

# Report

## Planning Committee – Hybrid Meeting

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### Part 1

Date: 11<sup>th</sup> January 2023

**Subject** Planning Application Schedule

**Purpose** To take decisions on items presented on the attached schedule

**Author** Head of Regeneration and Economic Development

**Ward** As indicated on the schedule

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

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

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

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

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

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

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

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## Risks

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

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

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

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

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

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

\* Taking account of proposed mitigation measures

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

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

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

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling

economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

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

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

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

### **Options Available and considered**

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

### **Preferred Option and Why**

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

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

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

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

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

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

### **Comments of Monitoring Officer**

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

### **Comments of Head of People, Policy and Transformation**

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

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

## **Comments of Cabinet Member**

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

## **Local issues**

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

## **Scrutiny Committees**

None

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

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

The Socio-economic Duty, part of the Equality Act 2010, was also enacted in Wales on the 31<sup>st</sup> March 2021. This requires the Planning Committee, when making strategic decisions, to also pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage. Inequalities of outcome are felt most acutely in areas such as health, education, work, living standards, personal security and participation.

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

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

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

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

- Long term: Decisions made by the Planning Committee balances the need to improve the appearance of areas as well as meeting the needs of residents in order to make places safe to live in and encourage investment and employment opportunities. Planning decisions aim to build sustainable and cohesive communities.
- Prevention: Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable.

- Integration:** Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities.
- Collaboration:** Consultation with statutory consultees encourages decisions to be made which align with other relevant well-being objectives.
- Involvement:** Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

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

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

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

### **Consultation**

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

### **Background Papers**

#### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 11 (February 2021)  
Development Management Manual 2016  
Welsh National Marine Plan November 2019  
Future Wales - The National Plan 2040 (February 2021)

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

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

TAN 24: The Historic Environment (2017)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)  
Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

## **LOCAL POLICY**

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

Supplementary Planning Guidance (SPG):

Affordable Housing (adopted August 2015) (updated October 2021)  
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)  
Flat Conversions (adopted August 2015) (updated October 2021)  
House Extensions and Domestic Outbuildings (adopted August 2015) (updated January 2020)  
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)  
New dwellings (adopted August 2015) (updated January 2020)  
Parking Standards (adopted August 2015)  
Planning Obligations (adopted August 2015) (updated January 2020)  
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)  
Wildlife and Development (adopted August 2015)  
Mineral Safeguarding (adopted January 2017)  
Outdoor Play Space (adopted January 2017)  
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)  
Air Quality (adopted February 2018)  
Waste Storage and Collection (adopted January 2020)  
Sustainable Travel (adopted July 2020)  
Shopfront Design (adopted October 2021)

## **OTHER**

“Newport City Council Retail Study by Nexus Planning (September 2019) “ is not adopted policy but is a material consideration in making planning decisions.

‘The Economic Growth Strategy (and associated Economic Growth Strategy Recovery Addendum) is a material planning consideration’.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

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1.

**APPLICATION DETAILS**

**No:** 22/1047      **Ward:** Alway

**Type:** Full Application

**Expiry Date:** 13th January 2023

**Applicant:** J Sibanda

**Site:** 59 Balmoral Road Newport NP19 8LF

**Proposal:** **CHANGE OF USE FROM A 4 BED DWELLING HOUSE (C3) TO A 3 BED RESIDENTIAL CHILDREN'S CARE HOME (C2).**

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks the change of use of a 4no. bedroom dwelling house (C3) to a 3no. bedroom residential care home for children (C2) at 59 Balmoral Road, in the Alway ward.
- 1.2 The application has been called to Planning Committee by Councillor Debbie Harvey due to concerns in relation to the impact on the character of the area, fear of anti-social behaviour/fear of crime and residential amenity.

**2. RELEVANT SITE HISTORY**

- 2.1 None.

**3. POLICY CONTEXT**

- SP1 – Sustainability;
- SP3 – Flood Risk;
- GP1 – Climate Change;
- GP2 – General Amenity;
- GP4 – Highways and Accessibility;
- GP7 – Environmental Protection and Public Health;
- T4 –Parking.
- W3 - Waste

**4. CONSULTATIONS**

- 4.1 NATURAL RESOURCES WALES: No objection.

**5. INTERNAL COUNCIL ADVICE**

- 5.1 THE HEAD OF CITY SERVICES (HIGHWAYS):

Highway Recommendation

The proposed use will not have an unacceptable impact on the local highway.

Highway Comment

The understanding is that Caring Adults will always be present with children in the home, with care staff working on a rostered basis. Each day will have two handover periods when there will be 3 care staff present (2 day shift, 1 night shift) this will be at 7-7.30am and 7.30-8pm. There will be one member of staff overnight, and two members of staff during the day for full occupancy. The Registered Manager will often be at the home Monday to Friday 9-5pm.

## Parking

A four bedroomed property would currently be expected to provide three off-street parking spaces. Two designated off road staff parking spaces are available to the rear of the property, with the use of on-street parking for one vehicle as required.

For this parking assessment the proposed change of use of the building can expect to provide:

- 1 parking space per resident staff
- 1 parking space per 3 non-resident staff
- 1 space per 4 beds for occasional visitors

Based on the staff figures above, there are no resident staff, only staff that are present for their shifts. Therefore, during the day, two care staff will be present along with a manager. For parking assessment purposes these three staff will require one parking space. At handover periods, without the manager present there will also be three staff members present. As stated previously for parking assessment purposes three staff require one parking space. For the occasional visitor there will be a need for one further parking space.

Overall at anytime there will no parking demand greater than the three spaces that would currently be expected for the existing use as a four bedroomed property, therefore highways are satisfied that in regard to the parking demand, the 3 bed residential children's care home will not have an unacceptable impact on the local highway.

## Sustainable Transport

Newport City Council supports through policy, the use of sustainable transport. It is advised that the applicant will need to provide a covered secure storage structure for one cycle. Use the link below for a better understanding.

Sustainable Travel SPG adopted version July 2020 ([newport.gov.uk](http://newport.gov.uk))

For example, a secure 6'x4' garden shed or similar is an acceptable secure storage facility for up to two cycles.

The details of the cycle storage structure need to be submitted to and approved by the Council. Once approved it should be constructed and remain in place as a cycle store for the life of the residential children's care home use of the building.

- 5.2 THE HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (WASTE): We would anticipate the care home require a trade waste and recycling collection
- 5.3 THE HEAD OF CHILDRENS SERVICES (SOCIAL SERVICE): No response.
- 5.4 THE HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENVIRONMENTAL HEALTH):

No objections and have requested the following condition;

## **Waste Storage and Recycling**

There is a lack of information regarding the waste storage and recycling facilities that will be provided to serve the future development. Therefore, either additional information is required, or the following condition is recommended;

Prior to first beneficial use, a scheme for the provision of waste storage and recycling shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first beneficial use and thereafter maintained for the duration of the use.

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

## **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (89no. properties) and a site notice displayed. 8no. objections have been received, with material planning considerations summarised below;

- Insufficient parking;
- The area is residential and not suitable for a childrens care home;
- There are existing issues of anti-social behaviour in the area and concerns that this proposal will contribute/increase this;
- Increased noise and disturbance from the proposal causing an adverse impact on neighbouring residential amenity;
- Increased vehicles using the access lane could result in highway safety issues for users of the footway;
- The young individuals that will reside in the property may have complex needs either physically or emotionally. This in turn may lead to the non adhering of house rules and this will disturb this area of the road with authorities needing to be called.

6.2 COUNCILLORS PIMM/HARVEY/HARVEY: Councillor Debbie Harvey has requested the application is determined by the planning committee due to concerns from local residents of issues that may arise from the care home in terms of increased fear of anti-social behaviour and the location and timing of the proposal.

## **7. ASSESSMENT**

### *The Proposal*

7.1 This application is for the change of use of a dwellinghouse (Use C3) to a three bedroom childrens care home (Use C2) at 59 Balmoral Road.

7.2 The surrounding area is residential in its nature and is characterised by a linear street pattern containing rows of terraced properties. The host property is a bay fronted end of terraced property that has undergone a two storey extension to the rear and with a side lane providing access to 2no. parking spaces within the rear of the garden.

7.3 The property currently has a layout comprising of lounge, sitting room, open plan kitchen and dining area with W/C at ground floor and 4no. bedrooms (one with en-suite) and a bathroom at first floor. Externally the property benefits from a small forecourt to the front elevation and an enclosed private garden at the rear, served by 2no. off street parking spaces.

7.4 There would be no external alterations proposed to the building. Neither would there be internally, with the only change being that the existing fourth bedroom would be used as a study during the day and as sleeping accommodation for the overnight member of staff. The property has three large reception rooms and a kitchen at ground floor; two of these will be utilised as lounge areas that can be joined or separated as required (existing adjoining double doors), the third will be a dual use study/dining room. Each of the three bedrooms will be fitted with typical bedroom equipment and a desk with desk chair.

7.5 It has been confirmed by the applicant that there will be a maximum number of three children resident at the property aged between 9 and 18 years old. The home will be run as a family home, with shared living, meals and activities. Part of the garden would be utilised for parking the remainder forming an ordinary family garden with lawn, minimal planting and a seating area.

7.6 Adults will always be present with children in the home, care staff working on a rostered basis. Each day will have two handover periods when there will be 3 care staff present (2 day shift, 1 night shift) this will be at 7-7.30am and 7.30-8pm. There will be one member of staff overnight, and two members of staff during the day for full occupancy. The Registered

Manager will often be at the home Monday to Friday 9-5pm. Care staff will support children to attend school; either supported to travel to school independently (e.g. bus), developing independence (e.g. supported travel on public transport) or escorted to school by staff in staff vehicle. Any professional appointments (e.g. health or social care) would be in service bases rather than regularly from home in order to preserve the overall experience of a 'home from home'.

### *Sustainability*

- 7.7 The site is located within an accessible urban area that is served well by public transport links (nearest bus stop 190m) and local amenities such as the Chepstow Road District Centre (150m) and outdoor amenity areas such as Beechwood Park (200m). It is therefore considered to be well located and compliant with the aims of Policy SP1 of the NLDP 2011-2026 (adopted January 2015).

### *Residential Amenity and Character*

- 7.8 Policy GP2 (General Amenity) of the Newport Local Development Plan is relevant to the proposals. It 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.
- 7.9 The proposed accommodation would provide a good standard of amenity for future residents with good sized bedrooms, shared living areas and outdoor amenity space. It is policy compliant insofar as it relates to amenity of the future occupiers.
- 7.10 Objections received have raised concerns in relation to how the proposed use would have an adverse impact on residential amenity of neighbouring properties and the character of the existing residential area, with it being stated that the young residents may have complex needs and may not adhere to house rules, resulting in issues on amenity. Fear of anti social behaviour and crime has also been raised as a concern in the correspondence received by neighbours and the local councillor.
- 7.11 In this instance, it is proposed that there would be three children resident at the property being cared for by two members of staff in the day and one sleeping overnight. In terms of numbers this would be akin to that of a typical residential property and there would not be an over intensification in terms of the use of the property that may result in increased noise/disturbance. It is also noted that between the hours of 09:00-17:00 Monday to Friday a house manager will often be at the property undertaking what is understood to be more of an administrative duty as opposed to providing care. The care home is described as being run as a family home and the numbers of children and staff present would indicate this. These numbers would also suggest comings and goings comparable to that of a residential property. There is not the intention for regular visits from care workers or specialist visitors, with it being stated that it is intended for the residents to attend appointments etc. away from the setting as per a typical family situation. There would not be locks on doors or CCTV cameras at the property that would result in it feeling institutional or out of character with what is predominantly a residential area. For all intents and purposes, to the passing eye the property would appear as a residential dwelling. Concerns surrounding possible complex physical or emotional needs of the young residents have been raised in a neighbour response. It is of course possible that children who are in care may face these issues, as may the young residents of any dwelling house. Care staff will be adequately trained to deal with such issues should they arise, and it is the responsibility of the home, who will be registered with the Care Inspectorate, to suitably take care of residents and offer support. Given the number of residents and numbers of staff it is not anticipated that

this would result in such an issue that would cause a demonstrable harm to the residential amenity of neighbouring properties.

- 7.12 Noise and disturbance and fear of anti social behaviour have been raised as concerns from residents and the councillor. Gwent Police have been consulted on this application and at the time of writing this report no response has been received. Should a response be received then it can be added as a late representation report or reported within the officer presentation to committee. Caselaw has established that fear of crime is a material planning consideration but that that fear must be based in a reasonable expectation that anti-social behaviour or crime will occur. Any fear must be objectively justified in order for it to be given any significant weight in a planning decision, nor should it be assumed that all the children would be likely to commit crime or be anti-social. In this case the number of occupants will be limited to three, they will be minors and they will be under close supervision from carers and living in a household that as closely resembles a family homes as possible. It is possible that at times some noise would be generated from the property, as it would with a family home of three minors living together and it is not reasonable to assume this would be significantly different in that respect.
- 7.13 As such it is concluded that fear of crime and disorder should attract little or no weight in relation to this application. It is also considered that based on the scale of the proposal (which will have number of occupants controlled by condition to three) that noise and disturbance is unlikely to result in a demonstrable adverse impact to neighbouring residential amenity over and above the existing use as a dwelling, or that the proposed use would result in a change in character to the surrounding area. It is considered that the proposal complies with the aims of Policy GP2 and GP7 of the NLDP 2011-2026 (adopted January 2015).

#### *Highways and Parking*

- 7.14 A number of the objections received have referred to parking issues within Balmoral Road and the surrounding area and have expressed concerns at how this proposal would exacerbate the existing situation further. The lawful use of the property is as a four bedroom residential property and in accordance with the Council's adopted Parking Standards this generates a parking demand of 3no. spaces. A residential children's care home is expected to generate a parking demand of 1no. parking space per resident staff; 1no. parking space per 3 non-resident staff; 1no. space per 4 beds for occasional visitors. Based on the staff figures proposed, there are no resident staff, only staff that are present for their shifts. Therefore, during the day, two care staff will be present along with a manager. For parking assessment purposes these three staff will require one parking space. At handover periods, without the manager present there will also be three staff members present. As stated previously for parking assessment purposes three staff require one parking space. For the occasional visitor there will be a need for one further parking space. Overall at any time there will no parking demand greater than the three spaces that would currently be expected for the existing use as a four bedroomed property, therefore The Head of City Services (Highways) is satisfied that in regard to the parking demand, the 3 bed residential children's care home will not have an unacceptable impact on the local highway.
- 7.15 It is noted in the objections that the usability of the two off street parking spaces is questioned due to the layout of the lane and that this would result in an increase in vehicles parking on the highway to the detriment of neighbours. However, this is also true of the existing residential property. Notwithstanding that, even if it were to be assumed that the off street parking was not utilised, there would be no increase in parking demand on the highway as a result of the proposal as per the previous residential use. Therefore, it cannot be demonstrated that the proposal would result in a worsening of the existing parking situation. Similarly, concerns were raised regarding the intensification of the use of the lane, which is substandard and the impact on pedestrian/highway safety. The existing access and parking for two vehicles is already present and the proposal is continuing to use these spaces. Therefore, there is no change in terms of use of the lane. As such, it is considered that the proposal complies with the aims of Policy GP4 of the NLDP 2011-2026 (adopted January 2015).

## *Flood Risk*

- 7.16 The property is located with Flood Zone C1 as per the Development Advice Maps (DAM) contained with Technical Advice Note (TAN) 15 and NRW have been consulted and have offered no objection to the proposal in flood risk terms. The application is changing use from a four bedroom residential house to a three bedroom residential care home. Both are high risk in flood risk terms, however there is considered to be no increase in vulnerability between the existing and proposed situation. The proposal is considered to comply with the aims of Policy SP3 of the NLDP 2011-2026 (adopted January 2015).

## *Waste*

- 7.17 The applicant has proposed that refuse and recycling receptacles would be stored in the front courtyard of the property and put out for collection. From carrying out a site visit, this is generally the pattern for most neighbouring properties and is currently what the existing property appears to be doing. There are no concerns that the change of use would result in any waste issues or storage issues relating to visual amenity. The proposal is considered to comply with the aims of Policy W3 of the NLDP 2011-2026 (adopted January 2015).

## **8. OTHER CONSIDERATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

## 9. **CONCLUSION**

9.1 The proposed change of use to childrens care home for up to three residents is considered to comply with the relevant aims of the Newport Local Development Plan 2011-2026 (adopted January 2015) as outlined within this report and is considered to be acceptable.

9.2 It is recommended that planning permission is granted with conditions.

## 10. **RECOMMENDATION**

### GRANTED WITH CONDITIONS

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

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 –occupation conditions***

02 Prior to the occupation of the approved use the area to the front of the property allocated as refuse store as shown on approved drawing "Proposed Plans" shall be made clear and available for the storage of refuse and recycling and retained in that state thereafter.

Reason: To ensure that adequate storage for refuse and recycling is provided on site in accordance with Policy W3 and GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015)

03 The 2no. spaces in the rear garden shall be made available for the parking of vehicles prior to the first beneficial use of the property as a children's care home and retained in that state thereafter.

Reason: In the interests of providing sufficient parking provision in accordance with Policy GP4 and T4 of the NLDP 2011-2026 (adopted January 2015).

### ***General conditions***

04 The use hereby approved shall only be used as a children's care home and for no other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification. The children's care home hereby approved shall be occupied only by looked after children up to the age of 18 and no more than 3 children shall be resident at any one time.

Reason: In the interests of protecting residential amenity and character of the area and matters of highway safety in accordance with Policy GP2 and GP4 of the NLDP 2011-2026 (adopted January 2015).

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

01 This decision relates to plan Nos: Site Location Plan; Existing Plans.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, GP1, GP2, GP4, GP7, W3 and T4 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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## **LATE REPRESENTATIONS**

1.1 None.

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

2.1 The purpose of this report is to recommend removal of proposed Condition 03 contained within the Officer Report. The condition reads as follows;

*03 The 2no. spaces in the rear garden shall be made available for the parking of vehicles prior to the first beneficial use of the property as a children's care home and retained in that state thereafter.*

*Reason: In the interests of providing sufficient parking provision in accordance with Policy GP4 and T4 of the NLDP 2011-2026 (adopted January 2015).*

2.2 The proposed change of use does not result in an increase in parking demand so there is no requirement for additional parking to be provided on site and it would not be considered necessary or reasonable to ensure that these are provided as part of the conditional regime. Whilst the applicant has indicated the presence of 2 parking spaces on site or the ability to provide these, it is clear that the rear garden is not currently in use for parking and whilst such parking could be provided in future, there is no reasonable requirement for it as part of this proposal and this condition would not meet legal tests.

## **3. OFFICER RECOMMENDATION**

3.1 It is recommended that Condition 03 be disregarded.



2.

### **APPLICATION DETAILS**

**No:** 22/0067      **Ward:** Pillgwenlly

**Type:** Full (Major)

**Expiry Date:** 18th March 2022

**Applicant:** A Paynter

**Site:** Land West Of Tom Lewis Way Alexandra Docks Newport South Wales

**Proposal:** **CONSTRUCTION OF ADDITIONAL STORES UNIT AND OPEN FRONTED WASH DOWN AREA TOGETHER WITH PORTACABIN OFFICES AND OTHER ASSOCIATED DEVELOPMENT**

**Recommendation:** **SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES CONFIRMS THAT THEY ARE SATISFIED WITH THE OUTCOMES OF THE APPROPRIATE ASSESSMENT**

#### **1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the erection of an additional stores unit with open fronted wash down area, erection of two storey office building and laying of 23no. offstreet parking spaces.
- 1.2 The proposal also includes the removal of the existing portacabin two storey office block along the south-eastern boundary.
- 1.3 The application is being considered by Planning Committee as the application comprises a 'major scheme' as set out within the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, as the site area is over 1 hectare.
- 1.4 The application site is an existing commercial business providing temporary motorway barriers. The majority of the site is used as open storage and is split into two parts; a southern site open storage area, and the northern site open storage area. An existing 2.4m (h) steel pallisade fence is to be dismantled which currently separates the two areas.

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

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
93/1209	RAISING LEVEL OF EXISTING LANDFILL SITE TO A MAXIMUM OF 32 METRES (INCLUDING LANDSCAPING RESTORATION WORKS)	Granted with Conditions
02/1180	USE OF LAND AS TEMPORARY STORAGE FOR WASTE REFRIGERATION UNITS	Granted with Conditions
03/1382	VARIATION OF CONDITION 04 (LIMITED PERIOD) OF PLANNING PERMISSION 02/1180 FOR TEMPORARY STORAGE FACILITY FOR WASTE REFRIGERATION UNITS FOR A FURTHER 3 YEAR PERIOD	Granted with Conditions
06/1773	VARIATION OF CONDITION 01 (LIMITED PERIOD) OF PLANNING PERMISSION 03/1382 FOR	Granted with Conditions

	TEMPORARY STORAGE FACILITY FOR WASTE REFRIGERATION UNITS FOR A FURTHER TWO YEAR PER	
08/0411	CONSTRUCTION OF AN EQUIPMENT SERVICE FACILITY WITH ASSOCIATED OFFICE BUILDINGS	Refused
08/0984	CONSTRUCTION OF AN EQUIPMENT SERVICE FACILITY WITH ASSOCIATED OFFICE BUILDINGS (RESUBMISSION FOLLOWING REFUSAL OF 08/0411)	Granted with Conditions
09/0533	PARTIAL DISCHARGE OF CONDITION 03 (MATERIALS) OF PLANNING PERMISSION 08/0984 FOR THE CONSTRUCTION OF AN EQUIPMENT SERVICE FACILITY WITH ASSOCIATED OFFICE BUILDINGS (RESUBMISSION FOLLOWING REFUSAL OF PLANNING APPLICATION 08/0411)	Approved
09/0534	PARTIAL DISCHARGE OF CONDITION 09 (OTTER MITIGATION MEASURES) OF PLANNING PERMISSION 08/0984 FOR CONSTRUCTION OF AN EQUIPMENT SERVICE FACILITY WITH ASSOCIATED OFFICE BUILDINGS (RESUBMISSION FOLLOWING REFUSAL OF PLANNING APPLICATION 08/0411)	Approved
09/0883	PARTIAL DISCHARGE OF CONDITION 8 (SURFACE WATER REGULATION SYSTEM) OF PLANNING PERMISSION 08/0984 FOR THE ERECTION OF AN EQUIPMENT SERVICE FACILITY	Approved
11/0696	SCREENING OPINION REQUEST FOR ASH RECYCLING FACILITY	Environmental Statement not required.
18/0771	SCOPING OPINION FOR PROPOSED PORT RELOCATION PROPOSAL. DEVELOPMENT PRIMARILY CONSISTING OF: RELOCATION OF VARIOUS BUILDINGS IN NORTHERN END OF DOCK TO LAND AT SOUTH DOCK, NEW ABP CENTRAL WORKSHOPS, STORES AND MEDICAL CENTRE, NEW CARGO STORAGE AREAS, RECONFIGURATION OF EXISTING PREMISES IN DOCKS, NEW QUAY WORKS CONSISTING OF 303M OF NEW QUAY ON NORTH SIDE OF SOUTH DOCK, DREDGING AND DISPOSAL OF MATERIAL, REPURPOSING OF 250M OF EXISTING QUAY IN SOUTH SIDE OF SOUTH DOCK, CONSTRUCTION OF NEW SWING BRIDGE, PROVISION OF UTILITY	EIA Development

### 3. POLICY CONTEXT

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

- Policy SP1 Sustainability
- Policy SP2 Health
- Policy SP3 Flood Risk
- Policy SP4 Water Resources
- Policy SP17 Employment Land
- Policy GP2 General Amenity
- Policy GP4 Highways and Accessibility
- Policy GP5 Natural Environment
- Policy GP6 Quality of Design
- Policy GP7 Environmental Protection and Public Health
- Policy EM2 Newport Docks
- Policy T2 Heavy Commercial Vehicle Movements
- Policy T4 Parking

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

- Parking Standards
- Archaeology and Archaeologically Sensitive Areas
- Wildlife and Development
- Trees, Woodland Hedgerows and Development Sites.

#### 3.3 **Welsh National Marine Plan:**

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

- Achieving a sustainable marine economy –
  - Contribute to a thriving Welsh economy by encouraging economically productive activities and profitable and sustainable businesses that create long term employment at all skill levels.
  - Support the opportunity to sustainably develop marine renewable energy resources with the right development in the right place, helping to achieve the UK's energy security and carbon reduction objectives, whilst fully considering other's interests, and ecosystem resilience.
  - Provide space to support existing and future economic activity through managing multiple uses, encouraging the coexistence of compatible activities, the mitigation of conflicts between users and, where possible, by reducing the displacement of existing activities.
  - Recognise the significant value of coastal tourism and recreation to the Welsh economy and well-being and ensure such activity and potential for future growth are appropriately safeguarded.
- Ensuring a strong, healthy and just society
  - Contribute to supporting the development of vibrant, more equitable, culturally and linguistically distinct, cohesive and resilient coastal communities.
  - Support enjoyment and stewardship of our coasts and seas and their resources by encouraging equitable and safe access to a resilient marine environment, whilst protecting and promoting valuable landscapes, seascapes and historic assets.
  - Improve understanding and enable action supporting climate change adaptation and mitigation.
- Living within environmental limits

- Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
- Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
- Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
- Promoting Good Governance
  - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led, precautionary, risk-based and adaptive approach to managing Welsh seas.
- Using Sound Science Responsibly
  - Develop a shared, accessible marine evidence base to support use of sound evidence and provide a mechanism for the unique characteristics and opportunities of the Welsh Marine Area to be better understood.

#### **4. CONSULTATIONS**

4.1 REGIONAL AMBULANCE OFFICER: No response.

4.2 GWENT POLICE: No response.

4.3 SENIOR FIRE PREVENTION OFFICER:

4.3.1 Changes to our climate and weather patterns will have a significant impact on the well-being of both current and future generations. In line with the Well-being of Future Generations (Wales) Act 2015 and the Future Wales – the national plan 2040 framework document, the following areas should be considered early in the planning process:

4.3.2 The climate emergency is likely to increase the risk of flooding as a result of sea level rises, more frequent severe weather systems and more intense rainfall. Planning authorities should adopt a precautionary approach of positive avoidance of building developments in areas of flooding from the sea or from rivers. Surface water flooding will affect the choice of location and the layout and design of schemes and these factors should be considered at an early stage in formulating any development proposals.

4.3.3 Wildfires are a significant potential threat particularly in populated areas adjoining green spaces such as mountains or forestry. Therefore, it is critical that new developments are designed with this in mind. Where a new development is proposed in an area which is at risk of a wildfire, consideration should be given on how to mitigate the spread of wildfires. For example, sustainable land management could assist with prevention measures.

4.3.4 A comprehensive fire strategy should be provided which indicates the package of fire safety measures that are proposed to satisfy Building Regulations and should address any variations to current guidelines.

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

4.4 GLAMORGEN GWENT ARCHAEOLOGICAL TRUST: Information in the Historic Environment Record shows that the area is on the former course of the River Ebbw, in an area originally part of the Mendalgief Level, located between the Wentlooge Level and the Caldicot Level, it is not part of the Gwent Levels Registered Landscape of Outstanding Historic Importance, nor is it within the Gwent Levels Archaeologically Sensitive Area.

4.4.1 The HER shows that the area was considerably changed for the construction and extension of the South Dock and sealock, which led to the infilling of the Ebbw and the change in its course. Previous archaeological work undertaken on an adjacent site recorded the depth of the early 20th century land surface, and that the infill to make the ground was from the excavation for the dock and lock. The depth of this is such that there is likely to be made ground of a depth of at least 2.5m bgl, and deepening to c4m bgl.

4.4.2 It is therefore our opinion that it is unlikely that archaeological deposits will be encountered during the work, and that it would not be possible to acquire any information from the piling where it would reach beneath these depths, and we do not recommend any archaeological mitigation.

#### 4.5 NATURAL RESOURCES WALES:

##### **Foul drainage**

###### **Initial comments**

We note that the proposed method of foul drainage is stated on the application form as a new cesspit/cesspool to be installed below ground and will cater for a total 16 of people with a 45-day storage capacity. We also note that a second cesspool is shown on the Indicative Primary Drainage Layout Drg No CA12034-006 Rev B. Within the "Approach to Groundwater Protection" guidance (issued by the Environment Agency in 2018 and adopted by Natural Resources Wales), Position Statement G6 states 'Natural Resources Wales does not encourage the use of cesspools or cesspits, other than in exceptional circumstances. A cesspool or cesspit is a sealed unit that is used for the storage of untreated sewage. There must be no discharge to the environment. Poorly managed cesspools and cesspits present a considerable risk of causing pollution, which can be difficult to monitor and correct.' Given the highly sensitive nature of the site, we have significant concerns regarding the use of a cesspool /cesspit.

In addition, new developments proposing to use non mains drainage should follow the hierarchy within the Welsh Government Circular 008/2018 (July 2018). The Circular stresses the first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. The use of cesspools/cesspits is discouraged. We refer you to paragraphs 2.3-2.8 in the Circular, which set out the approach to be followed. We therefore require the applicant to demonstrate how they have followed the hierarchy within the Welsh Government Circular 008/2018 (July 2018). Otherwise, we would object to the application. In exceptional circumstances, where a cesspool/cesspit can be justified, the Circular advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6. It is essential that any cesspit is installed correctly. Incorrectly maintained cesspools can cause pollution by contamination the ground, groundwater and, sometimes surface water. Any damage to the fabric of the cesspool, such as cracks or holes, is difficult to detect but needs to be rectified immediately in order to prevent pollution. The cesspit should meet the requirement of British Standard BS 6297. It should be fitted with a level warning device to indicate when the tank needs emptying.

###### **Comments following submission of further information**

We note the submitted plan 'Plan A-CA12034-07' which demonstrates the location, route and discharge points for the proposed Private Treatment Plan (PTP). We are satisfied with the submitted information and have no further comments to make regarding foul drainage.

The Applicant should also be made aware that to operate a private sewerage system, they will need to apply for an environmental permit or register an exemption with us. Septic tanks and small sewage treatment works may be registered as exempt from the requirement to obtain an environmental permit if certain criteria are met. Please note, should a permit be required, further information may be required as part of that application and the Applicant is therefore advised to hold pre-application discussions with our Permitting Team on 0300 065 3000, at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the permit requirements. It is important to note that a grant of planning permission does not guarantee that a permit will be granted, should a proposal be deemed to be unacceptable (either because of environmental risk or because upon further investigation, a connection to mains sewer was feasible). The Applicant should ensure that they have all the required permissions, consents, permits and any other approvals in place prior to commencement of works on the site. More information, including a step by step guide to registering and the relevant application forms are available on our website. Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in

accordance with British Standard 6297 and Approved Document H of the Building Regulations. We also refer the Applicant to Guidance for Pollution Prevention 4 on the NetRegs website, which provides further information.

## **Surface Water Drainage**

### **Initial comments**

We request further information in respect of the discharge of the wash water from washdown of steel barriers. We note from the Indicative Primary Drainage Layout Drg No CA12034-006 Rev B that the wash water will pass through a silt trap, an interceptor, and then into existing SUDS ('NSSD – national standards for sustainable drainage'). The use of detergents in the washdown process, would prevent the interceptor from functioning effectively. Therefore, we request further information on the proposed wash down process and the SUDS.

### **Comments following the submission of further information**

We note the amended Technical Report to Inform Habitats Regulation Assessment (Technical Report to Inform Habitats Regulation Assessment prepared by Wardell Armstrong Revised Edition dated October 2022) which confirms that no detergents will be used during the washdown process which would interfere with the interceptor (para 5.3.18- 19). We also note that the Technical Report confirms that surface water drainage will be dealt with via a SUDS scheme. We are satisfied with the submitted further comments to make regarding foul drainage.

### **Habitats Regulations Assessment**

The application is located within 400m of the Severn Estuary Special Area of Conservation (SAC)/ Special Protection Area (SPA)/ Ramsar site and approximately 850m from the River Usk SAC. In addition, the Ebbw River which is approximately 30m west of the site, is a supporting habitat for features of the River Usk SAC (Atlantic Salmon and otter). Having considered the information submitted, we consider an adverse effect from the proposed development on the integrity of the Severn Estuary SAC, SPA and Ramsar and River Usk SAC cannot be ruled out.

Therefore, prior to determination of the application, your authority, as competent authority, will need to carry out an assessment of the proposal as required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, in order to ensure no adverse effects on the sites' integrity.

We have considered the Ecological Impact Assessment (EclA) (Wardell Armstrong January 2022) which contains Technical Report to inform Habitats Regulations Assessment – (Wardell Armstrong January 2022) at Appendix 1. We agree that the European sites scoped in are appropriate. These are: Severn Estuary Special Protection Area (SPA) and Ramsar; Severn Estuary Special Area of Conservation (SAC); and River Usk SAC.

Your authority should consider the table 1 in Appendix 1 of the Ecological Impact Assessment which provides a summary of screening for likely significant effects. Although we generally agree with the conclusion that impacts of dust, noise and vibration are not likely to have significant effects on the qualifying features of the above sites, (either alone or in combination with other plans and projects), we question whether measures to avoid or reduce lighting impacts are mitigation. If so, this should be considered further through Stage 2 – Appropriate Assessment.

We note the mitigation measures outlined in Appendix 1 of EclA to reduce impact on water quality during the construction phase. However due to the concerns with regards to the proposal for a cesspit, at this stage we consider a likely significant affect from water quality during the operational stage on the ecological integrity of the River Usk SAC cannot be rule out. Depending on the final proposal for foul drainage, your authority may wish to consider this further through Stage 2 – Appropriate Assessment. Section 7.1.1 of the Technical Report to inform Habitats Regulations concludes that the impacts identified can be mitigated for through by the implementation of construction industry best practice measures and through design and operational procedures. It goes on to state that the details of these measures would be provided within a Construction Environmental Management Plan, which would

require approval by the Local Planning Authority prior to commencement of the works. It is for your Authority to determine if the information included within the Technical Report to inform Habitats Regulations provides the information necessary to address the requirements of Regulation 63.

Notwithstanding the above we request the following conditions:

### **Construction Environmental Management Plan**

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

- *Construction methods: details of materials, how waste generated will be managed;*
- *General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.*
- *Soil Management: details of topsoil strip, storage and amelioration for re-use.*
- *Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.*
- *Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use*
- *Traffic Management: details of site deliveries, plant on site, wheel wash facilities*
- *Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.*
- *Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.*
- *Lighting plan to reduce disturbance impacts to commuting bats and otter during construction.*
- *Details of good practice working methods in relation to otter e.g., mammal ramps or covering excavations overnight etc. The CEMP shall be implemented as approved during the site preparation and construction phases of the development.*

*Reason: The proposed development is located in a sensitive location in respect of potential to adversely affect the water environment as the River Ebbw which flows into the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest SSSI and Ramsar. Appropriate pollution prevention measures should be employed to protect water quality during construction.*

### **Lighting Plan**

*Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan should include:*

- *Details of the siting and type of external lighting to be used*
- *Drawings setting out light spillage in key sensitive areas*
- *Details of lighting to be used both during construction and or operation.*

*The lighting shall be installed and retained as approved during construction and operation.*

*Reason: A lighting plan should be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species and protected sites.*

### **Land potentially affected by Contamination**

The site lies adjacent to the River Ebbw and therefore there is the potential for a hydraulic connection between groundwater and surface water. Based on the site's historical land uses and environmental setting, we consider the site to be of high environmental setting and request the following conditions and informative:

### **Risk assessment**

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

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

### **Contamination verification report**

*Prior to occupation of the new development, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details. Reason: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.*

### **Unsuspected contamination**

*If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved. Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.*

### **Informative – surface water drainage**

We advise an informative is included on any decision notice informing the applicant to obtain the approval of the SuDS Approving Body (SAB) for their management of surface water. We advise that infiltration of surface water drainage into the ground is only permitted for areas of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. This should be demonstrated and informed by applicant's existing ground investigations and remediation strategy. If this is not properly controlled there is an unacceptable risk of water pollution.

### **Flood Risk**

The planning application proposes less vulnerable development (additional stores unit and open fronted wash down area together with portacabin offices). The application site is within Zone B of the Development Advice Map (DAM) contained in TAN15 (2004). However, at this



location the Flood Map for Planning (FMfP) is the best available information on flood risk. The FMfP identifies the application site to be at risk of flooding and partially within Flood Zone 2 Sea. The proposed buildings appear to be outside the area at flood risk although all access/egress is affected by flooding. Given the limited extent and the location of flood risk shown to be affecting the application site (and in the absence of a flood consequences assessment) we consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks to these areas.

Access/egress to the site lies wholly within FMfP Zone 2 sea. Your Authority should be satisfied that the proposal is acceptable in terms of flood risk, in particular with regard to access and egress considerations and for emergency planning purposes. Matters regarding safe access and egress and emergency evacuation are for the planning authority to consider. As such, to aid your decision making, you may wish to require submission of an FCA from the applicant to inform an evacuation plan, provision of flood resistance and/or resilience measures. If you have concerns regarding these matters, you should consider consulting other professional advisors on the acceptability of the developer's proposals.

Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users. In areas at risk of flooding, we recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor and locating electrical sockets/components at a higher level above possible flood levels.

4.6 HEALTH AND SAFETY EXECUTIVE: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

4.7 WALES AND WEST UTILITIES: According to our mains records, Wales & West Utilities has no apparatus in the area of your enquiry. However, gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, Avoiding Danger from underground services must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus. Safe working procedures should be defined and practiced.

4.8 WESTERN POWER DISTRIBUTION: No apparatus on the site.

4.9 NATIONAL GRID: the proposal would not affect any National Grid Electricity Transmission apparatus.

4.10 DWR CYMRU WELSH WATER (DCWW): Been consulted on this application late. Any comments received will be raised in the Late Representations Report.

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF ENVIRONMENT & PUBLIC PROTECTION (ECOLOGY OFFICER): This site is already in use and consists of hardstanding, so there are no on-site ecological features to be concerned about. However, the site is in close proximity to the River Usk SAC and the Severn Estuary SAC/SPA/Ramsar site, so I welcome that a draft Habitats Regulations Assessment has been undertaken. This draft HRA is set out in Appendix 1 of the Ecological Impact Assessment (EclA) carried out by Wardell Armstrong and submitted in support of this application. I agree with the methodology and conclusions of this draft HRA and advise that we should adopt it as our own HRA for this project. The conclusions of the Appropriate Assessment section of the HRA are that the proposed project would not have an adverse effect upon the integrity of the sites listed above, subject to mitigation measures being

implemented. Those mitigation measures are set out in sections 6.2.5 to 6.2.9, inclusive, of Appendix 1 of the EclA document. My advice is that we use a planning condition to ensure that these measures are implemented, and thus we can demonstrate that we have avoided adverse effects upon the integrity of these sites as part of this application.

- 5.2 HEAD OF CITY SERVICES (HIGHWAYS): No objection. Sufficient information has now been provided that allows for an assessment in highway terms, of the proposed development. The application site is to remain dedicated to the assembly of prefabricated steel barriers and structures with an increase of the area for storage. There is an expectancy that a further four employees will be engaged.

Overall, the proposed development will not be expected to have a detrimental impact on the local highways.

- 5.3 HEAD OF ENVIRONMENT & PUBLIC PROTECTION (LANDSCAPE OFFICER): Further information and layout revision required.
- 5.4 HEAD OF CITY SERVICES (DRAINAGE MANAGER): No response.
- 5.5 HEAD OF ENVIRONMENT & PUBLIC PROTECTION (PUBLIC PROTECTION): No objection.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties with a common boundary with the application site were consulted (13 properties), a site notice displayed and a press notice published in South Wales Argus. No comments received.
- 6.2 COUNCILLORS: No comments received.

## **7. ASSESSMENT**

### **7.1 Principle of development**

The proposal comprises commercial development within the settlement boundary as designated by the maps contained within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and within the existing commercial area of Newport Docks. Therefore, the principle of development is acceptable in accordance with Policy SP1. The proposed development is to be carried out in association with the existing use lawful use of the site. Therefore, the proposed development is considered to be in accordance with Policy EM2.

### **7.2 Flood risk**

The application site is located within Flood Zone B; it is noted that under the Flood Map for Planning, which represents the most up to date data with regard to flood risk, sets out that an area adjacent the site boundary with Tom Lewis Way has an area within Flood Zone 2.

- 7.3 The proposed development would be considered as less vulnerable development due to the commercial use. The proposed buildings appear to be outside of the area susceptible to flood risk, however the access and egress lie solely within Flood Zone 2, as does most of Tom Lewis Way and West Way Road.

- 7.4 Natural Resources Wales have raised no objection to the scheme subject to the applicant being made aware of the potential flood risk.

### **7.5 Drainage**

The proposed wash down areas would result in the use of water; the consequential water run-off is to be managed on site via the sustainable drainage systems. The proposed development is liable for SAB approval due to the size of the developable area proposed. Therefore, the surface drainage measures required to serve the site are controlled via separate legislation under the Flood and Water Management Act 2010. Notwithstanding this, the proposal includes a wash down area and non-mains drainage. The existing site is predominantly hard surfaced and already contains a washdown area and interceptor and indicative details have been provided of the proposed layout. However, a condition is recommended for further details of these to prevent pollution of the water environment and

to protect the ecological interests of the area in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9, GP3 and GP5 of the Adopted LDP and the Wales Marine Plan.

#### 7.6 **Character and design**

The proposed development would serve the existing commercial use on the site. The neighbouring uses are also commercial, typical of the docks area with an area allocated for waste disposal to the west. Due to the existing character and scale of neighbouring buildings, the proposal is considered to be appropriate in its form, scale and use and would not detract from the visual amenity of the area. The proposal is considered to be in accordance with Policy GP2.

7.7 The design of the buildings proposed are industrial in appearance integrating with the character as existing. The scale is considered to be appropriate taking into account the heavy industrial context of the docks site. As set out above, a landscaping scheme is secured by condition to aid with softening the appearance. The practical and functional appearance of the development is considered to be in accordance with Policy GP6.

#### 7.8 **Highway safety**

The proposed development continues to use the existing access from Tom Lewis Way with improvements made regarding visibility for access and egress and formalisation of the parking and turning areas within the site. No objection has been received from the Highways Officer, who find the submitted details acceptable. It is conditioned that the development is carried out in accordance with the details submitted. Subject to this condition, the proposal is in accordance with Policies GP4 and T4. The proposed development is likely to increase the number of heavy vehicle movements associated with the ongoing business. The proposal also seeks to formalise staff car parking on site. The site is well served by the existing highway serving the docks area.

#### 7.9 **Landscaping**

The Landscape Officer has set out in their response that the proposal does not contain a landscaping plan and that the layout should be altered in order to integrate landscaping into the scheme. The existing character of the site is of hardsurfacing and steel portacabins and washdown areas. The purpose of the proposed development is to expand the provision of onsite facilities to serve the existing commercial use. To seek a landscape scheme to the scale requested by the Landscape Officer is considered to have a detrimental impact on the area of available which contributes toward productivity. Therefore, it would be contrary to the commercial aims of the scheme.

7.10 In light of the competing agendas between productivity and landscaping, a balanced approach should be taken. The site location plan shows the extent of the land within the control of the applicant. It is considered that a key aim of the landscaping scheme requested from the Landscaping Officer sought to soften the views from Tom Lewis Lane into the site. The submitted Proposed Layout Plan (Drawing ref: 216440/PD01) shows that the access arrangement proposed would release an area of land which is currently used for the siting of existing portacabins. Furthermore, an existing area of land outside of the fenced area to the eastern boundary forming a triangle shaped piece of land shows an opportunity to secure enhancements to landscaping without impacting on visibility splays required at the accesses to the site. Therefore, it is considered that a landscaping plan can be secured by condition in order to provide landscape enhancements but which are considerate to the operational requirements of the existing commercial use. The proposal is considered to be in accordance with Policy GP5.

#### 7.11 **Ecology and appropriate assessment**

The application site consists of hardstanding, thereby no ecological features are present on the site. To the west of the application site lies a Special Landscape Area (SPA), Site of Importance for Nature Conservation (SINC), Site of Special Scientific Interest (SSSI), and north of the Severn Estuary Special Area of Conservation (SAC). The application is supported by information to support a Habitats Regulation Assessment. An appropriate assessment has been prepared and forwarded to Natural Resources Wales for comment. Delegated powers are sought from Planning Committee for the Head of Service to approve

the application in the event that Natural Resources Wales confirms that it is satisfied with the outcomes of the appropriate assessment.

## 8. OTHER CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

## 9. CONCLUSION

### 9.1 The proposal is considered to be in accordance with the relevant policies contained within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

## 10. RECOMMENDATION

### **SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES CONFIRMS THAT THEY ARE SATISFIED WITH THE OUTCOMES OF THE APPROPRIATE ASSESSMENT**

01 The development shall be implemented in accordance with the following plans and documents Indicative Raising Main Details (Drawing ref: CA12034-007 Rev E), Swept Path Analysis – HGV Access 16.5m Articulated Vehicle (Drawing ref: 216440/PD01/AT01), Swept Path Analysis – HGV Access 12m Rigid Vehicle (Drawing ref: 216440/PD01/AT02), Swept Path Analysis – Car Park Access Large Car (SDV) (Drawing ref: 216440/PD01/AT03), Proposed Layout (Drawing ref: 216440/PD01), Indicative Primary Drainage Layout (Drawing ref: CA12034-006 Rev E), Proposed Site General Arrangements and Buildings Group Elevations (Drawing ref: CA12034-003 Rev C), Office & Amenities Building Layout and Elevations (Drawing ref: CA12034-004 Rev C), Stores Building & Wash-down Canopy Layout and Elevations (Drawing ref: CA12034-005 Rev B), Site Location and Planning Application Boundary (Drawing ref: CA12034-001 Rev A), Existing Site Layout and Elevations (Drawing ref: CA12034-002 Rev A), Design and Access Statement (January 2022).

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

02 The development hereby approved shall be carried out in accordance with Section 6 Stage 2 – Appropriate Assessment (AA), Avoidance and Mitigation Measures as set out within sections 6.2.4 – 6.2.14 (inclusive) of the report Technical Report to Inform Habitats Regulation Assessment (October 2022).

REASON: To ensure there are no significant adverse effects on areas of nature conservation in accordance with Policy GP5 of Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

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

Reason: To 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.

04 Prior to the implementation of the landscaping scheme, a soil resource plan shall be submitted to confirm whether topsoil and subsoil resources will be site won or imported. Confirmation should be provided to ensure any topsoil or subsoil (site won or imported) will meet the specifications BS8601:2013 and BS3882:2015.

REASON: To ensure successful establishment of planting in accordance with Policy GP5 of the Newport Council Local Development Plan 2011 – 2026 (Adopted January 2015).

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

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration

from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.

- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.
- Lighting plan to reduce disturbance impacts to commuting bats and otter during construction.
- Details of good practice working methods in relation to otter e.g., mammal ramps or covering excavations overnight etc. The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: The proposed development is located in a sensitive location in respect of potential to adversely affect the water environment as the River Ebbw which flows into the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest SSSI and Ramsar. Appropriate pollution prevention measures should be employed to protect water quality during construction.

06 Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan should include:

- Details of the siting and type of external lighting to be used
- Drawings setting out light spillage in key sensitive areas
- Details of lighting to be used both during construction and or operation.

The lighting shall be installed and retained as approved during construction and operation.

Reason: A lighting plan should be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species and protected sites.

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

1. A preliminary risk assessment which has identified: · all previous uses · potential contaminants associated with those uses · a conceptual model of the site indicating sources, pathways and receptors · potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

Reason: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

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

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

09 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved. Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

10 Should a pile foundation be required, prior to the commencement of any piling works, a piling method statement shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall detail the type piling and the timing, duration and frequency of that piling method. The development shall take place in accordance with the approved method statement.

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

11 Unless otherwise agreed by condition 10, no piling shall be undertaken during the period from 1 March to 30 June inclusive.

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, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

12 Prior to the commencement of development details of foul and surface water drainage shall be submitted and approved in writing by the Local Planning Authority. The drainage shall be provided in accordance with the approved details prior to the beneficial use of the development.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9, GP3 and GP5 of the Adopted LDP and the Wales Marine Plan.

13 Prior to first occupation of the development hereby approved, the parking and turning layout as shown on the approved drawing Proposed Layout (Drawing ref: 216440/PD01) shall be laid out and retained for the duration of the use.

REASON: To ensure the site is served by adequate onsite parking and turning facilities in accordance with Policies GP4 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 SP1, SP3, SP4, SP8, SP9, GP2, GP4, GP5, GP6, GP7, EM2, T2, and T4 were relevant to the determination of this application.

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

02 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.

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

04 Prior to construction of the development hereby approved, an evacuation plan and details of flood resistance measures and/or resilience measures shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

REASON: To ensure flood risk is adequately managed on the site in accordance with Policy SP3 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

05 NRW advise an informative is included on any decision notice informing the applicant to obtain the approval of the SuDS Approving Body (SAB) for their management of surface water. We advise that infiltration of surface water drainage into the ground is only permitted for areas of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. This should be demonstrated and informed by applicant's existing ground investigations and remediation strategy. If this is not properly controlled there is an unacceptable risk of water pollution.



## Appendix A

### APPROPRIATE ASSESSMENT – APPLICATION 22/0067

#### The Application Site

The application site is 5.6ha and is located on Tom Lewis Way located to the east of the Ebbw River. The site is an existing commercial business providing temporary motorway barriers around the country. The majority of the site is used as open storage and is split into two parts; southern site open storage area, and the northern site open storage area. An existing 2.4m (h) steel palisade fence is to be dismantled which currently separates the two areas. A small strip of landscaping is present within the boundaries of the application site facing onto Tom Lewis Way.

The site is located approximately 41m to the east of the River Ebbw and approximately 900m southeast to the River Usk. Existing commercial units and the Alexandra Dock intervene between the application site and the River Usk. In accordance with The Conservation of Habitats and Species Regulations 2017 (as amended) the Local Planning Authority, prior to determining the application, need to carry out a Habitats Regulations Assessment to identify any likely significant effects on the River Usk SAC, either alone or in combination with other projects or plans. If the proposed development has potential to result in Likely Significant Effects (LSE) on the designation (screening) then the Authority is required to carry out an Appropriate Assessment. The Appropriate Assessment assesses the likely significant effects of the development and identifies way to avoid any adverse effect to the integrity of the River Usk SAC.

Information has been submitted regarding drainage and an Ecological Impact Assessment. These assessments have informed this Appropriate Assessment.

The River Usk is designated as a Special Landscape Area, a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The Gwent Levels SSSI is located to the west of the application site. The Severn Estuary RAMSAR, SAC and SPA is approximately 368m south of the application site.

#### Description of Development

Full planning permission is sought for the erection of for the erection of an additional stores unit with open fronted wash down area, erection of two storey office building and laying of 23no. offstreet parking spaces.

#### Screening

The Ecological Impact Assessment identifies the study area search radius as 5km for Internationally Designated sites and European Protected Species, 2km for Nationally Designated Sites, Ancient Woodland and Priority Habitat, and 1km for Protected and Priority Species. Therefore, the River Usk SAC and Severn Estuary SAC, SPA and Ramsar are included in the screening process.

#### River Usk

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

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

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

The Ecological Impact Assessment identifies that the proposed development has the potential to negatively impact the SAC, primarily through acting as a potential source of pollution and disturbance (noise and vibration). These impacts would be during the construction and operational phases.

It is considered that the following have the potential to impact the integrity of the SAC and are taken forward to Appropriate Assessment:

- Noise and vibration during the construction phase; and
- Pollution/surface water run-off during construction and operation; and
- Lighting during the construction and operation; and
- Habitat loss during the construction and operation; and
- Lighting during the construction and operation; and
- Dust during the construction and operation; and
- Water quality

### **Appropriate Assessment**

#### **Noise and vibration during the construction phase**

##### *Water Birds*

It is not proposed to undertake any direct construction works within the River Usk and as such no noise would be generated as a result of piling directly within the marine environment. However, construction works are required for building the foundations of the buildings proposed. It is noted that noise during the construction period has a greater effect on water birds if construction is carried out during November till February.

The Severn Estuary SPA is located approximately 360m to the south, taking into account the intervening buildings and timings of construction can be conditioned to limit impacts even further, it is considered there will be no significant adverse effect on water birds.

##### *Fish & Otter*

As above, there are no direct construction works within the River Usk and as such no noise would be generated as a result of piling directly within the marine environment. It is considered that as works are limited to the southern and eastern area of the site, and not adjacent the watercourse, there would be no significant adverse impact on these species from noise or vibration during construction of the development. However, as the specific details with regard to the foundations to be used have not been provided at this stage, details are secured by condition.

In the event that piling activity is required, this would have the potential to disturb the varieties of shad and lamprey found in the River Usk. Restrictions to the timing of piling to avoid the March to June migratory period would avoid adverse impacts on migratory fish. There are methods of piling that generate much lower levels of vibration and are unlikely to disturb migratory fish. It is possible that these piling methods could be used during the fish migratory period. The restriction to the timing of piling, along with a method statement detailing the type of piling are considered to provide suitable mitigation to avoid adverse impacts on migratory fish. These controls can be secured through conditions (condition 2 and 3).

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

A key conservation objective measure identified for the River Usk is risk from development pressures in Newport leading to increased disturbance and pollution risk during either construction or operation. Specifically, concerns may relate to how surface water will 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 and operation phases of the proposals.

The submitted drainage strategy make the following proposals:

- Foul water from development to be discharged and treated via proprietary sewage treatment plant. The treated water is then to be discharged into the proprietary package pumping chamber and the pumped to a precast Penstock chamber along Tom Lewis Way Road, then flow by gravity into Northside of South Dock.

- Surface water runoff from open storage areas remain unchanged from existing.
- Sprayed water from Wash-down are to be collected via linear drainage and conveyed to silt and petrol/oil interceptor prior to discharging into existing surface water. The collected water would be discharged into Northside South Dock.
- Roof water from buildings collected via rainwater goods and allowed to discharge onto paved areas prior to entering the existing surface water drainage system within the site. All collected runoff to be discharged into Northside South Dock interceptor.

The proposal would require separate consent for SAB Approval regarding sustainable drainage systems due to the developable area. Details regarding the foul and surface water drainage have been secured to ensure adequate drainage.

It is also considered that there is potential for contaminated surface water runoff to enter the river during the construction phase. Condition 1 would require the submission of a Construction Environmental Management Plan, which would require details of surface water drainage during construction.

### Direct Disturbance / Habitat Loss

#### *Otter*

The desktop study reveals seven records of otters being within 2km of the application site, with the closest being 1.2km south west of the site. To the west of the application lies an area of scrub habitat and may provide suitable habitat for resting and foraging otters. The proposed development is located within the existing boundaries of the site and would not be sited on those areas of scrub habitat.

It is considered that given the existing secure site boundaries and lack of landscape features within the site and that the development is not located on the scrub habitat area, it is unlikely that otters would ever enter the application site.

### Disturbance (Lighting)

#### *Wintering Birds*

During construction, there is potential for lighting to temporarily disturb wintering birds if the construction works are undertaken in the hours of darkness between November and February and if lighting is not directed away from the western boundary.

The CEMP, to be secured by condition, will contain the details of working hours during construction and the direction of any lighting in order to maintain a dark corridor to the west of the site. Subject to condition, there would be no significant effect on wintering bird from lighting.

### Disturbance (Dust)

#### *Habitats & Flora*

The information presented in the Ecological Impact Assessment set out the small scale activities on site largely relating to the installation of the drainage system would generate elevated levels of dust when compared to existing.

It is acknowledged that increased levels of dust has the potential to reduce plants ability to photosynthesise. However, due to the scale of the works proposed, it is considered there would be no significant adverse effect on the features of the habitats and supporting fauna within the International and National designations from dust emissions.

### Water Quality

#### *Habitats and Supporting Species*

There is potential for materials used during the construction process to enter the River Ebbw, River Usk and consequently flow into the Severn estuary. Materials could include, paint, cement, oils and solvents accidentally released during the construction period. The introduction of

materials such as this would represent a short term significant adverse effect on the protected areas.

### **In-combination effects**

The Habitats Regulations require assessment of the in-combination effects. The following extant projects are in proximity to the River Usk and within 2km of the application site, and are assessed for their potential for in-combination effects:

- Land South Of Coronation Park Known As Flood Defence Scheme, Stephenson Street, Newport (planning ref: 21/0718) – a planning application for construction of flood defence scheme.

An Appropriate Assessment was undertaken on this project. It concludes that with the attachment of appropriate conditions the proposal would not adversely impact the River Usk SAC either along or in-combination. As the impacts would be avoided no further analysis in-combination is needed.

- 15 Tom Lewis Way, Alexandra Docks, Newport (planning ref: 20/0237) – a planning application for the construction of a plasterboard manufacturing facility.

An Appropriate Assessment was undertaken on this project. Its concludes that with the attachment of appropriate conditions the proposal would not adversely impact the Severn Estuary SPA, SAC, Ramsar and the River Usk SAC. As the impacts would be avoided no further analysis in-combination is needed.

- 19 East Way Road, Alexandra Docks, Newport (planning ref: 17/1039) – a hazardous substances application for the storage and processing of up to 4,990no. tonnes of ammonium nitrate.

This application did not include a HRA assessment and so is not considered further.

### **Conclusion**

It is considered that the inclusion and full implementation of the identified conditions, the proposed development would not adversely affect the integrity of the River Usk SAC.

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

### **Conditions**

01 No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following as a minimum:

- a) Construction methods: details of materials, how waste generated will be managed;
- b) General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain;
- c) Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities (if required), for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies;
- d) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use;
- e) Traffic Management: details of site deliveries, plant on site, wheel wash facilities;
- f) Pollution Prevention Plan: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan;

- g) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- h) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;
- i) Site map detailing all controlled water receptors, all possible pathways to them and suitable mitigation for those pathways;
- j) Silt run off from the site should be prevented by incorporating the following action: Silt traps, or other appropriate method of silt containment, should be used to prevent silt from the construction works entering surface water drainage and the watercourse.
- k) Details of lighting positions within the site to ensure no lights spill into green corridor to the west of the site.

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

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

02 Should a pile foundation be required, prior to the commencement of any piling works, a piling method statement shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall detail the type piling and the timing, duration and frequency of that piling method. The development shall take place in accordance with the approved method statement.

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

03 Unless otherwise agreed by condition 2, no piling shall be undertaken during the period from 1 March to 30 June inclusive.

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, in accordance with policies SP9 and GP5 of the Adopted LDP and the Wales Marine Plan.

04 Prior to the commencement of development details of foul and surface water drainage shall be submitted and approved in writing by the Local Planning Authority. The drainage shall be provided in accordance with the approved details prior to the beneficial use of the development.

Reason: To prevent pollution of the water environment and to protect the ecological interests of the area and in the interest of safeguarding the features of the River Usk SAC, in accordance with policies SP9, GP3 and GP5 of the Adopted LDP and the Wales Marine Plan.

## APPENDIX B

### CONSERVATION OBJECTIVES OF THE RIVER USK SAC

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

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

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

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

Each conservation objective consists of the following two elements:

1 Vision for the feature

2 Performance indicators

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Levels of water quality parameters that are known to affect the distribution and abundance of SAC features will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC, and

measures taken to maintain pollution below these levels. It is anticipated that these limits will concur with the standards used by the Review of Consents process given in Annex 3 of this document.

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

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

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

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

#### Vision for features 1-5

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

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



FCS component	Supporting information/current knowledge
	Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.
	Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.
<b>There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.</b>	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.

### Performance indicators for features 1-5

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
Sea lamprey <i>Petromyzon marinus</i> :			
<b>Performance indicators for feature condition</b>			
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> .	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered over time. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable.	1 - 5
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites each not less than 5km apart.  Overall catchment mean >0.1m <sup>-2</sup> (Harvey & Cowx 2003) <sup>1</sup>	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.  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.	2 - 5
Brook lamprey <i>Lampetra planeri</i> and River lamprey <i>Lampetra fluviatilis</i> :			
<b>Performance indicators for feature condition</b>			
(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 preceding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition 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 ie all except unit 1.  Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment.	2 - 10

Attribute	Specified Limits	Comments	Relevant Unit[s]
(c) Ammocoete density	No reduction in distribution of ammocoetes Optimal habitat: >10m <sup>-2</sup> Overall catchment mean: >5m <sup>-2</sup>	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. 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
<b>Twaité shad <i>Alosa fallax</i> and Allis shad <i>Alosa alosa</i> :</b>			
<b>Performance indicators for feature condition</b>			
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1 - 5
<b>Performance indicators for factors affecting the feature</b>			
(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
<b>Atlantic salmon <i>Salmo salar</i>:</b>			
<b>Performance indicators for feature condition</b>			
(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-sea-winter component.  As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality.  Assessed using electro fishing data.	6 – 10
<b>Performance indicators for factors affecting the feature</b>			
<b>Water quality</b>			
(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
<b>Hydromorphology</b>			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
<b>Bullhead <i>Cottus gobio</i> :</b>			
<b>Performance indicators for feature condition</b>			

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

#### 4.3 Conservation Objective for Feature 6:

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

##### Vision for feature 6

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

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

##### Performance indicators for feature 6

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
<b>Performance indicators for feature condition</b>			

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

## LATE REPRESENTATIONS

### Foul drainage

- 1.1 DWR CYMRU WELSH WATER: Since the proposal intends on utilising an alternative to mains drainage for foul, the applicant should seek advice from Natural Resources Wales and the Building Regulations Authority, as both are responsible to regulate alternative methods of drainage.
- 1.2 It is unclear on whether a surface water connection is proposed to a private or public surface water sewer, however as of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS).
- 1.3 The following condition is requested:

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

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

### Surface water / contamination issues

- 1.4 The agent has clarified that no detergents are to be used for the wash down process. Warm water jets are to be used only to remove surface material from the metal surfaces. The wash down facility is intended to clean equipment; prefabricated metal barriers for use on highways and motorways. There would be a linear wash down pit to collect run off and sprayed water at the front entrance to the area. These run offs will then be conveyed to a silt trap and then to petrol / oil interceptors, prior to discharging to existing surface water infrastructure.
- 1.5 Condition 3 requires a scheme of landscaping and tree planting. The agent has stated that the condition requiring landscaping is not considered to be appropriate within the operational Docks given it's heavily industrialised location.

## 2. OFFICER RESPONSE TO LATE REPRESENTATIONS

### Foul drainage

- 2.1 The comments of Welsh Water are noted. Condition 12 which requires drainage details has already been imposed on the officer report.
- 2.2 Circular 008/2018 'Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants' dated July 2018 outlines a hierarchy whereby the proposed foul solution would be connection to a public sewer, and only if this can be shown to not be feasible, then a package treatment plant should be considered.
- 2.3 The agent has clarified that no foul drainage network exists within the Docks; the nearest connection is 2km away (following the road network). The proposed package treatment plant represents the next step in the hierarchy and so is considered to be acceptable.

### Surface water / contamination issues

2.4 The agent's comments are noted. Condition 2 refers to mitigation to avoid contamination such as storage procedures to avoid spills and condition 3 requires full drainage details. In addition, an Appropriate Assessment has been undertaken and forwarded to Natural Resources Wales. Upon receipt of the response from Natural Resources Wales, additional conditions to deal with surface water matters can be imposed if necessary under officer delegated powers prior to a decision being issued.

#### **Landscaping**

2.5 The agent's comments that the Docks is heavily industrialised is acknowledged. It is also noted that the Docks are not generally open to the public. It is considered that it would be reasonable to require some planting to cater for objectives to enhance biodiversity. It is therefore recommended that condition 3 be reworded as follows:

*'Before the development, other than demolition, is commenced, written approval of the Local Planning Authority is required to a scheme of planting for the site (indicating the number, species, heights on planting and positions of planting). The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, planting shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any planting which dies or is damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.'*

*Reason: For the purposes of ecological enhancement'.*

### **3. OFFICER RECOMMENDATION**

3.1 The officer recommendation remains to grant with conditions, subject to amending condition 3 (landscaping).

3.

### **APPLICATION DETAILS**

**No:** 22/0955      **Ward:** St Julians  
**Type:** Full Application  
**Expiry Date:** 28<sup>th</sup> February 2023  
**Applicant:** C Condon  
**Site:** 1 Collier Street Newport NP19 7AT  
**Proposal:** **CHANGE OF USE FROM A THREE BEDROOM DWELLING (C3 USE) TO A FOUR BEDROOM HOUSE IN MULTIPLE OCCUPATION (C4 USE)**

**Recommendation:** GRANTED WITH CONDITIONS

#### **1. INTRODUCTION**

1.1 This application seeks permission for the change of use of 1 Collier Street from a 3 bedroom dwelling to a 4 bedroom house in multiple occupation. The property is an end of terrace dwelling located in the St Julians ward. A HMO is a house occupied by people who are usually unrelated and have private bedrooms but shared facilities such as kitchens, living areas and bathrooms. The proposed 4no. bedroom HMO falls into the C4 Use Class which allows between 3 and 6no. unrelated occupants to reside and share amenities.

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

<b>REFERENCE</b>	<b>DESCRIPTION</b>	<b>DECISION</b>
22/0495	<b>CHANGE OF USE FROM A THREE BEDROOM DWELLING (C3 USE) TO A FOUR BEDROOM HOUSE IN MULTIPLE OCCUPATION (C4 USE)</b>	<b>REFUSED</b>

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

3.1 Policies SP1 (Sustainability), SP3 (Flood Risk), GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), T4 (Parking), W3 (Provision for Waste Management Facilities in Development) and H8 (Self Contained Accommodation and Houses in Multiple Occupation) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application as are the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (Updated January 2017) and the Parking Standards Supplementary Planning Guidance (Adopted August 2015).

#### **4. CONSULTATIONS**

4.1 GWENT POLICE: No response.

4.2 NATURAL RESOURCES WALES: We have no objection to the proposed development as submitted and provide the following advice.

##### **Flood Risk Management**

The planning application proposes change of use from an existing highly vulnerable development (C3 dwellinghouse) to a proposed highly vulnerable development (C4 HMO). Our Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in TAN15 and the Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls into Flood Zone 3 (Sea) and the TAN15 Defended Zone. Whilst the development would not increase the vulnerability of the use, the potential intensification of the residential use may create additional pressure on emergency services should evacuation be required. If you have concerns regarding matters that we cannot advise you on, such as emergency plans, procedures and measures to address structural damage that may result from flooding, you should consider consulting other professional advisors on the acceptability of the developer's proposals.

A Flood Consequence Assessment (FCA) has not been submitted. However, the submitted Flood Risk Statement (unauthored and undated) identifies there is communal space at first floor level in the form of a 7.1m<sup>2</sup> landing which the report suggests should be adequate for someone to rapidly escape should flooding occur and would only be used as such during a flood event or if a flood warning has not been received by the residents. The applicant can sign up for flood warning alerts: Natural Resources Wales / Sign up to receive flood warnings. The report suggests an escape route for residents to evacuate to; the corner of Caerleon and Annesley Road which lies within DAM Zone A and outside of the areas at risk identified in the FMfP. Therefore, subject to your authority satisfying itself the proposed internal arrangement is acceptable, in flood risk management terms, we have no objection. However, we advise you consider whether the proposed communal/landing area is fit for purpose with other professional advisors in terms of refuge and evacuation.

If you request a Flood Consequences Assessment (FCA) from the applicant, or the Applicant decides to undertake an FCA for their own benefit (for example to explore suitable options for incorporating flood resistance and/or resilience measures into the design and to develop a flood plan for the occupants) we would be happy to review it. We refer to our website for further advice and guidance. Additional guidance including the leaflet "Prepare your Property for flooding" can be found here. The developer can also access advice and information on protection from flooding from the ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties', can be found here.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENVIRONMENTAL HEALTH): No response.
- 5.2 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (HMO LICENSING OFFICER): No response.
- 5.3 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (WASTE): No response.
- 5.4 HEAD OF CITY SERVICES (HIGHWAYS): Highways do not object to the application. Note the recommendation for a planning condition in regard to the provision of a cycle store.

### **Parking**

The existing property is stated to be a three bedroom property. As such, to comply with current parking standards the dwelling should have three off-street parking spaces. It does not have any off-street parking spaces. The proposed development is for a four bedroomed HMO, which would require one parking space per bedsit. Therefore to meet the current Newport parking standards, there should be four off-street parking spaces provided. The proposed conversion to the HMO is not offering any off-street parking. When comparing the existing use and the proposed use, the parking demand on-street will increase by one parking space. The applicant was asked to provide evidence that the local streets can accommodate the parking demand of the four bedroom house in multiple occupation. The applicant has since employed a professional company to carry out an on-street parking survey. The surveys were carried out on the 24th and the 29th November 2022. Highways considered that the surveys offer a sufficiently true reflection of the local streets that were surveyed. The survey results show that there is adequate space on the streets to accommodate the additional parking demand that will be potentially generated by the proposed four bedroom house in multiple occupation.

### **Sustainable Transport**

The application drawings does not set out any cycle storage. There should be provided, 1 cycle space per two bedrooms. Therefore, a covered secure space for 2cycles is required within the curtilage of the property. Detail of this structure needs to be submitted to the Council. If accepted, it is recommended that the structure becomes the subject to a planning condition that ensures it remains available and fit for purpose in the future.

## 6. REPRESENTATIONS

6.1 NEIGHBOURS: Neighbours within a 50m radius were consulted and a site notice was erected. 6no. responses were received as outlined below.

- I object to this planning application. No 1 Collier Street is a small terrace, and I do not believe it is suitable to be a 4 bedroom HMO with 4 adults. It is suited to a small family at best. I am concerned about a potential increase in anti-social behaviour often associated with HMOs, and the likely increase in poor refuse management. I live alone and do not wish to live directly opposite a house where tenants could change frequently; Whilst I have no wish to tar all with the same brush, tenants do take less care of a property and are more likely to be inconsiderate to their neighbours. Indeed, fellow neighbours who have commented have already that nearby HMOs have been a nuisance and I believe approving a HMO has the potential to disturb my peace. With respect to parking, there is no allocated parking, residents are not entitled to park in front of their own house, and indeed, as a corner plot like my own, there is no direct parking outside 1 Collier Street. If even just one tenant has a vehicle this will add additional pressure to the surrounding streets. Collier Street has a mix of people, families and age. Adding a HMO will not improve the quality of life, indeed, I believe it will have a detrimental effect with increased traffic, people, noise and refuse. I understand from neighbours that there has been an increase in anti-social behaviour around Riverside, and I myself have witnessed a higher police presence at varying times of the day. Adding a HMO to this mix will make me want to move away from a street I and house I love living in.
- This new application still does not address the parking problem, there is a potential of 4 people with 4 cars & nowhere to park. If there are young adults living there they will have parties, I look after my grandchildren several times a week & their bedroom looks directly into the garden of 1 Collier St. There has been an increase in antisocial behaviour in recent months.
- I object. There are a number of houses of multiple occupation in this small area already, Corelli Street, E usk Road, Riverside, Collier Street, Rudry Street, Morgan Street, Riverbank Avenue, Llanvair Road and Courtney street. There are issues with parking. The property does not have any parking outside it. This property is on the corner with no parking, parking is limited in this area. We find it difficult to park outside our house, and often park in surrounding Streets. Recycling and refuse is an issue with HMO in this area. People screaming and shouting all times of the day and night, disturbing neighbours, people have tried to gain access to our property, late at night extremely drunk or under the influence of drugs, people with mental health issues. The Police have been called various times of the day and night. The Police seem to be always around this area lately. This area has changed, due to extra housing and HMO. This area has changed since we moved here over 20 years ago, it was a quiet and pleasant area to live in, this has changed due to the HMO and extra housing. Neighbours and friends have moved away because of this.
- I object to the application. There are a number of houses of multiple occupation in this small area already, Corelli Street, E usk Road, Riverside, Collier Street, Rudry Street, Morgan Street, Riverbank Avenue, Llanvair Road and Courtney street. Neighbours and friends have moved away because of this.
- I totally disagree with request once again as it has already been declined. I feel very strongly about this I already live next door to a HMO house on Riverside and now I am expected to have one at the back of me. living next door to a HMO house has been a utter nightmare for the last few years I was not even told about this happening which I was very disgusted at. The people that have been in this house have been a nightmare with noise (I am up at 5 for work) friends being over late at night , and dont get me started on the rubbish situation there have been rats there which I have reported in the past, I have had a few tenants evicted over the past because of the noise and threatening behaviour. I am a 61 year old woman who lives alone so I have to deal with rowdy obnoxious people who have lived next door to me, when my young grandchildren sleep over I to inform the neighbours so that they are quiet this has made me very ill over the years. The parking situation on Riverside and surrounding areas is already a nightmare where people struggle to park near their own homes. This property has already been declined so dont know why its up for review again, I was so relieved when I knew it was not happening. I am not against people having a second chance but I feel I should not live next to another HMO property where the residents take drugs, drink and not care about neighbours who have lived there for 40 years.



- It's disgusting, it's depressing that society expects fully grown adults to house share with strangers. It's enough to drive the sanest of people into a depressed state of mind. Prison would seem a better option, at least you'd get food provided! I also feel they may have reapplied for the HMO due to my daughter having a disagreement with the person which resulted in this person threatening to arrest/drag my daughter to the police station, over something minor. I did report the threat with the police. Also my car was hit two months ago whilst parked outside my neighbours house, as well as one of the neighbours cars. I'm still awaiting for my car to be fixed.

6.2 COUNCILLORS: Councillors Phil Hourahine, Carmel Townsend and Paul Bright were consulted on the proposal and the following comments were received from Councillor Bright.

- I object to the Planning application Ref 22/0955, 1 Collier Street, and request that it be called in before the Planning Committee. My reasons for the objection are;
  - o 4.1 The higher proportion of transient people will lead to less community cohesion.
  - o 5.3.1 There is no allowance for parking provision.
  - o 5.4.2 There is no means of acoustic insulation.
  - o 5.5.3 HMOs are detracting from the character of the neighbourhood.

Should planning officers refuse planning permission I do not want the application called in.

Councillor Townsend also commented as follows:

- Of all the applications submitted for HMO conversion, this one has to be the most egregious in terms of unsuitability. The location is wrong, the house is small; parking is at a premium; the likelihood of anti-social behaviour is increased, ditto, problems with rubbish and recycling. This is a family house and should remain so. Feelings are running high among residents. It's time their views were taken into account.

Whilst not the ward councillor for St Julians, Councillor Gavin Horton also commented as follows:

- Having reviewed the documents, I believe this conversion is in line with the type of HMOs we are looking to create. If the finished product is in line with the drawings, it will be a great addition to the area. I agree that there are too many mismanaged HMOs which do little for the areas they are based in.

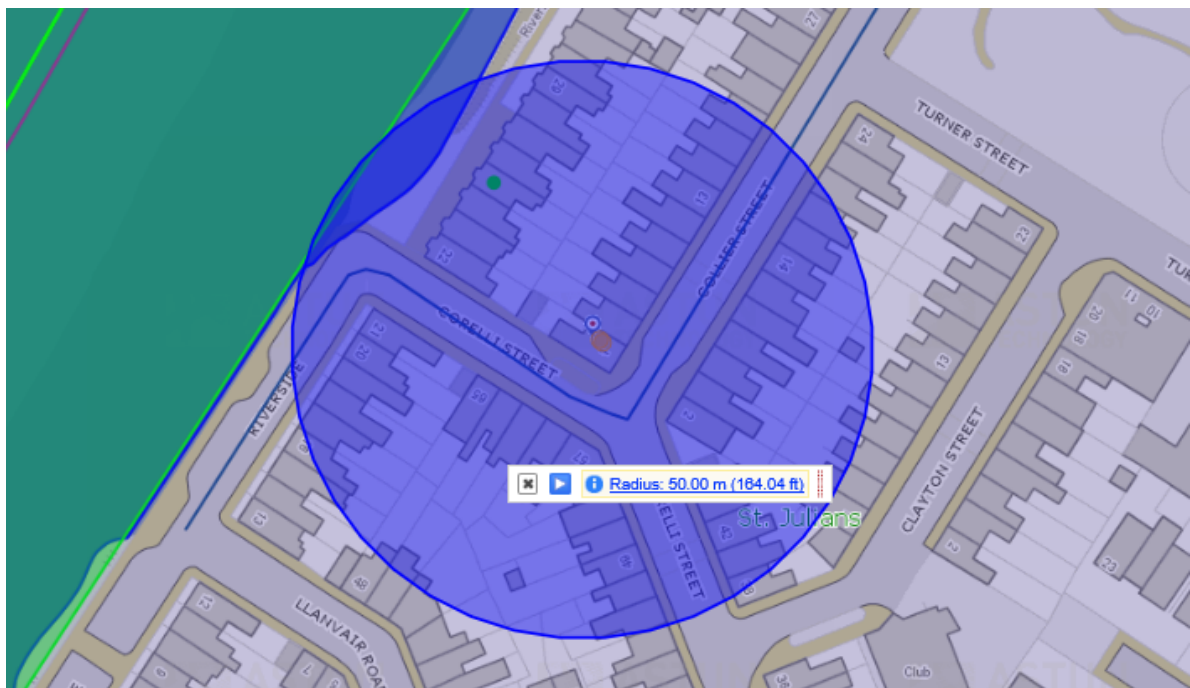
## 7. ASSESSMENT

7.1 The site is located along Collier Street which is a residential road located adjacent to the River Usk. The subject property is currently laid out over two floors with a kitchen, living room, hallway and storage room on the ground floor and three further bedrooms and a bathroom on the first floor. The current layout would remain as existing. No details of refuse and cycle storage have been provided, however it is noted that the property benefits from a rear amenity area.

7.2 Councillor Townsend, Councillor Bright and a number of local residents have raised concerns regarding the proposed development leading to the prospect of increased anti-social behaviour in the area and whether the property itself is suitable to be converted to a HMO and what the arrangements will be for refuse storage. In this regard, policy H8 (Self Contained Accommodation and Houses in Multiple Occupation) 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.' The main considerations of this application are the potential impact of the change of use on parking provision, flooding and

the potential impact on the character and amenity of the surrounding area and neighbouring properties, taking into account any HMOs within close proximity to the site.

- 7.3 The SPG states that ‘clusters of HMOs can alter the composition of a community and detract from local visual amenity. The guidance introduces a threshold above which HMOs are considered to detract from the character of the area. In general, the Council will not support a planning application that would take the number of HMOs, considered as a proportion of the local housing stock, above a specified limit. In “defined areas” this limit is 15%, in other areas, 10%.’ When taking a 50m radius from the address point of the application site, the full front elevations of 46no properties are caught. There is currently 1no HMO within these 46no properties, if the proposal were to be approved, HMOs would constitute 4.3% (2 of 46 properties) of the selected housing stock and the proposed development would comfortably fall within both permitted thresholds. Therefore, it is not considered that the proposed change of use to a 4no bedroom House in Multiple Occupation would result in a demonstrable impact on the character of the area or the amenity of neighbouring occupiers over and above the existing use of the property and complies with policies GP2 and H8.



- 7.4 The property already currently benefits from 3no. bedrooms and two large reception rooms, it is therefore considered that given the size of the dwelling, its scale is appropriate for use as a 4 bedroom HMO. Notwithstanding this, the HMO SPG states that ‘HMO’s should provide outdoor amenity space in which residents can relax, dry their clothes and store refuse and recycling bins. Shared amenity spaces will be acceptable so long as they can accommodate every resident of the properties they serve.’ The property benefits from outdoor amenity space to the rear that will be accessible for all occupants. The applicant has confirmed that the outdoor amenity space will also provide an area for bin storage, further details of which can be secured via a condition. Cycle storage will be provided within the existing garage. The HMO standards state that a bedroom should be at least 6.51m<sup>2</sup>, a kitchen for up to 5no persons should be at least 7m<sup>2</sup> and a living room for up to 5no persons should be at least 10m<sup>2</sup>. All the proposed rooms meet the required space standards. All bedrooms contain windows, providing adequate light and ventilation for future occupiers. The Council’s HMO Licensing Officer has not commented on this application, however had no concerns regarding application 22/0495 for the same proposal subject to the previous of a separate access for bedroom off the hallway rather than the lounge area. This has now been provided. The environmental health officer also has not passed comment in respect of this application but confirmed they had no objection in relation to 22/0495. It is therefore considered that the proposal complies with the aims of Policy H8 and GP2 of the NLDP 2011-2026 (adopted January 2015) and the Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015, updated January 2017).

7.5 Councillor Townsend, Councillor Bright and a number of local residents have expressed concerns regarding parking in the local area. In accordance with the Parking Standards SPG, as the property is located in parking zone 3, it would require a minimum of 1no parking space per bedroom and 1no parking space per 5no bedrooms for visitors (which has been omitted from the highways officer's comments). This would total a parking requirement of 5no spaces. The existing property has 3no. bedrooms and therefore would require 3 spaces. No off street parking has been provided. A previous application (22/0495) for a similar proposal at this site was refused for the following reason:

*The proposals are entirely reliant upon neighbouring residential streets to provide parking spaces and demand for on street spaces on these roads has been shown to be in high demand. Additional parking demand will cause congestion and intensification of unsafe vehicle manoeuvres to the detriment of residential amenity and highway safety and no information has been provided that mitigates this objection. The proposals are therefore contrary to Policies H8, GP2, GP4 and T4 of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015), the Supplementary Planning Guidance for Houses in Multiple Occupation (Adopted August 2016) and Parking Standards (Adopted August 2016).*

This application was not accompanied by a parking survey and therefore in response to the previous reason for refusal, the applicant has submitted a parking survey as part of this application which confirms that there is space to accommodate the 2no. additional spaces on street. The survey showed a relatively low stress of between 70-72%. Recent officer site visits also confirm that there were a number of spaces available at various times of the day. The highways officer has no objection to the proposals. The proposed development is therefore considered to accord with policies GP4 and T4.

7.6 Councillor Bright and a number of local residents have also expressed concerns in relation to acoustic insulation and general noise and disturbance. In this regard, the existing use of the property is a residential use, and the proposed use as a HMO would also be a residential use. At present a family, with a number of children sharing bedrooms could occupy the dwelling and therefore the proposed change of use to a HMO is not considered to result in increase in noise over and above the existing situation. The Council's environmental health officer did not offer any objections in this regard in relation to application 22/0495 for the same proposal. It is also noted that the main staircase inside the property is located on the gable wall rather than a party wall. Concerns regarding safety and anti-social behaviour have also been raised by a number of local residents and councillors. A number of responses confirm that anti-social behaviour problems are pre-existing and relate to tenants in other units. It cannot be assumed that such issues will arise from all HMO or similar properties and the assessment of concentration as set out in the SPG is intended to avoid excessive numbers of HMOs in areas that may lead to unacceptable concentrations and associated impacts on social cohesion. In this identified radius the numbers of HMOs relative to traditional housing stock remains relatively low and consequently there can be no grounds to refuse on this basis.

7.7 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). Overview of Technical Advice Note 15: Development and Flood Risk TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas.

7.8 The key points of the TAN are:

- The Council is expected to consult Natural Resources Wales (NRW) when considering development in Zone C1. Where a planning authority is minded to go against the advice of NRW it should inform NRW prior to granting consent allowing sufficient time for representations to be made;

- Residential development is defined as ‘highly vulnerable development’ which is ‘development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited’.

- The TAN states ‘it would certainly not be sensible for people to live in areas subject to flooding where timely flood warnings cannot be provided and where safe access/egress cannot be achieved’.

- There should be minimal risk to life, disruption and damage to property.

7.9 NRW advise that they have no objections to the proposal, however confirm that the LPA should be satisfied that the proposal is acceptable in terms of flood risk, particularly with regard to whether the proposed communal/landing area is fit for purpose as emergency refuge.

7.10 Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within zone C1 if determined by the planning authority to be justified in that location and demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region; and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

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

#### 7.12 **Test 1 – Location**

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

The property already benefits from an existing residential use, conversion to a HMO will sustain this use and therefore the existing settlement.

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

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

The development meets the definition.

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

Moreover, criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable. These are referred to as tests 2 to 12 below.

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

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

- 7.17 ***Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales.***

No flood mitigation measures are proposed as part of the development.

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

The applicant is aware of the flooding risks and consequences there is a communal hallway at first floor level with a total area of 5.8sqm (rather than the 7.1sqm outlined in NRW response which included the staircase) which would be sufficient space to accommodate temporary refuge and the storage of possessions in the event of a serious flooding incident for the ground floor occupant. The FCA also confirms that a Flood Plan will be formulated outlining precautions and actions to be undertaken during a flood event and that the occupiers must register with the NRW Flood Warning Service.

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

The applicant has confirmed that they will sign up to NRW's flood warning system.

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

The applicant has not demonstrated that an evacuation route will be operational under all conditions as the maximum flood depth, velocity and rate of rise both within and surrounding the site have not been confirmed within the submitted information.

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

NRW advise that if, as the planning authority, you are satisfied that the proposed location is the only possible location in planning terms, only then should you consider whether the above risks and consequences can be managed through measures such as emergency planning and evacuation.

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

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

And,

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

The application site is situated within a terrace of properties and being a conversion there are limitations as to what can be designed to minimise structural damage, however given the age and build of the property it is considered less likely that structural damage will occur. Notwithstanding this, it is not considered that the development has been designed to allow the occupiers on the ground floor of the facility to rapidly move goods and possessions to an area away from floodwaters as there is not sufficient space available on the first floor to facilitate this.

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

NRW do not object to the development on this basis.

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

It has not been demonstrated that the proposed development is compliant with A1.14 of TAN15. However, there would be no change in the vulnerability of the existing and proposed development.

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

Flood depths, velocities and the rate of rise have not been confirmed within the submitted information.

7.27 **Conclusion - Flooding**

The proposal has not demonstrated that the scheme satisfies all of the tests as set out within TAN 15. However, a communal landing area with a total area of 5.8sqm is available on the first floor of the building. Despite the proposal failing to demonstrate full compliance with the TAN, NRW have acknowledged the existing highly vulnerable use of the site and have not objected to the proposal.

7.28 Of further relevance to this assessment is an appeal decision at 7 Pugsley Street, Newport (APP/G6935/A/19/3233724) where the Inspector made a judgement that ground floor residents would have safe refuge in the form of a store room and landing area even without an FCA being submitted;

*“The Council’s concern is that the proposed introduction of a ground floor bedroom would cause difficulties for the occupier of the room in the event of flooding particularly should all the first-floor rooms be locked and would result in the loss of that occupant’s possessions. The submitted drawings show that there is a generous landing area at first floor that would provide adequate temporary refuge in the event of a serious flooding incident. The appellant points out that a first-floor store room would also be available in such circumstance. Whilst, the resultant loss of possessions would disproportionately affect the occupier of the ground floor bedroom this risk does not justify withholding permission.*

7.29 It is noted more recently that appeal decision CAS-01957-TAT0Q8 (11 Coverack Road) dismissed a similar proposal for a 5no. bedroom HMO within a C1 Zone due to lack of appropriate flood refuge, however this proposal only included circa 2sqm of landing area for 2no. ground floor bedrooms which is markedly different from the current proposal in terms of the area available to each occupant.

7.30 The application site provides a first floor area which would be available for residents at all times and would offer an area of safe refuge for the ground floor residents and their important possessions in the event of a flood. The flood warning system would give residents a suitable time to retreat with their possessions to a flood free area within the building until the flood waters were to recede, should they choose not to evacuate the site in its entirety following the warning. It is also possible to control the maximum number of bedrooms and residents via planning condition to limit the impact. Based on the appeal decision at Pugsley Street and the proposal to provide a first floor flood refuge area, it would not be considered a robust decision to refuse the application in relation to the impact

of flood risk on residential amenity. It is therefore considered that, on balance, the proposal complies with the aims of Policy SP3 and GP2 of the NLDP 2011-2026 (adopted January 2015).

## **8. OTHER CONSIDERATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

## **9. CONCLUSION**

### **9.1 The proposed development is considered to accord with the relevant policies of the Adopted Newport Local Development Plan and is in accordance with TAN 15. It is therefore recommended that planning permission is granted.**

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Proposed Ground Floor Plan, Proposed First Floor Plan and Flood Risk Assessment (all received 03/10/2022).

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

02 Prior to the commencement of the development hereby approved full details of the bin storage, to include elevations and finish detail, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as approved prior to first beneficial use and then retained thereafter.

Reason: To ensure adequate bin storage is provided for the site in the interest of visual and residential amenity in accordance with policy GP2.

03 The property shall have a maximum of four bedrooms and a maximum of four occupants in total and the ground floor shall be limited to a maximum of one bedroom.

Reason: To protect the amenity of adjoining occupiers and in the interests of highway safety, in accordance with policies GP2 and GP4.

04 Prior to the occupation of the ground floor accommodation, the landing area shown on the Proposed First Floor Plan (received 03/10/2022) shall be made available for use as flood refuge and retained in perpetuity.

Reason: In the interests of flood risk safety in accordance with policy SP3.

### NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan (received 03/10/2023), Site Plan, Flood Risk Assessment, Existing Ground Floor Plan, Existing First Floor Plan, Proposed Ground Floor Plan Sustainability Assessment (all received 03/10/2022) and Proposed Floorplan (received 04/11/2022).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1 (Sustainability), SP13 (Planning Obligations), SP18 (Urban Regeneration), GP1 (Climate Change), GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), H4 (Affordable Housing), H8 (Self Contained Accommodation and Houses in Multiple Occupation), T4 (Parking), T5 (Walking and Cycling) and W3 (Provision for Waste Management Facilities in Development) 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.

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## 1. LATE REPRESENTATIONS

1.1 Representations have been received from a member of the public and responded to by councillor Townsend as set out below.

1.2 Neighbour comments received:

*I've noticed the article in South Wales Argus about the above property. 'Since then, an on-street parking survey was conducted, which according to the council's highways department shows there is "adequate" parking on neighbouring streets.'*

<https://www.fixturecalendar.com/stadium-rodney-parade>



*The weekends when this residential area becomes even more overcrowded with attendees parking for several hours...can the councils highway department and planning create more than just 4 parking spaces in this area? I'm wondering where you're getting them from? What's the plan of action if more residents convert to the lithium battery cars? Most evenings, it is a struggle for residents to park near their houses. Although I have been led to believe that garages that are not being used by a car can be parked across. Is this the case? As my self and many residents park across these garages, which are being used by some carpentry firm. On Monday, 2nd January I stupidly forgot about a game and went shopping. There were literally no parking spaces upon my return, not even in the nearby surrounding areas. In the end, I spent a few hours at my parents' on my return there was still no parking spaces, apart from parking across the garage! It saddens me that in this day and age several fully grown adults have to live in a very small property together. What has life become when a fully grown working adult can only afford such living accommodations? It seems more like existing than living. ... If this 4-bedroom home is considered a HMO, then more landlords could follow suit, leaving more families, couples, and working individuals homeless. Not everyone wants to live with strangers under one roof. I guess areas such as this can say goodbye to electric cars, as it will be totally impossible to charge a car overnight, as difficult to park outside one's house or even on their street!*

1.3 Comments made by Councillor Townsend:

*The South Wales Argus said it was a four bedroomed property, when in fact it is three (one of which is small). The highways people say it is sensible to advise people to park in other streets, but of course they don't live in roads such as Collier (et al), so fail to understand the pressures that exist currently, vis-à-vis parking. This shows a lack of concern for residents' living space and amenities. The application also included comments from a councillor in another ward – something that is not allowed – where he extolled the dubious virtues of HMOs. We have long campaigned against the spread of HMOs in St Julians (in some places they might be a good idea) but Newport City Council needs to look at its planning policy.*

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

2.1 The comments above are noted in so far as they relate to parking issues, this has already been addressed in the officer's report, however as a point of clarification the submitted Parking Survey was undertaken to determine the capacity of streets within a 200m radius of the application site. This survey was undertaken in accordance with the appropriate methodology (the Lambeth methodology) and it confirmed that there is adequate capacity within the surrounding streets to accommodate the additional spaces required as a result of the proposal (i.e. 2 spaces).

2.2 In relation to Councillor Townsends' comments, officers confirm that the property is a 3no. bedroom dwelling (not a 4 bedroom dwelling) which it is proposed to convert to a 4no. bedroom HMO as part of this application by changing a ground floor living room to a bedroom. All the rooms meet the relevant size standards and it is considered that the property is of an adequate size to be converted to a 4no. bedroom HMO. Shared housing or houses in multiple occupation form an integral part of the housing stock and enable those seeking to rent and unable to afford whole properties to live in the area they are from or for work purposes. They are often occupied by students or professionals that do not require long term or permanent occupation or cannot afford it and contribute to the variety of tenures and housing types in the overall housing and accommodation market. They may not be suitable for all but demand clearly exists for this type of accommodation. In this case, the threshold tests in accordance with adopted SPG have been undertaken and the catchment is well below the threshold limit with one current HMO property identified.

All comments from Councillors will be afforded consideration.. It has been made clear within the officer's report that Councillor Horton is not the ward member for St Julians.

## **3. OFFICER RECOMMENDATION**

3.1 The officer recommendation remains as Granted with Conditions.

