways). It is therefore considered that the details submitted satisfy Policies GP4, GP6 and H2 of the NLDP and the condition can be partially discharged.
- 7.8 Condition 08 of 14/0022 relates to the boundary treatments of the development. The details submitted to address this condition also applies to Condition 02 of 17/0960 and Condition 02 of 17/1081 and therefore a combined two-phase assessment in made.
- 7.9 The applicant has confirmed that all boundary treatments currently surrounding the site (sides and rear only) would be retained. The treatments include brick and masonry walls and close-boarded fencing. Some of the treatments are also retaining walls and the site levels at the rear of the site would be reduced, thereby effectively increasing the height of

the peripheral boundary treatments to generate improved levels of privacy. Since the site is already in residential use and the existing treatments provide a reasonable degree of privacy and

amenity to future occupiers and its neighbours, it is considered that this arrangement would not have any significant adverse effect on visual or residential amenities, thereby satisfying Policies GP2, GP6 and H2 of the NLDP.

- 7.10 It is intended for the boundary wall fronting 1 Llanthewy Road would be removed. This will also include the wall which currently subdivides 1 and 3 at the site frontage. This arrangement would leave an open frontage since 3 Llanthewy Road does not currently have any front boundary treatment. This street is generally characterised by low boundary walls fronting the public highway. Whilst an open frontage would be rather at odds with the predominant character of the street, it is noted that there are a few properties within the street which have removed the front walls. Furthermore, it is acknowledged that walls could be removed without planning permission since the site does not contain a listed building nor is it located within a Conservation Area. Furthermore, the site is not subject to an Article 4 Direction. The applicant has confirmed that the site will have an open frontage and, as such, the Head of City Services (Highways) has no objections to the proposal. Having regard to the above, it is considered that the proposal would not have any unreasonable effect on highway safety or visual or residential amenities thereby satisfying Policies GP2, GP4, GP6 and H2 of the NLDP.
- 7.11 In addition to the above boundary treatments, new walls would be erected within the site. This will include 1m and 1.8m high rendered block walls with a brick capping to enclose the ground floor amenity spaces located at the rear of the Phase 2 building. In the event that Phase 2 is not implemented with 1 and 3 retained as separate dwellings, their reduced rear amenity spaces would be enclosed by 1.8m high close boarded fencing and 1m high wall in the same position as that if Phase 2 was implemented. These structures would not be significantly visible from public positions and they would not have any unreasonable effect on the residential amenity of future occupiers or neighbouring properties, thereby satisfying Policies GP2, GP6 and H2 of the NLDP. It is therefore considered that this condition can be partially discharged.
- 7.12 Condition 09 of 14/0022 requires the submission of a Construction Environmental Management Plan (CEMP). The details submitted to address this condition also applies to Condition 08 of 17/0960 and Condition 08 of 17/1081 and therefore a combined two-phase assessment in made.
- 7.13 The CEMP has been considered by the Head of City Services (Highways) and the Head of Law and Regulatory Services (Public Protection). In general terms there are no objections to the CEMP however the Environmental Health Officer has requested details of hours of construction. Whilst this is acknowledged, it is considered that this can be appropriately controlled by other legislation. It is therefore considered that the details submitted satisfy Policies GP2, GP4 and GP7 of the NLDP and the condition can be partially discharged.
- 7.14 17/0960 – Reserved Matters Phase 1  
Condition 02 of 17/0960 relates to the boundary treatments of the development. The assessment of the treatments has been considered under paragraphs 5.5 - 5.8 and is deemed to be acceptable. It is therefore considered that this condition can be partially discharged.
- 7.15 Condition 04 of 17/0960 requires the submission of details of the hard landscaping/access areas. The details submitted to address this condition also apply to Condition 04 of 17/1081 and therefore a combined two-phase assessment in made. The applicant has confirmed that the access, driveways and parking spaces would be finished in black coloured tarmac. The pedestrian circulation areas would be finished in gravel (crushed stone) in light grey. The 'Keep Free' areas would be finished in Pennant Grey cobble stones.
- 7.16 The proposed external finishes, albeit rather mono-tone in colour, would not have any significant adverse effect on the visual amenities of the area, particularly since large parts of the surfacing would be positioned at the rear of the development site. The areas that would be visible from Llanthewy Road would have sufficient contrast in texture so as to ensure a degree of visual interest. It is also noted that the site is adjacent to an office car park which is wholly covered in tarmac and there is an expanse of tarmac located in the

public highway, as the road splits into two (Llanthwy Road and Bryngwyn Road). The Head of City Services (Highways) has not made any comments regarding this condition but it is considered that the finishes would not have any unreasonable adverse effect on highway/pedestrian safety, thereby satisfying Policies GP4, GP6 and H2 of the NLDP. It is therefore considered that this condition can be partially discharged.

- 7.17 Condition 08 of 17/0960 requires the submission of a Construction Environmental Management Plan (CEMP). The assessment of the CEMP has been considered under paragraphs 5.9 - 5.10 and is deemed to be acceptable. It is therefore considered that this condition can be partially discharged.
- 7.18 Condition 09 of 17/0960 requires the agreement of a scheme of highway signage. The details submitted to address this condition also apply to Condition 09 of 17/1081 and therefore a combined two-phase assessment is made. In an email received on 20 December 2018, the applicant has confirmed that 'one way' and 'no entry' signs would be erected within the curtilage of the development site. The applicant has described the details of the contents of the signs and their locations throughout the site, supplemented with directional arrows to be applied to the tarmac. It is concluded that there is sufficient information submitted to indicate that the proposed signage would be installed in the correct locations to ensure that all vehicles visiting the site would be encouraged to drive in a one-way circulatory route. The Head of City Services (Highways) has no objections to the proposal. It is therefore considered that the details submitted satisfy Policies GP2, GP4 and GP6 of the NLDP and the condition can be partially discharged. Whilst the applicant has suggested installing one-way traffic flaps and possibly switching the direction of the one way system, these do not form part of the permission issued or specified by the current wording of this condition. As such, these matters cannot be considered as part of the discharge of the condition.
- 7.19 17/1081 – Reserved Matters Phase 2  
Condition 02 of 17/1081 relates to the boundary treatments of the development. The assessment of the treatments has been considered under paragraphs 5.5 - 5.8 and is deemed to be acceptable. It is therefore considered that this condition can be partially discharged.
- 7.20 Condition 04 of 17/1081 requires the submission of details of the hard landscaping/access areas. The assessment of this condition has been considered under paragraphs 5.12 – 5.13 and is deemed to be acceptable. It is therefore considered that this condition can be partially discharged.
- 7.21 Condition 08 of 17/1081 requires the submission of a Construction Environmental Management Plan (CEMP). The assessment of the CEMP has been considered under paragraphs 5.9 - 5.10 and is deemed to be acceptable. It is therefore considered that this condition can be partially discharged.
- 7.22 Condition 09 of 17/1081 requires the agreement of a scheme of highway signage. The assessment of the details submitted to address this condition has been considered under paragraph 5.15 and is deemed to be acceptable. It is therefore considered that this condition can be partially discharged.
- 7.23 Condition 14 of 17/1081 requires the agreement of privacy screens. The applicant proposed to install a 1.8m high screen comprising of metal framing and infilled with obscured glass meeting level 4 of the Pilkington scale of obscurity. Whilst there would be gaps between the framing and glazing, the applicant has clarified in an email received on 20 December 2018 that the maximum gap would be 40mm. It is considered that the proposed screening, to be fitted on the outer ends of the first and second floor rear balconies for their entire projection, would reasonably protect privacy standards and ensure sufficient residential amenity for future occupiers and to neighboring properties. It is therefore considered that the details submitted satisfy Policies GP2, GP6 and H2 of the NLDP and the condition can be partially discharged.



- 7.24 Condition 15 of 17/1081 requires the agreement of details for all windows and doors and the design and appearance of the bay window and gable roof overhang on the front elevation.
- 7.25 It is proposed to install grey upvc windows which will have a recess of 100mm. The windows will be fitted with the size and design shown on the approved plans and an indicative image of the window has been supplied.
- 7.26 It is also proposed to install grey upvc doors. An indicative image of the doors has been supplied and this would be compatible with the appearance of the proposed windows.
- 7.27 Whilst a grey colour for the windows and doors is not characteristic of Llanthwy Road, it would be compatible with the overall external appearance of the building and the mono-tone colours of the exterior spaces. It was also acknowledged in the assessment of 17/1081 that there is some variation in the scale, design and appearance of buildings within the vicinity which enables a degree of flexibility to be applied to the proposed development. Having regard to the above, it is considered that the proposed windows would not have an unreasonable adverse effect on the visual amenities of the area, thereby satisfying Policies GP6 and H2 of the NLDP. It is therefore considered that this part of the condition can be partially discharged.
- 7.28 With regards to the bay window and gable roof overhang, a section drawing and detail of these elements have been submitted for considerations. The materials however have been superseded by the applicant in an email received on 20 December 2018.
- 7.29 To complement the grey windows and doors, it is proposed to clad the bay windows in grey powder coated aluminium. The uppermost part of the bay would include a handrail since it will include a balcony area within the roof overhang.
- 7.30 The outer part of the roof would be a continuation of slate. The internal part of the overhang and the gable-end were initially to be finished in cedar cladding. The use of cedar for the underneath section of the roof is acceptable as it would not be unduly prominent given that it would be a new material added to the streetscene. The applicant has confirmed in an email received on 20 December 2018 that the front-facing gable ends would be cladded in grey power coated aluminium instead which would match the finishes of other parts of the bay windows and the windows and doors. This is considered to be more sympathetic to the visual amenities of the area, thereby satisfying Policies GP6 and H2 of the NLDP. It is therefore considered that this part of the condition can be partially discharged.

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

## 9. CONCLUSION

- 9.1 This application seeks to discharge conditions imposed to outline planning permission for residential development at 1-3 Llanthwy Road (14/0022 – Conditions 4, 5, 8 and 9) and to the two subsequent reserved matters applications (17/0960 – Conditions 2, 4, 8 and 9 and 17/1081 - Conditions 2, 4, 8, 9, 14 and 15). Having regard to the details submitted, it is considered that the proposal would not have any unreasonable adverse effect on visual amenity, residential amenity or highway/pedestrian safety. It is therefore considered that the specified conditions can be partially discharged.

## 10. RECOMMENDATION

### APPROVED

#### NOTES TO APPLICANT

01 This decision relates to the following plans and documents:

Section A-A (excluding reference to zinc cladding)

Balcony / Roof Overhang Detail (excluding reference to zinc and cedar cladding)

Drawing LL2

Statement titled: Information to accompany request to partially discharge conditions

Email from applicant received 20 December 2018

Sample of Grey Aluminium Cladding

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4, GP6, GP7 and H2 were relevant to the determination of this application.

03 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

04 The applicant/developer is advised that this approval does not include any references to the installation of one-way traffic flaps or changing the direction of the one-way flow since these do not form part of the permission issued.

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