

Report

Planning Committee – Hybrid Meeting

Part 1

Date: 10th January 2024

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

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

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

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

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

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

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

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, 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.

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	Ensure reasons for refusal can be defended at appeal.	Planning Committee
			Ensure planning conditions imposed meet the tests set out in Circular 016/2014.	Planning Committee
			Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	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 Strategic Planning, Regulation and Housing has been made aware of the report.

Local issues

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

Scrutiny Committees

None

Equalities Impact Assessment and the Equalities Act 2010

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

The Socio-economic Duty, part of the Equality Act 2010, was also enacted in Wales on the 31st 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.
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- Prevention:** Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable.
- Integration:** Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities.
- Collaboration:** Consultation with statutory consultees encourages decisions to be made which align with other relevant well-being objectives.
- Involvement:** Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

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

Crime and Disorder Act 1998

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

Consultation

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

Background Papers

NATIONAL POLICY

Planning Policy Wales (PPW) Edition 11 (February 2021)
 Development Management Manual 2017
 Welsh National Marine Plan November 2019
 Future Wales - The National Plan 2040 (February 2021)

PPW Technical Advice Notes (TAN):

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

TAN 21: Waste (2014)
TAN 23: Economic Development (2014)
TAN 24: The Historic Environment (2017)

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

Welsh Government Circular 016/2014 on planning conditions

LOCAL POLICY

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

Supplementary Planning Guidance (SPG):

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

OTHER

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

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

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

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule and are available to view on the Council’s website using the application reference number.

1.

APPLICATION DETAILS

No: 23/0949 **Ward:** Llanwern

Type: Full (Major)

Expiry Date: 12th January 2024

Applicant: *Enso Green Holdings E Limited*

Site: *Land At Uskmouth Power Station West Nash Road Nash Newport South Wales*

Proposal: **BATTERY ENERGY STORAGE SYSTEM WITH ASSOCIATED INFRASTRUCTURE AND WORKS**

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 This application is reported to committee as is a major application at 4.41 hectares.
- 1.2 This full application seeks planning permission for the installation of a battery energy storage system at this established power station site including the raising of land levels to create an elevated engineered platform designed to support the new infrastructure and mitigate flood risk. The development will be connected through an underground cable route to the point of connection at the National Grid Substation to the west of the Site. The application site is only part of the much larger power station site and will be within the area of the Uskmouth B station on an area currently occupied by cooling towers that are to be demolished. The wider site is very industrialised with existing industry close by and across the River Usk. To the south is the Uskmouth Power station buildings and the former coal stockpile area being developed for battery energy storage recently granted permission (23/0823). Beyond the power station buildings (the former coal fired station and the newer gas fired station) lies the RSPB Wetlands National Nature Reserve. To the north east is the Liberty Steel plant and eastward is the Welsh Water Treatment works. The development will primarily be viewed in the context of the adjoining coal fired power station buildings that are to be retained and are of significant scale.



Extract from OS site location plan

- 1.3 The Uskmouth Power Station plant has previously produced thermal energy from the combustion of coal, thereby generating electricity. It began operation in 1959 and has now ceased production. This proposal will have the capacity to store electricity. This arises as electricity is directed to the proposed storage system from the grid during off peak periods

(when supply is high and demand is low) and then reconverted to electricity to serve the wider grid during periods of peak demand on the distribution network. This will facilitate grid stability as energy storage can allow significant increase in intermittent renewable generation from wind and solar onto the electricity system by enhancing the balance of supply and demand. This location/site has the significant advantage of close access to the electrical grid system.

- 1.4 A comprehensive set of detailed information has been provided with this application and a statutory pre application consultation exercise was completed by the applicants. A discretionary pre application enquiry to the Local Planning Authority preceded this full application, as did a formal Environmental Impact Assessment Screening Opinion request. The latter was required as officers consider the development falls under Schedule 2, section 3a of the Town and Country Planning (Environmental Impact Assessment)(Wales) Regulations 2017 and comprises development of an industrial installation for the production of electricity and the proposal exceeds the threshold set out in the column to section 3a. Having regard to Schedule 3 of the Regulations officers confirmed the proposal was not EIA development and an Environmental Statement is not therefore required to accompany this submission.

2. RELEVANT SITE HISTORY

- 06/0844** ERECTION OF NEW COMBINED GAS TURBINE POWER STATION – this was a consultation to the Authority by the former Department of Trade and Industry (i.e. the determining authority). This application was subsequently granted with conditions and subject to unilateral legal undertaking and the power station is now built.
- 22/0823** INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE SYSTEM (BESS) – granted with conditions.
- 23/0077** SCREENING OPINION FOR DEVELOPMENT OF 120MW BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED WORKS – Environmental Statement not required.
- 23/1045** PRIOR NOTIFICATION OF DEMOLITION OF 2NO. RANKS OF COOLING TOWERS AND ASSOCIATED STRUCTURES – prior approval not required.

3. POLICY CONTEXT

3.1 LDP Designations and Site Characteristics

Site Designation:

- Archaeologically Sensitive Area - CE6
- Developed Coastal Zone – CE9
- Urban Boundary
- Flood Zone C1
- Parking Zone 6

Nearby Designations:

- Environmental Space - Church of St Mary, Nash (1.1km west)
- Special Landscape Area - The River Usk
- SINC –immediately adjacent
 - Julian's Gout Land (north east)
 - Gwent Wetland Reserve (south)
 - Alpha Steel Site (east)
- SSSI – immediately adjacent
 - RIVER USK (LOWER USK) (north)
 - NEWPORT WETLANDS (south)
 - SEVERN ESTUARY (west)
- RAMSAR and SPA – Severn Estuary
- Special Area of Conservation – RIVER USK / Severn Estuary
- Wales Coast Path - Adjacent to Nash Road and south of the site
- National Nature Reserve – NEWPORT WETLANDS (west and south)
- Landscape of Outstanding Historical Interest – Gwent Levels (east and west)

- Public Right of Way and Coastal Path - 401/12/1 (south)
- Accessible Natural Greenspace - Waterway (north)
- Accessible Natural Greenspace - Amenity (south)
- Historic Environment Record – Various within Uskmouth Power station

3.2 National Planning Policy and legislation

Future Wales: The National Plan 2040 (2021)

Future Wales together with PPW will ensure the planning system focuses on delivering a decarbonised and resilient Wales through the places we create the energy we generate, the natural resources and materials we use and how we live and travel. Regarding energy generation, Future Wales identifies that Wales can become a world leader in renewable energy technologies. Wales's wind and tidal resources, potential for solar generation, its support for both large and community scaled projects and commitment to ensuring the planning system provides a strong lead for renewable energy development means it is well placed to support the renewable sector, attract new investment and reduce carbon emissions.

Policy 17 of Future Wales is of specific relevance to this project. The policy states that: "...the Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales' international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency." It goes on to state that "...new strategic grid infrastructure for the transmission and distribution of energy should be designed to minimise visual impact on nearby communities" and "...proposals should describe the net benefits the scheme will bring in terms of social, economic, environmental and cultural improvements to local communities." In addition, to topic-based policies, Future Wales establishes four regions and policies appropriate to them. Newport is within the 'South East' region in which it is noted that decarbonisation and responding to the threats of the climate emergency should be central to all regional planning.

There is strong potential for wind, marine and solar energy generation and Strategic and Local Development Plans should provide a framework for generation and associated infrastructure. The Welsh Government wishes to see energy generation, storage and management play a role in supporting the South East Wales economy. Local ownership and distribution are important for ensuring communities in proximity to renewable energy development benefit from it and that the future energy system better serves Wales.

3.3 Planning Policy Wales (Edition 11)

National Planning policy is clear that a Globally Responsible Wales is promoted by reducing our carbon footprint through measures such as the promotion of renewable energy over carbon-emitting sources. The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance. The policy notes that the planning system should optimise energy storage and maximise renewable and low carbon energy generation.

Section 5: Productive and Enterprising Places

"Embracing the challenge of decarbonising our energy and transport sectors including phasing out of fossil fuels and moving towards local, decentralised renewable energy systems, the increased use of energy storage to balance supply and demand and the challenge this creates on our distribution networks"

Energy

5.7.6: The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development.

5.7.7 The benefits of renewable and low carbon energy, as part of the overall commitment to tackle the climate emergency and increase energy security, is of paramount importance. The continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. The planning system should:

- integrate development with the provision of additional electricity grid network infrastructure;
- optimise energy storage;
- facilitate the integration of sustainable building design principles in new development;
- optimise the location of new developments to allow for efficient use of resources;
- maximise renewable and low carbon energy generation;
- maximise the use of local energy sources, such as district heating networks;
- minimise the carbon impact of other energy generation; and
- move away from the extraction of energy minerals, the burning of which is carbon intensive.

5.7.12 Energy storage has an important part to play in managing the transition to a low carbon economy. The growth in energy generation from renewable sources requires the management of the resultant intermittency in supply, and energy storage can help balance supply and demand. Proposals for new storage facilities should be supported wherever possible.

5.9.7 The local balance of the energy network will be a crucial consideration in this regard, and planning authorities should consider the best places for local renewable energy generation to help improve the resilience of the grid in the future.

3.4 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.
 - 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
 - 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.

The above duties have been given due consideration in the determination of this application. Negative impacts and mitigating factors have been considered and set out in the assessment.

Technical advice notes

Technical Advice Note (TAN) 11: noise

Technical Advice Note (TAN) 15: development and flood risk

Technical Advice Note (TAN) 18: transport

Technical Advice Note (TAN) 23: economic development

3.5 Local Planning Policy

Adopted Local Development Plan

The following LDP policies are considered to be relevant to the proposed development of this site:

- SP1 Sustainability
- SP3 Flood Risk
- SP8 Special Landscape Areas
- SP9 Conservation of the Natural, Historic and Built Environment
- SP18- Urban Regeneration
- GP1 General Development Principles – Climate Change
- GP2 General Development Principles – General Amenity
- GP3 General Development Principles – Service Infrastructure
- GP4 General Development Principles – Highways and Accessibility
- GP5 General Development Principles – Natural Environment
- GP6 General Development Principles – Quality of Design
- GP7 General Development Principles – Environmental Protection and Public Health
- CE2 Waterfront Development
- CE3 Environmental Spaces and Corridors
- CE6 Archaeology
- CE8 Locally Designated Nature Conservation and Geological Sites
- CE9 Coastal Zone
- CE10 Renewable Energy
- T3 Road Hierarchy
- T4 Parking
- T8 All Wales Coast Path
- W3 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance (Adopted)

- Sustainable Travel SPG (July 2020)
- Archaeology and Archaeologically Sensitive Areas SPG (Aug 2015)
- Wildlife and Development SPG (Aug 2015)
- Parking Standards SPG (Aug 2015)
- Air Quality (SPG) (Feb 2018)

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES:

We advise that based on the information submitted to date, conditions regarding European Protected Species (EPS), Protected Sites and Protection of Controlled Waters should be attached to any planning permission granted and the documents identified below should be included in the approved plans and documents condition on the decision notice. Without the inclusion of these conditions and documents we would object to this planning application.

Condition:

Lighting Plan

Construction Environment Management Plan (CEMP)

Land Contamination

Piling

Surface Water Drainage Documents:

- Drwg No. UH-01-P01 Rev. 03 "Site Location Plan" by Enso Energy, dated 26/07/2023
- Drwg No. UH-01-P17 "Context Site Location Plan" by Enso Energy, dated 26/07/2023
- Drwg. No. UK-01-P02 Rev. 01 "Proposed Site Plan" by Enso Energy, dated 20/04/2023
- Drwg. P22-3216_EN_03 Rev. B "Detailed Landscape Proposals" by Pegasus Group, dated 13/07/2023
- Ref. P36-ECIA "Ecological Impact Assessment" by Enso Energy, dated July 2023 • Ref. ECO02937 "Shadow Habitat Regulation Assessment – Enso Energy BESS, Uskmouth" Version 1 by RPS, dated July 2023

- Ref. P36-AIA “Arboricultural Impact Assessment” by Enso Energy, dated July 2023
- Ref. P36-PS “Planning Statement” by Enso Energy, dated July 2023.
- *CONFIDENTIAL* Otter Report – Afon Wysg Battery Energy Storage System by Enso Energy (Ref: P36-OR, dated November 2023)
- Bat Survey Report – Afon Wysg Battery Energy Storage System by Enso Energy (ref: P36-BSR, dated November 2023)
- Flood Consequence Assessment (FCA) by RPS (ref: P36-FCA) dated July 2023

European Protected Species (EPS)

We have reviewed the documents identified above with regards to European Protected Species (EPS) and provide the following advice.

Otters

The site is directly adjacent to the River Usk Special Area of Conservation (SAC), of which otters are a feature. Our statutory pre-app advice for “Batter Energy Storage System with Associated Infrastructure and Works” (our reference CAS-218714-J3Y9, dated 22/06/2023) advised that appropriate surveys of surrounding habitat must be undertaken to inform mitigation to protect otters. Based on the information submitted in the Shadow Habitat Regulation Assessment (“SHRA”) (July 2023) and plans submitted, we do not consider that the proposed development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The boundary of the development in relation to the known otter breeding site, and the network of habitat linkages to suitable foraging, commuting and resting habitat, provide sufficient buffer from disturbance whilst allowing otters to continue to function in their local range. We also welcome the recommendations for daytime working hours made within Section 4.2.3 of the Ecological Impact Assessment, which will ensure that nocturnal foraging and commuting activity can continue undisturbed. Furthermore, we welcome the operational mitigation recommendations made within Section 5.5 of the submitted SHRA, which will ensure incidental entrapment of otters within excavations will be avoided. To ensure these recommendations are undertaken, we advise that they are included within a Construction Environment Management Plan (CEMP) condition which should be attached to any planning consent. We note that mitigation of the impacts of artificial lighting during the construction and operational phases is to be controlled using siting, timing and technical specification of lighting. We advise that the details of the lighting design should be agreed by way of a lighting condition attached to any grant of planning consent.

Condition

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 during both construction and operational phases*
- *Drawings setting out how light spillage will not extend beyond the site boundaries. If light spillage is to fall beyond the site boundary, details are required, together with mitigation to minimise the effects on protected species*
- *Details of lighting to be used both during construction and operation*
- *Measures to monitor light spillage during the construction phase, and once development is operational, and details of responsible personnel for monitoring and instigating remedial measures where appropriate*

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

Justification: 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, namely otters and bats, their places of shelter and breeding, and their foraging and commuting corridors.

Wider Observations

We note the potential for an otter over-land travel route to exist between the River Usk and the freshwater features to the east, south and west of the current power station site.

Bats

Based on the information submitted, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. However, should further information come to light, the applicant is advised to contact us for advice on licensing requirements – further advice is provided below.

European Protected Species Licence

A European protected species (EPS) Licence might be required for this development. This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. Please note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application. We advise recipients of planning consent who are unsure about the need for a licence to submit a licence application to us.

Dormice

We are satisfied that the 40m stand-off will be sufficient protection for dormice, should any individuals move into the scrub habitat just outside the site boundary, and are satisfied that the development is unlikely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. We have no further comments to make on this species.

Protected Sites – Habitat Regulations Assessment Severn Estuary Special Area of Conservation (SAC), Special Protected Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI)

The proposed development site is within 100 metres from the Severn Estuary SAC, SPA, Ramsar site and SSSI. The Severn Estuary is designated as a SAC as it contains the following qualifying habitats: sandbanks which are slightly covered by sea water all the time, salt meadows, mudflats, estuaries, reefs, and Atlantic salt meadows. In addition, it supports the following qualifying species: Sea Lamprey, River Lamprey, and Twaite Shad. The Severn Estuary SPA is of national and international importance for the breeding, feeding, wintering and migration of rare and vulnerable species of birds. The qualifying species are Bewick's Swan, Greater White-fronted Goose, Dunlin, Common Redshank, Common Shelduck, and Gadwall. The Severn Estuary is one of the most important estuaries in the UK for overwintering wildfowl and waders, and the waterbird assemblage is a qualifying feature of the site. We have reviewed the Shadow Habitat Regulation Assessment (HRA) – Enso Energy BESS, Uskmouth, produced by RPS, reference ECO02937, dated July 2023. We agree with the conclusions for the Severn Estuary SAC, SPA, and Ramsar site, provided the proposed mitigation measures are implemented. We advise Your Authority undertake their own HRA which we would be happy to provide advice on when consulted.

River Usk SAC and SSSI

The proposed development site is within 100 metres from the River Usk SAC and SSSI. The River Usk is designated as 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. We have reviewed the Shadow HRA and we agree with the conclusions for the River Usk SAC.

Newport Wetlands SSSI and National Nature Reserve (NNR)

The proposed development is 300 metres north of Newport Wetlands SSSI and NNR. Newport Wetlands SSSI is designated for its nationally important breeding and overwintering birds, invertebrates and aquatic and marginal flora. Shrill carder bee (*Bombus sylvarum*) is found throughout the site. The reens and ditches of the drainage system are dependent on the water quality, water quantity, the existence of the drainage system and its continued management. Any development which has an adverse impact on any of these factors will have an adverse impact on the wildlife for which the area was notified. We note that there are multiple ditches within 50 metres of the proposed development site with connectivity to the wider drainage system. To protect the SSSI, there should be maintained a buffer zone of a minimum 7m from works to the top of the ditch bank. There should be no storage of materials including soil piles or fuel storage in this buffer and where possible no trafficking of vehicles.

Shrill carder bee

We encourage additional enhancement measures to support Shrill carder bee (*Bombus sylvarum*) populations. Shrill carder bee is a feature of the Gwent Levels SSSIs, the area is of national importance and a strong hold for the species. Management recommendations for Shrill carder bee focus on ensuring plentiful flower-rich habitat with suitable forage is available from April to late September/October, in addition to providing undisturbed nesting habitat. It is good practice that foraging and nesting habitat areas are included as biodiversity enhancement measures. We have reviewed the Ecological Impact Assessment (EclA),

produced by RPS, reference P36-ECIA, dated July 2023. We welcome that the ECIA identifies management of open structured grassland and tussocky grassland to provide foraging and nesting habitats for Shrill carder bee, including the use of locally sourced green hay in grassland creation. If flora that provides a good nectar source for bees is not flourishing on site, seeding could be undertaken from a local seed mix to build resilience for Shrill carder bee populations in the local area. Our preference would be to investigate sourcing seed harvested from Great Traston (Solutia) the Gwent Wildlife Trust reserve. We advise that areas of foraging habitat are mown once per year in late September to mid October to leave flowers in place for Shrill carder bees to forage. All cuttings should be collected and removed. Shrill carder bee nesting requirements are rough field margins and areas of tussocky grassland. Field buffers could be encouraged by cutting and collecting on rotation. We recommend that these measures be included within any submitted Landscape and Ecological Management Plan.

Tree Planting

We note tree planting is proposed within 400m of the Newport Wetlands SSSI. We advise the species should be selected from our Gwent Levels native tree list. Our preference is that any planting is species from the first section (natives) of the Gwent Levels tree list. Plants should be of UK native provenance (grown in British nurseries) to remove the risks of importing diseases that our plants have no resistance to and pests that have no natural predators in the UK. Those species of plant not native to UK or the Gwent Levels should be removed from the planting list. British grown plants are far more likely to do well in our conditions than those that have been imported.

Construction Environmental Management Plan

We advise that a Construction Environmental Management Plan (CEMP) should be provided to manage the potential adverse environmental impacts from construction of this development on Protected Sites and European Protected Species.

Condition

No development 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.*
- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.*
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.*
- 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.*
- 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*
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.*
- On-site measure to prevent otter entrapment in any open excavations.*

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

Justification: A CEMP should be submitted to ensure necessary management measures are agreed and implemented for the protection of the environment during construction.

Flood Risk

The planning application proposes highly vulnerable development. Our Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 2 and 3 (Sea). Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. We refer you to the tests set out in section 6.2 of TAN15. If the Local Planning Authority considers the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of a Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level. We have reviewed the supporting FCA undertaken by RPS, referenced P36-FCA, dated July 2023, which is informed by the NRW Caldicot and Wentlooge (2016) model. We note that the northern boundary of the battery compound area is elevated around 8.5m AOD and the centre of the battery compound area has an undulating topography with levels between 8.49m AOD and 9.04m AOD. We note that it is acknowledged that the sea defences in the area are identified as in 'Poor' condition, and therefore flood levels for the undefended scenario have been used to inform development design and mitigation measures. The following flood levels are provided for the site:

In the 0.5% (1 in 200 year) with Climate Change Allowance (2100) undefended scenario:

- Northern part of the BESS Compound: Flood level = 9.75 m AOD producing a flood depth of 1.23m.
 - Western part of the BESS Compound: Flood level = 9.74 m AOD producing a flood depth of 1.51m.
 - Southern part of the BESS Compound: Flood level = 9.75 m AOD producing a flood depth of 1.2m.
 - Eastern part of the BESS Compound: Flood level = 9.76 m AOD producing a flood depth of 1.15m.
 - Central part of the BESS Compound: Flood level = 9.74 m AOD producing a flood depth of 1.0m.
- In the 0.1% (1 in 1000 year) with Climate Change Allowance (2100) undefended scenario:

- Northern part of the site: Flood level = 10.41 m AOD producing a flood depth of 1.89 m.
- Western part of the site: Flood level = 10.42 m AOD producing a flood depth of 2.19 m.
- Southern part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.88 m.
- Eastern part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.81 m.
- Central part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.69 m.

We note that the FCA states that the ground will be raised to a minimum level of 9.75m AOD which would ensure the development site is above the 200 year with Climate Change Allowance (2100) flood level, and therefore meets the requirements of TAN 15. It is further stated that depending on the final development level achieved, to be established at detailed design stage, 'at risk' assets will be elevated on a suitably engineered platforms, which may include but not limited to, concrete/masonry blocks and steel stanchions. However, using the above figures, it should be noted that the Eastern part of the BESS Compound, will experience a flood depth of 100mm in the 1 in 200 year (2100) flood event. Therefore, the whole area within the red line boundary is not flood free, though, we do recognise that this area will be used as grassland. We note that the built components of the development will be elevated and that the proposed 9.75m AOD is the lowest the ground level will be set to. This figure is based on a 1 in 200 year plus climate change event (77 years rather than 75 years) and uses the 95% confidence level. The FCA has therefore taken a precautionary approach. During the 1 in 200 year plus climate change flood event, the majority of the site is expected to experience flood velocities that are between 0.3 to 1.0 m/s. There are isolated areas where velocities are below 0.3 m/s and between 1.0 and 1.5 m/s. During the 1 in 1000 year plus climate change flood event, the majority of the site is expected to experience flood velocities that are between 0.3 to 1.0 m/s with isolated areas where velocities are between 1.0 and 1.5 m/s. We note that flood resilience measures will be incorporated in the design to reduce the risk of tidal flooding and it is intended to raise the ground level above predicted flood levels to around 9.75m AOD. *We would suggest conditioning the ground level to a minimum of 9.75m AOD.* We note that it is recommended that a Flood Management Plan is produced for site management and operational staff. We also note that it is recommended that the proposed development is registered with the NRW's flood warning service and that a Flood Warning and Evacuation Plan (FWEP) is prepared to set out the procedures that site management and site staff should follow in the event a flood warning is issued. The FCA shows that the risks and consequences could be managed to an acceptable level, provided

the Flood Consequence Assessment (FCA) undertaken by RPS, referenced P36-FCA, dated July 2023 is included as part of the submitted plans and documents attached to any permission granted. As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users. Protection of Controlled Waters

We note that the Design and Access Statement refers to underground cables. We advise confirmation is provided that the cables are not fluid filled and are not to be placed below the water table. We will normally object to pipelines or fluid filled cables that transport pollutants, particularly hazardous substances that:

- pass through SPZ1 or SPZ2 where this is avoidable
- are below the water table in principal or secondary aquifers (for the purposes of this position statement, the term 'water table' is taken to mean any laterally continuous groundwater including perched groundwater).

Operators should consider the lifetime of the pipeline or cable in their assessment of the depth to groundwater)

We have reviewed the Preliminary Risk Assessment (PRA) Afon Wysg Battery Energy Storage System, prepared by RPS for Enso Energy, dated July 2023. The PRA provided is generally comprehensive, however, we would advise that with future submissions, the following should be considered:

- Evidence of the use or storage of firefighting foams on site in case there are sources of PFAS associated with the site
- River Usk is considered a controlled waters receptor.
- Premature at this PRA stage to consider there to be no S-P-R linkages. The presence of shallow groundwater and connectivity with the River Usk is and other nearby surface waters is possible and as such ought to be investigated before making this assumption. Given the historic land use associated with the site as a power station, use of storage tanks and railway and given the proximity to the River Usk, we advise that the following conditions be imposed upon any permission granted for the protection of controlled waters:

Condition - Land affected by contamination

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

1. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected 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.

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

Condition – Verification Report

Prior to the operation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved

verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

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

Condition - 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.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

Condition - Piling

No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling shall be implemented in accordance with the approved details. Justification: Piling should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

Condition - Surface water drainage
No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Justification: To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution.

Informative/advice to applicant

The proposed development area is within the permitted boundary of Uskmouth Power Station (permit no. LP3131SW). The current permit holder (SIMEC Uskmouth Power Limited) will be required to fully or partially surrender the existing permit prior to commencement of works. Furthermore, a large volume of waste pulverised fuel ash (PFA) residue remains onsite from when the installation was operational as a coal fired station. We understand that the applicant may wish to use this material as part of land profiling works. We also understand that discussions with the applicant (or nominated consultant) have taken place to discuss these proposals, as a deposit for recovery permit may be required. It is unlikely the proposal will impact existing permitted activities at Severn Power Station.

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST:

Information in the Historic Environment Record shows that the application area is within the Gwent Levels Archaeologically Sensitive Area. This is defined for the concentration of evidence of activity relating to the periodic reclamation of tidal and alluvial land; buried land surfaces with waterlogged archaeological and environmental deposits, from the prehistoric and Roman periods onwards.

Previous archaeological mitigation work has identified such archaeological deposits, during works to construct the original power station, additional works at the power station, and development nearby. Consequently, there would be a potential for any ground disturbing works to encounter such remains. However, we note from the supporting documentation that the location is on disturbed and made ground, and that the ground level will be raised to facilitate the development proposal.

Whilst we have noted the potential for archaeological deposits to be encountered, in this case it is unlikely given the nature and condition of the ground. Therefore, it is our opinion that the

current proposals would not adversely impact the archaeological resource, and that it is unlikely that archaeologically significant material would be encountered during the course of the proposed works. As a result, there is unlikely to be an adverse archaeological impact to this proposed development, and consequently, as the archaeological advisors to your Members, we do not make any recommendation for archaeological mitigation, and have no objections to the positive determination of this application.

WELSH WATER: no objections.

CADW: no response.

WILDLIFE IN NEWPORT GROUP: no response.

NEWPORT ACCESS GROUP: no response.

SENIOR FIRE PREVENTION OFFICER: no response.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENVIRONMENTAL HEALTH):

I confirm I have no objections to the proposals; however the following conditions should be attached to any permission granted;

Demolition & Construction Environmental Management Plan

No development shall take place until a site specific Demolition and Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison
- Arrangements for liaison with the Newport City Council Noise & Neighbourhood Team
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within permitted hours
- Mitigation measures as defined in BS 5228: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours.
- Deliveries to and removal of plant, equipment, machinery and waste from the site, and operational work must only take place within permitted hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays with no audible works on Sundays.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.
- Measures to mitigate demolition dust and material causing a nuisance to local residents, for example sheeting of loads and wheel washing apparatus

Reason: To protect the amenities of occupiers of other premises in the vicinity

Plant noise management

Noise emitted from any future plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 5dB below the existing background level, with no tonal element to the plant.

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

CONSERVATION OFFICER:

I have assessed the application on heritage grounds and would consider the proposals acceptable in principle. The heritage note provided as part of the application is extremely useful. I agree with the comments made within this document and appreciate the time taken to assess this potential heritage asset in accordance with national and local policy. I have considered the application purely on whether there would be any impact to setting. In the event of designation, the cooling towers would not be deemed as curtilage listed structures (unless specifically mentioned by Cadw) because of their later construction date, to which they would not fit the criteria for 'curtilage' structures. The towers are of little

architectural and historic value and their removal would result in a neutral impact to the setting and wider site.

I would not consider the new build elements to detract from the current character and appearance of the historic site, whether or not the buildings are listed by Cadw in the near future.

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (LANDSCAPE OFFICER):

A Landscape and Visual Appraisal by Pegasus Group follows industry standards and concludes for the brownfield site within an industrial use complex and surrounded by woodland blocks that for the site and for landscape character the impact will be Minor Adverse, for visual amenity the impact will also be Minor Adverse and localised.

Of the 5ha site, 2ha will be developed, the remaining areas managed for ecological objectives, including boundary mitigation tree and hedge planting to further filter any views from the sailing club, Wales Coast Path, and RSPB Wetlands site.

The LVA has reviewed any cumulative impacts which may arise from the Uskmouth Power Station West BESS (approved under 22/0823) and concluded there are no additional impacts arising. Photos from nine viewpoints show the woodland blocks are sufficiently dense to provide year round softening or blocking of any views. Photos are annotated (Type 1 visualisations) which is adequate, as given the likely visual impact further detail for example through the use of photomontages would be unlikely to help further clarify impacts. A Detailed Landscape Proposals plan rev B by Pegasus Group provides certainty over the planting with the flower rich seeding to meet the Ecologist specification of standard meadow mix plus site won green hay.

A Landscape and Ecological Management Plan by Pegasus Group incorporates all of the proposed landscape character types and confirms the new native hedge will be maintained to 3m height. The only comment I have is on the RAL colour for the 'green' 2.4m weld mesh fence. This could be conditioned but needs to be better defined in order to blend in with the dominant colours of the mainly natural woodland backdrop.

HEAD OF INFRASTRUCTURE (HIGHWAYS):

Highway Recommendation: No objection subject to conditions.

Highway Comments:

The existing access is to be retained for construction and use of the development. This has historically been used for larger numbers of HGV movements. During construction the development will result in increased traffic, mainly HGV movements. A cumulative assessment of this and adjacent development that may be coincidental (but is not currently expected to be) shows that the impact would be acceptable for any short duration of overlap. That said, Highways consider it necessary to have a construction and demolition plan for all phases, notably demolition of cooling towers and construction of the proposed development. The CEMP should also address the need and routing/timing for abnormal loads although these will be subject to separate approvals.

In summary there are no objections on highway grounds subject to the following conditions.

Recommended Conditions:

No works shall take place on the site at all until a method statement comprehensively detailing the phasing and logistics of demolition/construction has been submitted to and approved in writing by the Council as Local Planning Authority. The method statement shall include, but not be limited to:

Construction traffic routes, including provision for access to the site

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

Location of directional signage within the site

Siting of temporary containers

Parking for contractors, site operatives and visitors

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

Temporary roads/areas of hard standing

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

Details of abnormal vehicles, frequencies, timing and routing

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

Measures to control noise and dust

Details of street sweeping/street cleansing/wheelwash facilities

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

Hours of working

Phasing of works including start/finish dates

For the avoidance of doubt all construction vehicles shall load/unload within the confines of the site and not on the highway. The development shall be carried out in accordance with the approved plan, unless otherwise agreed in writing with the Council as Local Planning Authority.

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

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

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (SCIENTIFIC OFFICER):

Contaminated Land

The RPS Preliminary Risk Assessment is noted which identifies the potential for land contamination and as such the suite of conditions associated with land contamination is recommended as below:

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

- a) *An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.*
- b) *If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.*
- c) ***Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.***

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

- d) *Following remediation a Completion/Verification Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.*
- e) *Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.*
Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

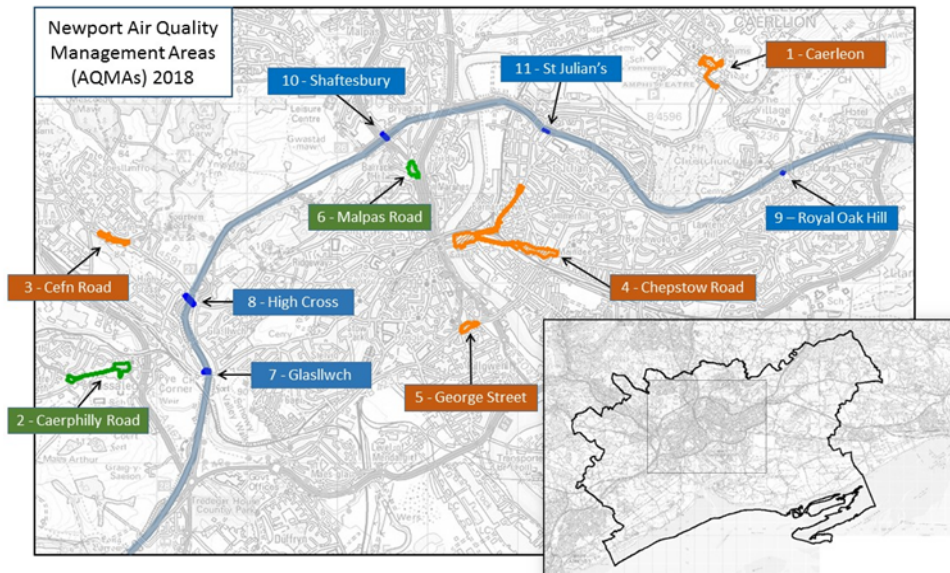
Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

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

Air Quality

The RPS transport assessment submission has been read and it would appear that up to 76 HGV movements per day could take place during the construction phase and as such the LPA will need to be satisfied that routing of vehicles does not substantially impact upon amenity or air quality along routes taken to and from the site. A routing plan needs to be provided for vehicles that will be accessing the site which demonstrates how this will be achieved.

It is particularly important that areas where non-M4 air quality management areas have been declared are avoided (see map below).



The staff car parking spaces proposed for this development must include provision for electric vehicle charging; and the opportunity to provide electric vehicle charging should take place during the construction phase for staff associated with this as well. In view of the above the following conditions are recommended:

1. ULEV

No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained. ULEV Infrastructure shall be available to staff during the construction phase in for as this is reasonably practicable.

Reason: To prevent unacceptable harm because of air pollution (Policy GP7); There must not be a significant adverse effect upon local amenity in terms of air quality (Policy GP2)

2. Construction Routing Plan

A construction routing plan shall be provided to the LPA which demonstrates how the routing of traffic during the construction phase will avoid non-M4 air quality management areas as detailed on the map below:

The plan shall be submitted to the LPA for approval prior to commencement of construction and retained throughout the construction period. Where any departure from the plan is required the LPA must be consulted prior to any changes.

Reason: To prevent unacceptable harm because of air pollution (Policy GP7); There must not be a significant adverse effect upon local amenity in terms of air quality (Policy GP2)

HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ECOLOGY):

HRA

In general I support the methodology and conclusions of the Shadow HRA submitted in support of this application, so my advice is that we adopt it as our own for the purposes of our duties under Regulation 63 of the Habitats Regulations. The conclusion of no adverse effect on the integrity of the National Sites Network sites relies upon a series of mitigation

measures set out in sections 6.2.34 and 6.2.35, so we should use planning conditions to secure implementation of these measures.

NRW in their letter of 7th December have proposed the control of impacts during construction via a Construction Environmental management Plan (CEMP), and of lighting impacts via a Lighting Plan, so we should use planning condition to secure production and implementation of these as well.

The Shadow HRA does not consider the issue of disturbance to migratory fish which are features of the River Usk SAC. However this impact of noise and vibration disturbance occurs within a distance of 30 metres, and as the proposed development is further than this distance from Mean High Water, this factor is not likely to have a significant effect.

Any issues arising from surface water run-off can be counteracted by the 'Protection of Controlled Waters' series of conditions proposed by NRW in their 7th December response.

The conclusion reached in section 8.1.4 could have been worded differently, as the outcome of an Appropriate Assessment is whether there would be an adverse effect on the integrity of the NSN sites, whereas a conclusion of 'no potential likely significant effects' relates to the initial screening stage or 'Test of Likely Significance'.

We should inform NRW that we intend to adopt the Shadow HRA, but I am unclear on whether we need formally to re-consult them, given that the document won't have changed, so in theory their comments shouldn't change either.

European Protected Species

NRW have not raised any specific concerns in relation to bats, otters, GCN or dormice, so we can assume that there is no need for a EPS derogation licence to allow works to proceed. Their 7th December response includes a paragraph advising that an EPS licence *might* be required, but this is relevant only if further information comes to light i.e. in the unlikely event that bats, for example, are found on site.

Ecological Impact Assessment (EclA) July 2023

I support the methodology and conclusions of the EclA and advise that the mitigation and enhancement measures set out in section 5 of that report be secured by planning condition. I support the proposed landscaping and habitat management, but the advice offered by NRW in relation to Shrill Carder Bee should be incorporated into any grassland management scheme.

HEAD OF INFRASTRUCTURE (STRUCTURES): no response.

HEAD OF INFRASTRUCTURE (SAB): We have received a SAB application for the scheme which has been approved.

HEAD OF INFRASTRUCTURE (STREETWORKS): no response.

HEAD OF INFRASTRUCTURE (PUBLIC RIGHTS OF WAY): no response.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

No neighbouring properties were consulted as none are located within 100m of the application site, a site notice was displayed and a press notice published in South Wales Argus – no comments received over and above those represented in the Community Council comments below.

6.2 COUNCILLOR KELLAWAY was notified of the application and has responded with no comment.

6.3 NASH COMMUNITY COUNCIL:

Express deep concerns and objection to the proposed battery storage facility at Uskmouth Power Station.

The construction phase of the battery storage facility is a matter of grave concern for our community, particularly regarding the impact of heavy construction traffic passing through our village.

Our village, with its site of special interest, including the Wetlands reserve, is home to a diverse range of rare bird species, and insects that thrive in the undisturbed natural surroundings.

The constant flow of construction vehicles, noise, and disruption caused by their activities will undoubtedly disturb these delicate ecosystems and endanger the well-being of these unique species.

The noise and vibrations from the battery storage, and increased construction traffic will undoubtedly disrupt the nesting patterns, feeding habits, and overall well-being of these inhabitants. We have a moral duty to protect and preserve these fragile ecosystems for future generations, and the proposed battery storage facility poses a direct threat to their existence.

Upon reviewing the ecological survey conducted for the proposed battery storage facility, it has become evident that the survey fails to capture the full extent of the biodiversity present in the area.

Several species of rare birds and insects, known to inhabit our village and the surrounding site of specific interest, were not adequately highlighted or accounted for in the survey report

These overlooked species play a crucial role in maintaining the ecological balance and contribute to the overall richness of our local ecosystem. Neglecting their presence and ecological significance not only undermines the accuracy and comprehensiveness of the ecological survey but also poses a significant risk to their well-being and long-term survival.

Battery storage facilities often produce substantial noise levels during their operation, which can have a detrimental impact on the tranquility of our residential area, the residents treasure the peacefulness and quietude of their surroundings,

Our village is cherished for its peaceful ambiance and its designation as a site of special interest, highlighting its ecological and environmental significance. The presence of a battery station near our village, and in close proximity to the site of the Wetlands reserve would irreparably compromise the serene atmosphere that residents and visitors value so dearly. The disturbance caused by construction activities and increased traffic would detract from the natural beauty and tranquility of the area, undermining the essence of its designation.

It is important to acknowledge that the proposed battery storage facility is located along a route frequently used by walkers, cyclists and horse riders, including those who commute to the power station.

Currently, this route lacks dedicated footpaths or safe passage for pedestrians and equestrians, thereby exposing them to significant safety hazards. The roads are not designed for the increased traffic volume and this will lead to the inevitable deterioration of the roads which we have seen first hand with the recent construction of the solar farm in the Goldcliff and Whitson area.

The increased traffic volume, noise pollution, and potential road congestion would have a detrimental impact on our overall quality of life and the well-being of our community members.

The presence of batteries and associated equipment in a flood zone raises serious safety and environmental concerns. In the event of a flood, there is a heightened risk of damage or even leakage of hazardous materials, which could have severe consequences for the surrounding ecosystem and local water sources. This risk extends beyond the construction phase, as the potential for flooding during the facility's operational lifespan cannot be overlooked.

Given the unpredictable nature of climate change and the increasing frequency of extreme weather events, it is imperative to prioritise the safety of our community and the integrity of the natural environment. Placing a battery storage facility in a high flood risk area is a direct contradiction to these principles.

7. ASSESSMENT

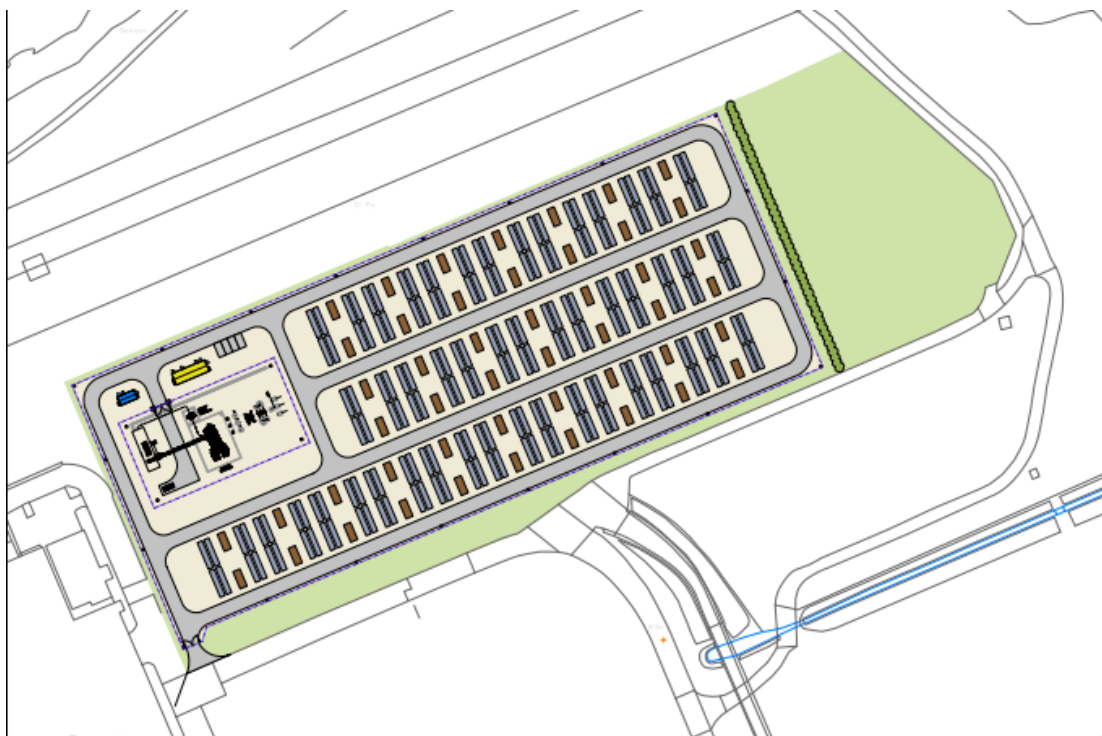
7.1 The Development

The Proposed Development is for a Battery Energy Storage System with associated infrastructure and works. The BESS will provide high-speed energy balancing services to the National Grid. All associated plant and equipment, together with associated development (such as CCTV and fencing), landscaping, surface water drainage system and works are included within the proposals. The main components of the Proposed Development comprise:

- Battery storage facility comprising a series of linked batteries housed within shipping containers (or containers of similar appearance);
- Inverter/transformer stations with cooling equipment and associated electrical infrastructure are distributed evenly across the site housed within metal containers;
- Underground cabling to connect the battery storage facility and inverters/transformer stations to the proposed on-site 132kV substation and control room, which comprises the plant and equipment necessary to export the electricity stored on-site to the electricity network;
- Underground cabling from the BESS to the National Grid 132kV Substation;
- Security fencing (2.4m high metal weld mesh) and monitoring CCTV/infra-red cameras mounted along the perimeter of the BESS Site;
- Landscape planting, biodiversity enhancements and surface water attenuation measures;
- Groundworks; and
- land for the temporary construction laydown area and site access from the public highway.

The connection to the grid will be made at the National Grid Substation, located approximately 350m west of the BESS compound. The cable would run below ground from the boundary of the site directly to National Grid owned land at the substation. The final cable route would be confirmed during the detailed design phase. The total site extends to approximately 4.5 hectares. The BESS compound occupies approximately two hectares of this area; the rest of the site is dedicated to access from the highway network, the cable route corridor, biodiversity improvements, surface water drainage feature, landscaping and other planting.

- 7.2 The construction of the proposal would take place over approximately 12 months. The redundant cooling towers that currently occupy the site will be demolished as part of the project but separate notification has already been considered in respect of these demolition works and the Council has confirmed that its prior approval is not required (LPA reference 23/1045). The construction would include all electrical works and engineering works required for the development.



Proposed site layout plan

- 7.3 Each containerised battery unit will measure 9.3m long by 1.7m wide and 2.6m high; a control room will measure 6m long, 3m wide and 3.9m high; a switch room will measure 11.7m long by 4m wide by 3.9m high. CCTV columns proposed will be maximum 3m high and the boundary fence maximum 2.4m high. The 132kv substation supporting the development (north western corner of the layout plan above) will include plant up to 6.5m high in the form of the transformer unit with other equipment such as switchroom and circuit breaker being lower.
- 7.4 There is significant national and local policy support for proposals that make a positive contribution to sustainable development and energy supply resilience. Battery storage of this kind can support renewable energy generation, reduce energy wastage, and supports the transition to a low carbon economy. It can improve energy security along with a more balanced and reliable supply of electricity. Battery storage has an important role to play in the energy network and will supplement the grid during periods when supply of energy may have fallen below optimum levels for any reason. All these factors are of significant merit and must be afforded substantial weight in favour of the scheme. The benefits of energy storage appear well made with very clear national policy support and being a brownfield site in an existing industrial location with existing supporting infrastructure appears to support basic and general sustainability principles. The proposed development will also secure significant investment in this underused urban industrial site.
- 7.5 In this context, the primary issues to be considered are as follows:
- Traffic and its effects associated with the construction of the battery energy storage system. This is likely to take place over a 12 months period.
 - The visual and landscape impact of the development.
 - Flood risk.
 - Impact on ecology affecting protected sites close to the development area including risk to controlled waters from ground contamination.
 - Fire risk and associated impact along with environmental factors associated with longer term end of battery life operational matters and disposal of waste.
 - Energy security and optimisation of energy storage to improve supply resilience.

Secondary matters are considered to be:

- Archaeology and the historic environment
- Noise and disturbance and impact on residential amenity

7.6 Traffic Impact

Given the distance to residential receptors and low population of the area, the development is considered to have fairly low sensitivity. However, as the existing access to the site is via the rural Nash Road and West Nash Road, which pass through the village of Nash and other groups of houses, the setting is considered to have higher sensitivity to potential road traffic impacts and much of the Community Council's concerns relate to this.

7.7 Once the Proposed Development is operational, there would be negligible traffic demand generated. The BESS would not be permanently manned and only the occasional maintenance and inspection visits would be made; this is likely to be once per month or once every few weeks. As a consequence, there would be no regular vehicle movements generated by the Proposed Development when it is operational, thus, there are negligible transport considerations when it is operational. The Transport Assessment therefore focusses on the construction phase of the BESS.

7.8 The construction phase is anticipated to be in the region of 12 months. Construction traffic would use the existing access via West Nash Road which has been used by vehicular traffic to and fro the power station since the sixties. A Transport Assessment has been submitted with this application and no objection to it has been received from the Head of Infrastructure (highways). It is anticipated that there would be approximately 9 HGV vehicles in and out per day (based on a 5 day working week) so 18 HGV movements per day for 1 year over the construction period. The developer anticipates up to 10 staff vehicles on site during the peak construction period (thereby generated 20 staff vehicle movements per day) but these are smaller scale and of negligible impact over and above existing traffic levels. During operation there would be limited traffic movements, estimated at 4 light commercial vehicles per month on average. The Highways Officer has advised: Delivery vehicles would include 44 tonne articulated lorries, 32 tonne rigid HGVs, 4 axle lorries and 3.5 tonne 2 axle vehicles. There would be 1 abnormal load delivery. The Assessment confirms two important things. Firstly, the highway routing operates well within capacity now and well within capacity when the above vehicles are added. Secondly, the above vehicle movements are significantly less than those seen during the operational life of the power station which effectively ceased in 2017. West Nash Road and Nash Road (leading to Meadows Road) have historically served as the primary road access to the power station site and the neighbouring gas fired station and sailing club. It is also frequently trafficked by vehicles accessing the neighbouring sewerage treatment site. Therefore, whilst the roads are rural, the presence of industrial and larger vehicles using these roads is commonplace. Such traffic operates alongside residential and visitor traffic accessing existing properties but also the coastal path and bird reserve for example. Whilst the power station is also served by rail and river access, its reliance upon road access has been a longstanding one. Only one abnormal load will be required over the 12 month period and this is of negligible impact and will require advance planning with the Council's Highway Networks team. Track testing confirms such abnormal loads can safely travel the network to site with the junction of West Nash Road and Nash Road being the most constrained point on the journey. However, these will be subject to advance agreement with NCC highway networks, may have to be accompanied by escort vehicles and can be appropriately timed to avoid any peak periods. This will be a matter for highways. The main consideration is the impact of heavy goods vehicles on the local highway network, the character of the area and amenity over the construction period. These are likely to include articulated lorries and rigid large vehicles carrying containerised units for example. There is only one road into the development and there is a reasonable likelihood that traffic will enter site via the M4 and routes that are not subject to Air Quality Management areas. Notwithstanding, routing plans are normally included within Construction Environmental Management plans and this is subject to a recommended condition. No construction traffic should travel along Nash Road where it serves Lliswerry Comprehensive School and Nash College for example. Members should note that the same consideration was given to the recently permitted Battery Energy Storage System project on the former coal stockyard of the power station site (22/0823) and this consented scheme and associated traffic generation must be considered as part of the cumulative assessment of construction and operational traffic on local roads. Given that the 230 MW BESS already has planning consent and is far further through the planning and implementation process than this Proposed Development, it is unlikely that the two construction phases would overlap but it has been considered in the Transport Assessment in any case and along with an appreciation of committed development traffic generated by ongoing development at Glan

Llyn. It is also noted that the power station site benefits from a rail line and material for land raising for the recently consented scheme nearby will be delivered by rail not road.

- 7.8 By reason of the location and construction of the roads, separate agreement for reimbursement costs for damage or general wear and tear for the local highway network must be discussed with the Council's Highway Networks team. This is separate to the planning process and is subject to the regulatory powers of the Highway Authority. As an industrial site with an existing use, albeit no longer linked to an operating coal fired power station, the potential for heavy goods vehicles persists as it is likely the site will be reused in some form albeit not as a coal fired power station. Notwithstanding, other industrial uses remain a real option at the site having regard to its size, topography, infrastructure and general location. The fallback is a material consideration and, having regard to the site location, existing infrastructure, adjoining operations and underused industrial land present, the likely of future industrial uses on the site being acceptable or lawful is high and therefore must carry at least moderate weight.
- 7.9 The proposal includes the construction of an access road into the new battery storage site from the existing site access road. This is minor in context and acceptable. During construction, a contractor's compound will be provided, details of which will be required by condition and is easily accommodated within the application site. A condition is recommended to ensure its implementation. Four spaces will be provided for the lifetime of development and for maintenance staff associated with the project. As operational staffing and access needs are very limited, operational parking requirements are also limited and the 4 proposed spaces are acceptable. In short, the traffic impact of this development is acceptable and the proposal complies with policy GP4.
- 7.10 Visual and Landscape Impact
The site is located in the Caldicot Levels Special Landscape Area (SLA) and adjoins the Usk (SLA). The Gwent Levels Landscape of Outstanding Historic Interest lies a short distance to the east of the Application Site and extends west of the Usk parallel with the coast. There are International RAMSAR and European nature conservation designations Special Area of Conservation (SAC) and a Special Protection Area (SPA) associated with the intertidal areas at the mouth of the Usk with the Severn Estuary SAC and SPA. The SAC extends up the River Usk immediately to the west of the Application Site. The Wales Coastal Path is located to the south, north and east of the Application Site some 0.25km distant at its closest point. Some sections are slightly elevated above the Levels landscape, such as the coastal embankment which overlooks the Severn estuary. The intervening scrub and trees and distance between the Wales Coastal Path and the Application Site means that views of the wider power station infrastructure and the immediate surroundings are restricted to the taller elements such as the Power Station building and stack. There is a Sustrans national network route which runs east to west within the Levels landscape but inland from the coast and over 1.5km to the north east of the Application Site at its closest point, near Pye Corner. The Landscape and Visual Impact Assessment (LVIA) submitted with this application confirms there would be no significant effect on this route due to distance and the intervening built environment and vegetation and officers agree.
- 7.11 The dense network of drainage ditch water courses in the Caldicot and Wentlooge Levels landscapes are a defining characteristic and they form many of the field boundaries. They are a key extant historic landscape feature which persists today. The dense network of drainage features which consist of Reens, banks, grips, surface drainage and bridges are of 13th to 14th century origin. There are no water features on Site. There is an existing buried drainage feature on the Site associated with the redundant cooling towers, that drains into Julian's Pill to the north east. A large scale pond lies to the south-west of the site, with a series of ponds and ditches further to the south-west within the RSPB Newport Wetlands (NNR). The River Usk lies close to the northern boundary. It is proposed that the BESS will connect into the existing drainage feature, however, due to these features not being visible, the value and susceptibility to change are both considered to be low, resulting in a low sensitivity. There would be no direct or indirect effects upon the water features in proximity to the Site. A new attenuation feature is proposed to the east of the proposed BESS, which would connect to the existing drainage infrastructure.

- 7.12 The presence of large pylons on and close to site dominate the landscape in this area and it is the close access to these that makes this site so attractive for battery energy storage. The 4.5ha development will be brownfield within the context of large scale industrial use and currently has 11m high cooling towers associated with the power station use. At present, the Uskmouth site as a whole is dominated by a 122m high stack and a 46m high brick building that housed the combustion units. It adjoins the combined cycle gas turbine power station completed in 2007 with its associated plant, flues and equipment. There are no national landscape designations at the site but numerous closeby as discussed above. The nearest residential cluster at Nash village is over 1km from site. There are a small number of individual farm complexes and private residences within the surrounding area to the east of the Application Site. These include properties along Nash Road (1.9km to the north east), Little Cross Farm and properties off West Nash Road (1.9km to the north east) and Moorcroft, Great House and Arch Cottage all west of Nash less than 1km to the east from the Application Site. The views from these properties would not be altered by the proposed development due to distance and height and scale of development.
- 7.13 To the south is the RSPB reserve which is also an important recreational and tourism feature. The Nash Wetlands form a distinctive and rare waterscape / landscape in the context of the Gwent Levels. The setting to the north is dominated by power generating development whether it be the buildings and plant associated with the gas fired or coal fired power stations, which provides an established context for the proposed development. Although the scale of the proposed development in land area appears large, in the context of the extensive industrial development within the neighbouring area, any change in the overall urban context to the Nash Wetlands would be limited. The proposals would generally result in a low degree of change and alteration to the setting of the Reserve itself as are separated from it by intervening, larger scale industrial development. Visibility from peripheral public routes in the Reserve are unlikely to experience any impact and the development will not be visible from the Reserve visitor centre.



Taken from Wales Coast Path within RSPB Newport Wetlands, looking north-west towards the site with the light coloured existing cooling towers visible in the background (extracted from LVIA)

- 7.14 The closest seascape character area to the proposed development is the Severn Estuary (Wales). The main aesthetic and perceptual qualities of the marine area are the open expansive views across the estuary. Locally the backdrop to this part of the coast is large scale industry at Newport which has an influence over the seascape character. The proposed development would not be discernible from the sea to the south. The existing industrial / power generating urban character forms the context for this stretch of coast in a wider natural and wild seascape setting. Therefore, this area has a high capacity to absorb the proposed form and scale of energy infrastructure development without harm to visual amenity. Overall the significance of effect on the seascape character would be negligible to nil.
- 7.15 The scope of the project includes battery units to 2.6m height from a raised ground level of 1-1.5m high, set out in rows, a BESS substation to 6.5m high (compared to the existing 11m high cooling towers), security weld mesh type fencing, lighting and CCTV cameras, hard surfacing. The containerised units will have a utilitarian appearance and set out in uniform rows and of a uniform level will likely appear as one large sea of containers when viewed

from vantage points outside the site. They are relatively low height structures against the much more considerably sized power station buildings that adjoin this application site and will utilise what is now the redundant cooling towers area which is a large site of underused industrial land in its own right. The applicants have confirmed agreement to a condition requiring the colour of these units to be agreed and officers consider a green finish may appear less stark against the green periphery and brick power station buildings being retained. The containers will be compatible with the wider industrial appearance of the site.



Taken from Power Systems UK website as an example of how such systems may look



Taken from Newport Uskmouth Sailing Club car park, looking south-west towards the site – existing cooling towers barely evident due to distance and intervening features (extracted from LVIA)

- 7.16 Users of Uskmouth Sailing Club to the north of the site will have uninterrupted views of the site as they pass via it to access the Club however the LVIA confirms that proposed landscaping will mitigate the impact upon vehicles approaching the club and from the club car park itself, little visual impact will arise (see above) and the visual effect of the proposed development must be considered against the current views of the cooling towers. Impact on residential receptors is limited to nil by reason of distance from site and low form of development. New landscaping is proposed on the outside of the proposed fence that will, in time, soften the appearance of both the fence and the development generally to the benefit of those viewpoints where views may be possible and there is a high chance of natural colonisation of undeveloped areas by landscape species already present on site and notably on peripheral areas where space is left to mature naturally. Landscape plans and supporting information has been provided and sets out a clear and acceptable proposal for new landscaping on site and the Council's Landscape officer has confirmed no objection to these details. They include new scrub, hedge and tree planting of native species with 23 new trees in total. A Landscape and Ecological Management Plan supports the application. Conditions are necessary to ensure implementation, maintenance and monitoring in accordance with submitted documents. Furthermore, the applicant has agreed to a condition controlling/specifying the colour of the fencing. The Council's Ecologist advises:

I support the proposed landscaping and habitat management, but the advice offered by NRW in relation to Shril Carder Bee should be incorporated into any grassland management scheme.

Officers are satisfied that this can be dealt with by condition.

- 7.17 There is a single energy development within the study area, namely Uskmouth Power Station West (planning reference: 22/0823). The planning application for this BESS has been granted, subject to planning conditions. Although the other consented BESS site lies in proximity to the application site, both proposals are modest in size and scale, seen in context of Uskmouth Power Station with its associated buildings and stack. Therefore, it is considered that the combined aesthetic and perceptual effects would not give rise to cumulative effects upon landscape character over and above that which is assessed for the proposed development. From a visual perspective, there would be very limited locations where both the proposed development and the proposals associated with the consented scheme would be visible together. The exception to this would be from limited parts of the Wales Coast Path to the south and south west of the application site, where the consented site would be visible in the foreground, consequently limiting views towards the proposed development beyond as a result. However, no additional combined cumulative visual effects are predicted from the Wales Coast Path as visual effects would decrease overall for the proposed development as a result of the consented site being located in the foreground. No cumulative effects are predicted to occur upon the Caldicot Levels River Usk or Wentlooge Levels SLAs. The proposal is considered to accord with policy GP5.
- 7.18 Ecological Impact
A suite of documents and supporting information has been submitted for consideration and having regard to site sensitivities and protected species. NRW and the Council's Ecologist have raised no objections subject to these documents and associated mitigatory and enhancement measures being conditioned. The conditions recommended are included in this assessment.
- 7.19 The applicant has provided a shadow Habitats Regulation Assessment (HRA) as part of its Ecological Impact Assessment document and officers are satisfied with its content and recommend this is adopted as the necessary assessment in this case for the purposes of the Council's duties under Regulation 63 of the Habitats Regulations. There is no need to duplicate it. NRW has confirmed support for this approach and no further notification of NRW is necessary. The conclusion of no adverse effect on the integrity of the National Sites Network sites relies upon a series of mitigation measures set out in sections 6.2.34 and 6.2.35 of the Assessment (HRA), and planning conditions to secure implementation of these measures are required and recommended.
- 7.20 NRW in its response, has proposed the control of impacts during construction via a Construction Environmental management Plan (CEMP), and of lighting impacts via a Lighting Plan, and planning conditions are recommended in accordance with this advice. The Shadow HRA does not consider the issue of disturbance to migratory fish which are features of the River Usk SAC. However, this impact of noise and vibration disturbance occurs within a distance of 30 metres, and as the proposed development is further than this distance from Mean High Water, this factor is not likely to have a significant effect. Any issues arising from surface water run-off can be counteracted by the 'Protection of Controlled Waters' series of conditions proposed by NRW and included in the conditions below recommended by officers.
- 7.21 Appropriate Assessment
Regulation 63 of the Habitats Regulations 2017 requires that a competent authority (in this case the LPA), before deciding to authorise a plan or project, must consider whether the plan or project is likely to have a significant effect on a European site, either alone, or in combination with other plans or projects. If it is considered that such an effect is likely, then a competent authority must then undertake an 'appropriate assessment' of the implications of the plan or project for the site, in view of the site's conservation objectives. Such an assessment is required in this case and must be completed before a determination is made.

The Habitats Directive applies the precautionary principle to relevant designated areas, in so much as plans and projects can only be permitted having ascertained that there will be

no adverse effect on the integrity of a SPA or SAC, collectively termed Natura 2000 sites. The following sites require assessment for effects:

- River Usk/Afon Wysg SAC (main focus species are Sea lamprey, Twaite shad and European otter whilst secondary focus species are River lamprey, Allis shad and Atlantic salmon;
- Severn Estuary/Môr Hafren SAC;
- Severn Estuary/Môr Hafren SPA; and
- Severn Estuary/Môr Hafren Ramsar site.

7.22 There will be no potential effects on intertidal habitats with a stand off of over 30m. As such, there is no potential for any of the migratory fish species listed under the River Usk SAC (or more widely within the Seven Estuary) to be adversely effected.

7.23 The shadow HRA provides an appropriate assessment analysis that officers consider can and should be adopted as the LPA appropriate assessment for the purposes of satisfying its obligations under the Habitats Regulations. The full report is included as part of this application and the following is a summary inclusion of its findings.

Table 6-1: Summary of Stage 2 Conclusions

Impact Pathway	Screening Outcome	Designated Site	Feature
Habitat loss and fragmentation, reduced connectivity	No Likely Significant Effect	n/a	n/a
Direct loss or damage of habitats used by interest species	No Likely Significant Effect	n/a	n/a
Change in water quality (including siltation, pollution, nutrient enrichment and pH changes)	No Likely Significant Effect	n/a	n/a
Entrapment/ obstruction during construction	No Likely Significant Effect	n/a	n/a
Disturbance during construction (from lighting)	No Likely Significant Effect	n/a	n/a
Disturbance during operation (from lighting)	No Likely Significant Effect	n/a	n/a
Disturbance during construction (from human activity and noise)	Likely Significant Effect cannot be screened out	River Usk SAC Severn Estuary EMS	Otter Wintering Bird Assemblage of International Importance
Disturbance during operation (from human activity)	No Likely Significant Effect	n/a	n/a
Habitat loss (construction)	No Likely Significant Effect	n/a	n/a

Disturbance during operation (from noise)	Likely Significant Effect cannot be screened out	River Usk SAC Severn Estuary EMS	Otter Wintering Bird Assemblage of International Importance
Disturbance (all other potential pathways)	No Likely Significant Effect	n/a	n/a

Two matters are not screened out above and require further consideration/mitigation for the purposes of the assessment.

7.24 Disturbance during Construction (human activity and noise)

Construction activities will be undertaken during the day with no activities after 19:00 or before 07:00. Although otters can be active during the day they are typically more active at night. The extent to which the construction works will overlap the periods otters would be actively moving within the power station site should be very limited.

Otter surveys undertaken in 2023 have found no resting sites/couches/laying up places within 200m of the laydown area or BESS development site. No larger mammal paths indicating regular use were found on the perimeter of dense vegetation. All areas of dense vegetation are a minimum of 50m from the construction areas. The European otter is known to tolerate considerable levels of airborne noise related to development activities within their home range. The extent of any potential displacement impacts for foraging animals would be very limited in extent and duration. There is potential for individual otters that are actively moving through their territory during the day to avoid sections of the River Usk, the banksides or adjoining woodland adjoining the construction area at times of elevated noise. Under a worst case scenario, a change in behaviour would have a temporary indirect effect and only effect a relatively short distance. Finally, there is very limited potential for human activity on site to impact otters.

- 7.25 In relation to wintering waterbirds it is anticipated that the majority of construction activity would fall in the category of low to moderate level disturbance. Activities resulting in greater variation in noise levels would constitute a moderate level disturbance. During all high level noise disturbances and some moderate level noise disturbances, sensitive waterfowl would be expected moving away from the sources of noise into less disturbed locations, resulting in temporary displacement from a small part of the total foraging habitat used by small numbers of birds. The levels of human activity in the construction site will increase from current levels. The land raising operations will primarily involve vehicle movements and earth moving with relatively few people on foot within the working area. The construction of the BESS compound and installation of the associated infrastructure will involve a larger workforce on foot. Mitigation is proposed in the form of solid hoarding around the construction site that will screen the majority of activity from habitats used by wintering birds. There is potential for tall machinery to be visible though given the distance between the working area and foraging habitat this is unlikely to significantly affect foraging behaviour. A condition securing mitigation in accordance with the Assessment is recommended.

7.26 Operational Disturbance – Otter Population

Given the industrial nature of the local area it is likely that otter will continue to use the adjoining habitat. In a worst case scenario, there may be minor changes to the routes otters use along the section of the River Usk to the north of the BESS while foraging. This would not result in an effect on the survival of otters or status of the local population.

7.27 Operational Disturbance - Effect on Wintering Waterfowl

Use of habitats around the BESS development should be considered in the existing industrial context of the power station site. The populations of birds present in area will be habituated to background noise and human activity through their use of a range of disturbed habitats across the wider River Usk, River Ebbw, and Severn Estuary area. The proposed development is unlikely to significantly affect the behaviour of wintering birds in

the River Usk and Pill. In a worst case scenario, there may be minor changes to the numbers of birds using areas in close proximity to the BESS. This would not affect the overall conservation value of wintering populations which are qualifying features of the Severn Estuary SPA.

7.28 In combination Effects

In combination effects have been considered having regard to projects set out at Appendix A of this report.

7.29 Conclusion of Appropriate Assessment

The proposed development will have no impacts upon the habitats of the River Usk SAC and Severn Estuary. There is potential for the development to result in minor disturbance to otter, a qualifying feature of the River Usk SAC, during the construction phase this will not result in a likely significant effect. The BESS construction may result in displacement of wintering waterfowl for which the Severn Estuary Special Protection Area and Ramsar are designated. The majority of species using the area close to development constitute less than 1% of the Severn Estuary population. Larger numbers of gadwall and redshank are present. Displaced wildfowl would move to adjoining habitat and the overall integrity of the wintering wildfowl assemblage would be maintained. It has therefore been concluded that there would not be an adverse effect on the integrity of the National Sites Network and on any interest features within the River Usk SAC, Severn Estuary SAC, SPA and Ramsar sites during the construction or operational phases of the Proposed Development either alone or in combination.

7.30 Insofar as European Protected Species are concerned, NRW has advised as follows:

A European protected species (EPS) Licence might be required for this development.

Consequently, officers have considered the Derogation tests as follows:

7.31 Derogations potentially required in the case of European Protected Species (in this case otter)

i. Regulation 52(3) the development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

This site is an existing industrial site within the urban area in accordance with the adopted Local Development Plan. The site is underused and forms part of a larger former coal fired power station, having been used in the recent past as cooling towers. The development would provide battery storage capacity for which Welsh Government and national planning policy is supportive and will aid energy supply and network resilience within the National Grid. This is a significant merit and will facilitate the efficiency of an energy network moving towards greater renewable production by capturing such energy during peak generation and releasing when generation reduces due to weather or other conditions. Energy security and stability of supply is a key material consideration having regard to wider objectives to reduce carbon emissions.

ii. There is no satisfactory alternative;

This site is capable of creating a substantial sustainable development which provides new and large scale battery storage without having an unacceptable adverse impact provided the key features of the site are retained and mitigation is provided. The site is located close to existing power generating plants, in a well established but underused industrial site, is relatively flat and free of operational impediments, and has direct access to the grid without the need for unsightly or unviable additional development for connection. Such attributes are not found anywhere else in Newport or the wider area. It is considered that there are no satisfactory alternatives, nor would any alternate site of this scale be promoted through and considered part of a holistic LDP approach.

iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

This planning application includes a shadow Habitats Regulation Assessment which identifies the ecological value of the site and assesses the development impact. The HRA and associated documents including surveys and Landscape and Ecological Management Plan and Ecological Impact Assessment and outlines the mitigation measures to minimise any disturbance to European Protected Species and conditions would be attached to any grant of consent for a CEMP. NRW has raised no objection in relation to European Protected Species nor has the Council's Ecologist subject to specified conditions being included. It is considered that this proposal together with the specified mitigation measures would not be detrimental to the favourable conservation status of the European Protected Species on this site.

Doing nothing in this case would be a missed opportunity to re-use previously developed and underused land and the benefits of doing so in this case, with mitigation, are considered to outweigh any harm

- 7.32 In this case, the NRW response to date has indicated that a licence may be required. NRW has also indicated that in its view impacts upon this species would be negligible, so officers can reasonably assess that a European Protected Species licence would either not be needed, or that if it were, NRW would be likely to grant it.

Officers are satisfied with the information provided and subject to the conditions recommended consider the development accords with policies SP9 and GP5.

7.33 Flood Risk

The planning application proposes highly vulnerable development. The NRW Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 3 (Sea). The main source of flood risk appears to be tidal with negligible risk of fluvial flooding. Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Section 6.2 of TAN15 is relevant. If the Local Planning Authority considers the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of a Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level. An FCA has been submitted. The northern boundary of the battery compound area is elevated around 8.5m AOD and the centre of the battery compound area has an undulating topography with levels between 8.49m AOD and 9.04m AOD. Sea defences in the area are identified as in 'Poor' condition, and therefore flood levels for the undefended scenario have been used to inform development design and mitigation measures. The following flood levels are provided for the site:

In the 0.5% (1 in 200 year) with Climate Change Allowance (2100) undefended scenario:

- Northern part of the BESS Compound: Flood level = 9.75 m AOD producing a flood depth of 1.23m.
- Western part of the BESS Compound: Flood level = 9.74 m AOD producing a flood depth of 1.51m.
- Southern part of the BESS Compound: Flood level = 9.75 m AOD producing a flood depth of 1.2m.
- Eastern part of the BESS Compound: Flood level = 9.76 m AOD producing a flood depth of 1.15m.
- Central part of the BESS Compound: Flood level = 9.74 m AOD producing a flood depth of 1.0m.

In the 0.1% (1 in 1000 year) with Climate Change Allowance (2100) undefended scenario:

- Northern part of the site: Flood level = 10.41 m AOD producing a flood depth of 1.89 m.
- Western part of the site: Flood level = 10.42 m AOD producing a flood depth of 2.19 m.
- Southern part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.88 m.
- Eastern part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.81 m.
- Central part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.69 m.

The FCA states that the ground will be raised to a minimum level of 9.75m AOD which would ensure the development site is above the 200 year with Climate Change Allowance (2100) flood level, and therefore meets the requirements of TAN 15. It is further stated that depending on the final development level achieved, to be established at detailed design stage, 'at risk' assets will be elevated on a suitably engineered platforms, which may include but not limited to, concrete/masonry blocks and steel stanchions.

7.34 However, using the above figures, the Eastern part of the site will experience a flood depth of 100mm in the 1 in 200 year (2100) flood event. Therefore, the whole area within the red line boundary is not flood free. The affected area will be used as grassland and no objections are raised in regard to this. The built components of the development will be elevated and the proposed 9.75m AOD is the lowest the ground level will be set to. This figure is based on a 1 in 200 year plus climate change event (77 years rather than 75 years) and uses the 95% confidence level. The FCA has therefore taken a precautionary approach. During the 1 in 200 year plus climate change flood event, the majority of the site is expected to experience flood velocities that are between 0.3 to 1.0 m/s. There are isolated areas where velocities are below 0.3 m/s and between 1.0 and 1.5 m/s. During the 1 in 1000 year plus climate change flood event, the majority of the site is expected to experience flood velocities that are between 0.3 to 1.0 m/s with isolated areas where velocities are between 1.0 and 1.5 m/s. Flood resilience measures will be incorporated in the design to reduce the risk of tidal flooding and it is intended to raise the ground level above predicted flood levels to at least 9.75m AOD. A planning condition is recommended to ensure the ground level is a minimum of 9.75m AOD. The FCA shows that the risks and consequences could be managed to an acceptable level.

7.35 NRW has raised no objection subject to a condition being imposed that ties the permission to the FCA submitted in support of the application and this is recommended for inclusion here. Notwithstanding this, it is for the LPA to consider whether the risks and consequences of flooding are manageable.

7.36 TAN 15 Assessment

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. It maintains that there should be minimal risk to life, disruption and damage to property. Development should only be permitted in Zone C1 if it can be demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; 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.

Where development is justified the assessment can be used to establish whether suitable mitigation measures can be incorporated within the design to ensure that development is as safe as possible and there is minimal risk, damage and disruption.

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

Test 1 – Justification

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 proposal will reuse vacant industrial land on an existing industrial site located within the urban area and meets this test.

It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 4.4)

PPW defines previously developed land as:

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

The proposal meets this test.

Tests 2 to 12 – Consequences of Flooding

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. These are referred to as tests 2 to 12 below.

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).

Whilst the site is defended, NRW has advised of concerns regarding the existing defences in this area and consequently the applicant's FCA adopts a cautious approach and is based on an undefended scenario (i.e. assumes the site is not subject to any defences).

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

The defences are an NRW asset.

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

This is not relevant to the proposal as no one will occupy the site. The applicants and site owners are aware of the flood risks.

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

This site, as with many, can sign up to NRW warnings relating to potential tidal flooding.

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

The site will not be permanently manned and the primary infrastructure (i.e. the battery units) will be above flood levels for the 1 in 200 year scenario. This consideration therefore becomes less relevant.

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

The FCA confirms that a Flood Management Plan will be produced for site management and operational staff, with instructions of appropriate measures to take in the instance of a flood. This will ensure the safeguarding of personnel in the event of a potential inundation whilst present on site.

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.

The nature of the development is such that rapid movement of infrastructure would not be feasible.

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.

Flood resilience measures have been incorporated in the design to reduce the risk of tidal flooding. It is intended to raise the finished level for the electrical infrastructure above predicted flood levels in the 1 in 200 year scenario. Final design will be developed post planning to meet other specification requirements for electrical infrastructure and a condition to secure details will be required for visual and flood risk reasons.

Test 10 - No flooding elsewhere.

Flood compensation would not be necessary. Due to the proximity of the Bristol channel to the site and the fact that the flooding is caused by tidal sources not fluvial. This test is met.

Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.5) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.

Flood resilience measures have been incorporated in the design to reduce the risk of tidal flooding. It is intended to raise the ground level for the electrical infrastructure above predicted flood levels, utilising imported fill and individual assets protection. Final design will be developed post planning to meet other specification requirements for electrical infrastructure and a condition to secure details will be required for visual and flood risk reasons. The final flood resilience/resistance levels to be achieved will be no lower than 9.75m AOD. This is equivalent to the 200 year Climate Change horizon year undefended scenario of 9.75 m AOD except in the eastern part of the site where expected flood levels are 9.76m AOD, however this part of the site will not include electrical infrastructure. This test is considered to be met.

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.

In the 0.1% (1 in 1000 year) with Climate Change Allowance (2100) undefended scenario:

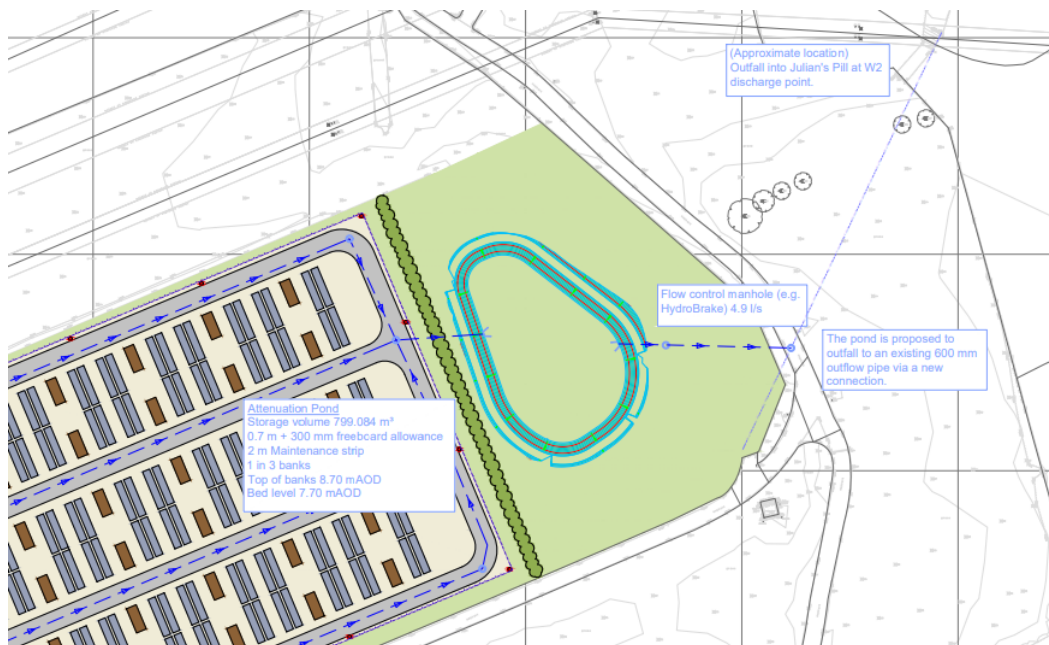
- Northern part of the site: Flood level = 10.41 m AOD producing a flood depth of 1.89 m.
- Western part of the site: Flood level = 10.42 m AOD producing a flood depth of 2.19 m.
- Southern part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.88 m.
- Eastern part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.81 m.
- Central part of the site: Flood level = 10.43 m AOD producing a flood depth of 1.69 m.

- 7.37 Without raising, the site will flood well beyond tolerable limits in the extreme scenario (i.e. up to 2.19m), however it is proposed to raise site and elevate infrastructure to at least 9.75m AOD. Predictions for the 1 in 1000 year event would mean approximately 0.68m of flood water on some parts of site even with land raising. It is likely that final design of the pads for the electrical infrastructure will incorporate the variable elevation required to ensure that no part of the electrical infrastructure will flood. However, conditions relating to land raising and/or raising of infrastructure and the final design of this are necessary.



Example image of raised slabs or piers used for electrical infrastructure

- 7.38 The entire site would be appropriately protected through the combination of land raising and individual asset protection, whereby containers are elevated on blocks and land raised to achieve a total resilience design level of minimum 9.75 m AOD. This ensures that the development will be raised above the flood level associated with the 200 year Climate Change horizon year undefended scenario and electrical infrastructure will be above the 1000 year extreme levels. Surface water runoff generated by the development will be managed by the site's existing drainage system and include a new Sustainable Urban Drainage feature in the form of an attenuation pond located within the site area that will manage run off from the site and ensure greenfield rates of run off to the existing drainage features. It is anticipated that all SUDS features will be considered further by the Sustainable Drainage Approving Body (SAB) and full details required as part of this separate regulatory process.



Flood compensation would not be necessary, due to the proximity of the Bristol channel to the site and the fact that the flooding is caused by tidal sources. It has been demonstrated that the development meets the Justification Test imposed under TAN15. The proposal complies with Policy SP3 of the Local Development Plan.

7.39 **Ground conditions**

The proposed development includes land raising the proposed footprint area of the BESS/site. The earthworks would include the raising of the ground to a finalised level of 9.75m AOD.

- 7.40 We know the site does present contamination issues. Risks to both human health and controlled waters are material factors with potential for adverse impacts, and conditions are recommended. These have been set out by NRW in its response and by the Scientific Officer but include much duplication of requirements such as the requirement for additional ground investigation, remediation strategy and verification over and above information already supplied. The recommended conditions of NRW and the NCC officer have therefore been combined. This will be required pre any engineering works on site.
- 7.41 **Fire risk and associated impact along with environmental factors associated with longer term end of battery life operational matters and disposal of waste**
This is considered relevant as battery fires may be infrequent but can have major implications. This proposal is of large scale and will be close to another consented battery energy storage project. Similarly, batteries have a limited lifespan and their disposal is relevant in terms of the wider environmental implications of this. The site will have an operating lifespan of approximately 40 years. Battery cell replacement is likely over the lifetime of development and consequently some periodic battery exchange will be required. It is reasonable to assume this will occur very infrequently over the lifetime of development and only once battery efficiency dips below the expected level. The removal of the cells in itself is unlikely to pose any environmental effects and limited risks on site. There are no plans to dispose of the batteries on site but clearly they will have to be disposed of and dismantled elsewhere. Officers consider that a condition for a scheme of battery replacement to be agreed is appropriate as large scale battery replacement cycles will have other implications, notably on traffic generation.
- 7.42 Fire risks are mitigated by each container including fire detection and gas fire suppression systems that are fully automated. Good management and observation of battery faults for example will also limit risk along with monitoring of heat within the system itself. The fire risk in this type of system is low to our knowledge and clearly there are economic implications of any fire as well as environmental impacts so it is reasonable to expect operators to take all steps possible to mitigate risk. Over and above the matters identified in relation to fire risk, there are other mitigating factors that can be employed including clearance distances between containers, use of non combustible materials in the insulation and use of fire walls or breaks, particularly perhaps on larger schemes such as this. The implications of any fire on a site with this scale of battery units would have environmental effects in terms of emissions to air and likely spillage to ground but there is opportunity to significantly reduce such risks. The likelihood of fire is low and the likelihood of a large fire is negligible so the overall likelihood of environmental effects from the development arising from fire risk is not significant. No objections have been raised by any technical consultees on this issue including the Fire Service. An Outline Battery Safety Management Plan has been submitted with this application and sets out design recommendations that should be complied with along with the requirement for a final version of the document once design is complete. This is recommended to be conditioned.
- 7.43 **Energy security and optimisation of energy storage to improve supply resilience**
As discussed elsewhere in this report, national planning policy very clearly supports energy storage confirming that LPAs should, in turn, support such schemes wherever possible. Clearly schemes of this type and scale are best located on brownfield sites and industrial locations would appear very well suited to such infrastructure, with likely easy connections to existing grid apparatus and reduced potential impact upon sensitive receptors. The benefits of energy storage appear well made with very clear national policy support and being a brownfield site in an existing industrial location with existing supporting infrastructure appears to support basic and general sustainability principles. This policy support is given substantial weight along with the opportunity the development will afford to store energy to enhance energy security and supply resilience.
- 7.44 **Other matters**
The risk of noise and disturbance from the site during its operation is considered to be limited and no objections are raised by the Council's Environmental Health team subject to recommended conditions. Noise and disturbance arising from the construction period can be controlled via a Construction Environmental Management Plan and associated hours and any complaints arising will fall within the regulatory control of the NCC Environmental Health team. The concerns expressed by the Community Council in relation to operational noise

are noted, however the scheme is significant distance from sensitive residential receptors and is surrounded by noise generating industrial activity including the Liberty Steel manufacturing plant to the north east and the gas fired power station to the south west. Matters relating to biodiversity impact have been assessed separately in this report. Operational noise from batteries is low and unlikely to be readily audible over background noise conditions, particularly having regard to site context in this case. Notwithstanding, the plant noise condition recommended by the Council's Environmental Health Officer is included and any noise nuisance can be controlled by other regulatory controls should it arise.

- 7.45 The site is within an archaeologically sensitive area but the site consists entirely of land that has been historically and significantly disturbed and Glamorgan Gwent Archaeological Trust has raised no objections. In relation to other heritage matters, Cadw has confirmed that it is currently considering the power station buildings for listing. However, at time of writing, the Council had received no confirmation of listing or any formal consultation regarding listing. Therefore, at time of writing no part of the power station site is subject to interim or final listing and the associated legal protections this affords. The application is supported by a Heritage Note and the conservation officer has considered this and the potential for listing some or all of the redundant power station buildings and the impact any such listed status would have on the Council's consideration of this application. Officers consider that the new build elements would not detract from the current character and appearance of the historic site, whether or not any of the older industrial buildings are listed by Cadw in the near future.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

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

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

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

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

8.7 Newport's Well-Being Plan 2018-23

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

9. CONCLUSION

9.1 The proposed development will secure significant investment in this underused urban industrial site. Battery energy storage has national planning policy support and is encouraged in principle. It contributes to an efficient energy supply network and facilitates energy supply resilience and security. It supports the use of renewable energy sources as part of the supply network by removing excess supply, storing it and releasing it back to grid when wind and solar produce less energy (less light or wind) thereby encouraging a more stable network. National support stems from its contribution to a reliable energy supply derived from renewable (and sometimes inconsistent) sources. This site has many attributes that lend it to this type of development and the vital grid connection to make it viable is secured. The application is accompanied by extensive supporting documents that inform the assessment of material planning considerations and no objections to the scheme have been received from technical consultees.

9.2 Conditions are reasonable and necessary to ensure the scheme is delivered and operated in an acceptable manner in planning terms. The scheme has significant merit and officers consider that subject to the conditions recommended, the application should be granted.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

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

- Planning Statement: Afon Wysg Battery Energy Storage System by Pegasus Group July 2023;
- Built Heritage note: Afon Wysg Battery Energy Storage System by Pegasus Group July 2023;
- Bat Survey Report: Afon Wysg Battery Energy Storage System by RPS Group November 2023;
- Pre Application Consultation Report: Afon Wysg Battery Energy Storage System by Enso Energy July 2023;
- Design and Access Statement: Afon Wysg Battery Energy Storage System by Enso Energy May 2023;
- Landscape and Visual Assessment: Afon Wysg Battery Energy Storage System by Pegasus Group July 2023;
- Preliminary Risk Assessment: Afon Wysg Battery Energy Storage System by RPS July 2023;
- Transport Assessment: Afon Wysg Battery Energy Storage System by RPS July 2023;
- Arboricultural Impact Assessment: Afon Wysg Battery Energy Storage System by Baron Hyett July 2023;
- Battery Management Plan: Afon Wysg Battery Energy Storage System by Enso Energy July 2023;
- Breeding Bird Survey: Afon Wysg Battery Energy Storage System by RPS July 2023;

- Ecological Impact Assessment: Afon Wysg Battery Energy Storage System by RPS July 2023;
- Flood Consequences Assessment: Afon Wysg Battery Energy Storage System by RPS July 2023;
- Green Infrastructure Statement drawing nol P22-3216_EN_04 rev B by Pegasus Group;
- 132kV Substation drawing UH—1-P10;
- General Site Elevations drawing UH-01-P15;
- Context Site Location Plan UH-01-P17;
- Landscape and Ecological Management Plan: Afon Wysg Battery Energy Storage System by Enso Energy July 2023;
- Proposed Site Plan drawing UH-01-P02rev01;
- Inverter drawing UH-01-P03;
- Internal Access Road Detail drawing UH-01-P04;
- Switchroom drawing UH-01-P05;
- Control Room Elevations drawing UH-01-P06;
- Battery Container Elevations drawing UH-01-P09;
- CCTV Elevations drawing UH-01-P08;
- Battery Fence and Gate Elevations drawing UH-01-P09;
- Detailed Landscape Proposals drawing P22-3216_en_03revB by Pegasus Group;
- Site Location Plan drawing UH-01-P01rev03.

Pre- commencement conditions

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

- 1 A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected 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. Policies SP9 and GP5 of the LDP.

03 Prior to any engineering works on site associated with the changing of ground levels, full details of slabs, retaining walls, piers or similar works required to elevate the electrical infrastructure shall be submitted to and approved in writing by the Local Planning Authority. This shall include layout and elevational details along with sectional drawings to a suitable scale to show the depth of such works above finished ground levels and shall ensure compliance with all recommendations set out in the supporting documents to this application. The works shall be undertaken in accordance with the approved details and retained thereafter.

Reason: In the interests of visual amenity and flood risk mitigation. SP1, SP3, SP8, GP6 and GP2 of Local Development Plan.

- 04 Prior to the commencement of development on site (including engineering operations) a detailed drainage strategy for construction and operational phases of development shall be submitted to and approved in writing by the Local Planning Authority. This drainage strategy shall have due regard for the mitigation and recommendations of all supporting documents accompanying this application and will define all surface water management and controls required to protect sensitive surface water receptors including those controls required in the event of an emergency situation such as fire. The drainage strategy shall detail the timing of surface water drainage works required as part of this development. The works shall thereafter be completed in accordance with the approved details and retained for the lifetime of development.
Reason: To safeguard ecological and environmental interests. SP1, SP3, SP9 and GP5 of Local Development Plan.
- 05 No development 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.
 - Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
 - CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
 - 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.
 - 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 and arrangements for liaison with the Newport City Council Noise & Neighbourhood Team.
 - Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.
 - On-site measure to prevent otter entrapment in any open excavations.
- The CEMP shall be implemented as approved during the site preparation and construction phases of the development.
Reason: in the interests of amenity, ecology, landscape and safety. SP1, SP9, GP2, GP5 of Local Development Plan.
- 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 during both construction and operational phases
 - Drawings setting out how light spillage will not extend beyond the site boundaries. If light spillage is to fall beyond the site boundary, details are required, together with mitigation to minimise the effects on protected species
 - Details of lighting to be used both during construction and operation
 - Measures to monitor light spillage during the construction phase, and once development is operational, and details of responsible personnel for monitoring and instigating remedial measures where appropriate
- The lighting shall be installed and retained as approved during construction and operation.

Reason: A lighting plan should be submitted to ensure details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species, namely otters and bats, their places of shelter and breeding, and their foraging and commuting corridors and in the interests of visual amenity. SP1, SP9, GP5 and GP2 of the LDP.

- 07 Notwithstanding the details submitted, all containerised units including switch room and control room and weld mesh fencing hereby approved shall be colour coated green at time of installation and in accordance with a RAL colour that shall first be submitted to and approved in writing by the Local Planning Authority. The units and fencing shall be maintained and retained in this state for lifetime of development.

Reason: In the interests of visual and landscape amenity. GP6 and SP8 of Local Development Plan.

- 08 No works shall take place on the site until a method statement comprehensively detailing the phasing and logistics of construction has been submitted to and approved in writing by the Council as Local Planning Authority. The method statement shall include, but not be limited to:

Construction traffic routes, including provision for access to the site

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

Location of directional signage within the site

Siting of temporary containers

Parking for contractors, site operatives and visitors

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

Temporary roads/areas of hard standing

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

Details of abnormal vehicles, frequencies, timing and routing

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

Measures to control noise and dust

Details of street sweeping/street cleansing/wheelwash facilities

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

Hours of working

Phasing of works including start/finish dates

For the avoidance of doubt all construction vehicles shall load/unload within the confines of the site and not on the highway. The development shall be carried out in accordance with the approved plan, unless otherwise agreed in writing with the Council as Local Planning Authority.

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

- 09 All works on site shall be undertaken in accordance with an Arboricultural Method Statement that accords with the recommendations contained within the Arboricultural Impact Assessment: Afon Wysg Battery Energy Storage System by Baron Hyett July 2023. The Assessment and the Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on site.

Reason: To protect valuable tree features on site. Policy GP5 of the LDP.

- 10 No development shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Tree Protection Plan.

Reason: To protect important landscape features within the site in accordance with policy GP5 of the adopted Local Development Plan.

Pre Occupation/operation conditions

- 11 Prior to the operation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also

include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Reason: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. SP1, GP2, GP7 of Local Development Plan.

- 12 The development hereby approved shall be undertaken in accordance with the approved Landscape and Ecological Management Plan: Afon Wysg Battery Energy Storage System by Enso Energy July 2023 unless alternative details are sought and approved as part of the conditioning regime. A reporting timeframe to provide fully detailed Landscape Monitoring Reports and additional measures for the enhancement of habitat for Shril Carder Bee are to be submitted to and approved in writing by the Local Planning Authority prior to first import or export of electricity from the site. The landscape and ecological management scheme shall thereafter be undertaken in strict accordance with the Landscape and Ecology Management Plan and associated reporting timeframe.

Reason: In the interests of visual amenity and ecology. SP1, GP5, SP8, SP9, GP2 of the Local Development Plan.

- 13 Prior to the operation of the development hereby approved, a final Battery Safety Management Plan shall be submitted to and approved in writing by the local planning authority and shall have regard to the preliminary document entitled Battery Management Plan: Afon Wysg Battery Energy Storage System by Enso Energy July 2023. The development shall be completed and managed in accordance with the approved Final Plan thereafter.

Reason: To safeguard against the effects of fire in the interests of amenity and the environment. GP2 and GP7 of the Local Development Plan.

- 14 Prior to occupation or operation of the development hereby approved, a scheme for the replacement of battery units and associated infrastructure over the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details of the cycles for battery replacement and how this will be managed having regard to traffic generation and potential for pollution/waste generation. The scheme shall thereafter be operated in accordance with the approved details.

Reason: To safeguard against the impacts of battery replacement over the lifecycle of the development in the interests of amenity and the environment SP1, GP2 and GP7 of the Local Development Plan.

- 15 Prior to first beneficial operation of the development hereby approved a scheme of Ultra Low Energy Vehicle infrastructure to serve the development shall be implemented in accordance with details first submitted to and approved in writing by the LPA.

Reason: To encourage use of low emission vehicles by site users having regard to air quality. Policies GP7 and GP2 of the LDP.

General conditions

- 16 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. SP1, SP9, GP5 and GP7 of the Local Development Plan.

- 17 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts

of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To prevent pollution to the water environment. SP1, SP9 and GP5 of Local Development Plan.

- 18 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority prior to any such works taking place, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

Reason: There is an increase potential for pollution of controlled waters from inappropriate methods of piling. SP1, SP9 and GP5 of Local Development Plan.

- 19 No more than 18 HGV movements* per day Monday to Friday and 9 on Saturday (or 100 per week whichever is greater) shall enter and leave the site during the construction phase of the development and these vehicles shall use the vehicle route along Nash Road and West Nash Road in association with this development. There shall be no HGV vehicle movements on Sundays or Bank/Public Holidays. Such vehicles shall include all those associated with any site clearance, site preparation, construction, site commissioning and land raising/ engineering during the construction period. The applicant shall keep an up to date and legible log of all HGV and delivery traffic accessing and departing from site in association with the development and make this log available for inspection by officers appointed by the Council upon request. This log must record the number, type (of vehicle including size), registration number, time and date of each vehicle entering site. The log shall be kept on site by a nominated person(s) to be notified to the Local Planning Authority and for the duration of development activity at the site.

* a movement equates to a single one way movement to or from the site.

Reason: To safeguard residential and recreational amenity and highway safety and in accordance with policy SP1, GP2 and GP4 of the adopted Local Development Plan.

- 20 Four parking spaces shall be provided to serve operational staff in accordance with details included within Appendix A of the Transport Assessment hereby approved and prior to first beneficial use of the development. The approved parking area shall be retained for lifetime of development.

Reason: To ensure adequate on site parking provision is secured to minimise risk of parking on local. GP4, SP1 and GP2 of Local Development Plan.

- 21 All on site electrical infrastructure shall have a finished ground level no lower than 9.75m AOD.

Reason: To safeguard the development from flooding. SP1 of Local Development Plan.

- 22 The development shall be undertaken fully in accordance with all recommendations set out in the document entitled 'Flood Consequences assessment- Afon wysg Battery Energy Storage System', prepared by RPS for Enso Energy, document reference P36-FCA, dated July 2023.

Reason: To ensure mitigation of flood risk. SP1 of Local Development Plan.

- 23 The development shall be undertaken fully in accordance with all mitigation, compensation and enhancement measures set out in the following documents and this shall include all monitoring and maintenance requirements set out therein:

Ecological Impact Assessment – Afon Wysg Battery Energy Storage System” (including associated Shadow Habitats Regulation Assessment, prepared by RPS for Enso Energy, dated July 2023; and

Breeding Bird Survey: Afon Wysg Battery Energy Storage System by RPS July 2023; and Landscape and Ecological Management Plan: Afon Wysg Battery Energy Storage System by Enso Energy July 2023.

All monitoring and maintenance related surveys will be shared with the Local Planning Authority over the lifetime of the development and a procedure for doing so shall be submitted to and approved in writing by the Local Planning Authority prior to first import/export of electricity to the site.

Reason: To safeguard European protected species. SP1, GP5 and SP9 of Local Development Plan.

- 24 No construction or site set up related operations shall take place outside the hours of 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturday. No works shall be undertaken on Sundays or Bank/Public Holidays.
Reason: In the interests of ecology and amenity. SP1, SP9, GP5 and GP2 of local Development Plan.
- 25 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first import/export of electricity or completion of development whichever is the sooner; and any trees or plants which within a period of 5 years* from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Written confirmation shall be provided to the Local Planning Authority once the landscaping scheme has been implemented in accordance with the approved details.
* The 5 year period referred to in this condition shall commence once the landscaping has been completed in accordance with the approved details.
Reason: In the interests of visual amenity and ecology. SP1, SP8, SP9, GP2, GP5 of Local Development Plan.
- 26 The Landscape Monitoring Reports required by Condition 23 of this permission shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the approved timetable approved as part of the aforementioned Condition. The Landscape Monitoring Report(s) shall include photographic records of the landscaping on site and outline what reinstatement measures, if necessary, are required for the landscaping along with a timetable for their implementation. All measures and works shall be completed in accordance with the approved details and programme following written approval from the Local Planning Authority.
Reason: To ensure appropriate landscaping is provided and well managed in the long term in the interests of ecology and visual amenity. SP1, GP2, SP8 and SP9 of Local Development Plan.
- 27 Noise emitted from any future plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed a level of 5dB below the existing background level, with no tonal element to the plant.
Reason: To safeguard nearby sensitive receptors from unacceptable noise disturbance. GP2 and GP7 of Local Development Plan.
- 28 Any underground cabling required as part of the approved development shall not be fluid filled or placed below the water table.
Reason: In the interests of sustainability, biodiversity and the environment. SP1, SP9, GP5 of local Development Plan.

NOTE TO APPLICANT

01 This decision relates to plan numbers set out at condition 01 and the following:

- Existing Site Plan UH-01-P18

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

- SP1 Sustainability
- SP3 Flood Risk
- SP8 Special Landscape Areas
- SP9 Conservation of the Natural, Historic and Built Environment
- SP18- Urban Regeneration
- GP1 General Development Principles – Climate Change
- GP2 General Development Principles – General Amenity
- GP3 General Development Principles – Service Infrastructure
- GP4 General Development Principles – Highways and Accessibility
- GP5 General Development Principles – Natural Environment
- GP6 General Development Principles – Quality of Design
- GP7 General Development Principles – Environmental Protection and Public Health
- CE2 Waterfront Development

- CE3 Environmental Spaces and Corridors
- CE6 Archaeology
- CE8 Locally Designated Nature Conservation and Geological Sites
- CE9 Coastal Zone
- CE10 Renewable Energy
- T3 Road Hierarchy
- T4 Parking
- T8 All Wales Coast Path
- W3 Provision for Waste Management Facilities in Development

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

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

The proposed development area is within the permitted boundary of Uskmouth Power Station (permit no. LP3131SW). The current permit holder (SIMEC Uskmouth Power Limited) will be required to fully or partially surrender the existing permit prior to commencement of works.

Appendix A

Sites considered as part of in combination effects assessment – HRA

Table 1: Summary of Application Sites

Reference	Site	Description	Status	Date of Decision
18/0973	Land and Property Formerly Known as Robert Price Transport Yard Corporation Road Newport	Outline application for mixed use development comprising C2 residential institutions and C3 residential and drive thru coffee shop (A1/A3) along with associated infrastructure and facilities	Granted with conditions	18 Dec 2019
18/1169	Land To South of Cyril Street Coverack Road Newport	Erection of 1no. Five storey apartment block and 1no. 6 storey apartment block comprising 76no. One and two bedroom dwellings with car park and associated work	Granted with conditions	29 Aug 2019

19/1164	Transporter Bridge Brunel Street Newport	Repair and restoration of Newport Transporter Bridge, demolition of existing visitor centre, provision of new expanded visitor facilities, new lighting scheme and associated landscaping works. Conservation of the engineering structure of the bridge, plus the restoration of ancillary elements including the gondola, motor house, anchor houses and anchor cables. Design work including the analysis of the structure and the specific action of repairs to the structure and ancillary components. Affecting public right of way Newport coastal path 403/2/1	Approved	30 March 2020
20/0237	15 Tom Lewis Way Alexandra Docks Newport NP20 2WF	Construction of plasterboard manufacturing facility, associated development, create new accesses off Tom Lewis Way and provide ecological enhancement areas	Granted with conditions	5 June 2020
20/1225	Land On The South West Side Of East Dock Road Newport South Wales	Construction of residential development for no.149 units, landscaping, car parking, drainage arrangements and associated works	Granted with conditions	1 Dec 2021
21/0718	Land South of Coronation Park Known As Flood Defence Scheme Stephenson Street Newport South Wales	Construction of the Stephenson flood defence scheme, incorporating the construction of 6 no. Flood walls (concrete and sheet pile) refurbished embankments and paths including the Wales coastal path, a highway flood gate, a new 0.7km road.	Granted with conditions	4 Nov 2021

localised ground raising and culvert enhancements to reduce the chance of tidal flood risk from the River Usk and landscaping works along the route and at coronation park, Newport affecting public rights of way 386/5/1, 401/4/1 and 386/4/1

21/0893	Land To South East Of University Of Wales Newport City Campus Usk Way Newport South Wales	Construction of a new leisure centre (D2) and community health and wellbeing centre (D1), including a swimming pool hall	Granted with conditions	8 Nov 2021
21/0983	Car Park Adjacent Endeavour House Usk Way Newport South Wales	Proposed development of 122 no. Dwellings, two commercial units (a1 and a3 use classes) and associated works including landscaping, sustainable drainage, car and cycle parking	Granted with conditions	1 Dec 2021
22/0438	R J Mason Transport Ltd Albany Street Newport South Wales NP20 5NJ	Erection of a class a1 food store with associated access, car parking and landscaping	Awaiting decision	N/A
22/0513	Newport Wetlands West Nash Road Nash Newport NP18 2BZ	Construction of a low impact and environmentally friendly nature play zone	Granted with conditions	25 Aug 2022
22/0814	Newport Centre Kingsway Newport NP20 1UH	Outline application for the demolition and redevelopment of the site for circa 54,000 square metres of flexible floorspace for educational use, or any other use within use classes A1 (shops), A2 (financial and professional services), A3 (food and drink), B1 (business), A1 (hotels), D1 (non-residential institutions) and D2 (assembly and leisure), with all matters reserved	Granted with conditions	6 Oct 2022
22/0823	Uskmouth BESS	230MW of Battery Energy Storage System (BESS) on the former coal stockyard in the southern part of Uskmouth Power Station	Granted with Conditions	08 Dec 2022

2.

APPLICATION DETAILS

No: 23/0387 Ward: Llanwern

Type: Discharge Conditions

Expiry Date: 18th December 2023

Applicant: Z. M. Aubrey

Site: Llanwern Village Development Site, Cot Hill, Llanwern, Newport NP18 2DP

Proposal: **PARTIAL DISCHARGE OF CONDITION 03 (DETAILS FOR THE CLOSURE OF COT HILL) OF RESERVED MATTERS APPROVAL 17/0887 IN RELATION TO ROADS & FOOTWAYS AND LANDSCAPING AROUND THE PROPOSED SURFACE WATER ATTENUATION PONDS**

Recommendation: Approved

1. INTRODUCTION

- 1.1 The applicant is seeking to discharge a condition attached to a Reserved Matters approval on the Cot Hill Development Site near Llanwern village. That approval was for road infrastructure and planting around proposed attenuation ponds at the southern end of the site. The discharge of condition application has been called in to Committee by Cllr Kellaway.
- 1.2 The condition required details of the closure of the existing lane over Cot Hill. It is worth noting that the principle of closing the existing Cot Hill route was established under RM approval 17/0887, but further detail of how this would be done was reserved for consideration by condition.
- 1.3 The outline approval for this development always proposed a new 'spine road' through the site which would link the western end of Cot Hill to Station Road in Llanwern. Under the initial iteration of the scheme that road would have tied into a North-South link over the South Wales mainline railway to the Eastern Distributor Road.
- 1.4 As such the new spine road would have replaced the existing lane as the principal road into Llanwern (and beyond under the original vision). In effect the existing lane would have become redundant other than local access and its closure would have prevented rat-running and would have led to a better integration of the northern and southern parts of the development site leading to significantly improved 'placemaking' and a development of higher quality overall. The condition reads as follows:

*The access road (Main Street) from the SDR to Station Road shall be completed within two years of its commencement. **Prior to the completion of the Main Street (spine road) from the SDR to Station Road, a scheme shall be submitted to the Council showing arrangements for the closure of Cot Hill to through traffic.** Following the Council's written agreement the works of closure shall be undertaken within 3 months of the completion of the Main Street.*

Reason: *to provide suitable access to the new development and to Llanwern Village and to prevent use of Cot Hill as a through route in the interests of the amenity of residents on that road.*

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
16/0864	VARIATION OF CONDITIONS 02 (RESERVED MATTERS), 03 (MASTERPLAN) AND 05 (DESIGN CODE) OF PLANNING PERMISSION 13/0806 FOR VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN)	GC 23 June 2017
17/0887	PARTIAL DISCHARGE OF CONDITION 01(RESERVED MATTERS) IN RELATION TO ROADS & FOOTWAYS AND LANDSCAPING AROUND THE PROPOSED SURFACE WATER ATTENUATION PONDS AND PARTIAL DISCHARGE OF CONDITION 06(MATERIALS FOR HARDSURFACING), CONDITION 09 (CONSTRUCTION DETAILS OF ROADS, CYCLEWAYS & FOOTWAYS) AND CONDITION 25 (STREETLIGHTING) ALL PURSUANT TO PLANNING PERMISSION 16/0864 (VARIATION OF CONDITIONS OF PERMISSION 13/0806) FOR THE DEVELOPMENT OF UP TO 1100 DWELLINGS, A PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE.	AC 13 September 2018
18/0598	PARTIAL DISCHARGE OF CONDITIONS 2(PHASING PLAN), 6(HARD-LANDSCAPING MATERIALS), 8(STATION ACCESS ROAD), 11(CONSTRUCTION MANAGEMENT PLAN – Housing Phase 1 only), 14 (TOPSOIL) AND 15(ARBORICULTURAL IMPACT ASSESSMENT) OF PLANNING PERMISSION 16/0864 FOR VARIATION OF CONDITIONS OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS	A 22 November 2018
18/0691	PARTIAL DISCHARGE OF CONDITION 03 (DESIGN CODE) OF PLANNING PERMISSION 16/0864 FOR VARIATION OF CONDITIONS 02 (RESERVED MATTERS), 03 (MASTERPLAN) AND 05 (DESIGN CODE) OF PLANNING PERMISSION 13/0806 FOR VARIATION OF CONDITION (TIME LIMITS) OF PLANNING PERMISSION 06/0845 FOR RESIDENTIAL DEVELOPMENT (UP TO 1100 DWELLINGS) AND PROVISION OF PRIMARY SCHOOL, VILLAGE CENTRE, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AFFECTING PUBLIC RIGHTS OF WAY 397/3, 397/7, 397/9 AND 397/10 LLANWERN)	A 24 January 2019

3. POLICY CONTEXT

- 3.1 The following policies of the adopted Newport Local Development Plan (2011-2026) are relevant to this decision:
- SP1 – Sustainability
 - SP14 – Transport Proposals
 - SP15 – Integrated Transport
 - SP16 – Major Road Schemes
 - GP2 – General Amenity
 - GP3 – Service Infrastructure

4. CONSULTATIONS

- 4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF INFRASTRUCTURE (HIGHWAYS)

- 5.1.1 Highways response to latest submissions from Redrow including new drawings and Road Safety Audit (RSA), Stage 1.

- 5.1.2 Redrow have submitted plans for turning heads off Cot Hill located to both east and west locations. Both locations have been tracked and show vehicles can be turned around. Pending technical approval and proven visibility appropriate for signed speeds Highways believe this to address the previous concerns highlighted in the previous objection.

- 5.1.3 The RSA Stage 1 advised on 2 points:

- Point 1 – Advanced Signage, and
- Point 2 - Signage of no through road signs being obscured.

In terms of Point 1 Highways will await plans to technically approve the locations of proposed advanced signage.

In terms of Point 2 Highways have continually advised on the lack of maintenance of the hedgeline historically which make the long-term effectiveness of the signage hard to ensure.

- 5.1.4 Highways still maintain the concern with the previously raised issues at Station Road. The shutting up of Cot Hill does leave the Station Road junction as being the only access to Bishton Road, with the junction not currently being fit for purpose now that HGV, agricultural and other large vehicles must now use it.

- 5.1.6 If Cot Hill is stopped up this will have a negative impact on the network with the now returned to the original S111 approved plans alignment that are judged not to be suitable for legacy HGV traffic, along with the actual alignment, including drainage issues, of the junction to the front of the existing properties opposite the development on Station Road.

- 5.1.7 Highways accept the proposed turning heads in principle pending full technical approval. Until the junction at Station Road can be addressed to safely cope with HGV and farm vehicles, to include an RSA Stage 3, then Highways cannot agree with the closing off of Cot Hill.

Highways Recommendation: Objection on Highways Safety grounds.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

Since this is a discharge of conditions application, no consultations were undertaken initially which is standard procedure. However 6 comments have been received objecting to the proposal to close Cot Hill for the following reasons:

- The road closure will mean reliance on the new access road. This is inadequate since larger vehicles cannot negotiate the new spine road / Station Road junction,
- Transport severance will badly impact on existing businesses beyond the closure point since heavy / large vehicles will no longer be able to access those sites.
- The new junction is narrow and confusing and it is not fit for purpose.
- The new junction floods during wet conditions.
- The new access road on the estate is elevated and not secured by barriers, vehicles could leave the highway.

- The new junction is an unacceptable safety risk in its current form.
- The form of the new junction leads to vehicles driving in the footway.
- The new junction is too narrow for two cars to safely pass each other.
- The new junction is not intuitive for drivers who do not know it, leading to poor positioning and risk to other road users including pedestrians.
- The drains in Station Road have not been upgraded.
- The new junction will restrict HGV access to existing businesses if Cot Hill is closed.
- Redrow are aware of the deficiencies in the new junction but refuse to rectify them.
- When Cot Hill was closed temporarily the new junction had to be equipped with 4 way traffic control because it is inadequate at the request of NCC Highways.

For information 11 comments were received objecting to Cot Hill being kept open for the following reasons:

- Residents have long been promised Cot Hill will be closed,
- The development will cause an unacceptable level of traffic on Cot Hill if it is not closed,
- The lane and one way system in the village lack footways and increased traffic will endanger pedestrians,
- Traffic habitually speeds along the lane despite the 20mph limit,
- The new road on the estate has been designed to accommodate larger vehicles, Cot Hill has not,
- Accesses onto Cot Hill from dwellings have limited visibility and increased traffic increases the accident risk,
- As the development proceeds more people are walking on the lane increasing danger to pedestrians,
- The new junction between the spine road and Station Road is inadequate,
- Cot Hill is narrow and makes two-way traffic difficult,
- The re-working of the access into the new estate at the western end of Cot Hill is poorly designed,
- The proposed cross-roads would be unsafe,
- More cars means more noise and pollution,
- The road is in poor condition and more traffic will worsen that,
- The existing one-way system is often misused putting other road users at risk.

For clarity, the condition requires *details* of a *scheme* to **close Cot Hill**. The closure was agreed in principle in the previous RM application and could have been challenged at that point.

6.2 COUNCILLOR KELLAWAY: has requested that application is determined by the Planning Committee so that the impacts of the proposal on residential amenity can be considered.

6.3 LLANWERN COMMUNITY COUNCIL – 21.06.2023

Llanwern Community Council would like to take this opportunity, following our meeting with yourselves, to object to this application:

The new road junction where the spine road meets Station Road is dangerous for vehicles, unfit for purpose, due to its design, dangerous for pedestrians and unfit for agricultural vehicles. We would ask that no alteration to Cot Hill be carried out until this is rectified.

Due to the way the drainage from the basin to Monksditch has been installed, the chambers including the gullies adjacent to Ulysses are all surcharging and due to the siting of the junction, the water is unable to go straight down the Station Road drainage system as it used to. It now must flow over the junction and water now floods the frontage of both Ulysses and Treetops.

There are still faults on the installed drainage and there seems no intent to rectify them.

The junction also creates a damming effect for any overland flows from Monksditch which historically emerged onto Bishton Road adjacent to Station Road. This also poses a risk to vehicles, which can encounter the water on the highway without prior warning.

The Developer is discharging from the smaller basin into Station Road and then into Llanwern Ditch, the only place the Developer should be discharging water into is Monksditch.

Also the upgrade to the drainage system of Station Road has not been started nor indeed funded yet. Whilst this is not referred to in 23/0387, we believe the construction on the site should be stopped whilst there is a risk of increasing the flood risk to property and lives of the residents of Llanwern Village.

We also note the Developer is discharging, via the smaller basin, water into Station Road drainage system and then onto the Llanwern ditch, they have no permit to do this, their only discharge route from Station Road is into Monksditch. (Which is often closed off when levels in Monksditch cause the discharge flap to close.)

We note the tracking diagrams of vehicles on Cot Hill etc. However, we would suggest that this is not accurate and seems only to have been used to support the suitability of the appalling junction of the Spine Road/Station Road, which was approved by the Local Planning Authority with little or indeed no back-up information to support its design.

6.4 LLANWERN COMMUNITY COUNCIL – 10.11.2023

Our original objection to this application was submitted on 21/06/2023 and we wish to advise that this objection still stands, as the application is now largely the same as it was in the first instance.

We would also like to add in response to the developer's letter dated 23/10/2023:

Llanwern Community Council will have to strongly object to the proposal to shut Cot Hill, as per this application, until the Station Road link junction has been amended, standing by our initial comments submitted on 21/06/2023, alongside the Highways objection dated 27/07/2023 and the most recent objection 30/10/2023.

Whilst the developer may think it's appropriate to juxtapose two equally unsuitable options and expect the LPA to approve whatever they deem to be the lesser of two evils, **we do not agree that this is the case**. In fact, it is somewhat of an affront for a national developer to try and issue a planning authority an ultimatum such as this. The developer can issue another 100 ridiculous proposals should they wish, none of which the local authority would be obliged to approve if there are associated negative material impacts, such as there are with the applications brought before the LPA thus far.

The developer went away from this option originally, following the objections it received in relation to the junction and has instead decided to revisit it, citing the LPA's comments (that quite rightly state) that keeping Cot Hill open doesn't comply with the terms of the application.

We must rebut what the developer has written in terms of Redrow having no preference in terms of a scheme to formalise the North-South crossing of Cot Hill. If the developer was genuinely serious about keeping Cot Hill open, they would have submitted a variation of conditions application and not attempted to proceed with a ridiculous and unprofessional approach to keep Cot Hill open via a planning application that relates to the closure of it.

The paperwork exercise submitted by the developer in relation to keeping Cot Hill open proves NOTHING and carries little weight in any argument, particularly given that it was withdrawn and not actually decided on by the LPA. The LPA didn't actually refuse the proposal before the developer withdrew it.

It is, however, quite interesting to see that the developer is willing to heed the advice of the LPA in relation to comments about a condition not being met, yet is unwilling to heed the advice of Highways and all other stakeholders about the unsuitability of the Station Road junction and it still trying to run roughshod over the local community by trying to force through opening of an unsuitable and unsafe junction that it was asked to change prior to building.

Although the developer may cite that the principal matter for consideration are the details for the closure of Cot Hill and that wider matters should not inform the planning assessment of the information before the LPA for determination, we must vehemently object to the idea that there is separation between the two.

A simple test to ask ourselves in this situation would be, **“What is the harm that will be caused by approving this application, in the form of allowing a partial discharge of conditions?”**.

The harm is that by approving the details in relation to the closure of Cot Hill, the LPA would effectively be endorsing the alternative highway network that is being offered in place of Cot Hill. The developer then has the go ahead to start the process with stopping up the public highway, whereby all traffic (including HGV's and agricultural vehicles) will be directed to use a road which has been deemed unsafe by Highways and whereby any accident or incident or associated damage that occurs, would be directly attributed to the local authority and indeed the officers that gave consent for its approval. The closure of Cot Hill (albeit only the details) is directly associated with the Station Road link and new junction (which is being contested) on Station Road. There is a large amount of public concern and disdain with the junction in question.

Below is an excerpt from the Welsh Government's Development Management Manual (2017). We have underlined some of the most pertinent factors here that reaffirm our position that this application is harmful to the public interest and indeed safety of the citizens of Llanwern (and perhaps the wider Newport population):

“Factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. 9.4.3 Material considerations must also be fairly and reasonably related to the development concerned. The Courts are the final arbiters of what may be regarded as material considerations in relation to any particular application, but they include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment. The effects of a development on, for example, health, public safety and crime can also be material considerations, as, in principle, can public concerns in relation to such effects.”

By approving this application without the developer making changes to the Station Road junction, the LPA would be ratifying the adverse effects of the said junction, including, but not limited to, the following adverse impacts:

- **Public Safety** – The chance of an HGV or agricultural vehicle mounting the kerb or having a collision with another vehicle or pedestrian would be high, given the narrowness and curvature of the road formation and with no swept path analysis to prove otherwise. Also, vehicles are heading straight over the “Island” on a daily basis, with multiple near misses taking place. The chance of an overturn situation with the current kerb radii is greatly increased versus what it would be if the junction was widened.
- **Health** – The junction in its current guise is flooding the frontage of the two properties “Ulyses” and “Treetops”. By virtue of not being able to see the pavements and kerbs, due to them being covered by water, it is increasing the chance of these residents (and indeed members of the public) falling over and injuring themselves, let alone making it impossible for some of the disabled residents in the village to pass without having to enter the carriageway.
- **Means of Access** – Access to local businesses, agricultural enterprises and indeed fire engines would be significantly worsened, especially given the local authority's knowledge of the vehicles that access the area on a daily basis and given that planning officers witnessed and have filmed, large vehicles being unable to make the manoeuvre successfully or safely, even without oncoming vehicles making it harder, as would be the case if Cot Hill was shut and the Station Road Link became the main thoroughfare.

Although the developer may be applying pressure on the local authority to facilitate a formal crossing from South to North for the development, it may be worth remembering that the “Station Road Link” was supposed to be built within 2 years of commencements of works on the site, a condition which was breached by Redrow and which could be fairly argued would be the cause of any delays to the development in the northern part of the site.

It is our opinion that the **developer has acted unreasonably** throughout this process, having been asked to change the junction prior to even constructing it.

Finally, there is also a technical issue here in that the section of Cot Hill they are looking to close, doesn't actually fall into the planning boundary. We note an application in (23/0571) that looks to regularize this, but being as we have to object to that on the basis that it is not a “non-material amendment”, regardless of which option has been submitted here, either keeping Cot Hill open or shutting it, we would have to refer to it here and ask that the application be refused regardless of any other material considerations based on this technicality alone.

The solution is fairly simple;

1. **Make suitable changes to the Station Road Link/Junction
and only then**
2. **Shut Cot Hill**

If the developer is not willing to do this, they can continue to submit unsuitable applications, which will always be met with a considered response and particularly if causing harm, we would expect the appropriate planning decision outcome, with no further progress made on the Northern part of their development. Any delay to the site, or associated blame, to be apportioned in relation to that progress, will land squarely back at the feet of the developer.

6.5 BISHTON COMMUNITY COUNCIL:

I am writing on behalf of residents and Bishton Community Council to object to the closure of Cot Hill Road in Llanwern. We have received concerns regarding the new road that goes through the Redrow Estate and the fact that it is not appropriate for farming and agriculture related vehicles.

We object to the closure of the current road system until such a time as the new road is brought up to a standard where vehicles used for the purposes of farming and agriculture can safely navigate through. It is concerning that the ability for agricultural vehicles to use the road was not factored into the application given the rural setting and high number of agricultural businesses in the area.

Housing developments have a history of not completing access roads and so it is not unwarranted to be concerned over whether the new road will be completed to safely allow agricultural vehicles to use it.

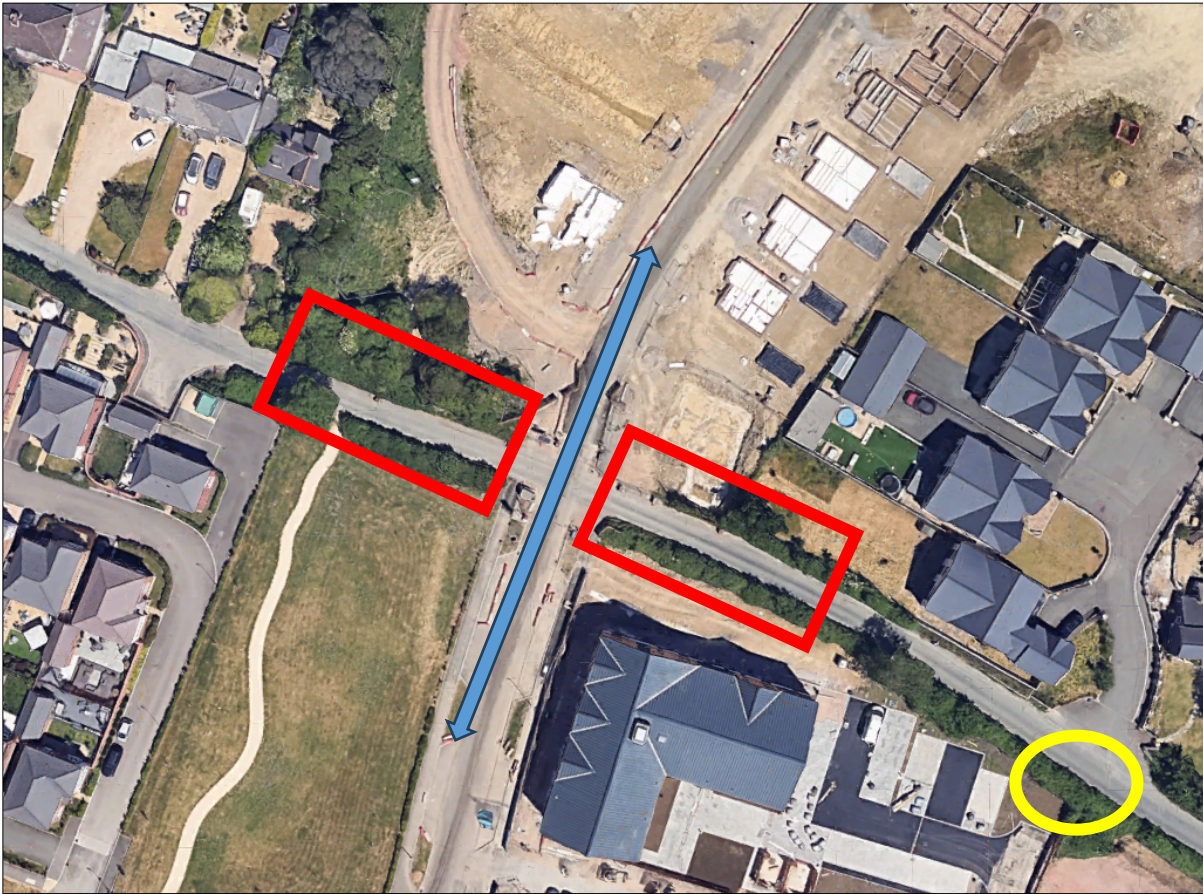
- 6.6 In summary there are objections to the closure of Cot Hill due to the inadequacy of the Spine Road / Station Road junction whilst other residents object to the lane being left open.
- 6.7 For clarity, this submission seeks the closure of Cot Hill. No revisions to the spine road / Station Road junction are proposed under this submission. If Cot Hill is closed then the only alternative will be the new road and the related junction all in their current form.

7. ASSESSMENT

The Site

- 7.1 The site is at the apex of Cot Hill effectively between Woodland Cottage and 1 Little Milton Gardens. Development to the south of Cot Hill is advanced with many houses completed and

occupied. The main scheme elements not yet completed in this part of the site are the commercial units proposed for the local centre and the primary school which is still subject to negotiation between the Council's Education section and the developer in terms of the final specifications of the school. The developer has commenced development north of Cot Hill and is now anxious to formalise the crossing of Cot Hill rather than remaining reliant on the current haul road crossing which is being operated.



The Proposal

- 7.2 Under the proposal bollards would be provided at either end of the closure (the red sections) to prevent access by larger vehicles but bicycles, horses and foot traffic would still be able to use Cot Hill to get access to Llanwern village from the proposed Active Travel routes along the Southern Distributer Road (SDR). It is understood that Cot Hill would therefore remain Highway but with restricted use. A Traffic Regulation Order would be required to implement these limitations on traffic but that would need to be sought under the relevant Highways legislation as a separate matter to any planning approval that might be given.
- 7.3 Walkways finished in paviour blocks would be installed in place of the current tarmac surface and these would accommodate pedestrian movement across the revised highway section. A new estate road heading north into the part of the site currently being developed would become the priority road (see blue arrow above) with that also being bollarded off to prevent left or right turns into Cot Hill by larger vehicles. In effect the walkways would be shared surfaces accommodating foot, bicycle and horse traffic.
- 7.4 Turning heads are proposed either side of the closure with that at the western end already being in place, see aerial photo above. The eastern turning head would be provided within the yellow circle on the image above. This covers off scenarios where vehicles might inadvertently enter the closure and need to turn round to get out of it. Proposed signage at either end of Cot Hill should limit the risk of this in any event.
- 7.5 The Council's Highways Section has objected to the proposed closure on points related to wider highways issues rather than technical points related to the closure itself. Which is to say there are no highways objections to the technical means of how the closure would be achieved or to the proposed turning heads, subject to some further refinements that would be required as part of the technical approval for the changes to the highway.

Assessment

- 7.6 The condition was applied to secure the closure of Cot Hill in the interests of the amenity of the residents on that road and to achieve a better integration of the northern and southern sites in the interests of placemaking.
- 7.7 The principle of this closure has therefore already been agreed. The connection of the northern and southern sites always implied a change in priority on Cot Hill with north/south traffic taking priority over east/west traffic. However from the earliest iteration of the Cot Hill scheme an alternative through route to Llanwern was anticipated that would be an improvement over the existing Cot Hill route. That road being narrow, containing various gradients and lacking footways and streetlighting. Comments received from residents on Cot Hill about the lane and its use confirm these concerns.
- 7.8 The new road was intended to provide a new 'local road' as defined under Policy T3 Road Hierarchy. These are defined as:
- These provide for the main movements within urban and rural areas, as well as giving access to the strategic and principal road network. Where appropriate, and especially in order to facilitate public transport, parking and turning movements may be restricted and the number of frontage accesses limited in the interests of road safety and the efficient movement of traffic.*
- 7.9 The significance of that road is confirmed by the following clause of the S106 agreement attached to Planning Permission 16/0864:

11 Station Road Access

- 11 1 To provide the Station Road Access to the Council's reasonable satisfaction within 2 (two) years of the Commencement Date PROVIDED THAT such obligation shall be subject to the Council having entered into the Station Road Access s278 Agreement within 6 months of service of the Station Road s278 Notice by Gallagher and/or the Trustees**

The clause required the delivery of the new spine road within two years of commencement, that is by 03.01.2021. The road is in place although still subject to periodic closure to facilitate works on the site.

- 7.10 As such the expectation would be that the road would come forward in that form and would facilitate the movement of all vehicles. However residents have critiqued the junction between the new spine road and Station Road for various reasons but primarily due to the difficulty that larger vehicles have in negotiating it. In effect they claim the old road is better than the new one and that reliance on the new road would reduce the accessibility of addresses beyond the closure to larger vehicles and that this would have an adverse impact on the operation of particularly businesses beyond the closure. Highways have confirmed the inadequacy of the Spine Road / Station Road junction and that is the reason for their objection to this proposal. Highways conclude that closing Cot Hill would result in 'transport severance', however it should be noted that Highways agreed the design of the new junction under the Reserved Matters approval (planning) and have given it technical approval under the relevant Highways legislation.
- 7.11 Llanwern Community Council have effectively objected to Cot Hill being closed AND to it being left open. They progress an alternative argument in that Cot Hill should be closed and that the Spine Road / Station Road junction should be amended in terms of geometry to

make it more negotiable by larger vehicles and to amend its drainage to reduce the risk of localised flooding. However the Spine Road and the Station Road junction have Reserved Matters approval and appear to have been constructed as approved under planning.

- 7.12 This means the key decision that faces the Council as a planning authority is whether the details provided regarding the closure of Cot Hill which is mandated via the applied condition are acceptable or not in terms of their technical details only. Any wider consideration can be dealt with under Highways legislation since the proposed partial closure would be subject to public advertisement and can be objected to under that process.
- 7.13 Whilst noting the comments of the Highways Officer and residents, the adequacy of the Spine Road / Station Road junction that has been approved is a separate matter that Highways will need to resolve before adopting it. In this case the details of the partial closure of Cot Hill have been found to be acceptable in a technical sense and the principle of the closure was agreed by the Council as a planning authority when it applied the condition. The considerations of this application are therefore narrowly confined to the terms of the condition itself which requires the details of said closure to be agreed.
- 7.14 As such without a technical objection to the details of the closure from highways, the details provided are acceptable to discharge the condition. This does not mean other issues are not capable of being material considerations but officers conclude that compliance with the condition with no technical objection to the submitted details from the Highways Section must carry very significant weight. As such officers conclude that the condition should be discharged, notwithstanding concerns over the operation of the Spine Road / Station Road junction.
- 7.15 The partial closure of the highway over Cot Hill will be subject to a Traffic Regulation Order but this is a separate process under Highways legislation and the partial closure can be subject to challenge / objection by the public under that process. However the TRO is a separate legal process that sits outside of planning and will be for Redrow to secure to allow the implementation of any agreed closure under the planning regime. The Planning Section is advised that the Spine Road / Station Road junction has technical approval under the relevant Highways legislation but it has not been formally accepted / adopted as yet by the Council as a Highway Authority.
- 7.16 The Committee will note the on-going Highway concerns with the junction due to its poor performance. However ultimately these are matters that must be addressed under the relevant Highway legislation. Members will note the established principle that planning should not duplicate powers extant under other legislative streams. Whilst the Committee may have concerns about transport severance (the performance of the Spine Road / Station Road junction), the Council has received legal opinion from Counsel that as the principle of the partial closure of Cot Hill has been established, the issue is not material and ought not to be considered as part of this determination. In any event even if the performance of the junction was brought into the consideration, Officers are of the view it would attract very little weight and would not justify refusing the current application.

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 submitted details are technically acceptable and the condition can be partially discharged.

10. **RECOMMENDATION**

Approved

NOTE TO APPLICANT

01 This decision relates to the following plans & documents:

- Drawing 3024 – Reserve Matters Red Line Boundary
- Drawing 10275 00 01 - Vehicle Tracking Sheet 1
- Drawing 10275 00 02 - Vehicle Tracking Sheet 2
- Drawing 10296 CH 01 - Cot Hill Engineering

- Drawing 10296 S278 CH 03 - Section 278 Finishes Plan
- Drawing 10296 S278 CH 04 - Section 278, Highway Long Sections & Cross Sections
- Drawing 10296 S278 CH 05 - Section 278, Setting Out
- Drawing 10296 S278 CH 06 - Section 278, Highway Construction Details
- Drawing 237583 AT D01 A - Swept Path Analysis, Refuse Vehicle, East Turning Head
- Drawing 237583 AT D02 A - Swept Path Analysis, Box Van and SDV, East Turning Head
- Drawing 237583 AT D03 A - Swept Path Analysis, Refuse Vehicle, West Turning Head.
- Drawing 237583 AT D04 A - Swept Path Analysis, Box Van & SDV, East Turning Head
- Drawing 237416 PD 03 A - Traffic Sign Plan

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

03 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

3.

APPLICATION DETAILS

No: 23/0898 **Ward:** St Julians

Type: Full

Expiry Date: 16th January 2024

Applicant: T Elmasuri

Site: 153 Caerleon Road Newport NP19 7FW

Proposal: **CHANGE OF USE OF PART OF GROUND FLOOR AND FIRST FLOOR FROM RETAIL TO RESIDENTIAL**

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

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the change of use of part of the ground floor and the first floor of 153 Caerleon Road from retail to residential use. The site is located in the St Julians ward. The application has been called to Committee as a result of a request from Councillor James Clarke.

2. RELEVANT SITE HISTORY

REFERENCE	DESCRIPTION	DECISION
03/0504	INSTALLATION OF REPLACEMENT SHOPFRONT	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

- 3.1 The following policies of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the proposals:
- Policy SP1 (Sustainability)
 - Policy SP3 (Flood Risk)
 - Policy GP2 (General Development Principles – General Amenity)
 - Policy GP4 (Highways and Accessibility)
 - Policy GP6 (Quality of Design)
 - Policy GP7 (General Development Principles – Environmental Protection and Public Health)
 - Policy T4 (Parking)
 - Policy R7 (Non retail uses in District Centres)

The following supplementary Planning Guidance is relevant to the proposals:

- Parking Standards
- Waste Storage and Collection

4. CONSULTATIONS

- 4.1 DWR CYMRU WELSH WATER: We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We recommend that the existing private drainage on site should be utilised to avoid any new direct connection to the public sewerage system. Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the **Condition**

and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Condition

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

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

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF INFRASTRUCTURE (DRAINAGE): It is unlikely that SAB application will be required due to the size possibly not exceeding 100m².

5.2 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (ENVIRONMENTAL HEALTH): With regard to road traffic noise; this section of Caerleon Road would not be of significant acoustic concern to us due to the relatively low road speed. The Lden (average sound level over a 24 hour period) for the location is in the order of 55.00-59.9dBA.

Noise Insulation

Prior to first occupation, a scheme of sound insulation works to the floor/ceiling/party wall structures between the properties shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter in perpetuity.

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

Waste storage and Recycling

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

5.3 HEAD OF ENVIRONMENT AND PUBLIC PROTECTION (WASTE): No response.

5.4 HEAD OF INFRASTRUCTURE (HIGHWAYS): Objection. The proposal is to introduce a three bedroom dwelling, which increases the parking demand. Highways consider that there is no spare capacity on Caerleon Road (or Durham Rd) and object on that basis. The applicant is advised to provide a sustainability assessment and a parking survey if they believe otherwise. The submission states that bins and cycles can be accessed via a pedestrian lane to Durham Road. We do not believe this is a suitable link, but would welcome more details of the surfacing, width, turns, lighting etc.. Evidence that there is a right of access in perpetuity would also be needed. We would also question exactly where the bins could be placed. They would obstruct the path, footway or other accesses. No detail has been provided for the cycle parking, but we would suggest that a shed would be the most appropriate. The acceptability however will depend on the access route as much as the storage. With respect to the actual frontage, the only highway issue is that there should be no steps or projections into highway and doors must open inwards to comply with Highway Regulations. In summary Highways object to the proposals on grounds of parking, servicing and sustainable transport policies, but would welcome further information to demonstrate that they could be accommodated.

6. REPRESENTATIONS

6.1 NEIGHBOURS: Neighbours with a common boundary and opposite were consulted and 2no. responses were received as outlined below.

- I have submitted an objection to the proposed plan as I am the owner of 151 caerleon road and the applicant has decided he would like to use my back garden as his access from the property of 153 on to Durham Road I will not and do not give my consent for this

to be allowed, his garden is on the right hand side of my property and the walk through is on the left side of my property. On his plans he has failed to mention he would be trespassing into my property for the access he requires. There is no right of way or easement allowing this. He will be putting my property and my staff in danger from perpetrators during the summer months when we need the back door open which is why my big gate on my garden is constantly locked to keep us safe. By allowing this access would mean the gate unlocked and anyone would be able to enter my place of business putting myself and my staff in danger.

- I strongly object to this proposal on the grounds that the area is already close to another HMO, parking is already extremely difficult and the entrance to the back of the property is only accessible through private property at the back of 151 Caerleon Road.

6.2 COUNCILLORS: Councillor James Clarke has called the application to planning committee due to highways concerns.

7. ASSESSMENT

7.1 This application seeks full planning permission for the change of use of part of the ground floor and the first floor of 153 Caerleon Road from retail to residential use. The site is located in the St Julians ward.

7.2 The existing unit is currently vacant, however previously comprised a retail unit on the ground floor with ancillary kitchen, bathroom and storage space on the first floor. As part of the proposals, the existing retail unit is to be retained however made marginally smaller to accommodate a new separate entrance to the proposed flat. The rear part of the ground floor which currently comprises a kitchen, shower room and store would be converted into a kitchen/dining area, utility room, shower room and bin storage area. The first floor would also be converted into 3no. bedrooms, a study and bathroom. The proposed flat would have sole access to the garden/amenity area to the rear of the building. The only external changes proposed include the addition of 1no. door to the existing shopfront window. No changes are proposed to the side/rear elevation excluding the blocking up of 1no. window.

7.3 The following policies of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the proposals:

- Policy SP1 (Sustainability)
- Policy SP3 (Flood Risk)
- Policy GP2 (General Development Principles – General Amenity)
- Policy GP4 (Highways and Accessibility)
- Policy GP6 (Quality of Design)
- Policy GP7 (General Development Principles – Environmental Protection and Public Health)
- Policy T4 (Parking)
- Policy R7 (Non retail uses in District Centres)

The following supplementary Planning Guidance is relevant to the proposals:

- Parking Standards
- Waste Storage and Collection

7.4 In terms of the principle of the proposal, the site is previously developed land within the settlement boundary. The building has been vacant for some time and policy SP18 supports the reuse of vacant land for residential purposes in the urban area. However, the building is within the Caerleon Road District Centre and as such policy R7 is relevant which is addressed in further detail below. It should also be noted that Class G of the General Permitted Development Order 1995 (as amended) permits the change of use of the first floor of a retail unit (A1 Use) to up to 2no. flats. This comprises a fall back position in the context of this application which carries significant weight.

Beds/bedrooms	Flat type			
	<i>Studio</i>	<i>Converted</i>	<i>New</i>	
			<i>Common Access²</i>	<i>Walk Up³</i>
1	32	45	46	50
2	n/a	58	59	65
3	n/a	74	84	90
4	n/a	86	93	99

Figure 1: Desired standards for gross internal floor space (square metres)

- 7.5 In relation to amenity, the Council's Flat Conversion SPG specifies desired standards for internal floorspace:

The standards confirm that a 3no. bedroom flat should have a minimum internal floorspace of 74sqm and as such the proposals meet this requirement. In terms of amenity space, the rear garden area would be available for the use of the occupants of the flat for the drying of clothes and the storage of bicycles. In addition, the proposals also a bin storage area. All of the proposed rooms would also have access to natural light and ventilation. The proposals also include the provision of a dedicated bin storage area for the ground floor commercial unit. Whilst bins would need to be carried through the property for collection, this already occurs in the case of the retail unit and therefore there is no change to the existing situation in this regard. In addition, whilst the bins for the flat would need to be carried from the bin store in the rear garden through the unit to the front door for collection (which would not normally be considered acceptable), as outlined above there are permitted development rights under Class G to convert the first floor of the premises to up to 2no. flats without the requirement for planning permission. This would not require dedicated bin storage provision and therefore in consideration of this as a fallback position, on balance the proposed arrangement is acceptable on this occasion. The proposal is therefore considered acceptable in accordance with policy GP2.

- 7.6 In terms of noise, the property is located on an arterial route serving the city. Both bedrooms and living/kitchen areas have active frontages onto Caerleon Road however the Environmental Health Officer has advised that this section of Caerleon Road would not be of significant acoustic concern due to the relatively low road speed. The average noise level for the location is in the order of 55.00-59.9dBA. On this basis they have no objections to the proposal from a noise perspective. Whilst details of acoustic insulation between the ground and first floor could be secured via a condition this is dealt with by other regulatory powers, i.e. building regulations and a condition would duplicate such powers and therefore be unnecessary and unreasonable. The proposal is therefore deemed acceptable in terms of noise.
- 7.7 In terms of design, the only external changes proposed relate to the addition of 1no. door to the existing shopfront window and the blocking up of 1no. window to the side elevation to create a bin storage area for the ground floor commercial unit. The design of the proposed shop front door would be in keeping with the character of the existing building and is therefore considered acceptable. The loss of 1no. side elevation window is also considered acceptable in terms of design. The proposal is therefore considered to be in accordance with policy GP6.

Parking

- 7.8 Concerns have been raised by local residents in relation to parking. The Highways Officer has also offered an objection to the proposal on the grounds of parking. In this regard, the existing A1 use would require 1no. commercial space and 1no. space per 60sqm resulting in a total of 2no. spaces (based on a floor area of 118sqm based over the 2 floors combined). The proposed residential use requires a total of 3no. spaces, and the remaining retail area would require 1no. space (so 4no. spaces total) resulting in a shortfall of 2no. spaces in total against the existing situation. The site does not benefit from any on site parking provision. Notwithstanding this, the property is located within a highly sustainable area and when a sustainability assessment is undertaken in accordance with the SPG, the site scores 10 points, so a reduction of 2 spaces is justified for the residential use. On this basis the parking demand of the proposed development is 1 space for the retail operation and 1 space for the flat and is no higher than the requirement (as per the SPG) of the existing use (i.e. retail over 2 floors). Notwithstanding this, as outlined above the site benefits from a fallback position to convert the first floor to up to 2no. flats which could have a higher parking requirement than the proposed development which comprises a 1no. 3 bedroom flat. In consideration of this fallback position and the highly sustainable location of the site it is considered that the proposed development is acceptable in terms of parking provision. It should also be noted that there are no parking restrictions along this section of Caerleon Road and the proposal will provide dedicated cycle parking.

Ecology

- 7.9 In relation to ecology, there are minimal external works proposed to the building and therefore the proposals are not considered to result in any adverse affects in this regard however notwithstanding this, Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy SP9 of the LDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Whilst the applicant has not indicated any measures as part of the application, it is considered reasonable and necessary in this instance to secure a scheme of biodiversity enhancement measures to ensure that a net benefit is provided to biodiversity as part of this application. This can be secured via condition.

Retail Impact

- 7.10 As outlined above, the site is located within Caerleon District Centre and as such policy R7 is relevant which states:

In District Centres activities in Use Classes A2 (financial and professional services), A3 (food and drink) and various leisure and community uses will be permitted only where:

- i) the concentration of such uses at ground floor level would not prejudice the viability of the centre's retailing role;
- ii) satisfactory car parking and access arrangements exist or can be provided;
- iii) there would be no unacceptable effect on the local residential amenities or the general character of the area in terms of noise and disturbance or extra traffic generated.

An element of the retail space on the ground floor would be retained, the proposal is considered acceptable in terms of parking and there would be no unacceptable effect on the local residential amenities or the general character of the area in terms of noise and disturbance or extra traffic generated. On this basis the proposal is considered to comply with policy R7.

- 7.12 Finally, one local resident has objected to the application on the basis that there is an existing House in Multiple Occupation (HMO) in the vicinity of the site. The development proposal is for 1no. flat not a HMO and urban locations such as this can expect a great variety of residential accommodation. Conversion from a flat to a HMO would require separate planning consent and any future application would be judged on its own merits. The owner of no.151 has also confirmed that no rights of access existing along the lane to the rear of the property

however it is considered that rear access is not required as part of this application. Access can be gained from the front of the property for bin storage and the rear amenity area can be accessed from within the property itself.

Section 106 Planning Obligation matters

Summary

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

Service Area that requires planning obligation	Purpose of planning obligation	Planning obligation initially sought by Planning Authority	Summary Heads of Terms agreed by applicant(s)	Viability Issues?
Regeneration Investment and Housing	Commutated contribution of £667 for affordable housing provision based on a 20% target	N/A	No	No

7.14 Heads of Terms Agreed by Applicant

The applicant has confirmed that they agree in full to the above Heads of Terms.

8. OTHER CONSIDERATIONS

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

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

8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

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

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

8.5 ***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 proposal is considered to be acceptable in accordance with the relevant policies of the Newport Local Development Plan 2011-2026.

10. RECOMMENDATION

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

01 The development shall be implemented in accordance with the following plans and documents: Proposed Plans and Elevations (received 19/12/2023).

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

02 Prior to occupation of the development hereby approved, cycle parking shall be provided on site in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved cycle storage shall be retained for the lifetime of the development.

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

03 Prior to the commencement of development, a scheme of Biodiversity Enhancement Measure(s) and an Implementation Timetable shall be submitted to and approved in writing by the Local Planning Authority. The Biodiversity Enhancement Measure(s) shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.

Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and policies SP9 and GP5 of the NLDP.

04 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development)(Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C, D, or E shall be carried out.

Reason: To ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan, Existing Plans and Elevations (received 25/10/2023) and Proposed Plans and Elevations (received 19/12/2023).

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), T4 (Parking) 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.

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

ENFORCEMENT DETAILS

Ref No: E23/0294 **Ward:** Stow Hill

Site address: Westgate Hotel, Commercial Street Newport, NP20 1JL.

Description of Breach: Water damaged and deteriorating listed building.

Recommendation: To undertake the necessary action to draft and serve an Urgent Works Notice under the Planning (Listed Buildings and Conservation Areas) Act 1990. Additionally, if necessary, to undertake the required works in default and recover the associated debt generated.

1. BREACH OF PLANNING CONTROL

1.1 Water damaged and deteriorating listed building that is subject to trespass.

2. RELEVANT SITE HISTORY

97/1044 LISTED BUILDING CONSENT FOR REDEVELOPMENT AND PARTIAL DEMOLITION INCLUDING CONVERSION AND . EXTENSION TO CREATE 3960M² OF CLASS A1 RETAIL AND CLASS A3 RETAIL/LEISURE (DUPLICATE APPLICATION)- Granted with conditions.

97/1094 PART REFURBISHMENT, PARTIAL DEMOLITION, PART NEW BUILDING INCLUDING 3960m² OF CLASS A1 (RETAIL) AND CLASS A3- Granted with conditions.

00/0445 LISTED BUILDING CONSENT APPLICATION FOR ALTERATIONS BOTH INTERNAL AND EXTERNAL AND EXTENSIONS- Granted with conditions.

00/0446 EXTERNAL ALTERATIONS TO EXISTING BUILDINGS INCLUDING THE CONSTRUCTION OF A NEW FACADE AT 1-3 STOW HILL AND

01/0658 LISTED BUILDING CONSENT APPLICATION FOR PROPOSED INSERTION OF NEW STAIRCASE/BALUSTRADING TO BALLROOM- Granted.

01/0974 LISTED BUILDING CONSENT APPLICATION FOR DEMOLITION OF 2 INTERNAL COLUMNS AND THEIR REPLACEMENT WITH LOAD BEARING COLUMNS- Granted.

05/0885 LISTED BUILDING CONSENT FOR DEMOLITION OF 2NO INTERNAL SUBDIVIDING GABLE WALLS- Granted with conditions.

20/1074 REMOVE SECURITY HOARDING AND DILAPIDATED FRONT DOOR AND REPLACE WITH NEW FRONT DOOR- Granted with conditions.

20/1075 LISTED BUILDING CONSENT FOR REMOVAL OF SECURITY HOARDING AND DILAPIDATED FRONT DOOR AND REPLACEMENT WITH NEW FRONT DOOR- Granted with conditions.

3. POLICY CONTEXT

Local Development Plan, Objective 5 Conservation of the Built Environment To ensure that all development or use of land does not adversely affect, and seeks to preserve or enhance, the quality of the historic and built environment.

SP9 Conservation of the Natural, Historic and Built Environment

4. CONSULTATIONS

4.1 Cadw, with regards the condition of such buildings and the possibility of obtaining a grant. They are supportive of action being taken in general against such premises. However, given the short notice and Christmas holidays, the Authority has not had a specific response yet.

5. INTERNAL COUNCIL ADVICE

5.1 Building Control are aware are of the poor condition of the building and the Enforcement Team are working closely with them.
City Centre Manager- expressed concerns about water ingress into the upper floors and trespass.

Conservation Officer- is supportive of action being taken and has provided an initial list of required works.

6. ASSESSMENT

- 6.1 This report sets out the need to serve an Urgent Works Notice under s.54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and is required as the scheme of Delegation does not include such a notice. The premises have been broken into on a number of occasions and the Authority had to arrange for it to be secured at the time of the most recent site visit. To ensure a co-ordinated approach between partner organisations: Building Control; Conservation Officer; Fire Service;



and Gwent Police were in attendance. The premises had clearly been broken into and water ingress was a significant problem. In places there was also evidence of fires that had been started. Such a notice is therefore required to safeguard the future of the Westgate, Commercial Street, a grade II listed building. The building comprises of a large former hotel with ground floor shops. The façade is of a French Renaissance style, Snecked Pennant stone with bathstone dressings, slate roof with large yellow brick chimneys, and bracketed eaves and has sash glazing. The premises extends over four storeys including 2 levels of attics contained within a mansard roof.

- 6.2 The reasons for listing, given by Cadw, are that the building is an elaborate large scale former Victorian hotel occupying a prominent position in Newport, which contributes positively to the Town Centre Conservation area and Commercial Street. The elaborate main staircase and richly decorated public rooms of the hotel are amongst the best surviving of their period. Furthermore, the building has an iconic status for the residents of Newport due to its association with John Frost and the Chartist movement.
- 6.2 The absence of any material maintenance regime has resulted in blocked or failed rainwater goods, which has caused significant water ingress and ceiling failure in places, as can be seen in the photograph below.



To remedy this the clearing out of the existing rainwater goods will be required. Furthermore, where they are absent or in poor condition, they will need to be reinstated or replaced as required. In terms of the roof fabric, this will require repairing with like for like materials (i.e. natural slates and lead flashing). As can be seen whole sections of guttering are blocked and will require clearing.



- 6.3 The presence of buddleia and other vegetation will require removal from the mortar beds otherwise the masonry will be forced apart destabilising the structure in the process. Therefore, removal of all vegetation from the building's façade and chimneys and an application of an herbicide on the roots/stump is necessary is necessitated. Where the masonry is loose, the roots shall be removed and the masonry reinstated with an appropriate mortar. Below can be seen buddleia that has taken hold on the Westgate's façade above Commercial Street. Additionally, where necessary the building will be repointed with a lime mortar, including chimneys.



Buddleia growing from the Westgate's chimney stacks that will lead to the failure of the masonry ultimately and associated risk of falling masonry into the public realm.



The lack of regular repointing and the failure of the cement render to the rear has permitted considerable water ingress. This will necessitate the removal of all cement render/removal of failed render and its reinstating with a lime render to allow for the drying out of the building's fabric.



As can be seen in the photograph below the repairing/sealing of all fenestration using matching materials to prevent any ingress through openings is also required.



- 6.4 An Urgent Works Notice should be restricted to urgent repairs to keep a building wind and weather-proof and safe from collapse, or action to prevent vandalism or theft. The steps taken should be consistent with achieving this objective and not as a route to restoring the building. Should any of the required works be deemed unnecessary the Authority would be unable to recover this element of the debt and it could also be subject to judicial review.
- 6.5 The premise has been targeted by the Empty Property Enforcement Action Group, because of the building's significance to the people of Newport and its poor state of repair. Due to officers' concerns, the above-mentioned site visit was conducted to ascertain the level of the issue here. The Authority may require a report to ascertain what will be required in terms of works to ensure the building's structural integrity. The threat of an Urgent Works Notice may precipitate assurances from the owner/tenant that remedial work will be undertaken. However, authorisation will be required so that prompt action can be taken if necessary.
- 6.6 **Financial Implications:**
If the owner does not undertake the works, and the Council implements them, then Section 55 of the 1990 Act enables the Council to reclaim the expenses of the works. The owner has 28 days in which to challenge the reclamation of the expenses on the grounds that some or all the works were unnecessary, temporary works have continued for too long, the amounts were unreasonable or recovery would cause hardship.
- 6.7 A number of quotes from companies will be sought to ensure that the works achieve best value.

- 6.8 The costs of the works will need to be met from existing budgets. However, the Authority has been in talks with Cadw with the view of an application being made to a grants scheme that Cadw have made available:

The grant can assist with:

- costs associated with preparing and serving Urgent Works Notices under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990, this includes the cost of fees for external advisers only.
- works carried out in default by the Local Authority.
- whilst this grant is primarily focussed on the service of Urgent Works Notices, funding may also be available to assist local authorities to meet the costs of serving other statutory notices, aimed at securing the condition of listed buildings at risk, including Section 215 notices.

It should be noted that this money would only be available after the relevant element has been completed. However, officers will endeavour to work with Cadw to ensure that this goes smoothly though.

6.9 Legal Implications

Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables local authorities to serve Urgent Works Notices for the preservation of listed buildings. This power is restricted to emergency repairs only - for example works to keep a building weatherproof and safe from collapse.

There is no right of appeal against an Urgent Works Notice. However, a right of appeal exists where a local authority is seeking to recover expenses incurred in carrying out works specified in an Urgent Works Notice.

7. Options Considered/Available

The Council has powers under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to issue an Urgent Works Notice requiring various steps to be taken to ensure the preservation of the building. Non-compliance will require the Authority to undertake the required works in default.

Alternatively, the Authority could choose to do nothing, but the building will fail, which will have a significant adverse impact on the heritage of the area. Additionally, as previously observed the elaborate main staircase and richly decorated public rooms of the hotel are amongst the best surviving of their period.

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.

Given the risk of trespass and fire, the Authority should take the appropriate steps, at the very least, to ensure that the building is secured.

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 duty has been given due consideration in the determination of this application. It is considered that enforcement action in this case will not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person

9. ***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.

10. ***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.

11. **CONCLUSION**

11.1 Should no action be taken this historic building is in danger of irreparable damage and its loss to the historic fabric of the Town Centre Conservation Area will be significant. Additionally, there is a risk to members of the public here from falling masonry should the building be allowed to deteriorate further. Action is therefore required to halt the decline to the structural fabric of this building and to prevent the loss of this grade II listed historic asset.

12. **RECOMMENDATION**

Committee is requested to:

- Authorise the Head of Law and Standards to take all necessary steps for the preparation, issue and service of an Urgent Works Notice under s.54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or when dealing with the serious health and safety concerns regarding it.
- Authorise the Head of Regeneration & Economic Development to take all necessary steps for execution of the works by the Council in the event of non-compliance with the Urgent Works Notice.
- Authorise the Head of Regeneration & Economic Development, to take all necessary steps, to issue and serve a notice / demand to recover the Council's costs/expenses incurred in carrying out the works, including an enforced sale.

Reason:

To safeguard this listed building and prevent it from further deterioration. Additionally, to ensure that the public are not at risk from falling masonry.

EIA Screened – ES Not Needed

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.

END