

Report



Planning Committee – Hybrid Meeting

Part 1

Date: 3rd April 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

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

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

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

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

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

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

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

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

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, 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.
- 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 12 February 2024
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 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: 23/0477 **Ward:** Liswerry

Type: Full (Major)

Expiry Date: 12th April 2024

Applicant: *Starburst UK Ltd*

Site: *Orb Works Stephenson Street Newport South Wales NP19 0RB*

Proposal: ***PROPOSED CLASS B1(C)/B2/B8 DEVELOPMENT (PHASE 1) TOGETHER WITH ASSOCIATED DEMOLITION/ELEVATIONAL TREATMENT, PARKING, LANDSCAPING, DRAINAGE, ECOLOGICAL ENHANCEMENT AND PROVISION OF IMPROVED PEDESTRIAN/CYCLIST FACILITIES***

Recommendation: **GRANTED WITH CONDITIONS**

1. INTRODUCTION

- 1.1 This application is seeking planning permission for a development of B1/B2/B8 Use Class commercial units together with associated works, and proposed demolition and elevational treatment of existing B2 Use Class buildings at the Orb Works, Stephenson Street in the Liswerry ward.
- 1.2 The proposed scheme is noted as being 'Phase 1' of the wider redevelopment of the Orb Works site, which has been vacant since the site stopped operating in July 2020. Over the course of the last few years, the applicant and the Local Planning Authority have been in communication through the Council's pre application planning enquiry process prior to submitting the scheme currently under consideration.
- 1.3 The site is located on Stephenson Street, in an established industrial area, approximately 1.5 miles to the south-east of Newport City Centre. The wider site is bounded to the north by the Lysaght Village residential scheme, to the east by a railway embankment/line, to the south by Stephenson Street, and to the west by both the River Usk and the Esperanto Way business units.
- 1.4 The site is accessed from the south via a priority junction arrangement with Stephenson Street. To the west of the site, Stephenson Street terminates at the Newport Transporter Bridge, whilst to the east it continues for 750m before meeting Corporation Road. As well as providing access to the site, Stephenson Street also provides access to several neighbouring industrial businesses. Approximately 750m to the north of its junction with Stephenson Street, Corporation Road connects with the A48 Southern Distributor Road, which connects with the strategic highway network beyond.
- 1.5 The application is brought to the Planning Committee for determination as it constitutes 'major development' owing to the floorspace being created is greater than 1,000sqm. The Pre Application Consultation (PAC) has been undertaken by the applicant as required for all major development projects as set out in Article 4 Part 1A of the Town and Country Planning Development Management (Wales) Order 2016.

2. RELEVANT SITE HISTORY

94/0581	TWO STOREY INDUSTRIAL BUILDINGS AND ASSOCIATED TANKS IN BUDNED AREAS FOR THE PURPOSE OF TREATING EFFLUENT ARISING FROM STEEL PRODUCTION PROCESS	GRANTED WITH CONDITIONS
96/1064	AMENDMENT TO PREVIOUS APPROVAL 94/0581/F (SMALL INCREASE IN OVERALL SIZE) FOR ERECTION OF INDUSTRIAL BUILDING AND ASSOCIATED TANKS IN BUNDING AREAS FOR TREATING EFFULENT FROM STEEL PRODUCTION PROCESSES	GRANTED WITH CONDITIONS
05/1598	NEW FOUR STOREY OFFICE DEVELOPMENT WITH ASSOCIATED CAR PARKING AND SERVICES COMPOUND AND EMERGENCY ESCAPE LINK	GRANTED WITH CONDITIONS
07/1445	ERECTION OF A SINGLE STOREY GATEHOUSE AND FACILITIES BLOCK	GRANTED WITH CONDITIONS
08/0511	ERECTION OF BOUNDARY FENCE BETWEEN RETAINED INDUSTRIAL SITE AND LAND SOLD FOR RESIDENTIAL DEVELOPMENT	GRANTED WITH CONDITIONS
08/0512	CREATION OF PEDESTRIANA ACCESS	GRANTED WITH CONDITIONS
08/0601	PARTIAL DISCHARGE OF CONDITION 06 (ESCAPE LINK) OF PLANNING PERMISSION 05/1598 FOR NEW FOUR STOREY OFFICE DEVELOPMENT WITH ASSOCIATED CAR PARKING AND SERVICES COMPOUND AND EMERGENCY ESCAPE LINK	APPROVED
08/0602	PARTIAL DISCHARGE OF CONDITIONS 07 (BUFFER ZONE) AND 16 (MANAGEMENT PLAN) ATTACHED TO PLANNING PERMISSION 05/1598 FOR NEW FOUR STOREY OFFICE DEVELOPMENT WITH ASSOCIATED CAR PARKING AND SERVICES COMPOUND AND EMERGENCY ESCAPE LINK	APPROVED
08/1011	PARTIAL DISCHARGE OF CONDITION 03 (PROGRAMME OF ARCHAEOLOGICAL WORK) OF PLANNING PERMISSION 05/1598 FOR NEW OFFICE DEVELOPMENT	APPROVED
08/1407	PARTIAL DISCHARGE OF CONDITION 01 (DETAILS OF GATES) RELATING TO PLANNING PERMISSION 08/0512 FOR CREATION OF PEDESTRIAN ACCESS	APPROVED
09/0392	VARIATION OF CONDITION 01 (EMERGENCY ACCESS) RELATING TO PLANNING PERMISSION 05/1598 FOR FOUR STOREY OFFICE DEVELOPMENT WITH ASSOCIATED CAR PARKING AND SERVICES	REFUSED
22/0346	SCREENING OPINION FOR PROPOSED B1/B2/B8 DEVELOPMENT TOGETHER WITH ASSOCIATED WORKS	ES REQUIRED

3. POLICY CONTEXT

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

3.1.1 Strategic Policies

- SP1 Sustainability
- SP2 Health
- SP3 Flood Risk
- SP4 Water Resources
- SP9 Conservation of the Natural, Historic and Built Environment
- SP18 Urban Regeneration

3.1.2 **General Policies**

- GP1 Climate Change
- GP2 General Amenity
- GP3 Service Infrastructure
- GP4 Highways and Accessibility
- GP5 Natural Environment
- GP6 Quality of Design
- GP7 Environmental Protection and Public Health

3.1.3 **The Natural Environment**

- CE1 Route ways, Corridors and Gateways
- CE6 Archaeology

3.1.4 **Parking and Waste**

- T4 Parking
- T5 Walking and Cycling
- W3 Provision for Waste Management Facilities in Development

3.1.5 **Adopted Supplementary Planning Guidance (SPG)**

The following SPG documents are considered to be relevant to the redevelopment of the site:

- Parking Standards
- Sustainable travel
- Wildlife and Development
- Trees, Woodland, Hedgerows and Development Sites
- Air Quality
- Archaeology and Archaeologically Sensitive Areas SPG
- Waste Storage and Collection.

3.2 **Planning Policy Wales (PPW) 12:**

- 3.2.1 National planning policy in the form of Planning Policy Wales (Edition 12, 2024) (PPW) is of relevance to the determination of this application.
- 3.2.2 The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.
- 3.2.3 Paragraph 5.4: 'For planning purposes the Welsh Government defines economic development as the development of land and buildings for activities that generate sustainable long term prosperity, jobs and incomes'.

- 3.2.4 Paragraph 5.4.2 Economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services. The construction, energy, minerals, waste and telecommunications sectors are also essential to the economy and are sensitive to planning policy. This section focuses primarily on traditional employment land uses (B1, B2 and B8) while policies on other economic sectors are found elsewhere in PPW.
- 3.2.5 Paragraph 5.4.4: ‘Wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration; Sites identified for employment use in a development plan should be protected from inappropriate development.
- 3.2.6 Para 5.4.16: ‘Economic clustering typically occurs when businesses from the same or similar industry, or with a common interest, choose to locate in close proximity for mutual benefit. Often, clustering concerns high technology, innovative or research and development based companies, but may also include finance, food and media businesses, or supply industries serving larger manufacturers. Businesses can benefit from shared facilities, infrastructure, local pools of skilled and qualified labour, common supply chains and links to higher education.

3.3 **Technical Advice Notes:**

- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 18 – Transport
- Technical Advice Note 23 – Economic Development (2014)

It should not be assumed that economic objectives are necessarily in conflict with social and environmental objectives. Often these different dimensions point in the same direction. Planning should positively and imaginatively seek such ‘win-win’ outcomes, where development contributes to all dimensions of sustainability. Where economic development would cause environmental or social harm which cannot be fully mitigated, careful consideration of the economic benefits will be necessary. There will of course be occasions when social and environmental considerations will outweigh economic benefit. The decision in each case will depend on the specific circumstances and the planning authority’s priorities.

It is a central objective of the planning system to steer development to appropriate locations. Therefore, where a proposed development would cause unacceptable environmental or social harm, demand should be steered to an alternative location, unless the harm is outweighed by the additional benefit of development at the original site in question. Such alternative locations will not necessarily be in the same local authority area. The TAN does not override any environmental legislative requirements that may apply to a particular site.

3.4 **Future Wales: The National Plan 2040**

- 3.4.1 Future Plan Wales is our national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. The Plan is the highest tier of development plan, focussing on issues and challenges at a national scale leaving the LDP to identify local constraints and

proposals. The 2 Plans should conform with one another and direct the plan-led planning system. Future Wales' 11 Outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

The Policies set out in the Plan that are considered most relevant to this application as follows:

- Policy 1 & 33 identifies Newport as a national growth area for housing and employment opportunities and investment in infrastructure.

3.4 Wales National Marine Plan

3.4.1 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 –
 - 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.
- Ensuring a strong, healthy and just society
 - Contribute to supporting the development of vibrant, more equitable, culturally and linguistically distinct, cohesive and resilient coastal communities.
 - Improve understanding and enable action supporting climate change adaptation and mitigation.
- Living within environmental limits
 - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
 - Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
- Promoting Good Governance
 - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led, precautionary, risk-based and adaptive approach to managing Welsh seas.

3.4.2 The above duties have been given due consideration in the determination of this application.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES:

Final Consultation Response

We object to the proposed development as submitted, for the reasons explained below.

Flood Risk

The planning application proposes less vulnerable development (B1/B2/B8 industrial). 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 (LPA) to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If the LPA 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 an Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

Our previous response dated 11 July 2023 (Ref: CAS-220232-W8P5) advised that the application fails A1.14 and A1.15 of TAN15 and that the assessment did not include a full allowance for climate change as required by national policy.

We have reviewed the updated FCA Version 3 undertaken by Hydrogeo dated January 2024 referenced HYG752. We note the FCA now includes an assessment of flood risk against a 75 year lifetime of development.

The site currently consists of a series of existing industrial units on existing developed land. The FCA confirms that the site will be developed in a number of phases, with the first of these phases consisting of the construction of 4 no. units for a mix of B1, B2 and B8 uses. The areas of the wider site that will be demolished during Phase 1 (as part of the wider site refurbishment) are also identified in the FCA. The total area of the Phase 1 new units is 7,476m². The total area of the buildings to be demolished is 15,227m².

The FCA states that the majority of the flood defence crest levels of the embankment are set at an elevation exceeding 9.00m AOD and provide a 0.5% (1 in 200 year) Standard of Protection (SoP). It also indicates there are locations along the embankment where the crest level is slightly lower at approximately 8.80m AOD, providing less than a 0.5% (1 in 200 year) SoP. The FCA continues that the lower sections of the existing embankment near the Former Orb Works site will be upgraded as part of the proposals in order to bring these sections up the minimum 9.35m AOD of the rest of the embankment providing a 0.5% (1 in 200 year) SoP up to 2069.

A lifetime of 75 years (i.e. 2099) has now been adopted within this FCA and the following flood levels have been provided:

- 0.5% (1 in 200 year) plus climate change (2099) - 9.69m AOD (95th percentile) flood depth 1.59m
- 0.1% (1 in 1000 year) plus climate change (2099) - 10.05m AOD (95th percentile) flood depth 1.95m

The proposed finished floor level of the buildings is to be set as a minimum at 8.10m AOD, which is similar to existing. The FCA states that it is impractical to raise the levels further owing to limited headroom constraints, massing, planning policy and Building Regulations. Using the flood levels above and comparing them to the finished floor levels, the proposals are predicted to flood during both the 0.5% plus climate change (2099) and 0.1% plus climate change (2099) events and will therefore not comply with the requirements of A1.14 or A1.15 of TAN 15.

The FCA indicates the speed of inundation and rate of floodwater rise is considered to be low, ground levels will not be altered, and flood flows will operate as existing. As such, the FCA concludes the proposed development will have no impact on flood risk and the overall direction of the movement of water will be maintained. The FCA further concludes there will be a gain in flood storage capacity and the conveyance routes will not be blocked or obstructed.

We are satisfied that there will be no increase in flood risk elsewhere or conveyance changes off-site post development and would require no further information on this TAN 15 criteria. Any changes to conveyance routes are likely to occur onsite due to the net reduction in building footprint.

With the flood defence improvements, it is shown from the flood data that when climate change allowance is applied the defences will be overtopped and flooding will reach the site. Measures to be incorporated into the building design are listed in Section 5.4 of the FCA, there are also recommendations that early flood warnings are adopted and that a flood plan will be formalised for the site.

The following access and egress routes are also suggested. We recommend your Authority considers whether these routes and the flood plan are adequate in consultation with other appropriate advisors:

1. East along Stephenson Street – north along Corporation Road – west along Spytty Road (vehicle and pedestrian access)
2. East along Stephenson Street – north along Corporation Road – straight over Spytty Road – east along Cromwell Road – north along Somerton Road (vehicle and pedestrian access)
3. East along Stephenson Street – north along Corporation Road – east along Spytty Road (vehicle and pedestrian access)
4. Pedestrian path to the residential development to the north (pedestrian access only)

In summary, the proposed development has not been designed to be flood free in the 0.5% (1 in 200 year) event plus the full allowance of climate change (75 years). Our advice is provided in line with the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which advises that the lifetime of development for non-residential development is considered to be 75 years. Based on this we advise the FCA demonstrates that the proposals do not comply with the requirements of TAN 15.

We note the FCA states that ‘The proposed development is deemed to be appropriate for this location’, and that ‘a realistic lifetime of the proposed development is 30 to 35 years’. As previously advised, the FCA has demonstrated the site is predicted to be flood free in the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) events plus climate change over 35 years.

However, it will ultimately be a decision for your Authority to determine whether 30-35 years is an appropriate lifetime of development and, if necessary satisfy yourself there are available mechanisms to control the lifetime of this development.

Flood Risk Activity Permit

Please advise the Applicant that the Environmental Permitting Regulations (2016) require them to obtain a bespoke Flood Risk Activity Permit for any works or structures located in, under, over or within 8 metres of the bank top of the River Usk, a designated “main river”. Further advice and guidance is available on our website: Natural Resources Wales / Check if you need a flood risk activity permit (FRAP).

Notwithstanding the above, we have the following additional comments to make.

Should you authority be minded to grant permission, we advise the following conditions regarding land contamination and controlled waters and protected sites (pollution prevention) should be attached to any planning permission granted.

Protected Sites

The application site is in close proximity to the River Usk Special Area of Conservation and Site of Special Scientific Interest. We note the submission of a Shadow Habitats Regulations Assessment Revision 2.0 by Acer Ecology dated 23 November 2023. We further note the email from Matthew Harris, (Ecology Officer) dated 12 December 2023 which states *“the Shadow HRA dated November 2023 is now acceptable, and I advise that we adopt it as our own HRA in relation to this proposed development application. We should use a planning condition to secure the implementation of the counteracting measures set out in sections 7.3 and 7.4 of the HRA, which include a bioretention feature and the production of a Construction Environmental Management Plan.”*

We have considered the above Shadow Habitats Regulations Assessment document and are satisfied you can conclude no adverse effect on the integrity of the River Usk SAC providing the mitigation measures are implemented. The Counteracting Measures identified in Section 7.3 and 7.4 should be secured via condition.

We refer you to our statutory pre-application response dated 31/03/2023 (our ref: CAS211076-F6X6) regarding matters we wish to be included in the conditioned Construction Environmental Management Plan. This response also advises on Discharge Permits.

Land Contamination and Controlled

Waters No new information regarding land contamination and controlled waters has been submitted to support the planning application. Therefore our advice and request for five conditions and informative as set out in our statutory pre-application response dated 31/03/2023 (our ref: CAS-211076-F6X6) remains relevant.

European Protected Species

Our advice in our previous response dated 11 July 2023 (our reference: CAS-220232-W8P5) remains.

4.2 WELSH WATER DWR CYMRU:

Asset Protection

The proposed development site is crossed by a 225mm public foul rising main. Please see copy of indicative public sewer record attached. No operational development is to take place within 3 metres either side of the centreline of the sewer. We request that prior to commencing any operational development the location of this asset is determined. If operational development is likely to take place within 3 metres either side of this sewer please stop works and contact us. The applicant may be able to divert this asset under Section 185 of the Water Industry Act 1991.

Sewerage

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

Turning to surface water, as of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with Newport City Council, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

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 and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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.

4.3 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST:

We have consulted the regional Historic Environment Record and note that the submission of an Archaeological Assessment by EDP (Report no. edp7738_r002d, dated January 2023). The proposal is located with the Newport Archaeologically Sensitive Area (ASA), to the northwest of the Gwent Levels Registered Historic Landscape, specifically the Nash/Goldcliff Character Area (HLCA001). Evidence of human activity is known from the reclamation of the Levels since the early prehistoric period. Furthermore the Orb Works first opened in 1897 as an ironworks serviced by a branch of the Great Western Railway.

However, geotechnical works on the site have indicated the presence of up to 2m of modern made ground. Such deposits have also been recorded by previous archaeological works a short distance to the west. Furthermore, the buildings within Phase 1 are all modern in date, located away from the historic core. Additionally, modern aerial photography indicates the site has been subject to previous ground intrusion works and development.

Overall, it is unlikely that archaeologically significant material will be encountered during the course of the proposed works.

As a result, there is unlikely to be an archaeological restraint to this proposed development. Consequently, as the archaeological advisors to your Members, we have no objections to the positive determination of this application. The record is not

definitive, however, and features may be disturbed during the course of the work. In this event, please contact this division of the Trust.

- 4.4 SOUTH WALES FIRE: No objection.
- 4.5 GWENT POLICE: No response.
- 4.6 WILDLIFE IN NEWPORT GROUP: No response.

5. INTERNAL COUNCIL ADVICE

5.1 THE HEAD OF INFRASTRUCTURE (HIGHWAYS):

Final Response

Highway Recommendation:

No objection subject to conditions.

Highway Comments:

We note that a number of amendments have been proposed and, on the whole, are satisfied that the proposals are now acceptable.

Measures to improve pedestrian safety adjacent to individual unit entrances are noted and accepted in principle.

Lane /edge of carriageway markings are proposed to address the potential visibility /conflicts at the internal crossing. This is accepted as sufficient given that the site will be managed.

Suitable cycle parking is now proposed and accepted as likely to encourage cycling.

We would request confirmation that pedestrian gates (to Stephenson Street) would be managed to ensure that they can be used by all tenants/visitors at reasonable times. We note that as proposed (2m) they would be wide enough to be used by pedestrians pushing cycles.

Amendments to the main access and footway along the frontage are noted and considered appropriate except that the crossing point (near the bridge) does not show appropriate detail including a reciprocal provision on the far side of the road. We assume this is merely an oversight and will be proposed. A separate agreement with Highways will be required to manage the detail/materials/process.

Subject to conditions to secure the changes and highway works as agreed there are no maintained highway objections.

- 5.2 THE HEAD OF INFRASTRUCTURE (WASTE): We anticipate a requirement for trade waste and recycling.
- 5.3 THE HEAD OF INFRASTRUCTURE (SAB): No response.
- 5.3 THE HEAD OF INFRASTRUCTURE (PUBLIC RIGHTS OF WAY): No response.
- 5.4 THE HEAD OF INFRASTRUCTURE (ACTIVE TRAVEL): No response.

5.5 THE HEAD OF ENVIRONMENT AND PUBLIC HEALTH (ECOLOGY):

Green Infrastructure Assessment

I advise that we accept the Green Infrastructure Assessment submitted in support of application 23/0477, and I have some additional comments as below.

The aim of a Green Infrastructure Assessment (GIA) is to ensure that all elements of GI are coordinated from the outset, so that biodiversity, trees, soils, landscaping, SuDS, amenity, access, recreation and climate change mitigation and adaptation are integrated into a scheme which delivers multiple benefits. Ideally a GIA should be a strategy which informs the design and layout of a scheme, rather than retrospectively explaining how it might work.

For example, the GIA includes '*No soft planting plans are available at the time of writing but the proposed additional planting will be good for wildlife, and will provide all round shelter for birds and invertebrates, especially pollinators.*'. Soft landscaping plans are set out in 0101 Phase 1 Landscape Masterplan and 0201 Phase 1 Planting Plan, so a GIA could be used to explain how the species proposed were chosen to deliver maximum benefit for biodiversity, whilst also performing the amenity or SuDS function. I have no concerns over the choice of species set out in these documents, but the GIA could have set out how they were chosen for their year-round biodiversity value, and for the context of their surroundings.

I welcome the reference to the Building With Nature Standards Framework and whilst the consideration of the twelve standards sets out some generic principles, I would have welcomed some more detailed explanation of how the specifics of the Landscape / Planting Plans could address each of these standards. For example in Standard 2, the reference to the value of trees for carbon capture could have gone further and set out how the choice of tree species reflects anticipated changes due to climate change (hotter, drier summers, wetter winters etc.), and how they could contribute to climate change adaptation. However I note that the generic value of trees to climate change mitigation and adaptation has been set out earlier in the GIA. Similarly, under Standard 4, it states '*We are not aware of any stakeholder feedback informing the green infrastructure layout, features and design.*', whereas in my comments of 13/01/22 to Gary Mills I referred to the need for robust connectivity between the vegetated rail corridor, Stephenson Street, and the vegetated River Usk corridor. However, I can see that the soft landscaping plans largely deliver this.

For future reference, a more detailed explanation of how these 12 standards were used to guide the design and layout of the scheme, integrating the SuDS, soft landscaping and the ecological stepwise approach, would be welcome.

Habitats Regulations Assessment

The Shadow HRA dated November 2023 is now acceptable, and I advise that we adopt it as our own HRA in relation to this proposed development application. We should use a planning condition to secure the implementation of the counteracting measures set out in sections 7.3 and 7.4 of the HRA, which include a bioretention feature and the production of a Construction Environmental Management Plan.

5.6 THE HEAD OF ENVIRONMENT AND PUBLIC HEALTH (TREES): No objection.

5.7 THE HEAD OF ENVIRONMENT AND PUBLIC HEALTH (LANDSCAPE):

Stephenson Street Frontage

The sensitive boundary for phase 1 is Stephenson Street. The landscape treatment opposite is typically urban in character with an avenue of trees in grass verge or hedging, looking to the west this leads views to the grade 1 listed Transporter Bridge.

The proposals for the frontage within this application are not clear. Is the unattractive existing boundary treatment to be retained? Is there scope for a more formal arrangement of trees in a native hedge or grass verge for the public realm facing boundary?

The introduction of woodland style planting at the south-east corner which will link to the railway corridor is welcome, but I would not support this style of planting in a narrow very long corridor immediately adjacent to the highway.

The submitted planting rationale states:

A dense buffer of native planting is a cost effective way of introducing a green corridor, but this needs more detailing than has been provided. The character of planting needs to respond to the urban location, the width available, and provide a more formal treatment or formal management for areas within full public view.

It is recommended that the proposal is reviewed, and that sections drawn by the landscape architect along Stephenson Street including at the closest point of units (shown below) are provided to illustrate the proposals.

Amenity Area

Proposals for the amenity area are underdeveloped. Extracts from earlier layouts indicate a more formal arrangement for amenity use. The submitted proposal however is for an area of mown grass, facing bioretention strips along the rear of units, views will be unattractive, there is no seating or access for all paths and this area is not mentioned in the DAS. There is an opportunity to be more inventive with space incorporating above ground SUDs that should be explored.

Cycleway

A 2m wide cycleway is proposed connecting phase 1 to the Lysaght residential area at the north-west corner of the wider industrial site. No details other than the alignment is submitted, is a change of surface required? or is this marking of existing tarmac. Noted that the Transport Strategy states this will be for staff use only:

The following are also required and could be conditioned;

1. An outline specification for groundworks to ensure the site is adequately prepared for planting to ensure successful planting establishment.
2. A Soft landscape maintenance and management plan (the application acknowledges this will be provided), this should reflect the Ecological Appraisal objective for a mosaic of habitats in the south east corner.

5.8 THE HEAD OF ENVIRONMENT AND PUBLIC HEALTH (ENVIRONMENTAL HEALTH):

I confirm I have no objections to the proposals; however the following condition 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 and Equipment Noise

Noise emitted from 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.

5.9 THE HEAD OF ENVIRONMENT AND PUBLIC HEALTH (SENIOR SCIENTIFIC OFFICER):

Air Quality Assessment Comments:

I have read the submitted AQA and it reflects those things we have asked for by way of assessment and mitigation. I am therefore able to withdraw my holding objection.

The mitigation proposed should be formalised by condition.

I have no further comments to make.

Contaminated Land Assessment Comments:

I think the NRW conditions cover the Contaminated Land for us also.

- 5.10 THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (REGENERATION): No response.
- 5.11 THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (CONSERVATION OFFICER): With sufficient screening and planting as per the Landscape Officer's assessment, I'd be fine without a proper analysis (of Transporter Bridge) being done.
- 5.12 THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (PLANNING CONTRIBUTIONS): No objections.
- 5.13 THE HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (PLANNING POLICY): No response.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (115 properties), a site notice displayed and a press notice published in South Wales Argus. No responses have been received.
- 6.2 COUNCILLORS MORRIS/HOWELLS/PETERSON/STERRY: No responses received.

7. ASSESSMENT

7.1 The Proposal

- 7.1.1 The proposal has been amended over the course of the application in order to provide a design and layout that is considered to be acceptable, and this will be assessed later in this report. The final layout comprises the erection of 7,476sqm of Class B1, B2 and B8 floorspace through the construction of 4no. pitched roof buildings referred to as Unit A, B, C and D. A minimum of 50% of the floor space is proposed to be used as Use Class B8. 15,227sqm of existing B2 floorspace is being demolished as part of the proposal and is outlined in red on the submitted plans.
- 7.1.2 The proposed floor space would accommodate 49 individual units, each contained within the aforementioned 4no. terraces. Unit A totals 2,236sqm, Unit B 466sqm, Unit C 2,286sqm and Unit D 2,438sqm. Each individual unit has its own roller shutter door in the main front elevation together with standard pedestrian doors on both the front and rear. Materials will consist of silver microrib cladding panels to all elevations and grey profile roof panels with rooflights. All rainwater goods, flashings, trims and doors will be solent blue in colour. The maximum depth of each terrace is 19.65 metres and the height measures 6.99 metres to eaves and a maximum ridge height of 8.37 metres. The length of the 4no. units will range from 22.30 metres (Unit B) to 118.90 metres (Unit D).
- 7.1.3 The layout includes 97no. car parking spaces, including 6no. disabled spaces and 11no. electric vehicle charging spaces. To accommodate operational space for the development 49no. HGV parking spaces are provided i.e. 1no. space per unit. Provision is also made for motor cycles as well as 28no. cycle spaces at four separate secured cycle stores. There are also 25no. bin stores provided across the site.
- 7.1.4 Within the site a 2.0 metre wide pedestrian and cycle path is proposed that would link with the walkway adjacent to the River Usk to the north of the site carrying through the application site to the rear of Units A and B before providing access onto Stephenson Street via a gate along the southern boundary. Following negotiation with Officers, the scheme now also proposes a new footpath for the entire length of the southern

boundary of the site on Stephenson Street linking to the vehicular access point, which is also included for improvement works. A second pedestrian access point has also now been proposed off Stephenson Street via a gated access and pedestrian crossing point within the site linking to the internal footway that runs to the front and rear of Units C and D.

- 7.1.5 An area of landscaping and biodiversity is proposed to the south east corner of the site to the rear of Units A and B. This is also integral to the surface water strategy of the site which will be approved separately through a SAB application. Perimeter planting along the southern boundary of the site along Stephenson Street is also proposed.

7.2 *Principle of Development*

- 7.2.1 The application site is located within the former Orb Works site and is previously developed land located within the settlement boundary as per the Newport Local Development Plan 2011-2026 (adopted January 2015). The proposal would support policy SP18 Urban Regeneration, which favours development that seeks business opportunities within the urban area and on vacant, underused or derelict land. The proposed development (B1, B2 and B8) forms traditional employment use and although the site is not allocated within the NLDP, the previous use of the site is also in traditional employment use (B2).

- 7.2.2 The proposal would be classed as economic development and therefore in accordance with National Policy. The proposal is encouraged and supported as a development which would generate economic prosperity and regeneration and is accepted in principle, subject to all other planning considerations being suitably addressed.

7.3 *Design and Layout*

- 7.3.1 The final revised scheme that has been submitted for consideration is accepted as being suitable and practical for future users of the units whilst also meeting placemaking and design requirements as set out in local and national planning policy.

- 7.3.2 A key part of the negotiation has been to ensure that the final layout offers sufficient permeability through the site and provides linkage to the wider area in order to encourage active modes of travel such as walking or cycling, as well as safe pedestrian areas within the site. This has led to the applicant agreeing to the provision of a footway along the northern side of Stephenson Street, with two 2.0 metre wide gated access points into the site, as well as full details of a demarcated crossing point adjacent to Unit D. Designated pedestrian routes are also proposed to the front and rear of the buildings and adjoin the originally proposed 2.0 metre wide pedestrian route joining with the riverside walkway at the northern corner.

- 7.3.3 In terms of the design, scale and appearance of the proposed buildings they are considered to be commensurate to those existing at the site and within the nearby vicinity. Whilst utilitarian the overall area is industrial in its character and they allow flexibility in their end use depending on the nature of each future occupier. The materials are considered to be robust and inkeeping with surrounding character. The making good of the existing buildings that are proposed for partial demolition is also considered. These elevations will be finished in cladding to match that of the described new buildings in terms of the profile, colour and materials. Roller doors will also match. This is also considered to be acceptable and the 'making good' can be controlled by planning condition.

7.3.4 One unit has been removed from Unit A to soften the visual impact along Stephenson Street, which was initially imposing on the street scene. This reduction in scale and increased buffer from the perimeter also allows for the better establishment of landscaping along this boundary, which will be subject to assessment later in this report.

7.3.5 Overall, it is considered that the design and layout of the scheme is acceptable and complies with Policy GP2(ii) and GP6 of the NLDP 2011-2026 (adopted January 2015) as well as national placemaking objectives as per Planning Policy Wales 12.

7.4 *General Amenity*

7.4.1 The existing site has been in an established B2 General Industrial use and it is not anticipated that the proposed development would result in any adverse impact on local amenity over and above the existing lawful use. The existing surroundings are predominantly industrial uses with the only residential development located to the north at a distance of over 300 metres and with the intervening existing industrial site and adjacent railway line.

7.4.2 The applicant has duly submitted a noise impact assessment with the application, which has identified proposed likely noise impact from Phase 1 activities as being 'low'. The Council's Environmental Health Officer has offered no objection to the proposed development, however has requested a condition controlling a CEMP and also a condition controlling maximum noise levels of any plant equipment to be installed.

7.4.3 Overall, it is not considered that the proposed development will have any adverse impact on surrounding amenity and complies with the aims of Policy GP2 and GP7 of the NLDP 2011-2026 (adopted January 2015).

7.5 *Highway Safety and Impact on Surrounding Road Network*

7.5.1 Trip Generation

7.5.1.1 A fundamental starting point is to consider how the existing site could operate in terms of traffic generation in comparison to the proposed development. Phase 1 proposes the demolition of 15,227sqm of existing B2 Use Class floor space, which could lawfully be used and would be replaced with 7,4765sqm of new B1/B2/B8 floor space, whilst also retaining 53,125sqm of existing B2 floor space and 2,297sqm of Office space within the wider site.

7.5.1.2 The initial comments from the Council's Highways Officer raised concerns regarding the trip generation and the methodology used to come to the assessment that the proposed new floorspace would generate less traffic than the buildings that are being demolished if they were occupied and the extant B2 use continued. As such, this aspect has been subject of much discussion between the Highways Officer and the Transport Consultants throughout the early part of the application to ensure that a robust methodology and data has been established.

7.5.1.2 Given that the application is speculative as no end users have so far been identified, there was initially no assurances on the proposed mix of B1/B2/B8 floor space and each of these uses could generate a different level of traffic movements. Following discussions, in order to form an assessment, it has been agreed by all parties that the proposed mix will have a minimum 50% B8 use floor space and this would be controlled via a planning condition.

7.5.1.3 The below table outlines the proposed anticipated trip generation for Phase 1, which includes the proposed mix of B1, B2 and B8 Use as well as the retained B1 Office and B2 General Industrial Use at the wider site;

Use Class	Total Two-Way Trips		
	Weekday AM Peak Hour (08:00 to 09:00)	Weekday PM Peak Hour (16:30 to 17:30)	Weekday 12-Hour Period (07:00 to 19:00)
Retained B2 Use	142	146	1,834
Retained B1 Office Use	57	57	341
Proposed new B1/B2/B8 Use	32	19	255
Total	231	222	2,430

Figure 1 – Proposed Phase 1 (and retained uses) Trip Generation

7.5.1.4 The following table shows the anticipated trip generation of the extant use of the site in its current form as B1 Office and B2 General Industrial.

Use Class	Total Two-Way Trips		
	Weekday AM Peak Hour (08:00 to 09:00)	Weekday PM Peak Hour (16:30 to 17:30)	Weekday 12-Hour Period (07:00 to 19:00)
Extant B2 Use	182	187	2,360
Extant B1 Office Use	57	57	341
Total	239	245	2,701

Figure 2 – Extant Use Anticipated Trip Generation

7.5.1.5 When comparing the extant use of the site with the proposal for the mix of B1/B2/B8 units including the proposed demolition of B2 floorspace, the figures show a reduction in anticipated trip generation for the site. The final table below shows a direct comparison between the extant and proposed trip generation at AM and PM weekday peak times as well as over the weekday 12 hour period.

Use Class	Total Two-Way Trips		
	Weekday AM Peak Hour (08:00 to 09:00)	Weekday PM Peak Hour (16:30 to 17:30)	Weekday 12-Hour Period (07:00 to 19:00)
Total Phase 1 Use	231	222	2,430
Total Extant Use	239	245	2,701
Net Difference (Proposed – Extant)	-8	-23	-271

Figure 3 – Anticipated Net Difference in Trip Generation

7.5.1.6 The trip generation assessment has therefore identified that the Phase 1 re-development proposals would be anticipated to bring a net reduction in total vehicle trips to the site compared to the extant use. This would result in a positive impact on capacity of the local highway network.

7.5.1.7 This assessment is based on a robust assumption of a minimum 50% B8 use on the site. Considering that the B8 industrial use has a lower 12-hour period trip rate in comparison to both the B1 and B2 industrial uses, additional levels of B8 use on the site could bring the total trips generated by the Phase 1 proposals lower than identified above.

7.5.1.8 The Council's Highways Officer has been involved in the formation of the methodology in aspects such as using TRICs nature and other comparable uses etc. to form the assessment that has been summarised in this section of the report. Following resubmission of the updated Transport Assessment, they have offered no objections in respect of the trip generation assessment.

7.5.2 Highway Capacity Assessment

7.5.2.1 An assessment of the Stephenson Street / Corporation Road priority junction located east from the site access point has been undertaken, which identifies that the junction is currently operating within capacity. Re-opening of the Orb site under both extant use or the Phase 1 proposals would be anticipated to increase trips through the junction to a level that would result in it operating over capacity, especially during the AM peak hour period. The Phase 1 proposals however would have a lower impact at the junction than the extant use would, and as such the Phase 1 proposals would bring slight capacity improvements to the Stephenson Street / Corporation Road priority junction from the extant use on the site.

7.5.2.2 An assessment has also been undertaken at the Corporation Road / A48 / Orb Drive signalised junction network located to the north of the site. This assessment has identified that this junction network is currently operating towards the limits of its capacity, especially during the weekday PM peak hour period where queuing and delay has been observed through the network. As such, any further significant increases in traffic movements through the junction will only further exaggerate this existing issue.

7.5.2.3 Re-opening of the Orb site under both extant use or the Phase 1 proposals would be anticipated to increase trips through the Corporation Road / A48 / Orb Drive signalised junction network to a level that would result in additional capacity impacts at the junction. The Phase 1 proposals however would have a slightly lower impact at the junction than the extant use would. As such the Phase 1 proposals would bring slight capacity improvements to the Corporation Road / A48 / Orb Drive signalised junction network from the extant use on the site.

7.5.3 Site Layout and Access Assessment

7.5.3.1 Following agreement of the revised Transport Assessment, negotiation has turned to reviewing the site layout from a highways perspective, the access as well as accessibility and active travel improvements.

7.5.3.2 The Highways Officer considered the existing access to the site as being excessively wide and detrimental to highway safety. Revised plans show this to be reduced to provide a single 8.0m wide two way carriageway, which serve the whole development site and has been confirmed as appropriate by the Highways Officer subject to a condition securing implementation of the works.

7.5.3.3 The site is currently highly dependent on private vehicle accessibility. Planning Policy Wales (PPW) Edition 12 confirms the sustainable transport hierarchy should be used to reduce the need to travel, prevent car-dependent developments in unsustainable

locations, and support the delivery of schemes located, designed and supported by infrastructure which prioritises access and movement by active and sustainable transport. The sustainable transport hierarchy must be a key principle in the preparation of development plans, including site allocations, and when considering and determining planning applications. Different approaches to sustainable transport will be required in different parts of Wales, particularly in rural areas, and new development will need to reflect local circumstances.'

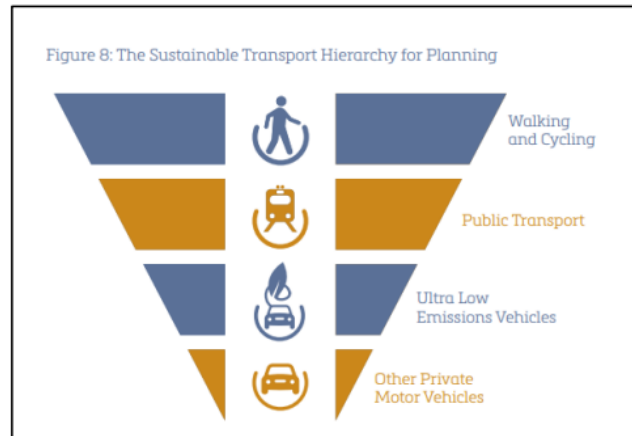


Figure 4 – The Sustainable Transport Hierarchy for Planning

7.5.3.4 It is Welsh Government policy to require the use of a sustainable transport hierarchy in relation to new development, which prioritises walking, cycling and public transport ahead of private motor vehicles. The transport hierarchy recognises that Ultra Low Emission Vehicles also have an important role to play in the decarbonisation of transport, particularly in rural areas with limited public transport services. In order to address the reliance on private mode of transport at the site, a new footway has been proposed along the southern boundary of the site at Stephenson Street. The footway would need to be provided through a highways agreement but can be controlled through a planning condition. Running the length of the boundary and providing two 2.0m wide gated access points to the site, as well as a crossing point within the site the footway would promote active forms of travel to the site such as walking and cycle to the site, which are top of the Sustainable Transport hierarchy. The footway would also provide a designated pedestrian access at the main vehicular site access, which is currently not available. Furthermore, a proposed 2.0m wide pedestrian link is also proposed at the northern point of the site and would continue around the perimeter of the wider site whereby it would join the River Usk footway providing connectivity to the wider northern area and nearby residential development and beyond.

7.5.3.5 The scheme provides 11no. Ultra Low Vehicle Charging parking spaces, which is just in excess of the 10% required for commercial development as per Future Wales: The National Plan 2040. Cycle storage is provided within the site and this will be considered in more detail shortly. Overall, it is considered that the proposed development has adequately addressed the Sustainable Transport Hierarchy and provides the necessary enhancements to make the scheme acceptable in relation to this.

7.5.4 Vehicle Parking & Cycle Parking

7.5.4.1 As per the Parking Standards SPG (adopted August 2015) the site is located within Parking Zone 6. For a mixed B1/B2/B8 development, the 'Industry' category is most applicable from the options specified in the SPG. For Zone 6 sites in this category, a

maximum of 1 parking space per 80m² is stated. This equates to 94 spaces at the proposed new B1/B2/B8 units (totalling 7,476m²).

7.5.4.2 Across the proposed new B1/B2/B8 units on the site, a total of 97 car parking spaces will be provided. Although this is marginally above the SPG requirements, this parking provision includes 6 disabled spaces (6%) and 11 electric vehicle charging spaces (11%).

7.5.4.3 For Industry use, operational parking space requirements are also identified. Section 7.1 of the Parking Standards SPG identifies operational space as follows:

“Sufficient space to allow the maximum number and size of vehicles likely to serve the development at any one time and to manoeuvre with ease and stand for loading and unloading without inconvenience to vehicles and pedestrians on the public highway or to other users of the site. Space for staff cars which, by the nature of the business, is required for day-to-day operation, may also be included.”

7.5.4.4 To accommodate operational space at the proposed new B1/B2/B8 units, 49 service vehicle parking spaces will be provided (1 per each individual site unit). These spaces will be provided at the frontage of each individual site unit and will provide sufficient space to accommodate all servicing requirements at the site. The Council’s Highways Officer is satisfied with both the operational and non operational parking provision.

7.5.4.5 With the exact levels of staff expected at the proposed development unknown, it is proposed to provide a minimum of 28 cycle parking spaces with the development proposals. These spaces will be provided across four separate cycle stores, which will accommodate both long-term and short-term parking. Details of the stores have been provided and they are considered to be of good quality as they are secured and located in naturally surveillanced locations. The Council’s Highways Officer is satisfied with the provision made.

7.5.4.6 Within the site walkways are proposed for pedestrians to the front of the terraced units. The Council’s Highways Officer has requested details to ensure adequate pedestrian visibility and safety when using these walkways. Elevational details of parking stops and bollards have been submitted for review and confirmed as acceptable by the Highways Officer.

7.5.6 Highways Conclusion

7.5.6.1 From a highways perspective the application has demonstrated that there is to be no adverse impact upon the wider highway network as a result of the proposal, acceptable active travel upgrades have been made through the provision of footways and access points and ULEV and Cycle Parking provision and improvements to the existing vehicular access have been proposed.

7.5.6.2 It is therefore accepted that the proposed development is acceptable in terms sustainability, accessibility and highway safety terms and complies with Policy SP1, SP2, GP4, T4 and T5 of the NLDP 2011-2026 (adopted January 2015).

7.6 *Air Quality*

7.6.1 The Council’s Senior Scientific Officer initially confirmed a holding objection on grounds of air quality as the Traffic Impact/Trip Rate had not been confirmed between the Council’s Highways Officer and the applicant’s Highways Consultant. At that point,

it was unclear how the development would impact air quality as these figures had not been agreed.

7.6.2 On receipt of an updated Transport Assessment which included the mutually agreed trip rates as discussed in further detail in Section 7.3 of this report, an updated Air Quality Assessment was submitted for consideration. In the operational phase of the development due to the overall reduction in traffic as a result of the proposed development and associated demolition of existing industrial floorspace the modelling assessment has shown an overall improvement to local air quality compared to the extant baseline. However, as required in the Air Quality SPG mitigation has been proposed at the site to reduce emissions during the operational phase, which includes;

- Electric car charging – 36-amp cabling will be provided, identified on the proposed Site Location Plan, to 11 parking spaces on the three proposed terraces;
- In accordance with the Council's adopted parking standards, 28 cycle parking spaces/stands will be provided;
- A new pedestrian/cycle route will be provided within the Site as part of Phase 1 proposal linking this phase with the adjacent residential area and beyond;
- Energy efficiency – the new units will all be electric. They will all be unheated structures with insulated roller shutter doors to each sub-unit within each of the three terraces;
- A policy of no-idling vehicles will be implemented on Site, through appropriate signposting;
- An area of green planting for wildlife will be provided as part of the proposals which will include a range of species that will attract wildlife and help mitigate air pollutants through absorption;
- Travel Plan (TP)– as the proposal is speculative with no named operators at this stage, there will not be a TP to accompany the application. However, it is anticipated that the provision of a TP will be required by way of a planning condition attached to Phase 1 consent;
- A new pedestrian link will be provided from Phase 1 onto Stephenson Street, with a new footpath also being provided along entire length of the site along Stephenson Street, providing improved pedestrian access along the road.

7.6.3 The Senior Scientific Officer has confirmed that the revised AQA provides acceptable assessment and mitigation of air quality and withdraws the holding objection to the development. They have confirmed that the proposed mitigation will need to be formalised and controlled through appropriately worded planning conditions.

7.6.4 As such, it is considered that in relation to air quality, the proposed development complies with Policy SP1, SP2 and GP7 of the NLDP 2011-2026 (adopted January 2015).

7.7 *Ecology & Landscape*

7.7.1 Chapter 6 of Planning Policy Wales (PPW) Edition 12 states that a Green Infrastructure Statement (GIS) should be submitted with all planning application and will need to be proportionate to the scale and nature of the development and will describe how green infrastructure has been incorporated into the proposal. The aim is to ensure that all elements of Green Infrastructure are coordinated from the outset, so that biodiversity, trees, soils, landscaping, SuDS, amenity, access, recreation and climate change mitigation and adaptation are integrated into a scheme which delivers multiple benefits.

- 7.7.2 A GIS has been submitted by the applicant's consultant Ecologist and sets out how green infrastructure has been incorporated into the proposed plans by including additional planting around the perimeter of the site, specifically the 'triangular' green space to the south east corner of the site. The final landscape scheme is yet to be finalised and will need to be controlled through a planning condition but will include biodiversity enhancement. The GIS has assessed the proposal against the 12 Green Infrastructure Standards as outlined in the Building With Nature Standards Framework.
- 7.7.3 The statement concludes, there will be ecological enhancement and biodiversity net gain by integrating such green infrastructure into the development proposals. The development will protect and enhance the ecosystems within and adjacent to the site, ensuring that they continue to support diverse habitats and species, allowing them to adapt to change. The plans will also enhance the green infrastructure on site in a way that increases resilience to the changing climate and provide protection for people and places.
- 7.7.4 The Council's Ecologist has reviewed the submitted GIS and has advised that it is accepted by the Local Planning Authority.
- 7.7.5 The original submission includes ecological information including a Bat Survey and Ecological Report. In terms of protected species, the Council's Ecologist accepts the conclusion that the buildings on site affected by the proposed works are unlikely to support roosting bats, so no further information is required in relation to these species. The Ecological Report suggests some opportunities for ecological enhancement and this is supported by the Ecologist in principle, however has confirmed that detailed measures should be set out in an ecological enhancement plan that will need to be controlled through a suitably worded planning condition.
- 7.7.6 A soft landscaping masterplan and planting plan was originally submitted for the initial site layout and was reviewed by the Council's Landscape Officer. The Landscape Officer has identified that the sensitive boundary for Phase 1 is Stephenson Street and the proposed frontage for this area is not clear with there being an unattractive, solid existing boundary treatment. Details of the boundary enclosure will need to be secured by a planning condition, with a weldmesh fence considered a suitable option in terms of offering security but maintaining visual amenity. The introduction of woodland style planting at the south east corner has been confirmed as being welcomed, but the Landscape Officer notes that this style of planting in a narrow very long corridor immediately adjacent to the boundary would not be. The submitted planting rationale states the Stephenson Street views would be the ones mostly affected by the development and therefore a dense buffer of native planting mix has been proposed to mitigate the visual impact of the new structures. The Landscape Officer advises that a dense mix of native planting is a cost effective way of introducing a green corridor, but this needs much more detailing than has been provided. The character of planting needs to respond to the urban location, the width available, and provide a more formal treatment or formal management for areas within full public view.
- 7.7.7 During the course of the application, layout changes have been made during negotiations to enhance active travel provision and the sustainability credentials of the site. Changes have also included the reduction of 1 no. unit from Unit A to improve the relationship and visual impact with Stephenson Street to open up a buffer between the side elevation of the unit and the site boundary. Following these changes, updated landscape and planting plans for the site have not been received at the time of writing this report. However, these changes are not considered to result in any fundamental change to, or implications on the landscaping of the site. In fact, it is considered that the reduction of the unit improves relationships and opportunities for perimeter planting

along this boundary. A final scheme of soft landscaping and planting for the site will be needed and this will need to be multifunctional in terms of meeting the Landscape Officer requirements for visual reasons, as well as the ecological and green infrastructure requirements as set out earlier within this section of the report. However, this is considered to be detail and there is not considered to be any reason why the appropriate landscaping of the site cannot be achieved through the imposition of a planning condition.

- 7.7.8 Officer's do note that as a result of the proposed improvements for active travel at the site the proposed footway along Stephenson Street is likely to result in the loss of one tree. LPAs must follow the Stepwise Approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimised, mitigated and as a last resort compensated for. The overall scheme can demonstrate biodiversity enhancement but the loss of the existing tree weighs against the proposal. However, in this instance there is significant material benefit as a result of providing the footway serving the site in terms of improving the sustainability and accessibility credentials in line with national planning policy objectives. In this instance this is considered to outweigh the loss of the tree, which can be mitigated for within the overall landscaping of the site.
- 7.7.9 Overall, it is considered that the proposed development is compliant with the aims of PolicySP1 and GP5 of the NLDP 2011-2026 (adopted January 2015).

7.8 *Waste*

- 7.8.1 An enclosed refuse store is proposed to the rear of each unit and can be directly accessed via the rear door. The Council's Waste Officer has confirmed that trade waste and recycling will be applicable for the units. However, from an amenity perspective the stores appear acceptable and will also be accessible by the trade operator.
- 7.8.2 It is considered that Policy W3 of the NLDP 2011-2026 (adopted January 2015) is complied with.

7.6 *Flood Risk*

- 7.6.1 The planning application proposes less vulnerable development (B1/B2/B8 industrial). 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). In light of the decision to pause the new TAN15, decisions on planning applications where flood risk is a consideration must be based on the existing TAN15. However, the Dear CPO Letter December 2021 confirms that FMfP remains publicly available and provides better and more up to date information than the DAM. The FMfP holds no formal weight as it is not yet national policy, but best available information is regarded as a material consideration.
- 7.6.2 Within the Flood Map for Planning (FMfP) the site is identified as being at risk of flooding and falls into Flood Zone 2 and 3 Sea. As such, the proposed development will be assessed against the best available data. The submitted Flood Consequence Assessment has been revised through the course of the application to include the assessment of flood risk against a 75 year lifetime of development, which is the requirement for less vulnerable development.

TAN 15 Assessment

7.6.3 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.

7.6.4 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.

7.6.5 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

7.6.6 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 site lies within the urban boundary as per the Newport Local Development Plan 2011-2026 (adopted January 2015). The proposal would result in the demolition of existing industrial floor space and for the replacement of a more modern and appropriate mix of B1, B2 and B8 floorspace. There will be a net reduction of 7,751sqm.

The site has been vacant since July 2020, and this proposal is stated as being 'Phase One' of its wider regeneration. The regeneration of the existing brownfield site within the urban boundary is supported in principle by Policy SP18 – Urban Regeneration which supports the reuse of vacant, underused or derelict land.

7.6.7 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 site forms part of the existing Orb Works site, which until July 2020 was in an established General Industrial use. This specific portion of the site contained areas of hardstanding, plant and equipment, which appears to have been cleared during 2021.

The site meets the definition of Previously Developed Land.

7.6.8 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.

7.6.9 *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).*

With the flood defence improvements, it is shown from the flood data that when climate change allowance is applied the defences will be overtopped and flooding will reach the site. Measures to be incorporated into the building design are listed in Section 5.4 of the FCA, there are also recommendations that early flood warnings are adopted and that a flood plan will be formalised for the site.

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

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

No new flood mitigation measures are proposed that would require maintenance.

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

A Flood Consequence Assessment has been submitted demonstrating that the developer is aware of the risks and consequences of flooding. Measures are to be incorporated into building design and there are also recommendations within the FCA that early flood warning are adopted and that a flood plan will be formalised for the site. Future occupiers will therefore be made aware of the risks and consequences of flooding.

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

The FCA advises site occupiers to sign up for flood alerts and warnings to ensure enough lead time is given to evacuate the site should it be required. However, whilst NRW seek to provide timely and robust warning it cannot guarantee their provision. No objection is offered by NRW on this basis.

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

Safe access and egress routes have been provided and are shown within the FCA. However, like the site much of these routes are not operational for the life time of development and are only operational for the 35 year period.

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

The FCA recommends that emergency plans are put in place and advises that this should give consideration for effective flood warning, evacuation, and access/egress routes in the event of flooding for the lifetime of the development.

NRW do not comment on Flood Emergency Plans and Procedures and the LPA do not have the inhouse capacity to assess this.

7.6.15 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 FCA advises that the likelihood of a rapid river level rise and possible rapid inundation of urban areas posing a risk to life is considered to be minimal. Natural Resources Wales, with its current flood warning system, to provide forewarning of two days of a pending flood event. The speed of inundation and rate of floodwater rise would be low.

It is therefore considered that there should be adequate warning and sufficient time available for occupiers of the units to move goods and possessions away from the site if deemed necessary.

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

The FCA recommends that the developer consider property flood resilience measures within the proposed buildings to further mitigate the potential impacts of flooding

This includes measures such as but not limited to using robust materials, raising electrical sockets, wiring and switches, solid floors, and sealing all window and door openings, where appropriate. Installation of these measures will enable the development to recover from a flood event quickly and in a cost-effective manner.

7.6.17 Test 10 - No flooding elsewhere.

NRW are satisfied that there will be no increase in flood risk elsewhere or conveyance changes off-site post development and would require no further information on this TAN 15 criteria. Any changes to conveyance routes are likely to occur onsite due to the net reduction in building footprint.

7.6.18 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.

The FCA confirms that the River Usk is tidally influenced at this location and the site is not at risk of fluvial flooding.

During the 0.5% (1 in 200 year) plus climate change event, the site will be flood free until the year 2059 i.e. 35 years. However, as confirmed in TAN 15 the lifetime for less vulnerable development is 75 years and this needs to be accounted for.

The 0.5% (1 in 200 year) plus climate change 75 year lifetime (2099) has confirmed that the predicted flood level will be 9.69m AOD, which is a flood depth of 1.59m. In this respect, the test is failed as the development is not flood free for the lifetime of the development.

7.6.19 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.

During a 0.1% (1 in 1000 year) plus climate change 75 year lifetime (2099) the FCA confirms a predicted flood level of 10.05m AOD, which is a flood depth of 1.95m. This exceeds the tolerable limit of 0.60m and the test is failed.

7.6.20 Conclusion

7.6.21 Overall the proposal does not comply with Policy SP3 (Flood Risk) as over the 75 year life time of development the predicted flood levels in the 1 in 200 and 1 in 1000 year events including climate change allowance exceed the tolerable limits that are set out within A1.14 and A1.15 of TAN 15 and this does weigh against the scheme. The FCA has only demonstrated the site is predicted to be flood free in the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) events plus climate change over 35 years.

7.6.22 However, in this particular case there are considered to be other material considerations that need to be weighed up as part of making a balanced assessment of the application.

7.6.23 Firstly, the proposed development is categorised as “Less Vulnerable” development in flood risk terms. The proposed development of 7,476sqm of B1, B2 and B8 industrial floorspace is located within an existing industrial site, which has been established over time and has been in operation until July 2020 when it was closed. The existing B2 floorspace has a lawful planning use and could come back into operation without requiring the benefit of planning permission. As part of the proposed development, the application includes the demolition of 15,227sqm of B2 General Industrial floorspace which will be controlled through a planning condition. As such, there is a net reduction of 7,751sqm of industrial floorspace at risk of flooding at the site as a result of the scheme. The FCA further advises that this reduction in floorspace will result in a gain in flood storage capacity at the site compared to the existing situation. NRW are satisfied in relation to this.

7.6.24 The FCA indicates the speed of inundation and rate of floodwater rise is considered to be low, ground levels will not be altered, and flood flows will operate as existing. As such, the FCA concludes the proposed development will have no impact on flood risk and the overall direction of the movement of water will be maintained.

7.6.25 The FCA also advises that the mechanism for flooding from tidal events is generally prolonged episodes of high sea levels, which affords good time for flood warnings to be issued. The likelihood of a rapid water level rise and possible rapid inundation posing a risk to life is considered to be minimal, with a forewarning of two days of a pending flood event. Albeit, this would be reliant on warnings being provided by a third party i.e. NRW, however on balance suitable warning is likely to be provided.

7.6.26 Having considered the key benefit of regenerating the site, which is seen as a significant benefit, the less vulnerable nature of the development in flood risk terms, as well as the overall reduction in industrial floor space at risk of flooding then the risks of flooding are seen as acceptable when balanced out against the acknowledged merits of the scheme.

7.7 *Land Contamination*

7.7.1 A Site Investigation Report has been submitted with the application and has set out the investigation, analysis and recommendations for the future development of Phase One at the site. The scope of the work set out comprised;

- The collection of soil samples from the above intrusive ground investigation positions;
- Monitoring of ground gas within the boreholes;
- Soil chemical sampling results and screening;
- Factual presentation of the data collected;
- Recommendation on what, if any, mitigation measures are required for the Planning Site.

7.7.2 In response to the report, Natural Resources Wales have recommended a series of planning conditions to deal with contamination at the site during and post construction and these have been included within the proposed conditional regime.

7.7.3 The Council's Senior Scientific Officer has also reviewed the information submitted and has confirmed that the conditions requested by NRW are adequate to also cover contaminated land from a human health perspective.

7.7.4 It is concluded that the proposal complies with the aims of Policy GP2, GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015) in respect to this.

7.8 *Habitats Regulations Assessment*

7.8.1 The requirements of the Habitats Regulations with regard to the implications of plans or projects are set out within Regulation 63. The step-based approach implicit within this Regulation is referred to as a 'Habitats Regulations Assessment' (HRA). It is a requirement of any public body, referred to as a 'competent authority' within the Habitats Regulations, to carry out a HRA when they are proposing to carry out a project, implement a plan or authorise another party to carry out a plan or project. Competent authorities are required to record the process undertaken, ensuring that there will be no adverse effects on the integrity of any European or Ramsar Site as a result of a plan or project whether alone or in combination with other plans or projects.

7.8.2 The applicant has provided a shadow Habitats Regulations Assessment (HRA) in relation to this. The Council's Ecologist is satisfied with its content and recommends 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. The full report is included as part of this application and the following is a summary inclusion of its findings;

River Usk SAC

National Sites Network Under Consideration	River Usk SAC
<u>Any likely changes to the site or its qualifying features arising as a result of the following impact pathways:</u> <i>Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the Site by virtue of:</i>	
<u>Land-take by development within Site</u>	There will be no land take from the works on the River Usk site with all works located within the current site footprint.
<u>Resource requirements (from the National Site Network Site or from areas in proximity to the site, where of relevance to consideration of impacts)</u>	No resources will be required from the River Usk SAC site.
<u>Fragmentation of National Site Network Site Habitats</u>	None. The site is located outside the SAC. The works will not create extensive fragmentation of habitats or species associated with the National Site Network Site because the construction will only be within the current site footprint.
<u>Increased mortality of Key Species</u>	None. No pathways identified.
<u>Disturbance to Key Species</u>	
<u>Water Quality Affecting Fish</u>	If untreated surface water from the development were to be discharged without mitigation measures, it could potentially harm fish within the River Usk SAC. Further measures are required, as such this issue has been taken forward to Appropriate Assessment.
<u>Otter Resting and Holting Site</u>	Otter populations will not be reduced as the works will not affect any otter resting up holting sites.
<u>External Lighting</u>	No external lighting will be installed within the development and so additional lighting of the river will not be at a level detrimental to otter of the various fish species present within the river.
<u>Noise and Vibration Affecting Migratory Fish and Otter</u>	Matt Harris, Newport City Council ecologist felt that noise and vibration impacts could be significant, although the site is 120m away from the River Usk. Possible causes of disturbance to migratory fish and otter from the proposed development could arise during the construction phase from construction traffic, movement of construction materials, the sound of operating machinery, vehicles

	<p>and plant, movement of a large workforce, and deployment (and removal) of plant.</p> <p>Piling could potentially have an impact on fish and otter.</p> <p>Any such disturbance can also significantly impact upon the behaviour and distribution of migratory fish species and otter. Low frequency noise and regular, frequent vibration arising throughout all stages of the proposed development during construction and operation can impact upon the movement and reproductive success of migratory fish species within the River Usk SAC given their proximity to the application site (120m at its nearest point). Further measures are required, as such this issue has been taken forward to Appropriate Assessment.</p>
Deterioration of Habitats (Inside the National Site network Site)	None. No pathways identified.
Damage or Deterioration of Supporting Habitats (Outside National Site Network Site)	None. The site is unsuitable to support species forming qualifying features.
Atmospheric Pollution/Air Quality	None. Although road networks pass close to the SAC, the site is sufficiently distant that any traffic associated with the development will have sufficiently diffused, so as to have no appreciable effect on traffic-derived nitrogen deposition at the national site network site.
Changes to Soil Chemistry	None. No pathways identified.
Hydrological Regime Change	None. No pathways identified.
Pollution of Surface/Ground Water	<p>Yes.</p> <p>If untreated surface water from the development were to be discharged without mitigation measures, it could potentially harm the River Usk SAC. This untreated discharge might lead to local pollution, which could negatively affect the species and habitats for which the River Usk is designated.</p> <p>Further measures are required, as such this issue has been taken forward to Appropriate Assessment.</p>
Excavation Requirements (<i>e.g. impacts of local hydrology</i>)	<p>No extensive excavations are proposed. The excavations in the site will be principally for service corridors and new drainage runs as shown on the drawings in Appendix 2 and 3.</p> <p>Eno adverse impacts to hydrology as a result of excavations are anticipated.</p>
Lighting	<p>A series of roof lights are proposed.</p> <p>We have been advised that no external lighting will be installed within the development and so additional lighting of the river will not be at a</p>

	level detriment to otter of the various fish species present within the river. No adverse lighting impacts are predicted.
Climate Change	Climate change could increase the incidence of flooding of the River Usk. The proposed scheme involves construction and upgrading to sections of embankment in a number of areas along the River Usk, including tying in with the railway embankment located to the east of the river forming the eastern boundary of the site. The defences will provide a design standard of 1 in 200 year Standard of Protection up to 2069. Two sections of the existing embankment at the site would be upgraded as part of the proposals, in order to bring these sections up the minimum 9.35m AOD of the rest of the embankment. The NRW Stephenson Road Flood Scheme will reduce the flood risk to the site through the improvement of the embankment at the site, and the improvements of flood defences more widely in this area of Newport.
Transportation Requirements	There will be no transportation requirements through the River Usk SAC and no adverse impacts if this kind.

Severn Estuary SAC, SPA and RAMSAR

National Sites Network Under Consideration	Severn Estuary SAC, SPA and RAMSAR
<i>Any likely changes to the site or its qualifying features arising as a result of the following impact pathways: Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the National Site Network Site by virtue of:</i>	
Land-take by development within the <i>National Site Network Site</i>	There will be no land take from the works on any the Severn Estuary SAC, SPA and RAMSAR with all works located within the current site footprint.
Resource requirements (<i>from National Site Network Site or from areas in proximity to the site, where of relevance to consideration of impacts</i>)	No resources will be required from the National Site Network site.
Fragmentation of National Site Network Site Habitats	None. The Site is located outside the SAC. The works will not create extensive fragmentation of habitats or species associated with the Severn Estuary SAC, SPA and RAMSAR site because the construction will only be within the current site footprint.
Increased mortality of Key Species	None. No pathways identified.
Disturbance to Key Species	
<u>Water Quality Affecting Fish</u>	No changes to water quality are anticipated.

<u>Affect on Birds</u>	No impacts to birds are anticipated.
<u>Noise and Vibration</u>	No noise and vibration impacts are anticipated.
Deterioration of Habitats (Inside the National Site Network Site)	None. No pathways identified.
Damage or Deterioration of Supporting Habitats (Outside National Site Network Site)	None. No pathways identified.
Atmospheric Pollution/Air Quality	None. No pathways identified.
Changes to Soil Chemistry	None. No pathways identified.
Hydrological Regime Change	None. No pathways identified.
Pollution of Surface/Ground Water	None. No pathways identified. The distance separating the proposed development from the Sever Estuary SAC is 2.6km and as River Severn has the third highest tidal range in the world and the twice daily tides means any pollution incidence from the development would be diluted to such extent that by the time they reached the SAC they would not be identifiable pollution source.
Excavation Requirements (<i>e.g. impacts of local hydrology</i>)	None. No pathways identified.
Lighting	None. No pathways identified.
Climate Change	None. No pathways identified.
Transportation Requirements	None. No pathways identified.

Potential In Combination Effects

- 7.8.3 In combination effects have been considered having regard to projects approved and those currently under consideration, as set out in the submitted shadow HRA. The potential effects arising from identified projects in-combination with the proposed works concluded that the proposed works would not act in-combination to give rise to any likely significant effects on any European or Ramsar sites.

Significant Effects Screening Outcome

- 7.8.4 **River Usk SAC** – Potential impacts (without mitigation) are detailed below;

Fish Species(Sea Lamprey, River Lamprey, Twaite Shad, Allis Shad, Atlantic Salmon)

- Noise and Vibration – Disturbance during construction/operation; and
- Release of pollutants leading to water quality changes.

Otter

- Noise and Vibration – Disturbance during construction;
- Release of pollutants leading to water quality changes; and
- Risk of injury on construction site/becoming trapped in excavations during construction and potential vehicle collision effects.

- 7.8.5 In the absence of mitigation, the proposed development has the potential to result in **Likely Significant Effects (LSE)** upon the River Usk SAC as a result of disturbance impacts on aquatic species and otter, potential risk of injury to otter and potential pollution incidents affecting qualifying habitats and the species that depend on them and direct killing/injury of aquatic fauna during construction.

- 7.8.6 **Severn Estuary SAC, SPA and RAMSAR** - The distance from the proposed development (2.6 km – direct line) minimises the risk of any potential pollution event or other impacts affecting this designated site. It is considered highly unlikely that there would be no Likely Significant Effects on the Severn Estuary SAC, SPA or RAMSAR or its species of interest.
- 7.8.7 This HRA screening report concludes likely significant effects on the River Usk SAC as a result of the proposed development works. Therefore, further consideration is required in the form of an appropriate assessment.

Appropriate Assessment

- 7.8.8 The effects on the River Usk SAC have been considered within the AA and where necessary counteracting measures have been proposed and can be controlled through a planning condition to ensure the development takes place in accordance.
- 7.8.9 The AA has again also considered potential in combination effects with nearby developments. No adverse effect on the integrity of the River Usk SAC site, from the proposed development works at the Former Orb site alone or in combination with other developments is anticipated providing the counteracting measures detailed above are implemented.

7.9 Archaeology

- 7.9.1 The site is located within an area of archaeological sensitivity. Glamorgan Gwent Archaeological Trust (GGAT) have reviewed the application and have confirmed it is unlikely that there will be any archaeological encounter and have offered no objection to the application. As such, the proposal complies with Policy CE6 of the NLDP 2011-2026 (adopted January 2015).

8. **OTHER CONSIDERATIONS**

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

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

8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

A Socio-economic Duty is also set out in the Equality Act 2010 which includes a

requirement, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

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

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

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

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

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

9. CONCLUSION

9.1 The proposal fails to wholly comply with local and national planning policy in terms of flood risk. However it is acknowledged that the proposed development is less vulnerable and does result in a significant reduction of existing industrial floor space which is at flood risk at the site. The scheme also has significant regeneration benefit in terms of it being the first phase of the regeneration of an existing largely vacant brownfield site within the urban boundary. As well as the economic benefits of bringing the site back into a sustainable use, the scheme proposes accessibility improvements in terms of active travel and vehicular access upgrade. The first phase of development would actually result in a minor reduction to traffic generation of the extant B2 use of the site.

9.2 Overall, it is considered that taking into account the merits of the scheme and the reduction of the extant industrial floorspace, which is at flood risk, on balance the benefits outweigh the policy non compliance and it is recommended that the application is granted subject to the conditional regime.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

Approved Plans and Documents

01 The development shall be implemented in accordance with the following plans and documents; Drawing No PH1/1/Rev K - Site Layout; Drawing No. 2-PH1-2A.pdf Orb Revised Site Layout; Drawing No PH1/3/Rev B - Proposed Part Layout; Drawing

No. PH1/6A Revised Elevation Blocks A and B; Drawing No. PH1-7 - Proposed Industrial Units - Unit C; Drawing No. PH1/8A Revised Elevation Block D; Drawing No PH9/Rev A - Cycle & Bin Store Details; Drawing No. PH1/11 - Proposed Elevations of Existing Buildings Affected by Demolition; Drawing No. PH1/12 - Proposed Elevations of Existing Building affected by Demolition; Drawing No PH1/14/Rev A - Proposed Access for Pedestrians; Drawing No PH/15/Rev A - Proposed Industrial Units (Parking Details); Drawing No PH1/16/Rev A - Proposed Industrial Units (Parking Detail Sections); Drawing No. PH1/17- Electric Vehicle Charging Bay Detail; Drawing No. 01B – Proposed Access Works and Swept Path Analysis (Corun); Green Infrastructure Assessment Ref. P2432 (Acer Ecology); Air Quality Assessment - Phase 1 (Dated 19/02/2024); 20-00705/TA/01_A - Transport Assessment (February 2024); Flood Consequences Assessment (FCA)(Version 3)(Received 05/02/2024); Shadow HRA (November 23) REV 02; Noise Impact Assessment; P20-1103 BSG Ecology Report

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

Pre- commencement conditions

Demolition & Construction Environment Management Plan

02 Prior to commencement of development to include demolition and site clearance, a site wide Demolition and Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include but not be limited to the following details:

Natural Environment

- 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;
- 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;
- 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;
- 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;

Local Environment

- Details of site working 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.
- 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

Highways Safety

- Details of contractor parking and off street parking facilities for all vehicles linked to the site;
- Wheelwashing facilities (siting and type);
- Construction traffic routes to avoid non M4 AQMA

Works shall be carried out fully in accordance with the approved CEMP.

Reason: To protect the amenities of surrounding local area, nearby residents, the natural environment i.e. River Usk SAC and matters of highway safety and air quality in accordance with Policies GP2, GP4, GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Scheme to Deal with Contamination Risk

03 No development including demolition 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 in accordance with Policy GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Details of Piling or Other Penetrative Methods

04 Prior to the commencement of development (excluding demolition) details of piling or any other foundation designs using penetrative methods shall be submitted to and agreed in writing in order to demonstrate that there is no unacceptable risk to groundwater.

The piling/foundation designs shall be undertaken in accordance with the approved details.

Reason: To ensure there is no unacceptable risk to groundwater during construction in accordance with Policy GP2, GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Surface Water Drainage

05 No infiltration of surface water drainage into the ground is permitted at the site 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 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 in accordance with Policy GP2, GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Scheme of Soft Landscaping

06 Prior to the commencement of development (excluding demolition) a scheme of soft landscaping for the site (to include bioretention features) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the first beneficial use of any unit hereby permitted. Thereafter the trees, grasses and shrubs shall be maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. The monitoring and maintenance of the planting during the 5 years establishment phase is to be confirmed by:

- a. A short report with photo evidence by the landscape consultant to be submitted to Newport City Council immediately following the completion of the landscape scheme and showing the site before and after planting, seeding, fencing has been undertaken, and to confirm this is all in line with the approved documents e.g. plant species, plant size, planting operations etc; and
- b. A short annual report with photo evidence by the landscape consultant to Newport City Council submitted by 31st December for each year of the five year establishment period summarising any issues with planting or seeding, any replacement planting required and the timetable for replacements.

For the purpose of this condition, the planting season shall mean the period of October to March inclusive.

Reason: To secure the satisfactory implementation and maintenance of the planting scheme in the interests of visual amenity, green infrastructure, ecology and air quality in accordance with Policies SP1, GP2, GP5, GP6 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Ecological Enhancement

07 Prior to the commencement of development (excluding demolition) detailed measures for ecological enhancement set out in an ecological enhancement plan including timetable for implementation shall be submitted to the Council in writing. Following the Council's written agreement the scheme shall be implemented as per

the timescales proposed and agreed and retained thereafter. Consideration should be given as to how the proposed planting scheme and any additional measures can support ecological objectives set out in the Green Infrastructure Assessment.

Reason: To achieve Welsh Government objectives to enhance bio-diversity as identified in Planning Policy Wales Edition 12 and in accordance with Policy GP5 of the NLDP 2011-2026 (adopted January 2015).

Pre – construction conditions

Foul & Surface Water Drainage

08 Details of foul & surface water drainage including any means of run-off attenuation shall be provided in writing to the Local Planning Authority prior to the commencement of construction works on the site. The details shall address how drainage at the site will be dealt with. All surface water drainage from roads, parking areas and any other surfaced areas where motor vehicles park or transit shall be passed through a mechanism to remove hydrocarbons prior to being discharged to any surface waters. The design and capacity of the means to remove hydrocarbons shall be submitted to the Council as part of the drainage details. Following the Council's written agreement the drainage scheme shall be completed in accordance with the approved details prior to the first use of the approved scheme.

Reason: To ensure the site is effectively drained in the interests of highway safety and to protect the conservation interests of the River Usk SAC and the wider environment in accordance with Policies SP3, GP2 & GP7 of the NLDP 2011-2026 (adopted January 2015).

Pre –occupation conditions

Verification Report

09 Prior to the occupation of the site 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 there is no unacceptable risks to human health and other offsite environmental receptors in accordance with Policy GP2, GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Demolition and Making Good of Existing Buildings

10 Prior to the first use of any building hereby approved the existing floorspace identified for demolition on the approved plans shall be demolished and made good in accordance with the details shown on approved Drawing No. 027042/PH1/12 – Proposed Elevations of Existing Buildings Affected by Demolition.

Reason: In the interest of preserving matters of highway safety, air quality and visual amenity/good design in accordance with Policies GP2, GP4, GP6 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Footway and Cycle Way Implementation

11 Prior to the first use of any building hereby approved the proposed footway/cycle way on Stephenson Street and through the site to the River Usk walkway shall be provided in accordance with construction details that have firstly been submitted to and approved in writing by the Local Planning Authority and retained available for use and kept clear of any obstruction thereafter.

Reason: In the interests of highway and pedestrian safety, active travel and sustainability and air quality in accordance with Policies SP1, GP2, GP4 and GP7 of the NLDP 2011-2026 (adopted January 2015).

Parking and Access Implementation

12 Prior to the first use of any building hereby approved the parking layout including ultra low vehicle charging points, pedestrian safety details and vehicular access upgrades shall be undertaken in full accordance with the approved plans and retained available for use and kept clear of any obstruction thereafter.

Reason: In the interests of highway and pedestrian safety and air quality in accordance with Policies SP1, GP2 and GP4 of the NLDP 2011-2026 (adopted January 2015).

Cycle and Refuse Storage

13 The cycle and refuse stores shall be provided in full accordance with the approved details prior to the first use of the associated unit and shall be retained available for use at all times thereafter.

Reason: In the interests of promoting sustainable travel to the site and provision of suitable waste storage facilities in accordance with Policies SP1, GP4 and W3 of the NLDP 2011-2026 (adopted January 2015).

Boundary Treatments

14 Notwithstanding the existing boundary treatment, details of a replacement boundary treatment along the Stephenson Street boundary and the proposed new pathway leading to the River Usk walkway (including location, height, design and colour and details of gates) shall be submitted to and approved in writing by the Local Planning Authority prior to first beneficial use of any unit hereby approved. The approved details shall be installed in full prior to the first beneficial use of any unit hereby approved. Do we want to control means of enclosure along the pathway/riverside if within the red line boundary?

Reason: In the interests of good design and visual amenity in accordance with Policy GP2 and GP6 of the NLDP 2011-2026 (adopted January 2015).

Gate Management Plan

15 Prior to the first beneficial use of any unit hereby approved, a plan for the management of all pedestrian gates (including timings and responsibility for opening) shall be submitted and approved in writing by the Local Planning Authority. The gates shall thereafter remain available for use as per the approved details at all times.

Reason: To ensure that suitable pedestrian and cycle access is provided at the site in accordance with Policy SP1 and GP2 of the NLDP 2011-2026 (adopted January 2015).

Appropriate Assessment Mitigation Measures

16 The proposed development shall be undertaken in accordance with the counteracting measures set out in Section 7.3 and 7.4 of the Habitats Regulations Assessment.

Reason: To safeguard environmental and ecological interests in accordance with Policies SP1, GP5 and SP9 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

Unexpected Contamination

17 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, in accordance with Policies GP2, GP5 and GP7 of the NLDP 2011-2026 (adopted January 2015).

External Materials

18 The approved buildings shall be completed in full accordance with the materials and finishes as shown on the approved drawings prior to their first use and retained in that state thereafter.

Reason: To encourage good design and to protect and enhance visual amenity in accordance with Policies GP2 and GP6 of the NLDP 2011-2026 (adopted January 2015).

External Plant

19 No external plant shall be installed anywhere on the site including on the exterior of the buildings unless details of the appearance of that plant and its siting have been submitted to the Council in writing. Following the Council's written agreement the plant shall be installed as agreed. Noise emitted from 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.

No other plant shall be installed.

Reason: To protect visual amenity and general amenity of the surrounding area in accordance with Policies GP2 & GP7 of the NLDP 2011-2026 (adopted January 2015).

External Lighting

20 Prior to the installation of any external lighting, details shall firstly be submitted to and approved in writing by the Local Planning Authority. Lighting shall then be provided in full accordance with those approved details and no other lighting installed.

Reason: In the interests of surrounding amenity and matters of ecology in accordance with Policies GP2 & GP7 of the NLDP 2011-2026 (adopted January 2015).

Control of Use Class Mix

21 A minimum of 50% of the total approved gross new floor space hereby approved shall be used for purposes in Class B8 of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 as amended. At no point in time shall any of the approved B1(c), B2 or B8 units be subdivided or combined to create a larger unit.

Reason: In the interests of highway safety and to allow the LPA to assess any potential highway impact in accordance with Policy GP4 of the NLDP 2011-2026 (adopted January 2015).

Surface Water

22 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Drawing No. PH1-5 - Site Location Plan; Drawing No. PH1/10 – Existing Elevations of Building Affected by Demolition; Tree Report; Tree Impact Plan; Archaeological Assessment (January 2023); Geoenvironmental Desk Study; Site Investigation Report; Hydrogeo – Drainage Strategy Report; Design and Access Statement; PAC Report; Design Rationale; Bat Survey Issue 1 Version B (April 2023); REF: HYG752 Hydrogo Statement in Response to NRW.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP3, SP4, SP9, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE1, CE6, T4, T5, W3 were relevant to the determination of this application.

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

04 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.

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

2.

APPLICATION DETAILS

No: 23/0714 **Ward:** Rogerstone West

Type: Full (Major)

Expiry Date: 2 May 2024

Applicant: T Haggerty

Site: Land To North West Of Chartist Way Rogerstone Newport South Wales

Proposal: **PROPOSED B8 COMMERCIAL DEVELOPMENT WITH ASSOCIATED PARKING, ACCESS AND EXTERNAL STORAGE AND SERVICE AREAS**

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

1.1 The application is seeking to construct a warehouse with outside storage on a parcel of land to the rear of the What store accessed off Chartist Drive. The application is presented to Members of the Planning Committee for consideration as the proposal would represent as a Major type of development due to the site area being 1.63 hectares.

2. RELEVANT SITE HISTORY

Application Number	Proposal Description	Decision
95/0368	PROPOSED RETAIL DEVELOPMENT	Granted with conditions 11.08.1995

3. POLICY CONTEXT

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

- SP1 – Sustainability
- SP3 – Flood Risk
- SP4 –Water Resources
- SP17 – Employment Land
- SP18 – Urban Regeneraiton
- GP1 – Climate Change
- GP2 – Amentiy
- GP4 – Highways and Accessibilty
- GP5 – Natural Environment
- GP6 – Quality of Design
- GP7 – Environmental Protection and Public Health
- CE1 – Routeways, Corridors and Gateways
- EM1 – Employment Land Allocations
- EM3 – Alternative Uses of Employment Land
- T2 – Heavy Commercial Vehilce Movements
- T4 – Parking
- W3 – Provision for Waste Management Facilities in Development

3.2 **Adopted Supplementary Planning Guidance**

- Wildlife and Development
- Sustainable Travel
- Parking Standards
- Waste Storage and Collection
- Trees, Woodland, Hedgerows and Development Sites

4. **CONSULTATIONS**

4.1 Gwent Police Architect: No response.

4.2 South Wales Fire Service:

The Fire Authority has no objection to the proposed development and refers the Local Planning Authority to any current standing advice by the Fire Authority about the consultation. The developer should also consider the need for the provision of:- a. adequate water supplies on the site for firefighting purposes; and b. access for emergency firefighting appliances.

4.3 Newport Access Group: No response.

4.4 Newport Civic Society: No response.

4.5 Wildlife in Newport: No response.

4.6 Natural Resources Wales: no objection to the proposed development and provide the following advice.

Land Contamination

Natural Resources Wales considers that the controlled waters at this site are not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

These comments are based on our assumption that **gross contamination** is not present at this location. If, during development, gross contamination is found to be present at the site the Local Planning Authority may wish to re-consult Natural Resources Wales.

European Protected Species (EPS)

We recommend you seek the advice of the Local Authority Ecologist to determine if there is a reasonable likelihood of a European Protected Species, being present within the application site. If so, in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2) a survey may be required. Any survey undertaken, should be done in accordance with best practice guidance.

Upon submission of a future planning application, if any survey is undertaken and finds that a European Protected Species is present at the site, the LPA may decide to reconsult us.

4.7 Dwr Cymru Welsh Water:

SEWERAGE

No objection to the proposal to connect foul flows to an existing private sewer which leads to a public sewer. Capacity exists within the public sewerage network to receive foul only flows from the proposed development.

As of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. As highlighted in these standards, the developer is required to explore and fully exhaust all surface water drainage options in accordance with a hierarchy which states that discharge to a combined sewer shall only be made as a last resort. Disposal should be made through the hierarchical approach, preferring infiltration and, where infiltration is not possible, disposal to a surface water drainage body in liaison with the Land Drainage Authority and/or Natural Resources Wales.

Since the proposal intends on utilising an soakaway system we would advise that the applicant seek advice from Natural Resources Wales and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

Water Supply

We anticipate this development will require the installation of a new single water connection to serve the new premise. Capacity is available in the water supply system to accommodate the development. The applicant will need to apply to Dwr Cymru Welsh Water for a connection to the potable water supply system under Section 45 of the Water industry Act 1991.

4.8 Network Rail: No response.

5. INTERNAL COUNCIL ADVICE

5.1 Head of Regeneration & Economic Development (Conservation Officer): No objection.

5.2 Head of Environment & Public Protection (Ecology Officer):

The Preliminary Ecological Appraisal (PEA) recommends in section 10 that surveys for reptile and birds should be undertaken. In my view, it would be better to use a planning condition to require that the Applicant submits and implements a sensitive clearance strategy, setting out how the site could be cleared without harm to reptiles or nesting birds.

Recommendations are also made for installation of bat and bird nesting boxes, which we should secure by planning condition.

The main issue at this site is that the tree-line surrounding the site is retained, as far as is possible within the control of the Applicant, and that the extensive Japanese Knotweed on site is eradicated. Looking at the soft landscaping plans and the comments of our colleagues in the Tree Protection Team, I am satisfied that this is the case.

I note from aerial images over a number of years that this site has been cleared in the past but also allowed to develop scrubby vegetation. I don't see that there is

evidence that the landowner has cleared the site in order to reduce their obligations in respect of securing net benefit for biodiversity, not least because much of the vegetation on site was contaminated with Japanese knotweed. However, for future reference, we should look closely at evidence of clearance from historical aerial images, in the context of recent changes to PPW:-

'Potential applicants should not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.'

- 5.3 Head of Environment & Public Protection (Landscape Officer): No response.
- 5.4 Head of Infrastructure (Public Rights of Way): No response.
- 5.5 Head of Environment & Public Protection (Tree Officer): No objection subject to conditions.
- 5.6 Head of Infrastructure (Drainage Manager): No response.
- 5.7 Head of Infrastructure (Highways): No objection.

Highways do not consider that the public transport provision is strong, however the applicant appears to be willing to provide a Travel Plan which will encourage non-car travel and should be welcomed.

Similarly, the application does not fully detail the cycle parking provision, but this can be addressed via condition.

Trip generation is based on small samples that result in reduced confidence, however the analysis shows that the adjacent network is not at or approaching critical levels and the trip generation is not of sufficient order for potential variance in trip rates to raise any concerns.

The proposed parking levels and specification are considered broadly appropriate however electric vehicle charging should be considered and enabled. A condition is therefore suggested.

The scale of development is such that the construction phase could have significant impacts on highway and a Construction Management Plan is therefore requested by way of condition.

Suggested Conditions:

Any gate or other form of barrier across the access shall be positioned at least 12 metres back from the nearside edge of the carriageway of the private access road and shall be constructed to open into the site only.

Reason: To permit vehicles to pull clear of the carriageway when entering the site in the interests of road safety.

Except for site clearance and remediation No development shall take place until a scheme for the provision of cycle parking in accordance with the Council's current standards has been submitted to and approved in writing by the Council as Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no building works, which reduce this provision, shall take place except following the express grant of planning permission by the Council.

Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.

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
- 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

The development shall not be occupied until the owners and occupiers of the site have appointed an on-site Travel Plan Co-ordinator. The Travel Plan Co-ordinator shall be responsible for the implementation, delivery, monitoring and promotion of the Travel Plan, including the day-to-day management of the steps identified to secure the sustainable transport initiatives. The details (name, address, telephone number and email address) of the Travel Plan Co-ordinator shall be notified to the Local Planning Authority upon appointment and immediately upon any change.

Reason: To ensure that an approved Travel Plan is implemented, in order to establish sustainable, non-car modes of transport.

A scheme for the provision of electric vehicle charging points, or passive provision, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be provided prior to first occupation of each unit and retained as such thereafter.

Reason: To ensure that appropriate provision for current and future electric and electric/hybrid vehicles and encourage more sustainable means of transport.

5.8 Head of Regeneration & Economic Development (Planning Contributions Manager):
No comment.

5.9 Head of Regeneration & Economic Development (Planning Policy): Policy EM1 is relevant.

5.10 Head of Environment & Public Protection (Environmental Health): No objection in terms of noise subject to conditions relating to hours of operation being restricted to daytime only and the doors to the rear of the unit being of the roller shutter type and not dock levelling bays.

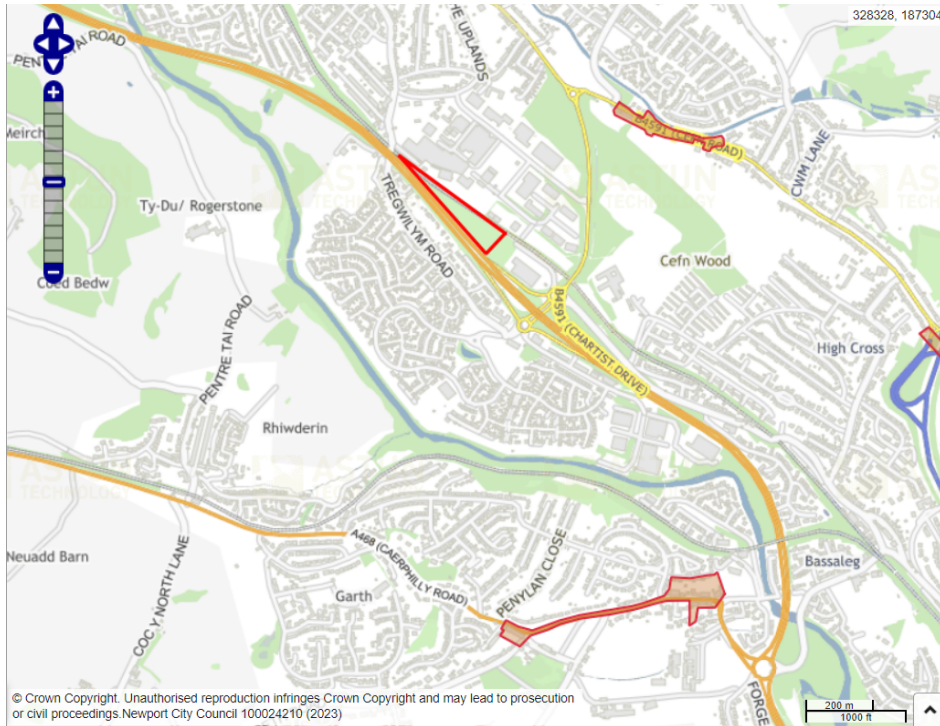
5.11 Head of Environment & Public Protection (Senior Scientific Officer):

Contaminated Land

The submitted ground investigation has been looked at and it is noted that there do not appear to be any contaminants of concern that exceed any commercial land use criteria. Should the development at any time include development other than commercial then this would need to be re-assessed.

Air Quality

The transportation assessment is noted and subject to Transport Planners comments support should be possible. The predicted vehicle movements associated with the proposed development have the potential to pass through the two nearest air quality management areas (AQMA) of Cefn Road and Caerphilly Road which we would not wish to encourage due to the pressure upon air quality in these localities. Instead we would expect a routing plan commitment which avoids AQMAs wherever possible and where not possible the cleanest vehicles available to operators are used where these AQMAs are driven through.



Trip generation appears to have been predicted as in the table below:

Table 5.3 Trip generation: warehousing and trade centre

Time period	No. arrivals	No. of departures	Total movements
Vehicles			
8am–9am	24	16	40
5pm–6pm	13	21	34
7am–7pm	298	298	596

This suggests the annual average daily trips (AADT) generated by the development would be 178,700 AADT based upon 300 days per annum operation. In view of the high AADT associated with this site we would expect the applicant to provide an air quality assessment with their application after which we can comment further upon the findings in respect of air quality impacts upon local receptors including the two AQMAs, and any appropriate conditions where development can be supported.

- 5.12 Head of Infrastructure (SAB): Having reviewed the information, a SAB application will likely be required due to the scale of the works. We would encourage the applicant to engage with us at the earliest opportunity to ensure that the planning application and sab application can be reviewed in conjunction to ensure the design satisfies SAB and planning standards.
- 5.13 Head of Infrastructure (Structural Engineer): No response.
- 5.14 Head of Regeneration & Economic Development (Regeneration Manager): No response.
- 5.15 Head of Infrastructure (Waste Manager): No response.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m with the application site were consulted (63 properties), a site notice displayed, and a press notice published in South Wales Argus. No responses received.
- 6.2 COUNCILLOR FORSEY: No response.
- 6.3 COUNCILLOR REYNOLDS: No response.
- 6.3 ROGERSTONE COMMUNITY COUNCIL: No response.

7. ASSESSMENT

7.1 Background

- 7.1.1 The application seeks to change the use of land to B8 (Storage and Distribution) with the intended end user being one of the UK's largest stockists of wrought iron components, welded wire mesh, expanded and perforated metal. Their range also extends to other metal based products. The onsite activities would include delivery, storage, processing and distribution of metal products. A small trade counter would be sited within the confines of the proposed building for collection of metal products by trades persons – not the general public. Administration/office areas are also located within the building to serve the needs of the business. The yard area would serve as an outdoor storage space for the metal products and as a service area for vehicles being loaded/unloaded. Due to the ancillary nature of the office and sales counter, it is considered this would not detract from the principle use of the site as B8 (Storage and Distribution).

7.2 Site and surroundings

- 7.2.1 The site forms a triangle shaped piece of land stretching northwest from the existing What! retail unit. The northern and southern boundaries feature mature trees and self seeded vegetation to the centre of the site. The southern boundary is lined by the A467 and to the north lies a railway line. Further north of the site lies Wern Industrial Estate which features a range of commercial, retail and leisure uses. To the south, the A467 intervenes, separating the site from the residential development to the south.
- 7.2.2 The A467 features semi-mature trees along the verge which largely screen the application site from the public view on the A467.
- 7.2.3 The submitted topographical survey shows that the site is relatively level across the whole site.

7.3 Description of development

- 7.3.1 Vehicle access to the site is gained from the existing private access road linking to the main roundabout. This road is not a classified road but is maintained at public expense. This access is also shared with the existing What! retail store. The site layout includes the provision of off street parking, cycle storage, commercial building, internal access to the north of the site leading through the rear. To the rear of the proposed building lies a turning and manoeuvring area for heavy goods vehicles, which then leads to the outdoor storage area. To the south of the building lies a proposed sustainable drainage feature. The proposed soft landscaping scheme includes a large area of wildflower mix and an area allocated for managed natural regeneration to encourage biodiversity.

7.3.2 The proposed building is 48.5m (w) x 83.7m (l) x 12m (h) with a dual pitch roof; the external materials are composed of dark grey facing brick, topped with blue metal profiled cladding and grey roof. The doors and window frames would be coloured black with the roller shutter doors blue. The building is of a typically industrial appearance and scale, akin to such units found close by including the neighbouring unit occupied by What!. It is well screened and set off primary thoroughfares and so in context the design is acceptable. It is noted that the outdoor storage area does not include any racking for the storage of products. To ensure that this is suitably controlled, it is considered reasonable that a condition is attached to limit the height of materials stored; this is limited to 3m in height.

7.3.3 The proposal does not seek to erect any additional boundary treatments to enclose the site or gates to limit access outside of business hours. Fencing already exists along site boundaries. Given the value of the products to be stored outside of the main warehouse building, it is considered likely boundary treatments may be erected as part of the scheme. Additional boundary treatments are acceptable in principle but details should be controlled for amenity sake and to ensure existing landscape features are not prejudiced for example. Therefore, to ensure that this is suitably controlled, a condition is attached to the recommendation for the submission of details of any proposed boundary treatments. No external plant is proposed to serve the unit.

7.4 ***Principle of Development***

7.4.1 The application site is located within a settlement boundary as designated by the maps contained within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Therefore, the principle of developing the site is considered acceptable, subject to other material planning considerations. The proposal accords with Policy SP1.

7.5 ***Employment Land***

7.5.1 The application site is allocated employment land under Policy EM1 vi) Land off Chartist Drive, Rogerstone – 2 Hectares for B1, B2 and B8 uses of the Local Development Plan. Paragraph 6.14 of the Local Development Plan 'Land off Chartist Drive, Rogerstone' states that 'This site is allocated to retain and encourage the focus on employment uses in the location'.

7.5.2 The proposal accords with the Local Development Plan.

7.6 ***Urban Regeneration***

7.6.1 The application site is currently vacant, underused land which features overgrown vegetation. The proposed B8 use would contribute toward the vitality and viability of Newport through the increased employment opportunities and positive impact on the local economy. Therefore, the proposed development accords with Policy SP18.

7.7 ***Impact on Amenity***

7.7.1 The closest residential properties are located approximately 65m south of the application site, known as Hadley Gardens and Tregwilym Road. The site is separated from those residential properties by the A467 which is strategic highway connection through Newport. To the east and north of the application site lies commercial development within the Wern Industrial Estate. Given the location of the building, separation distance to residential properties, and the neighbouring use of an industrial estate, it is considered that the proposal would not result in a demonstrable impact upon residential amenity arising from its form and scale.

7.7.2 The proposed use would result in the increase of vehicle movements but officers are mindful that the site is identified for traditional employment uses in the adopted development plan and the area is already subject to various traffic movements

associated with the dual carriageway and commercial use of adjacent land. Whilst the wider area includes several Air Quality Management Areas, these are generally on less strategic and direct routes unlikely to be favoured by the most polluting vehicles that may use the premises such as HGVs. More direct access is via the nearby dual carriageway that links directly through the M4. The site does not fall within any Air Quality Management Area buffers.

- 7.7.3 Overall, the transportation and general access impacts associated with the development are considered to not result in an adverse impact on amenity. This is due to the site being well served and connected with the existing strategic road network and its relationship to neighbouring uses.
- 7.7.4 The activities to be undertaken on site during the operational phase include the loading and unloading of vehicles for the storage of materials within the warehouse and outdoor storage area and processing of ironmongery and metal products. With regard to noise impact on the residential properties approximately 60m to the south of the site, the A467 intervenes between the application site and those dwellings. When considering the level of noise generated by traffic using the A467, it is considered that any noise generated from the application site during normal working hours would not result in an adverse impact on residential amenity. No objection has been raised by Environmental Health subject to conditions on opening hours and doors being of the roller shutter type.
- 7.7.5 The proposed development would not result in an adverse impact with regard to residential or visual amenity given the design proposed would be seen in the context of the existing industrial site and its separation distance with neighbouring properties. The proposal is in accordance with Policy GP2.

7.8 **Air Quality**

- 7.8.1 The Councils Senior Scientific Advisor highlights that the vehicle movements associated with the site have potential to pass through two Air Quality Management Areas (AQMA's). These are shown in *Figure 1* below. Officers have discussed air quality matters above but members are advised that an Air Quality Assessment has been submitted which states the future users of the site would not be exposed to unacceptable air quality, nor would the traffic visiting the site during the operational phase have a significant effect on air quality. The Air Quality Assessment has been assessed by the Councils Senior Scientific Officer and raises no objection to the findings of this report. The Senior Scientific Officer notes that the scheme should demonstrate how the proposed development would positively contribute toward ongoing air quality improvements in the locality. Further information received confirms that 20% of parking spaces shall be equipped with electric vehicle charging stands, the south facing roof shall have a solar array installed, the office area is to be heated using electric means only, the green infrastructure features are present in the sustainable drainage measures proposed, and the onsite biodiversity and ecology is being enhanced through the soft landscaping scheme and biodiversity enhancements. The Senior Scientific Officer accepts the measures put forward and raises no objection as this information sufficiently addresses the need to positively contribute toward air quality.



Figure 1: Map showing the two nearest Air Quality Management Areas.

7.9 Lighting

7.9.1 No external lighting is proposed within the site as the operations are limited to daylight hours only, therefore no condition is required in relation to external lighting.

7.10 Highways and Parking

7.10.1 The application site links through to the main roundabout serving the B4591, Chartist Drive and Tregwilym Road. Therefore, the private vehicles visiting the site would use the existing adequate access points; no objection has been received from the Highways Officer with regard to the access serving the site.

The site is located within Parking Zone 4. The table below shows the parking standards as contained within the Parking SPG document. Paragraphs 7.10.3 and 7.10.4 this provides the definitions of *operational* and *non-operational* parking.

	SPG requirement	Calculation for proposal	Actual proposed provision
Distribution centres			
Operational	25% of Gross Floor area (3896 sq. m)	$3896 \times 0.25 = 974$ sq. m	2500 sq. m including access and turning areas
Non-operational	1 space per 120 sqm	$3896 / 120 = 32.4$ car parking spaces	29

Operational parking is defined as:

Sufficient space to allow the maximum number and size of vehicles likely to serve the development at any one time and to manoeuvre with ease and stand for loading and unloading without inconvenience to vehicles and pedestrians on the public highway or to others users of the site. Space for staff cars which, by nature of the business, is required for day to day operation, may also be included.

Non-operational parking is defined as:

The space occupied by vehicles not necessarily used for the operation of the premises and it is divided into two classes:

i) long-term (i.e. commuter parking) – mainly occupied by vehicles of staff/clients/customers whose attendance at the premises are of long single durations;

ii) short-term – required by staff/clients/customers whose attendances at the premises are of short single durations.

Footpaths need to be provided in car parks to provide safe and adequate pedestrian access to the facilities they serve.

The proposed level of parking is approx. 3 less than the desired standards. The submitted Transport Assessments confirms that the number of staff employed at the site will be a maximum of 21 persons. Also, the trade counter will not be open for public retail and would only be available for trade customers only. The Highways Officer has assessed the submitted Transport Statement and confirms that the proposed level of parking and operational space is considered acceptable.

7.10.8 Future Wales – The National Plan 2040, Policy 12 sets out that new non-residential developments should provide a minimum of 10% of car parking spaces having electric vehicle charging points. Therefore, a condition is attached to the recommendation to secure the provision of a minimum of 10% for electric vehicle charging points. It is worth noting that the applicant has indicated a commitment to provide 20% of car parking spaces to have an electric vehicle charging point to address the aims of air quality. However, only the minimum amount can be secured by condition.

7.11 **Ecology and Trees**

7.11.1 The proposed development will require scrub clearance on the majority of the site, this would result in the loss of habitat. The application is supported by a Preliminary Ecological Assessment by *Alder Ecology UK Ltd*. The findings of this report noted the presence of Japanese knotweed, *Cotoneaster horizontalis* and *Cotoneaster bullatus* within the site. These species are listed as invasive species within the Wildlife and Countryside Act 1981. Therefore, suitable mitigation and removal measures will need to be secured by condition. The report concludes that the site is a poor-quality habitat due to site clearance occurring approximately 1-5 years ago unrelated to this submission and possibly undertaken as some attempt to deal with the invasive species at that time. This clearance makes the site unlikely to support bats for roosting, however it does provide the opportunity for good nesting areas for common bird species by reason of the peripheral and extensive trees present.

7.11.2 The Preliminary Ecological Assessment also sets out that the site has the potential to hold low numbers of common reptiles, however due to the site's characteristics and previously clearance works, the habitat value is low. The Preliminary Ecological Assessment states that the site has a low/moderate value for foraging badgers.

7.11.3 The Councils Ecologist has requested a condition to require details of how the site will be sensitively cleared without harming onsite species. A condition is attached to that effect.

7.11.4 The proposal needs to provide biodiversity enhancement of the site and the Councils Ecologist has accepted that the proposed installation of 4no. bird boxes and 4no. bat boxes would achieve the biodiversity enhancement for the site along with the landscape retention and proposals. These are secured by way of condition.

7.11.5 The surrounding trees are to be retained which provide screening and opportunities for nesting birds which is welcomed.

7.12 **Trees**

7.12.1 The site is encompassed by mature trees which provide welcomed screening and pleasant landscaping softening the character of the area; therefore, the development should ensure that the root protection areas of those trees are not impacted by the scheme.

7.12.2 The proposed sustainable drainage features have the potential to impact the root protection areas of the existing trees. Additional information has been provided in the form of an Arboricultural Method Statement and associated drawing which shows there would be no unacceptable conflict between the two areas. Furthermore, the Tree Officer has accepted the methods of the Arboricultural Method Statement and raises no objection subject to the attachment of conditions for arboricultural oversight during construction. The proposal accords with Policy GP5.

7.13 **Impact on Character and Appearance**

7.13. The proposed commercial building and associated outdoor storage area is disconnected somewhat from the wider developments at Wern Industrial Estate. However, due to the A467 providing a significant barrier between the application site and the residential development to the south, it is considered that, the development would be read in the character of the existing commercial use of Wern Industrial Estate. Taking this into account, the proposal appears to organically infill an area that would be well read in the context of the industrial estate in terms of use and design of the proposed unit. Therefore, the proposal is considered to accord with Policy GP6.

7.14 **Routeways, Corridors and Gateways**

7.14. The application site is located adjacent to the A467 which is considered as a principal transport route through the urban area of Newport. The impression gained from travelling along such routes is important as it can have economic and environmental implications.

7.14. The tree screen along the A467 is to be retained. The proposal is considered to not detract from this strategic aim and therefore accords with Policy CE1.

7.15 **Waste**

7.15. The proposed development is required to provide an area of the onsite storage of waste and recycling. The site plan does not include an area for the storage of waste and recycling, however it is considered that due to the size of the site there is ample opportunity to acceptably accommodate this within the confines of the site. Therefore, a condition is recommended securing detail prior to the first use. Subject to condition, the proposal accords with Policy W3.

7.16 **Drainage**

7.16.1 The foul drainage runs are to follow the existing access road which lead to an existing manhole approximately 85m from the red edge of the site. The applicant states he has the right to form a connection to the existing private network located on the access road. Furthermore, it is understood that should permission not be given by a landowner, Dwr Cymru/Welsh Water have powers under the Water Management Act in order to form the connection. Dwr Cymru/Welsh Water have also set out in their comments that a connection to the public network could be made.

7.16.2 With regard to the proposed sustainable drainage features, this is controlled by the Flood and Water Management Act 2010 and requires separate consent through the SAB application process. The location of the proposed SUDS features has received no comment from the Councils Drainage Department or Highways Officer. Therefore, it is considered that the location of the swales would not harm the safe and efficient use of the highway network.

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 would positively contribute toward the reuse of vacant land and the economic development of the Newport Local Authority area through the provision of jobs and impact on the wider supplychain. Therefore, the proposal is recommended for approval subject to conditions.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

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

- Arboricultural Method Statement for SuDS and SWALES by *Steve Ambler & Sons*, Dated 8th January 2024 (Received: 10.01.2024)
- Tree Protection Plan Rogerstone Retail Park (Drawing ref: 23-044)
- Engineering Layout Sheet 2 (Drawing ref: 100-2 Rev B)
- Engineering Layout Sheet 1 (Drawing ref 100-1 Rev B)
- Topographical Survey Sheet 2 of 4 (Drawing ref: E1179-1-2)
- Geotechnical and Geoenvironmental Report, Issue Date: December 2022 (Received: 05.10.2023)
- Tree Survey, Categorisation & Constraints Report by *Steve Ambler & Sons*, Dated June, 2023 (Received: 05.10.2023)
- Flood Consequences Assessment & Drainage Strategy, July 2023 (Received: 05.10.2023)
- Site Location Plan (Drawing ref: PL 00 Location Plan) Rev A
- Site Layout, Sketch Layout (Drawing ref: SK 01 SITE PLAN Rev C)
- Ground Floor Layout Sketch Layout (Drawing ref: PL 02 GF PLAN Rev A)
- First Floor Layout Sketch Layout (Drawing ref: PL 03 1F PLAN Rev A)
- Elevations Sketch Layout (Drawing ref: PL 05 Elevations Rev A)
- Soft Landscape Proposals (Drawing ref: 23134.101 Rev A)
- Hard Landscape Proposals (Drawing ref: 23134.102 Rev A)
- Topographic Survey Sheet 1 of 4 (Drawing ref: E1179-1-1)
- Topographic Survey Sheet 3 of 4 (Drawing ref: E1179-1-3)
- Topographic Survey Sheet 4 of 4 (Drawing ref: E1179-1-4)
- Preliminary Ecological Assessment by *Alder Ecology UK Ltd.* 20th July 2023 (Received: 25.08.2023)
- Tree Constraints Plan Rogerstone Retail Park (Drawing ref: 23-044)
- Transport Assessment by *Lime Transport*, August 2023 (Received: 25.08.2023)

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 The development hereby approved shall be carried out in full in accordance with the recommendations as set out in Section 10 of the Preliminary Ecological Assessment by *Alder Ecology UK Ltd*. 20th July 2023 (Received: 28.08.2023).

REASON: To provide suitable protection for any protected species and provide biodiversity enhancements in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

03 No development (to include site clearance) shall be undertaken until the Tree Protection fencing and Root Protection Barrier Fencing have been installed in accordance with the details shown in The Arboricultural Method Statement prepared by Steve Ambler & Sons Tree Specialists Ltd January 2024 and Tree Protection plan – June 2023. The fencing shall thereafter be retained and maintained for the entirety of the construction phase of the development. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the fenced off area and all weather notices shall be placed on Heras fencing, 1 per 10 panels, stating 'CONSTRUCTION EXCLUSION ZONE NO ACCESS'. The fencing shall be retained for the full duration of the construction phase, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

04 The development shall be carried out in full compliance with the Arboricultural Method Statement prepared by Steve Ambler & Sons Tree Specialists Ltd January 2024 and Tree Protection plan – June 2023.

Reason: To protect important landscape features within the site in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

05 Prior to the commencement of development (including site clearance) a scheme for the treatment of invasive non-native species present on the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.

REASON: In the interests of environmental protection in accordance with Policy GP7 of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015).

06 Outdoor storage shall not exceed a height of 3m as measured from the hard surface of the outdoor storage area.

REASON: In the interests of visual amenity in accordance with Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

07 No means of enclosure shall be installed or erected on site unless full details have first been submitted to and approved in writing by the Local Planning Authority. Any means of enclosure shall then be installed/erected in accordance with the approved details and retained as such for the lifetime of development.

REASON: REASON: In the interests of visual amenity in accordance with Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

08 Prior to the first use of the warehouse, details of cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be laid

out and retained for the lifetime of the development in accordance with the agreed details.

Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport in accordance with Policy G4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

09 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 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
- 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 by the 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 in accordance with Policy G4 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

10 Prior to the first use of the development hereby approved, a minimum of 10% of the parking spaces as shown on drawing Site Layout (Drawing ref: SK 01 SITE PLAN Rev C) shall be equipped with Ultra Low Emission Vehicle (ULEV) Charging Points. The charging points shall be installed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The ULEV charging points shall be retained as such for the lifetime of the development.
Reason: To encourage forms of transport that minimise air pollution in accordance with Future Wales – The National Plan 2040, Policy 12 – Regional Connectivity and to positively contribute toward air quality in accordance with Policies SP1 and GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

11 No development (to include site clearance) shall be undertaken until a Sensitive Site Clearance Strategy document, that demonstrates how the site is to be cleared without harm to reptiles or nesting birds, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

REASON: In the interests of protecting any onsite species in accordance with Policy GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

12 The materials to be used on the external surfaces of the building hereby approved shall be carried out in accordance with the materials schedule as shown on the approved drawing Elevations (Drawing ref: PL 05 Elevations Rev A).

REASON: In the interest of visual amenity in accordance with Policy GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

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

Reason: To secure the satisfactory implementation of the proposal in accordance with Policy GP6 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

14 The hours of operation shall be limited to 0800 – 1730 hours Monday to Saturday and not at all on Sundays and Public and Bank Holidays.

REASON: In the interests of residential amenity in accordance with Policy GP2 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

15 Prior to beneficial use, the car parking and turning areas shall be provided in accordance with the plans hereby approved and shall be retained for the duration of the development.

Reason: In the interests of highway safety.

16 Prior to beneficial use of the warehouse, biodiversity measures including those to the enhancement area and the installation of bird and bat boxes shall be provided in accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority. These measures shall be retained for the duration of the development in accordance with the agreed scheme.

Reason: In the interests of ecology.

17 No surface water / land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent overloading by the public sewer in the interests of human health and the environment.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP4, SP17, SP18, GP1, GP2, GP4, GP5, GP6, GP7, CE1, EM1, EM3, T2, T4 and W3 were relevant to the determination of this application.

02 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.

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

3.

APPLICATION DETAILS

No: 23/0888 Ward: Lliswerry
Type: Full (Major)
Expiry Date: 16th February 2024
Applicant: *Donnelly*
Site: *Land & Property Formerly known as Robert Price Transport Yard, Corporation Road, Newport NP19 0HE*
Proposal: **ERECTION OF 14 FLATS WITH ASSOCIATED PARKING, CYCLE AND BIN STORE**

Recommendation: REFUSED

1. INTRODUCTION

1.1 The proposal is for the erection of 14 flats in a 4 storey block with associated parking and cycle & bin storage on land on the north bank of Spytty Pill.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
18/0973	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	GC 18 December 2019
19/1301	RESERVED MATTERS APPLICATION (APPEARANCE, LAYOUT, SCALE & LANDSCAPING) FOR THE CONSTRUCTION OF 62NO. APARTMENTS (C3) AND 1NO. RESIDENTIAL CARE BUILDING CONTAINING 5NO. BEDROOMS (C2) PURSUANT TO OUTLINE PERMISSION 18/0973 FOR MIXED USE DEVELOPMENT COMPRISING C2 RESIDENTIAL INSTITUTIONS AND C3 RESIDENTIAL AND DRIVE THRU COFFEE SHOP (A1/A3) ALONG WITH ASSOCIATED INFRASTRUCTURE AND FACILITIES	AC 01 June 2022
23/0629	NON MATERIAL AMENDMENT APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) IN RESPECT OF 19/1301 RESERVED MATTERS APPLICATION (APPEARANCE, LAYOUT, SCALE & LANDSCAPING) FOR THE CONSTRUCTION OF 62NO. APARTMENTS (C3) AND 1NO. RESIDENTIAL CARE BUILDING CONTAINING 5NO. BEDROOMS (C2) PURSUANT TO OUTLINE PERMISSION	AC 14 December 2023

	18/0973 FOR MIXED USE DEVELOPMENT COMPRISING C2 RESIDENTIAL INSTITUTIONS AND C3 RESIDENTIAL AND DRIVE THRU COFFEE SHOP (A1/A3) ALONG WITH ASSOCIATED INFRASTRUCTURE AND FACILITIES. AMENDMENTS INCLUDE CHANGES TO PARKING LAYOUT AND ACCESS ARRANGEMENTS	
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3. POLICY CONTEXT

Welsh National Marine Plan

3.1 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:

- 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.

Newport Local Development Plan 2011-2026

3.2 The following policies of the adopted Newport Local Development Plan 2011-2026 are relevant to the determination of this application:

- | | |
|--|---|
| <ul style="list-style-type: none"> • SP1 – Sustainability • SP3 – Flood Risk • SP8 – Special Landscape Areas • SP9 – Conservation of Natural, Historic & Built Environment • SP10 – House Building Requirement • SP13 – Planning Obligations • SP18 – Urban Regeneration • SP20 - Waste Management • GP1 – Climate Change • GP2 – General Amenity • GP3 – Service Infrastructure • GP4 – Highways & Accessibility • GP5 – Natural Environment | <ul style="list-style-type: none"> • GP6 – Quality of Design • GP7 – Environmental Protection • CE1 – Routeways, Corridors & Gateways • CE2 – Waterfront Development • CE3 – Environmental Spaces & Corridors • CE9 – Coastal Zone • H2 – Housing Standards • H3 – Housing Mix and Density • H4 – Affordable Housing • T3 – Road Hierarchy • T4 – Parking • CF2 – Outdoor Play Space Requirements |
|--|---|

- W3 – Provision for Waste Management Facilities in

Development

The following adopted Supplementary Planning Guidance is relevant to this decision:
Sustainable Travel

- Planning Obligations
- Affordable Housing
- Archaeology and Archaeologically Sensitive Areas
- Wildlife & Development
- New Dwellings
- Waste Storage & Collection
- Parking Standards
- Outdoor Play Space Provision

4. CONSULTATIONS

4.1 SOUTH WALES FIRE & RESCUE SERVICE / GWASANAETH TAN & ACHUB DE CYMRU

The developer should also consider the need for the provision of:

- a. adequate water supplies on the site for firefighting purposes; and
- b. access for emergency firefighting appliances

And additional advice asking for increased resilience consideration of:

- Increasing flood risk due to climate change
- Increasing risk of wildfires due to climate change
- Fire risk from electric vehicle charging infrastructure

4.2 DWR CYMRU / WELSH WATER (DCWW):

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

Turning to surface water, as of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with Newport City Council, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

It seems the proposal intends on utilising an alternative to mains drainage, we would advise that the applicant seek advice from Natural Resources Wales and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

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

Condition

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

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

SEWAGE TREATMENT

No problems are envisaged with the Wastewater Treatment Works for the treatment of domestic discharges from this site.

4.3 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW):

- 4.3.1 We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek

further information from the applicant regarding flood risk and European Protected Species. If this information is not provided, we would object to this planning application. Further details are provided below.

- 4.3.2 We also advise that based on the information submitted to date, conditions regarding protected sites and land contamination and controlled waters should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

Condition 1: Submission of a detailed Construction Environmental Management Plan

Conditions 2 - 6: Land contamination and protection of controlled waters.

Flood Risk

- 4.3.3 The planning application proposes highly vulnerable development (residential). 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 3 Sea.
- 4.3.4 Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider 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 an Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.
- 4.3.5 Whilst we are aware of the extant permission for this site, we advise the FCA should be updated to include the appropriate sea level rise increments and subsequent assessment of the proposal (both building and ancillary areas) with regards to the requirements of TAN 15.
- 4.3.6 We understand this application is for the erection of residential flats and therefore the appropriate climate change allowance (100 year lifetime of development) should be applied. We understand the supporting Flood Consequences Assessment (FCA) undertaken by Quad Consult, project number 18214, revision 05, dated July 2018, was produced to support outline application 18/0973. This FCA has only assessed the risk and consequences of flooding up to 2118 (95 year lifetime of development) and proposed finished floor levels based on these figures. Our advice to you is that the FCA fails to demonstrate that the risks and consequences of flooding can be managed to an acceptable level, as a 100 year lifetime of development has not been assessed.
- 4.3.7 We will be pleased to provide technical advice on any updated FCA submitted, including whether or not it is demonstrated that the risks and consequences of flooding can be managed to an acceptable level.
- 4.3.8 Please inform us, in accordance with paragraph 11.7 of TAN15, if you are minded to grant permission for the application contrary to our advice.
- 4.3.9 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 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.

European Protected Species and Protected Sites

- 4.3.10 European Protected Species: We note the submission of the ecological appraisal by Soltys Brewster dated October 2018 to support the application. We understand this was produced to support outline application 18/0973. Given the age of the ecological information submitted, we advise you liaise with your ecologist regarding the need for an updated survey and if so it's scope. Therefore we unable to provide advice on protected species at present.
- 4.3.11 We previously advised on the outline application (18/0973) on bats and otter and noted that a lighting strategy / plan should be submitted prior to determination of the planning application to demonstrate how lighting will be designed (both construction and operation phases) to avoid illumination of the river corridor and any scrub habitat for retention. As no lighting information has been submitted, we advise a lighting plan is submitted prior to the determination of the application (see below section on protected sites).
- 4.3.12 Protected Sites The proposal site is close/adjacent to the River Usk, which at this location is designated as a Special Area of Conservation (SAC) and Special Site of Scientific Interest (SSSI). Designated features of the Usk SAC and SSSI include otter and shad. The proposal has the potential to impact on protected species and the SAC/SSSI through insensitive lighting during construction and operation. The ecological appraisal states that '*sensitive design and orientation of site lighting will also be required to minimise impact on species such as bats and Otter*'. Given the significance and importance of this area, we require a lighting strategy / plan to be submitted prior to determination of the planning application. This should demonstrate how lighting will be designed (both construction and operation phases) to avoid illumination of the river corridor and any scrub habitat for retention.
- 4.3.13 We note that the ecological appraisal recommends timing of construction work to avoid the period one hour prior to and one hour post sunrise/sunset. In addition to this, any piling within 30 meters of the river bank (mean high tide level) should be timed to avoid the shad migration period (March to June inclusive). Where piling cannot be avoided during the shad migration period (March to June inclusive) and is within 30 meters of the mean high tide level, non percussive piling methods should be used and must only take place on a falling tide from 1 hour after high tide to 1 hour before low tide. On receipt of the additional information as outlined above, we would recommend that these controls could be secured by a suitably worded condition.
- 4.3.14 In addition, given the sensitive nature of the SAC/SSSI we recommend that a planning condition (1) is secured requiring the submission of a Construction Environmental Management Plan to prevent pollution to the SAC/SSSI.
- 4.3.15 Condition 1 (CEMP): No development, including site clearance, shall commence until a site wide 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.
 - 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; and measures to control light spill
 - Resource Management: details of fuel and chemical storage and containment; and details of waste generation and its management;
 - 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.

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 prior to commencement of development and implemented for the protection of the environment during construction.

- 4.3.16 Advice to Applicant: To inform the CEMP, we advise you to consider Guidance for Pollution Prevention documents, link here: [Guidance for Pollution Prevention \(GPP\) documents | NetRegs | Environmental guidance for your business in Northern Ireland & Scotland](#)

We note that the 2018 ecological appraisal identified Japanese knotweed being close to the site. Should the ecological appraisal be updated we would expect the invasive species element of the report to be updated and if appropriate biosecurity measures to be implemented to be identified to ensure no contamination of the site or transport of rhizomes/seeds to other sites on equipment or plant.

Habitats and Species 2017 Regulations

- 4.3.17 The Local Planning Authority is the Competent Authority for the purposes of the Conservation of Habitats and Species 2017 Regulations. As such, it must not agree to any plan or project unless it is certain that it will not adversely affect the integrity of a Special Area of Conservation (SAC). The Local Planning Authority should carry out a test of likely significant effects (TLSE) for the SAC, which is required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. This test applies to impacts on the SACs from the proposed works, either alone or in combination with other plans and projects. If the test concludes there is likely to be a significant effect then an appropriate assessment of the impacts on the SAC from the proposed works, either alone or in combination with other plans and projects, will be required. We would be able to assist with that assessment in our role as the statutory nature conservation body under the above Regulations.

Land Contamination and Controlled Waters

- 4.3.18 Due to the site's former use as a transport yard and depot and the drainage proposals we request the following conditions.

Condition 2 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 3 Prior to the 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 4 If necessary, prior to the of the development a long term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority. The long term monitoring plan should include: • Details of the methods and triggers for action to be undertaken • Timescales for the long term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for x years) • Timescales for submission of monitoring reports to the LPA e.g. annually • Details of any necessary contingency and remedial actions and timescales for actions • Details confirming that the contingency and remedial actions have been carried out> The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales. Justification: A land contamination long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on the water environment.

Condition 5 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 6 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.

Informatives and good practice

Natural Resources Wales recommends that developers should:

1. Follow the risk management framework provided in [Land contamination risk management \(LCRM\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

2. Refer to 'Development of land affected by contamination: A guide for developers' (WLGA, 2023) for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

3. Refer to our [Groundwater protection - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/groundwater-protection) advice.

Other Matters: Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

4.4 NATIONAL GRID: Advise of equipment in the area and safe working practices.

4.5 HEALTH & SAFETY EXECUTIVE: No interest.

4.6 ESP UTILITIES: Advise of equipment in the area and safe working practices.

4.7 CSP PLANT: No interest.

4.8 WALES & WEST UTILITIES: No interest.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF ENVIRONMENT & PUBLIC PROTECTION (NOISE):

I confirm I have reviewed the submitted acoustic assessment.

I confirm I have no objections to the proposals; subject to the implementation of the noise mitigation measures identified within section 5.0 of the report.

The Noise & Neighbourhood team would request the following conditions for future full planning permission:

- Demolition & Construction Environmental Management Plan

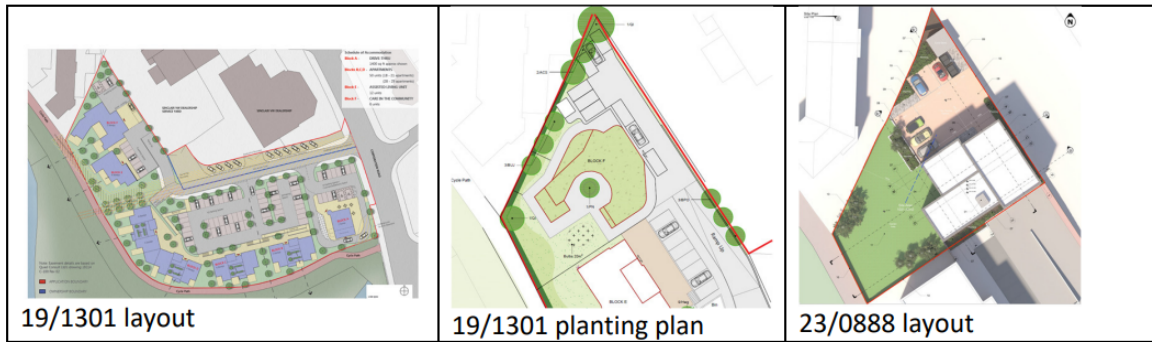
5.2 HEAD OF ENVIRONMENT & PUBLIC PROTECTION (LANDSCAPING)

5.2.1 Objection to the hard and soft landscape proposals.

5.2.2 The concerns below were also raised at pre-app stage but have not been responded to. The boundary treatment and soft landscape proposals are inappropriate for the location and scale of residential development.

5.2.3 Professional landscape architect input was strongly recommended to meet LDP policy GP5 but has not been taken, this is needed to inform the external layout to enhance the street-scene, provide suitable community space, and ensure sufficient space and suitable locations for planting and above ground SUDs are provided.

5.2.3 The approved plan for the whole site 19/1301 showed an integrated design for a much larger application area. This application appears to be for what was previously annotated as Block F, at the north-west corner. The landscape consultant for 19/1301 showed tree and hedge planting along the north boundary, this was approved and planting at this scale is needed to create a buffer between multi-storey residential blocks which is not reflected in the 23/0888 application.



- 5.2.3 Greater use of trees is required to soften and visually ground the four-storey building. The attempt at a landscape scheme at this full application is insufficient in scale or nursery stock size, for example a tree height of 0.9-1.2m is proposed.
- 5.2.4 Analysis of shade from buildings should inform the planting mixes.
- 5.2.5 Awkward triangles of planting are shown adjacent to parking, these are rarely successful and the planting beds should be rationalised working to a minimum 1m width to allow for haunching.
- 5.2.6 Areas under the building proposed for planting need to be reviewed by a professional landscape architect to ensure these can receive adequate rainwater.
- 5.2.7 Assuming a SAB application is required, above ground SAB elements should be shown to meet objectives for amenity and biodiversity, ideally at this full planning stage an indicative drainage plan would be available. Plants should be selected to cope with the anticipated conditions. Minimal levels are shown on the Site Plan and none at the boundaries with adjoining sites. The cross section shows an odd gradient to the amenity area lawn. The amenity area should provide access for all in addition to seating and areas of amenity planting beyond boundary trees and hedge.



- 5.2.8 A 1.8m high timber fence is proposed to the boundary with the riverside cycle path, this would provide no visual link between the two areas and is not acceptable. A higher quality and more visually permeable boundary treatment would be required. A section provided by the landscape architect is advised to show the boundary and soft landscape treatment. The same treatment is proposed to the north and south boundaries with high rise residential, again a more visually permeable treatment would be required.

5.2.9 The following information is required as highlighted at pre-application stage:

1. A hard landscape plan showing retaining structures, surfacing, boundary treatment, street furniture etc.
2. Provision of a fully detailed soft landscape plan to be provided by a professional landscape architect input showing:
 - a) any constraints to planting,
 - b) steep slopes and retaining structures clearly identified,
 - c) detailing plant species, size, density, location, seed mixes; SUDs planting; tree pit details which should be reviewed in relation to the guidance in BS 8545 (2014) 'Trees: from nursery to independence in the landscape,
 - d) analysing shade from high buildings and carefully considering planting underneath building over-hang areas,
 - e) specification for ground preparation and planting: planting season; plant protection; watering of newly planted stock; mulching; specification of topsoil quality and depth to confirm the topsoil and subsoil specification will meet BS8601:2013 for subsoil (including remediation of compacted soils) and BS3882:2015 for topsoil, with soil supply professionally tested and recommendations implemented to ensure successful establishment of planting,
3. Soft landscape maintenance and management plan for five years to cover new planting until established – this could be conditioned.

5.3 HEAD OF ENVIRONMENT & PUBLIC PROTECTION (SCIENTIFIC OFFICER)

Air Quality

- 5.3.1 The proposed development is in the vicinity of heavily trafficked road networks that cause air quality pressures on existing residential development on Corporation Road and as such we would not wish to encourage further development that would introduce new residential receptors into this area or increase the amount of local traffic emissions through vehicles potentially associated with 14 dwellings.
- 5.3.2 We would only be able to consider support for this development where it can be demonstrated that it would provide a net benefit to local air quality through mitigation/building design and use that contributes towards reducing emissions and achieving compliance with the air quality objective for nitrogen dioxide in our 11 AQMAs. Examples of mitigation approaches that contribute to reducing emissions include car free development, EV infrastructure, sustainable heating systems, active travel infrastructure. Adopting an Air Quality Positive design approach is also encouraged from the earliest point in the development process.
- 5.3.3 A holding objection is raised at present until an Air Quality Assessment (AQA) has been undertaken and submitted to the LPA that demonstrates what the exposure of new residential receptors would be. Assessment must include 3 months of diffusion tube monitoring or real time monitoring as part of the assessment. The client group intended for this residential accommodation is noted both in terms of their vulnerability and the likelihood that they will not be drivers hence an air quality assessment that reflects their health vulnerability and prevailing/predicted air quality is important. It would also be reasonable for the expected traffic levels/parking absolutely necessary for this development to be clarified through a transportation assessment which would also be needed for the AQA inputs.
- 5.3.4 Notwithstanding the findings of an AQA a chapter on mitigation that will contribute to a reduction in emissions from all sources at the proposed development is required within the AQA or developer submissions; for which precedent is currently being set by other LPA's. This must include but not be limited to a Heating Strategy and ULEV infrastructure for the development.

Contaminated Land

- 5.3.5 Contaminated land is a material consideration for the subject site in view of the former Corporation Brickworks and Clay Pits the site occupies. In view of this as a minimum a geo environmental desk study and preliminary risk assessment needs to be provided with the application that confirms contaminated land constraints in respect of development.
- 5.3.6 Further comments are not possible until the above have been addressed.
- 5.4 HEAD OF INFRASTRUCTURE (HIGHWAYS)
- 5.4.1 Highway Recommendation: Further information requested, to avoid multiple objections at this stage.
- 5.4.2 Highway Comments: Notwithstanding the additional information provided since the pre-application responses, the applicant has not provided the information necessary to gain Highways' support.
- 5.4.3 Key issues still to be addressed include access to the adopted highway and the standard of access road. As previously advised Highways would not support more than 5 units being served by a private access drive. It appears that there is no control over the provision, retention or maintenance of the turning head or access that is relied upon for this development.
- 5.4.4 We are currently unaware of any proposals for improvement or adoption of the access road and have made internal enquiries, but would appreciate any further information such as contacts made with Highways /Drainage/lighting etc. to understand the likely outcomes.
- 5.4.5 It is unlikely that any part of this site would be adopted due to the oversailing building and there is no turning facility within the site (it should still be adoptable and have a management plan in place to protect the residents). It is therefore dependant on service vehicles (deliveries and refuse collections) reversing from the turning head (within the adjacent site) up a ramp and past the front of the building, and close to the cycle storage, to reach the bins or deliver any goods. This is not considered safe or practical or within the control of this development.
- 5.4.6 The location of servicing provision and bin collection should be considered further to mitigate these issues. A full suite of swept path assessments will be required to demonstrate service and emergency access for HGVs.
- 5.4.7 Further detail of the cycle provision is requested, however this could be addressed via condition.
- 5.4.8 Further information is also requested to understand the likely conditions/restrictions to be imposed to manage the use of the flats by supported individuals and the level of care offered. This is relevant to the parking requirements. It is suggested that the residents would be unlikely to have a licence or car. This can only be accepted if the permission restricts the use. As far as we are aware there is no restriction proposed on the use and the consent would allow any residential use.
- 5.4.9 Site specific parking arrangements should consider the need for staff, commercial vehicles, emergency vehicles and disability spaces as well as electric vehicle charging. Subject to in principle agreement to restrict the use, these details could be addressed via suitable conditions.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS:
All properties within 50m of the application site were consulted (42 properties), a site notice displayed and a press notice published in the South Wales Argus.

7. ASSESSMENT

The Site

- 7.1 The site covers 1033m² and is located on the banks of Spytty Pill immediately southeast of the flatted blocks at the end of Amelia Way. The site is broadly flat but a flood prevention bund has been installed along the site frontage and Argosy Walk (riverfront walk) forms the site's western boundary. To the rear of the site lies Sinclair Newport (car sales and car repairs). To the southeast of the site the land is vacant but there is a permission in place for residential development for flatted blocks (18/0973/O & 19/1301/RM). This site would be accessed via the proposed development to the southeast. This development has not commenced yet.
- 7.2 Under the planning permission a small care home was proposed on this site consisting of a two-storey development, parking & circulation and a garden area fronting the riverside walk. That approval is extant and could be implemented and as such it represents a 'fallback' position. The site is in Zone C1 of the Development Advice Map (defended floodplain).
- 7.3 This proposal was subject to a pre-application submission (PS/23/0037) which was commented on in detail. This raised issues of concern in relation to:
- Design & Materials,
 - Noise,
 - Massing and impact on the proposal and towards neighbouring development,
 - Waste Storage,
 - Amenity Space for residents,
 - Flooding and the need for a Flood Consequences Assessment,
 - Deliverability (adjacent site) and Access.
- Some of these issues have been adequately addressed but other remain key points of concern under this submission.

The Proposal

- 7.4 The proposal is for a four-storey flatted block containing 14 flats. These are shown as 1 bedroom units with two on the ground floor and four on the remaining floors. A lobby provides a stair well and lift shaft. All the units have a kitchen / dining area, double bedroom and bathroom / WC.
- 7.5 An underpass beneath the building leads to a small parking courtyard (7 spaces) which would also contain a bin and cycle store. A planted area to the front of the building would provide some communal space for residents (415m²).
- 7.6 Elevations show a brick building with some cladding features. The kitchen / dining area are served by tall windows (2.1m). Windows generally have a vertical emphasis. Bedrooms with small windows face the commercial garage, presumably to reduce noise issues.
- 7.7 Proposed perimeter fencing is 1.8m timber with hard surfacing identified as Tegula setts

Key Issues

- Intended use & S106
- Flooding
- Noise
- Impact on SAC – lighting / run-off
- Design
- Impact on neighbours
- Relationship with riverfront

- Amenity of future residents – DQR – internal / external space
- Fallback and weight
- Section 6 Duty – net benefit for bio-diversity
- Contaminated Land

Intended Use & S106

7.8.1 The development is for 14 open market flats. The applicant's agent has indicated that the units will be occupied by persons in housing need under the supervision of 'React Support Services' who appear to offer supported living to adults *with a mental health condition, learning disability, acquired brain injury or any other associated complex needs*. As such they appear to be a private company providing these services mainly in Cardiff.

7.8.2 Examination of the company's operations in Cardiff strongly indicates that the houses provided are in Use Class C3a i.e. they are dwellings and are not care homes for the purposes of planning decisions. This is described as:

C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.¹

React have recently sought a Lawful Development Certificate (Existing) for premises they operate as dwellings in Cardiff (23/00002/CLD – 34 Connaught Road, Cardiff) and this certificate was issued. As such it is reasonable to consider this proposal as a proposal for 14 dwellings and not a care facility for the purposes of planning. In any event the applicant describes the development in his application form as *14 residential flats* so in effect there is no disagreement between the Council and the applicant as to what the proposal is actually for.

7.8.3 The applicant has suggested that these units should be considered as affordable housing for the purposes of Section 106 and therefore be exempt from contributions to education and open space. TAN 2 describes affordable housing as:

housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

However there is no indication that this is either social rented housing or intermediate housing. In effect this is housing that is commercially let at market price for supported living accommodation i.e. a service provided for market levels of profit and therefore not affordable housing for the purposes of the TAN and therefore required to meet relevant S106 obligations. National policy does allow certain categories of restricted occupation housing to be considered as a form of affordable housing when the restriction reduces market values; Rural Enterprise Workers' Housing for example. However in this case any occupation restriction would limit occupation to persons that fell in to the React client group and currently there is no reason to think this would reduce the value of the market rent for these units indeed the opposite is more likely. That these units would command market rents well above the usual to cover off the support provided and a likely profit margin above normal rental values. Since otherwise why would anyone choose the demands of housing this client group over a more standard client group?

7.8.4 Heads of terms have been forwarded to the applicant's agent but currently there has been no agreement to those terms which included a contribution for affordable housing and offsite leisure provision. Without those contributions the development is contrary to Policy SP13 (Planning Obligations) and the advice contained in the adopted SPGs Planning Obligations

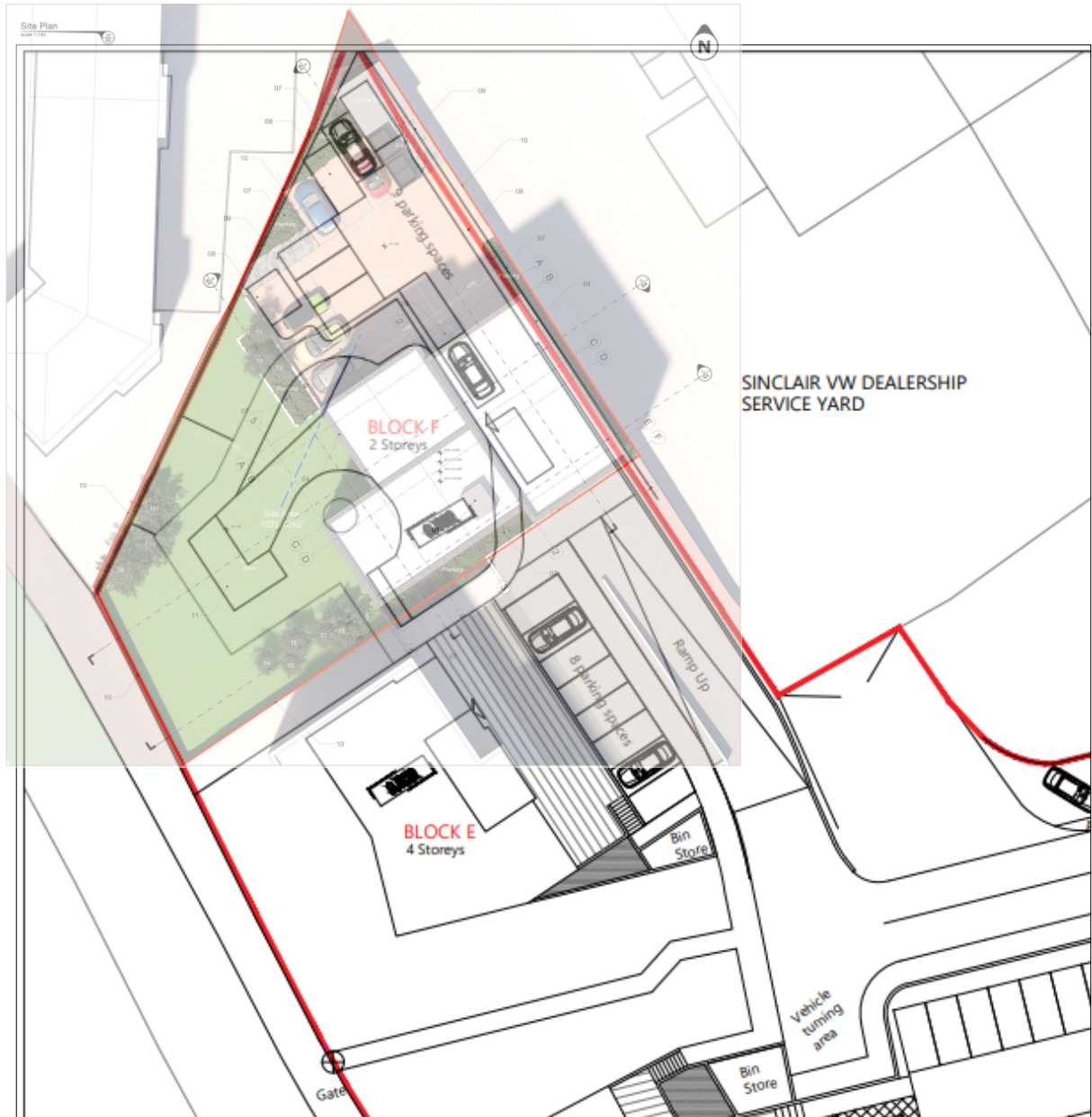
¹ Planning permission: use classes (change of use) | GOV.WALES available 18.12.2023

and Affordable Housing. Without the contributions the development is not sustainable and is contrary to Policy SP1.

Flooding

- 7.9.1 The site lies in Zone C1, that is a defended flood plain (Development Advice Map). As such flooding is a constraint on the site. The applicant has provided a Flood Consequences Assessment (FCA) but this has been critiqued by CNC/NRW since it is resubmission of the 2018 application FCA and therefore it is out of date and is not based on the most up to date modelling and does not consider the correct 100 year lifespan for the development. As such it is not clear that the site could meet the recommended criteria for flood resilience set out in TAN 15. The applicant is aware of the CNC comments but has not responded to them. In effect without up-to-date information it is not possible to ascertain whether the proposed development would be sufficiently resilient in the event of a flood on the site. The submitted FCA is therefore not adequate.
- 7.9.2 That said there is an extant permission on the site that would allow residential development and there is no reason to think that that permission could not be implemented although the time to do that is growing very limited with the permission lapsing in December 2024 and there being various conditions that require discharge. This limits the weight that can be given to that fallback position significantly. The RM approval (19/1301) allowed for 5 residential bedrooms for persons requiring care (Use Class C2) and an overnight staff bedroom at first floor. In effect a significantly reduced occupancy over what is proposed (14 bedrooms on an average occupancy of 1.5 = 21 persons). Two of the proposed flats are on the ground floor exaggerating the risk so officers conclude that the proposal is materially worse in the risk exposure to occupants in terms of flood depth and numbers of people effected.
- 7.9.3 In conclusion the true flood risk cannot be quantified due to lack of up-to-date information within the FCA and the fallback is not compelling due to the increased risk exposure inherent in the scheme and the increasingly limited time for implementation of that permission. The proposal is contrary to Policy SP3 since the applicant has not demonstrated that it accords with national flood policy, Policy GP1i (Climate Change) since the development has not shown the risks and consequences of flooding can be acceptably managed and Policy GP7 (Environmental protection) since the occupiers would be exposed to an unquantified flood risk.

Overlay of this submission and RM approval 19/1301



Noise

- 7.10.1 The site is subject to potential noise from Sinclair service yard and also the Southern Distributor Road (SDR) which is 200m south of the site and in an elevated position as it rises to meet the deck of the SDR bridge over the River Usk.
- 7.10.2 The Noise assessment is clearly dated but notes that the WHO guidance for noise is exceeded on the site and that mitigation will be required in terms of uprated glazing and appropriate levels of internal insulation to prevent noise transmission between flatted units. It was advised that this should be secured by condition. Permission 18/0973 had such a condition attached. In terms of this assessment EH Noise have commented and advise conditions are applied as the report suggests. Although significant time has passed since the Noise Report was completed there is no reason to think that the noise environment on the site will have materially altered given its sources.
- 7.10.3 The key noise source is the Sinclairs car dealership to the rear which stores vehicles adjacent to the site but also has an extensive workshop area undertaking servicing and apparently body repairs. This building has large vehicle doors on the rear elevation facing the site and although most activity will be in the building noticeable noise will emanate from the site.
- 7.10.4 The other principle noise source is road traffic on Corporation Road and the Southern Distributor Road (SDR) which is noticeable on the site. The submitted noise assessment confirms that noise levels exceed the WHO standards and that internal noise can be mitigated by appropriate glazing. The Noise Assessment advises that trickle vents will provide sufficient ventilation with the windows closed but this is not accepted and mechanical ventilation would be required under condition. Internal noise is not a concern.
- 7.10.5 The Noise Assessment is somewhat coy on external noise suggesting that the proposed buildings alongside other features such as walls and fencing will act to mitigate the observed noise levels on the site down to the required level. However this is not robustly demonstrated and there is a clear risk that external noise levels although very likely to be lowered by the construction of the building will be higher than required. This is especially so if the buildings to the southeast are never built since the noise assessment presumes their presence.
- 7.10.6 However it is considered unlikely that external noise will be at such a level as to make external areas such as balconies and the communal garden practically unusable. Site visits confirm traffic and workshop noise can be heard on the site but they are not excessively intrusive and when weighed against the benefit of bringing a noise constrained but redundant site forward for housing the risk of external noise levels being exceeded in a modest way is not seen as sufficiently harmful as to warrant refusal of the application, particularly given a 'residential' use exists as a somewhat weak fallback position. As such Policies GP2 (General Amenity) and GP7 (Environmental Protection) are marginally complied with in regard to noise.

Appropriate Assessment – Impact on the River Usk SAC

- 7.11.1 The River Usk has been designated because the following species are special features to the River Usk:-
- Allis Shad;
 - Twaite Shad;
 - Bullhead;
 - River Lamprey;
 - Brook Lamprey;
 - Sea Lamprey;
 - Atlantic Salmon;
 - Otter;
 - Water Crowfoot.

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

7.11.3 In previous consultation responses relating to the river CNC/NRW have identified the following as key areas of concern:

Otter Features:

7.11.4 Particular threats to the otter features of the River Usk posed by the development were identified as being:

- The design and location of the development
- Construction work
- Site Operation, and
- The effectiveness of mitigation proposals

7.11.5 The proposed scheme is a small block of flats. The flatted block is set back from the top of the riverbank by approximately 21m with the riverside walkway between the site and the top of the bank. The area to the front of the flatted block is to be laid out as communal garden and separated from the riverside path by a boundary treatment.

7.11.6 It is considered that the design of the proposal would not have an unacceptable impact on the otter feature of the River Usk since the development although facing the river is significantly set back from the sensitive river bank area with limited residential garden activity proposed nearer the immediate riverfront. There is a risk from inappropriate external lighting shining out over the river and the riverbank but that could be controlled by condition ensuring that no harmful levels of light spill occur. The siting of the building and the potential control over harmful lighting control the risk to the otter interest of the river.

7.11.7 The site is currently cleared but previous uses are as a sports field and more recently an industrial building dating from the 1950s was on the site. How that operated is not known. Given the likelihood of the site being made ground to some extent and the uncertainty about former uses the site should be assumed to be contaminated.

7.11.8 The risks posed to the river would arise from:

- the mobilisation of sediment which could wash into the river,
- run-off of / or the percolation of contaminated waters (derived from the ground contamination on the site) into the river,
- the facilitation of the movement of contaminated waters vertically through the soil profile.

7.11.9 Possible planning conditions would require the submission of a Construction Environmental Management Plan (CEMP) which will require details of the working methods to be employed on the site. Specific clauses could control run-off which should ensure that waters which are polluted by either contamination or sediment do not enter the river. Another requirement of the CEMP would control working in the sensitive river front area to limit or prevent direct disturbance to the sensitive river bank environment particularly at night when otters are more likely to be active.

7.11.10 Further conditions would control the storage of fuels and hydrocarbons so that they are stored in such a manner that reduces the risk of contamination to ground and surface waters. Conditions would also control piling methodology reducing the risk of the mobilisation of contaminated waters through the soil profile.

7.11.12 The proposed scheme would see part of the site sealed preventing the infiltration of surface waters and breaking contact with potential contamination in the ground. The verification of any decontamination effort deemed necessary would be required under conditional controls.

The chemical suitability of any imported fill materials can be controlled under a conditional regime attached to any permission granted. The efficacy of the decontamination programme can be secured under a suitable verification / contingency condition which can be applied to any permission granted.

- 7.11.13 Overall it is considered that conditional controls would acceptably control the risk posed by the proposal to the otter interest of the River Usk during the construction phase of the development.

Risks from site operation to the otter interest arise from:

- direct disturbance by people and dogs
- disturbance by lighting
- hydrocarbon contamination from motor vehicles

- 7.11.14 Conditions would place controls over external lighting which will ensure that the sensitive river bank environment remains unlit and that the chances of disturbance to otters is reduced. Conditions would require that surface water drainage from areas where hydro-carbons may be spilled from motor vehicles is cleansed of hydrocarbons through appropriate treatment of any run-off. This will reduce the risks of contaminated run-off reaching the river and therefore the risk to otters and the wider environment.

Fish Features

- 7.11.15 Risk to fish features of the River Usk would arise primarily from:
- contaminated run-off from the site entering the river (sediment load and chemical content)
 - direct effects upon the river from construction and operation of the site; noise, vibration & lighting.

- 7.11.16 Particular Risks will accrue at the following stages:

- The design and location of the development
- Site clearance and Construction
- Site Operation, and
- The effectiveness of mitigation proposals

It is not considered that the design and location of the development will have an adverse effect upon fish features of the river.

- 7.11.17 Site clearance and operation has the potential to release contaminants or sediment but CEMP conditions in association with decontamination verification / contingency conditions would control these risks.

- 7.11.18 Specific conditions would protect the fish interest by preventing works that would interrupt the migration of shad. No works to provide drainage outfalls beyond those currently in place are proposed and therefore there would be no risk to the fish interest of the SAC by works within the riverbank.

- 7.11.19 Site operation could adversely affect water quality. Conditions would require run-off from areas where 'oil-drop' may be present to be cleansed of hydrocarbons. Other conditions could require general control over foul and surface water drainage.

- 7.11.20 Such conditions are considered adequate to prevent adverse impacts on the conservation interests of the river during the operational phase of the development in regard to fish.

Contamination

- 7.11.21 The site is likely to be contaminated. The submission contains no details of ground conditions. However Permission 18/0973/O was subject to the full suite of decontamination conditions which were deemed adequate to mitigate the risk to controlled waters (the River Usk) on that occasion and there is no reason to think that that suite of conditions would not be adequate to address the same issue under this submission. In any event the site is

currently cleared and unsealed likely meaning high levels of infiltration on an unremediated site. As such development may lead to significant betterment over the current scenario.

Water Quality / Hydrology and Drainage

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

Overall consideration

- 7.11.26 The concerns regarding the potential for impact on the River Usk SAC are impacts on the otter feature including via the design and location of development, construction activities on the site, disturbance during the operation phase and mitigation; impacts on fish features; contamination risks; impacts on water quality, hydrology and drainage.
- 7.11.27 Risks arise from the possible discharge of contaminated surface and groundwater water drainage with the potential resultant impacts on the fish and otter features of the SAC. There is the potential for significant effect on the migratory fish and otter features of the River Usk SAC. The specific concerns relate to:
- How surface water would be disposed of during construction and operation;
 - How potential contamination of groundwater on the site would be addressed;
 - What measures would be in place to prevent potentially contaminated run-off entering the River Usk during both construction as a result of disturbance of ground contamination and operational phases of the development.
- It would therefore be necessary that should planning permission be granted conditions are imposed to provide suitable protection.
- 7.11.28 The current and previous uses of the site raise the question of contamination. It is therefore necessary that conditions be imposed to ensure that a mitigation strategy is fully implemented and that the finished mitigation programme is verified as acceptably complete and subject to revision as required.
- 7.11.29 In terms of foul drainage, Conditions would require full details of provision so as to ensure there is sufficient capacity in the system thereby avoiding contamination of waters entering the River Usk SAC.

- 7.11.30 It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significantly adverse effect on the River Usk SAC under these circumstances.
- 7.11.31 Other risks to the river front, particularly the otter feature are addressed via the proposed layout of the site and the proposed riverfront treatment.
- 7.11.32 In terms of in combination effects of the development other developments have taken place along the Usk river frontage in the vicinity of the site. The main developments of recent years have been the extensive flood defence works completed on the east bank of the River in the early 2000s which saw a general site raising and then redevelopment for housing effectively from the Town Bridge as far south as Spytty Pill. These developments were subject to conditional regimes that protected the SAC interests. These sites in-combination with this proposal would not have an adverse impact on the bio-diversity interests of the River Usk.

With the application of appropriate conditions it is considered that any adverse effects on the River Usk SAC associated with the development proposal would be satisfactorily avoided or mitigated down to acceptable levels.

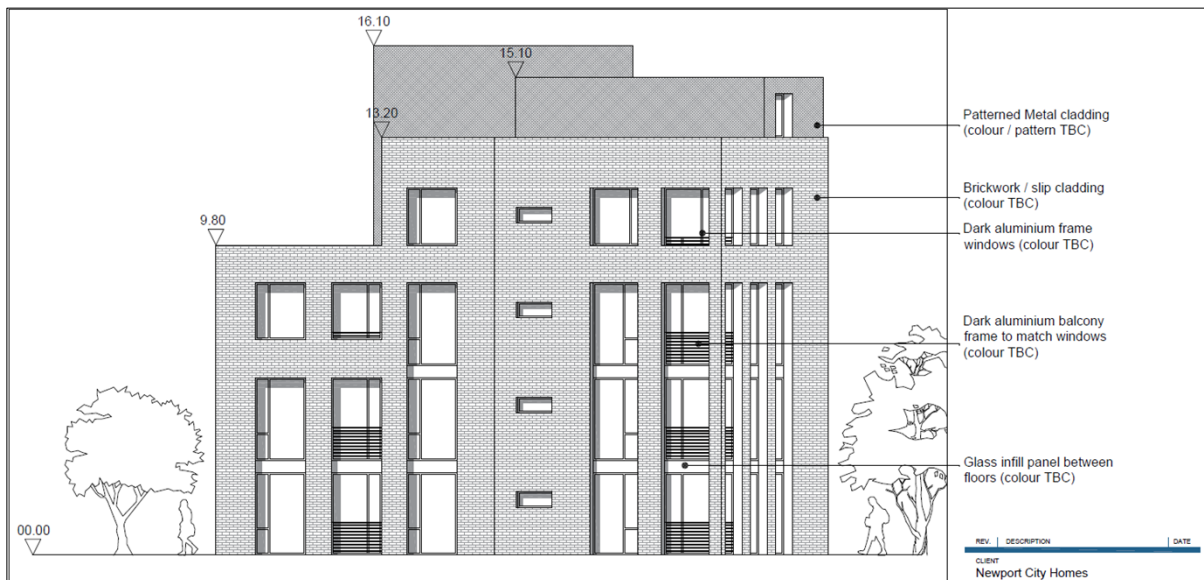
Design

- 7.12.1 The proposal shows a 4 storey block building primarily completed in brick with some feature cladding made from coloured fibre cement. Windows have a longitudinal emphasis and would be made from powder coated aluminium frames in anthracite grey (RAL 7016). The building would be set back behind the proposed Block E on the adjacent site. See the overlay drawing above.

Extract from Drawing 202 P03 (this submission)



Extract from Drawing 05 Block E (19/1301/RM)



- 7.12.2 The applicant has taken on some of the concerns raised in his pre-application submission (PS/23/0037) and what is submitted is an improvement over the initial design. The form of the proposed building is blocky but better reflects what has been approved on the site to the southeast (Block E above). As it stands there is no evidence on site that Permission 18/0973 has been implemented although it remains extant and so the appearance of the buildings approved has limited weight in the consideration of this application.
- 7.12.3 Consequently this proposal must be assessed on its own particular merits. The key façade is that which faces the Spytty Pill since this will be the most visible from the adjacent footway and from the elevated sections of the SDR where it crosses the River Usk.
- 7.12.4 The proposed block would form part of the same visual envelope as the Amelia Way flatted blocks these being 4 storey and finished in a reddish brick with buff brick detailing. These flats also have gabled features and prominent Juliet style balconies and form the established character of this part of the riverfront.
- 7.12.5 The proposal picks up the brick characteristic but takes a less traditional form providing a blocky flat roofed form with coloured cladding to break up the material choice. Marginal height changes vary the roof line but these are slight and likely to be 'lost' at distance. There is a general lack of detailing and an extreme simplicity of form. In some ways the 'heavy' facades echo art deco buildings but normally those relied on fenestration patterns and subtle detailing to reduce the sense of bulk, Cardiff Central Police Station being a modern design (1960s) that sits well in Cardiff's post WW1 Civic Centre which has Art Deco elements.
- 7.12.6 Here there is a certain regularity to the window openings but the facades remain brick dominated and although the cladding material adds some visual differentiation the frontages remain primarily brick with relatively little relief, although an aluminium capping detail on what are presumed to be small pediment walls is welcomed this will have very limited overall impact visually.
- 7.12.7 The northwest elevation of the building will be very visible from the end of Amelia Way and again the design relies on cladding to give visual relief from a heavy frontage which is only minimally broken up by window openings and this also holds true for the southeast elevation of the building. Overall, despite its height the building has certain squatness and heaviness about it.
- 7.12.8 In massing terms, at 4 storeys the building will sit comfortably with the adjacent existing and proposed buildings which are also 4 storeys.

- 7.12.9 The key Policy for this consideration is GP6 (Design) of the adopted Newport Local Development Plan 2011-2026 (NLDP). This seeks good design at all scales of development in terms of buildings and their layout in order to maximise visual amenity, utility, green infrastructure and sustainability – best summarised as placemaking (Paragraph 2.9 of Planning Policy Wales Edition 12).
- 7.12.10 The existing motif is the Amelia Way flatted blocks which are less austere than the proposal and certainly offer more visual interest having more design features and material variation than what is proposed here. Proposed materials are generally robust and can be conditionally controlled to ensure overall quality in terms of colour and texture. The floor to roof windows invite a balcony style treatment and if ‘Juliet’ in form then this could be conditioned and could add significant visual interest to the building facades. Suitable window reveals could also be controlled to reduce the overall ‘flatness’ of the proposed facades.
- 7.12.11 However that said the scheme has been submitted as a full application in its current form following preapplication advice. Although conditions can be used to control detailing, materials for example or even to achieve minor amendments the general principle is to consider the scheme that has been submitted and subject to consultation. Any changes secured under condition should be of the minor sort and generally within the non-material category. In this case the scale of changes required to raise the design standard are several and intended to produce design changes which although beneficial are considered to alter the scheme in a non-material way and therefore go beyond what it is appropriate to ask for in the conditioning regime.
- 7.12.13 Overall the proposed design is considered inadequate in the site context since it lacks detailing and visual interest in a very prominent location. Policies GP6 and GP2 (visual amenity) are not complied with. Policies CE1 (Routeways, Corridors & Gateways) and CE3 (Environmental Spaces & Corridors) are also relevant given the presence of the riverside walk which is a popular and heavily used recreational route prized for its visual amenity. The proposal presents a façade of highly limited interest and lacks mitigating detailing and is also contrary to these latter two policies.

Impact on neighbours

- 7.13.1 The approved building on the site is 2 storey and this proposal has significantly greater mass increasing the impact of the building on neighbouring units over that expected from the approved scheme.
- 7.13.2 In terms of the existing flats on Amelia Way the relationship is primarily oblique and no overbearing effect or blocking of light to windows is anticipated for most of the flats and in terms of amenity space the nearest areas to the new building are used for parking and have no wider amenity value for residents. However where the design for the Amelia Way flats also includes a dog-legged element where the relationship with the new flats would be more direct. It appears that the 25 degree light test for windows contained in the adopted ‘New Dwellings’ SPG would be failed due to the height of the proposed flats however the separation is significant being 16m horizontally which exceeds the 14m separation identified in the new dwellings SPG as required in the case of a 2 storey building. In this case the proposed building is twice as high as that but again the relationship is somewhat oblique and the new structure would not have an oppressive effect over habitable room windows or unacceptably block direct and ambient light.
- 7.13.3 In terms of the approved building to the south, that is set further forward towards the river than this scheme and also directly to the south of the proposal so no negative impacts on that building (should it be provided) are reasonably expected if this scheme were to be approved.
- 7.13.4 In terms of shading effect from this proposal that would be most marked in the winter when the sun is at a low angle in the early morning but that effect would be for a limited period in

the morning and would end before midday with impacts in the summer being much less due to the higher angle of the sun within the 08:00 to 18:00 period. In terms of shading upon the proposed building from that approved to the south this would again be most marked in winter in the AM period and would therefore be limited both seasonally and temporally. The proposed scheme would neither pose or suffer from unacceptable levels of shade impact. Policy GP2 (General Amenity) is complied with in terms of impact on neighbouring residents.

Amenity of future residents – DQR – internal / external space

- 7.13.5 In terms of the flat dimensions they are proposed as 1 bedroom units of 54 square metres having a common access via a central core providing a lift shaft and a stair well. The New Dwellings SPG requires one bed walk up flats to be 46m² in gross floor area so this policy requirement is met. In terms of the Welsh Development Quality Requirements 2021 the required floor area is 50m² so that standard is also complied with although it should be borne in mind that these units are not proposed as social housing. The proposed flat layouts are rational consisting of a kitchen / living area and a double bedroom and bathroom with bath, WC and wash hand basin. A small built-in cupboard would also be provided. All rooms have appropriate windows and access to natural light.
- 7.13.6 The flats do not have balconies and so have no private amenity space. The New Dwellings SPG seeks a 1.5m² balcony for one bedroom flats and these are absent. The applicant has suggested these are ill advised due to the health issues the occupants would have. However the applicant is not seeking permission for a care home. The application is for open market dwellings with the intention to provide a supported living environment. As such there would be no restriction on who could occupy these units and they could be straight forwardly sold on to anyone who was minded to occupy them. In any event practical management such as locking the balcony doors for individuals deemed at risk would provide protection to those persons. As such the lack of balconies is seen as a significant policy failing having a significantly adverse impact on the amenity of future occupiers.
- 7.13.7 In terms of other amenity space, there is an area of open space between the building and the riverfront footpath that could provide communal space. Other areas are given over to parking and circulation and bin and cycle storage. The open space measures approximately 390m². The New Dwellings SPG requires 14m² of communal amenity space (analogous to private gardens) per person for schemes with 21-41 occupants meaning 294m² of space would be required (21*14).
- 7.13.8 Additionally the adopted open space SPG requires an additional 5.5m² for informal play space per person on the development requiring an additional 116m² of space to be provided.
- 7.13.9 Therefore the total space required is 410m² which is marginally more than the area available. That said the site is adjacent to the riverside walk which provides a high-quality area of amenity space which residents could be reasonably expected to use and enjoy. As such the shortfall in amenity space is not seen as harmful in quantitative terms. In qualitative terms the space is forward of the building and set out in a usable way and although visible to the wider public realm this is not seen as unacceptably harmful to its utility. The open space provided is judged sufficient.
- 7.13.10 Overall the proposal is considered to fail in terms of Policy GP2 (General Amenity) due to the lack of private amenity space within the scheme. The omission of balconies means that the occupiers would have no private space to sit out in and enjoy. No compelling reasons have been given for this omission.

Relationship with riverfront – setback & biodiversity

- 7.14.1 The proposed building is set back from the site boundary by approximately 18m so despite its height there would be no unacceptable impact on the amenity of the riverfront walk. In terms of the bio-diversity interest that is predominantly contained in the areas below mean high water which is set back from bank top. As such there is significant separation between

the building and the sensitive parts of the riverbank so there is no reason to think that the scheme would have any adverse impact on bio-diversity interests during its operational phase. That said the control of external lighting through condition would be necessary to prevent the risk of light spill to the sensitive area.

- 7.14.2 Subject to conditions over lighting the relationship between the scheme and the river is acceptable. Policies GP5 (Natural Environment) and CE3 (Environmental Corridors) are complied with since there would be no adverse impact on bio-diversity interests subject to conditions.

Parking & Highways

- 7.15.1 The site layout shows 5no. parking spaces and a circulation area to allow vehicle turning. The tracked vehicle being 8m long with a 5m wheelbase. The Waste SPG requires access for a larger refuse vehicle than that (10.27m long with a wheelbase of 5.25m) and with the recycling wagon being larger still. As such there is significant doubt that service vehicles can enter the site and turn appropriately given that the tracking exercise is deficient.
- 7.15.2 The parking amount is low since 14 flats would generate a need for 14no. spaces in Parking Zone 5 where no sustainability reduction is available. This is clearly a significant deficiency. The applicant suggests that the residents are unlikely to own cars due to their health care needs but again it must be stressed that these are proposed as open market flats without occupation controls. A review of properties the applicant operates elsewhere in South Wales confirms that these are generally open market C3(a) units, that is dwellings. As with the S106 issue there seems to be no reason to see these as anything other than normal housing that would generate the normal parking demand which is not met under this submission.
- 7.15.3 Domestic schemes have no parking requirement for disabled spaces and motorcycle parking should be 5% of the total provision. However given 14 (required) car spaces that would amount to one space. It is likely a single motorcycle space could be found under the proposed layout in a suitably securable and overlooked position. As such these issues are not matters of concern.
- 7.15.4 The site has no direct access to the highway and is reliant on access over third-party land to get to Corporation Road. Planning is generally not concerned with ownership matters and other 'rights' issues over land outside the applicant's control as would be the case here. However it is appropriate to consider whether the access available is suitable for the intended purpose (aside from whether that access would be legally available). In this case the existing access on the adjacent site does not meet the site boundary and there would in effect be no highway access available to the site. As such an appropriate level of access to the site for vehicles cannot be achieved. Nor is there scope to restrict development until a physical means of access has been provided (Grampian style condition) since there can be no certainty that the adjacent landowner would ever provide these works. As such the condition would frustrate the implementation of the permission and would not be 'reasonable in all other respects'. Pedestrians could access the site via the riverfront walk so this is less of a concern.
- 7.15.5 Policy GP4 (Highways & Accessibility) is not complied with since suitable and safe access arrangements cannot be provided. It is not clear that the site offers turning facilities so that service vehicles can enter and leave the site in a forward gear and the parking levels are inadequate.
- 7.15.6 The proposal shows an area for cycle parking. The Sustainable Travel SPG identifies cycling provision for the development as being 1 space per two bedrooms (7 spaces) for residents and one further space for visitors. There is no reason not to think that this could be accommodated on site subject to details being secured under condition so this would not be a concern overall.

Fallback and weight

- 7.16.1 A fallback use exists in the site for small carehome (Use Class C2) which would have been two storey and contain 5no. bedrooms for patients. As such the occupancy would have been 5 persons plus whatever staff presence was required. This use is still capable of being enacted and so offers a fallback use for the site. However the existence of a fallback position is a 'low bar' test, however what is key is how much weight to place upon that fallback position. That is how likely is the fallback position to be implemented. This is a matter of planning judgement and lies with the decision maker.
- 7.16.2 It is appropriate to give the fallback very limited weight since the submission of this application by a separate applicant would tend to indicate that the carehome proposal is not likely to be pursued although permitted. In any event as noted above the fallback per se would not have the scale of impact of this current proposal and would not carry sufficient weight to outweigh harms identified under this submission.

Section 6 Duty – Net Benefit for Bio-diversity

- 7.17.1 Planning Policy Wales, Edition 12 (PPW12) stresses the need for Green Infrastructure within developments:

6.2.11 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, informed by an appropriate level of assessment, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes.

Additional advice relates to bio-diversity enhancement:

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non-native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems.

- 7.17.2 In essence schemes must assess the green infrastructure present on the site and any existing ecological value and should retain and enhance these positive site attributes via the development process. Existing natural attributes should be preserved and enhanced and proposals need to demonstrate how this will be achieved.
- 7.17.3 This submission pre-dates the publication of Planning Policy Wales Edition 12 (PPW12) in February 2024 but the content of PPW12 is now extant policy and relevant to the determination of this application.
- 7.17.4 In this case the site is post-industrial brownfield and has little inherent ecological value in terms of species or habitat. The applicant has provided a Preliminary Ecological Appraisal (January 2024) which noted the presence of scrub that might provide habitat for breeding birds in the relevant season and areas that might provide reptile habitat or cover for hedgehogs. However suitable method statements for clearance work would protect the interests of these species. Various possible enhancement measures for bio-diversity are suggested that could be secured under condition. Given the currently very limited green infrastructure on the site and limited habitat it provides the proposal is acceptable in terms of green infrastructure and bio-diversity enhancement.

Contaminated Land

- 7.18.1 The site is previously developed and likely to be contaminated. No information has been provided in relation to ground conditions on the site. CNC/NRW advise the application of the normal suite of decontamination conditions to protect land and controlled waters but otherwise do not object. Subject to the application of those conditions there is not reason to

think that there will be any unacceptable harm to human health or controlled waters and Policy GP7 (Environmental Protection) is complied with.

Minor Issues

Minor Issues are:

- Archaeology
- Waste Management
- Air Quality
- Planting & Boundary Treatments
- Welsh National Marine Plan

Archaeology

7.19.1 Although adjacent to Spytty Pill, the site is outside the designated Archaeologically Sensitive Area. Archaeology is not a constraint on the application.

Waste Management

7.20.1 Matters in relation to refuse and re-cycling vehicles being able to access the site have already been considered earlier in this report. In this section consideration is given to the storage of refuse and re-cycling.

7.20.2 Given an occupancy of 21 persons (14*1.5), then space for 14no. 120L waste bins, 2no. 660L card / paper bins, 2no. 660L plastic / tins bins; 2no. 360L bins for glass and 1no. 240L food bin would be required (Waste SPG).

7.20.3 The submitted layout plan shows a bin store of approximately 19m² which given the suggested layout of a bin store in the Waste SPG would be insufficient to accommodate all of the bins required. As proposed the bin store would block access to the cycle storage which in itself is not fatal due to the possibility of conditioning cycle storage details.

7.20.4 Even allowing for additional bin storage capacity by relocating the bike store it is not clear whether a sufficient space in terms of capacity and functionality exists to adequately accommodate the required waste and re-cycling bins. Policy W3 (Waste Facilities) has not been shown to be complied with.

Air Quality

7.21.1 The site is outside any Air Quality Management Area (AQMA) and any associated buffer. As such no Air Quality Assessment is required although the comments of the Scientific Officer are noted.

Planting & Boundary Treatments

7.22.1 The Landscape Officer criticises the proposed boundary treatment along the riverfront (1.8m close board fence). This would be entirely unacceptable in this prominent location but is not considered to be a reason for refusal since a suitable condition would secure an acceptable alternative. The Landscape Officer also notes the paucity of structural planting in the proposal but notes that additional information in association with a suitable management plan might be sufficient to address her concerns. However as noted under the design section of this report the conditional regime can only do so much in securing amendments or additional information. The river frontage is highly prominent and a heavily used recreational route where design quality and green infrastructure are an extremely important element of the riverfront character and given the sensitivities having the planting scheme upfront and having confidence that it will make the necessary contribution to the overall Placemaking agenda encapsulated in Planning Policy Wales is essential. The currently proposed scheme is inadequate and is contrary to Policy GP5vi (Planting) since it makes a poor contribution to green infrastructure networks, placemaking and potential for bio-diversity enhancement.

Welsh National, Marine Plan (WNMP)

7.23.1 The Appropriate Assessment confirms that the proposal will have no unacceptably adverse impacts on Marine bio-diversity. The scheme is of acceptable massing (as opposed to design) and will not have any significant impact on the coastal landscape or the River Usk Special Landscape Area (SLA) in a wider sense beyond its immediate visual impact based on the identified design concerns. This is to say that in long views the building will not stand out as over-scaled or harmfully impactful on the coastal views offered in the generally vicinity of the site. The scheme will not impact on riverfront / coastal access. The proposal does not demonstrate that the scheme will be resilient to tidal flooding. Policy The relevant sections of the WNMP are complied with other than Policy SOC 08 – Resilience to Coastal Change & Flooding. Relevant WNMP Policies are:

- SOC 01 – Access to the Marine Environment
- SOC 03 – Marine Pollution Incidents
- SOC_07: Seascapes
- SOC_08: Resilience to coastal change and flooding
- ENV 01 – Resilient Marine Ecosystems
- ENV 02 – Marine Protected Areas
- ENV 06 – Air & Water Quality
- ENV 07 – Fish Species & Habitats

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 Whilst offering regeneration benefits including the opportunity to decontaminate the site the proposal is considered to be unacceptable for the following reasons:

- Section 106: The applicant has not provided the Section 106 contributions required to make the development sustainable contrary to Policies SP1 and SP13 of the adopted Newport Local Development Plan 2011-2026 and the advice of the adopted Planning Obligations Supplementary Planning Guidance.
- Amenity of Occupiers: The proposal offers an unacceptable level of amenity to future occupiers through the failure to provide private outdoor space in the form of balconies or dedicated areas for ground floor units with no robust explanation given for this omission contrary to Policy GP2 of the adopted Newport Local Development Plan 2011-2026.
- Flooding: The applicant has not provided an up-to-date Flood Consequences Assessment for a highly vulnerable development proposed within a defended flood plain. It has not been demonstrated that the consequences of a flood event on the site are manageable contrary to Policies SP3, GP2 and GP7 of the adopted Newport Local Development Plan 2011-2026 and to national policy.
- Parking / Access / Circulation: The applicant has not demonstrated that the site can be appropriately accessed by vehicular traffic, that refuse and recycling vehicles can practically and safely turn and manoeuvre within the site or that sufficient parking has been provided for residents and visitors all detrimental to highway safety and the amenity of residents and contrary to Policies GP2 and GP4 of the adopted Newport Local Development Plan 2011-2026.
- Bin Storage: The applicant has not demonstrated that bins and recycling boxes can be adequately stored on the site to the detriment of the interests of residents and the efficient functioning of waste collection and recycling on the site contrary to Policy W3 of the adopted Newport Local Development Plan 2011-2026.
- Design & Planting: The proposed building design lacks detailing and visual interest and the proposed planting scheme is inadequate and in combination both will make an unacceptably poor contribution to the River Usk corridor and its associated recreation and Active Travel routes contrary to Policies GP2, GP5, GP6, CE1, CE2 & CE3.

10. RECOMMENDATION

REFUSED

01 Section 106: The applicant has not provided the Section 106 contributions required to make the development sustainable contrary to Policies SP1 and SP13 of the adopted Newport Local Development Plan 2011-2026 and the advice of the adopted Planning Obligations Supplementary Planning Guidance.

02 Amenity of Occupiers: The proposal offers an unacceptable level of amenity to future occupiers through the failure to provide private outdoor space in the form of balconies or

dedicated areas for ground floor units with no robust explanation given for this omission contrary to Policy GP2 of the adopted Newport Local Development Plan 2011-2026.

03 Flooding: The applicant has not provided an up-to-date Flood Consequences Assessment for a highly vulnerable development proposed within a defended flood plain. It has not been demonstrated that the consequences of a flood event on the site are manageable contrary to Policies SP3, GP1 and GP7 of the adopted Newport Local Development Plan 2011-2026 and to national policy.

04 Parking / Access / Circulation: The applicant has not demonstrated that the site can be appropriately accessed by vehicular traffic, or that refuse and recycling vehicles can practically and safely turn and manoeuvre within the site or that sufficient parking has been provided for residents and visitors all detrimental to highway safety and the amenity of residents and contrary to Policies GP2 and GP4 of the adopted Newport Local Development Plan 2011-2026.

05 Bin Storage: The applicant has not demonstrated that bins and recycling boxes can be adequately stored on the site to the detriment of the interests of residents and the efficient functioning of waste collection and recycling on the site contrary to Policy W3 of the adopted Newport Local Development Plan 2011-2026.

06 Design & Planting: The proposed building design lacks detailing and visual interest and the proposed planting scheme is inadequate and in combination both will make an unacceptably poor contribution to the River Usk corridor and its associated recreation and Active Travel routes contrary to Policies GP2, GP5, GP6, CE1, CE2 & CE3 of the adopted Newport Local Development Plan 2011-2026.

NOTE TO APPLICANT

01 This decision relates to plan Nos:

- Drawing 221018/AR/PL/100 P03 – General Arrangement, Site Plan as Proposed
- Drawing 221018/AR/PL/101 P02 – General Arrangement, Floor Plans, L00 as Proposed
- Drawing 221018/AR/PL/102 P02 – General Arrangement, Floor Plans, L01, 02, 03 as Proposed
- Drawing 221018/AR/PL/201 P02 – General Arrangement, SE & NE Elevations as Proposed
- Drawing 221018/AR/PL/202 P02 – General Arrangement, SW & NW Elevations as Proposed
- Drawing 221018/AR/PL/301 P02 – General Arrangement, Sections S01 & S02 as Proposed
- Drawing 221018/AR/PL/302 P02 – General Arrangement, Sections S03 & S04 as Proposed
- Drawing 221018/AR/PL/401 P03 – General Arrangement, External Visuals as Proposed
- Drawing 221018/AR/PL/402 P02 – General Arrangement, Shadow Path Analysis as Proposed
- Drawing 221018/AR/PL/403 P02 – General Arrangement, Daylight Analysis as Proposed
- Drawing 221018/AR/PL/501 P03 – General Arrangement, Drainage Strategy Site Plan as Proposed
- Drawing 221018/AR/FE/601 P01 – Location Plan
- Preliminary Ecological Appraisal (January 2024)
- Noise Assessment Report (October 2018)
- Planning, Design and Access Statement (September 2023)
- Flood Management and Evacuation Plan (September 2018)
- Flood Consequences Assessment (July 2018)
- React Report

- Pre-application Consultation Report (PAC Report) (October 2023)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP8, SP13, SP18, GP1, GP2, GP4, GP5, GP6, GP7, CE1, CE2, CE3, CE6, CE9, H2, H4, T4 & W3 were relevant to the determination of this application.

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

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

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

4.

ENFORCEMENT DETAILS

Ref No: E22/0042 Ward: Bishton & Langstone

Site address: Castle Farm, Bishton Road, Bishton, Newport, South Wales, NP19 7NE

Description of breach: Unauthorised installation of milk vending machine

Recommendation: To issue an Enforcement Notice

1.0 BREACH OF PLANNING CONTROL

1.1 Vending machines which are housed within a building for that purpose have been installed at the farm within the last ten years.

2.0 RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
18/0756	PROPOSED FREE RANGE EGG PRODUCTION UNIT, 3NO. SILOS AND ASSOCIATED WORKS	GC 04 September 2019
20/0991	RETENTION OF ACCESS TRACK BUILT IN VARIANCE TO PERMISSION 12/0164 AFFECTING PUBLIC RIGHT OF WAY 388/3	REFUSED 25 March 2021
21/0597	RETENTION OF EXISTING ACCESS TRACK AFFECTING PUBLIC RIGHT OF WAY 388/1 AND 388/3	GRANTED WITH CONDITIONS 09 June 2022
21/0980	CONSTRUCTION OF A FARM SHOP (A1 USE) AND SITING OF MILK VENDING MACHINE, ALONG WITH USE OF THE EXISTING FARM ACCESS, PROPOSED ASSOCIATED PARKING, LANDSCAPING AND ANCILLARY WORKS AFFECTING PUBLIC RIGHT OF WAY 388/1, 388/2 AND 388/3	WITHDRAWN
22/0838	PARTIAL DISCHARGE OF CONDITION 03 (GATE DETAILS) OF PLANNING PERMISSION 21/0597 FOR RETENTION OF EXISTING ACCESS TRACK AFFECTING PUBLIC RIGHT OF WAY 388/1 AND 388/3	Approved 01 November 2022
22/1122	CONSTRUCTION OF A COVERED MANURE STORE	09 February 2023
23/0844	LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING USE OF MILK VENDING MACHINE AND FARM SHOP ANCILLARY TO THE MAIN AGRICULTURAL USE OF THE PLANNING UNIT AS A FARM	REFUSED 09 November 2023

3. POLICY CONTEXT

The policies that are relevant to the issuing of this notice are Policies SP1 – Sustainability, SP2 – Health, SP5 – Countryside, SP19 – assessment of Retail Need, R8 – Small Scale Retail Proposals and GP2 – General Amenity of the Newport Local Development Plan.

4. CONSULTATIONS

None.

5. INTERNAL COUNCIL ADVICE

None.

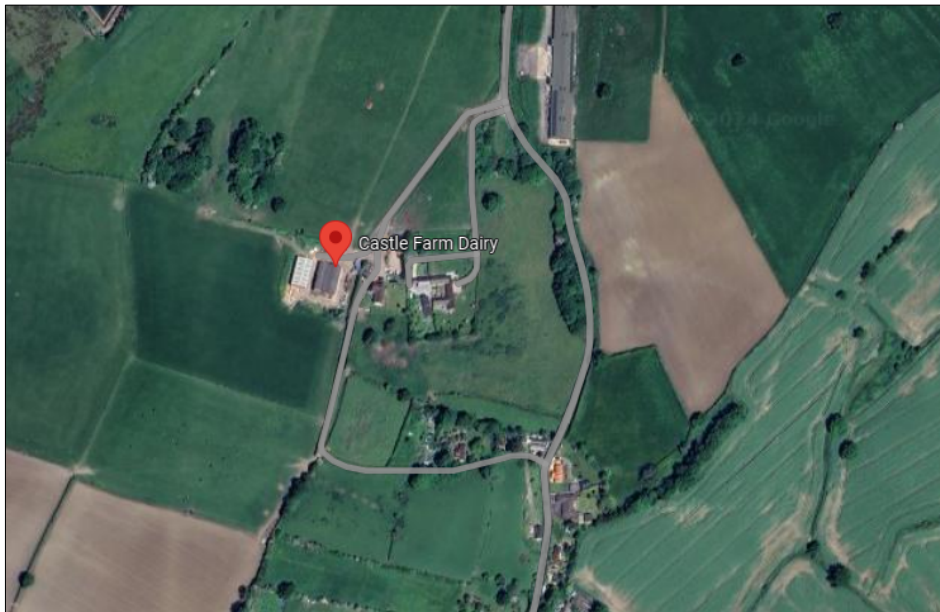
6. ASSESSMENT

- 6.1 In 2022 a milk/milkshake vending machine and associated bottle dispenser machine were installed within the grounds of Castle Farm, Bishton in a building designed for the purpose. The latter is a wooden clad building and is accessed via a track that is only to be used for agricultural purposes. The track was conditioned under planning permission 21/0597 and condition 02 of the permission states that *“At no time shall the access track hereby approved be used for any purposes other than for traffic accessing Castle Farm in connection with its lawful agricultural use.”*
- 6.2 The machines are housed in a building designed for that purpose and includes space for customers to stand inside at the machines awaiting the products and a counter/table. For the building to benefit from permitted development rights (Schedule 2 Pt 6 of the Town and Country Planning (General Permitted Development) Order 1995 as amended), it would need to be a building which is “reasonably necessary for the purposes of agriculture” and ordinarily incidental to the use of the land for agriculture. Moreover, a Prior Approval application is a condition of these permitted development rights and is required in advance of construction. No such application was submitted and the building does not have permission by way of agricultural permitted development. This has subsequently been confirmed in a separate application for a Certificate of Lawfulness (LPA reference 23/0844) that was refused 9th November 2023.
- 6.3 The vending machines and associated building have been in situ for nearly three years and have not moved over that period. The milk/milkshake vending machine is served by the processing plant that is located in the adjacent but separate farm building and the milking plant itself which is located in the same adjacent building and where the dairy herd are stationed during the milking process. It has close association with the farm yard where those wishing to use the machines stop and park. It includes a separate but associated bottle vending machine and looks like a shed with patio doors along the front elevation for access. It is not easily moveable but rather a stable and lockable construction that provides appropriate shelter and security to the machines and customers. It is of a reasonable size and appears to be intended as a permanent feature.
- 6.4 Following the commencement of operation of the milk/milkshake vending in early 2022, complaints were received in relation to late night activity and unneighbourly noise and nuisance directly associated with use of the machines. These appeared to be available for use 24/7. Neighbours reported considerable vehicular activity late at night with convoys of private vehicles travelling along the agricultural track often with a complete lack of consideration for the context, environment and neighbour’s rights to expect a quiet and peaceful evening/night, parking in the yard, lingering in the farm yard and all in connection with customers of the machines. This was causing excessive and unacceptable nuisance and loss of amenity.
- 6.5 As part of these enforcement investigations at the time, officers undertook observations late into the evening and night-time and confirmed that the comings and goings of vehicles during these times and periods of darkness were not tolerable, were harmful to amenity and unacceptable. Officers attended the site on one dark Friday evening and over 1 hour between 9 and 10pm observed fourteen cars entering the site and eleven leaving the site

with customers staying on site and within the yard approximately 20 minutes each time. Several cars were heard to have loud exhausts and beep horns to signal other drivers. In the absence of the vending machines, it is unlikely that any vehicular activity would have been observed along the track at the time of site visit.

- 6.6 It was clear that all the activities observed were not associated with normal agricultural activity and were extraordinary in comparison to the lawful use of the site which, at time of site visit, was otherwise in darkness. The passage of vehicles along the unlit track were visible from nearby residential properties, the movement of vehicles in the farmyard and loitering of customers in the farm complex caused unacceptable noise disturbance, were uncharacteristic of this rural area of very pleasant amenity, gave rise to loss of privacy and fear of crime and were causing significant distress to those neighbours most affected. Officers were aware that by reason of the close proximity of the accesses to the farm and the access to the private residences, residents were reporting visitors to the machines getting lost and using the private access drive to access the machines, with a small number of incidents of customers parking on and walking through private properties and jumping fences to get milk or milkshakes (refer to aerial image at Figure 1).

Figure 1 – aerial image of site



- 6.7 As part of its investigations at the time, officers researched information related to other such machines outside the Newport administrative boundary (as at the time, officers were unaware of any other examples within Newport) and liaised with colleagues in other Local Planning Authorities that had experience of dealing with this type of development. Several were also engaged in enforcement investigations as machines in their areas had caused similar issues along with highways and parking concerns dependent upon location. It became clear that the machines were novel and being marketed widely on social media thereby attracting significant interest. They were proving particularly popular with youths and young adults who were willing to travel to them by vehicles late into the night. The critical issues were the suitability of the location of the machines and their hours of operation.
- 6.8 The principle of selling milk direct from the farm upon which it is produced appears to be an entirely reasonable proposition with merit. It can offer the farm itself an opportunity to more efficiently retail the products it grows or makes on site with associated economic benefits, help the farm diversify, reduce food miles, wastage and generally has sustainability benefits. However, the popularity of the vending machines, and particularly the milkshakes marketed mostly to younger people, was new, interesting and encouraging significant activity at unsociable hours in a location where such activity was harmful to the environment and rural character, and residential amenity. The operation relies on the delivery of syrups that are

imported to site and are mixed with the milk to produce milkshakes and officers anticipate the sale of milkshakes is the significant element of retail sales (compared to just milk).

- 6.9 An Enforcement Notice was served in 2022 under delegated powers (as the boundary of the Notice was more limited at that time). Having regard to the merits of the use and the machines, officers determined that addressing the unsociable hours was the key concern. Therefore, the notice controlled the hours to suit the listed hours of a shop that was also operating from the site at the time. This was an entirely logical approach as the opening times of the shop had not caused any concerns for amenity at the time and it meant the machine (located close to the shop building) would be naturally observed and managed by staff of the shop albeit that the machines can operate entirely independently of any shop and are unmanned.
- 6.10 The Notice was subject to appeal and was quashed in 2023 as the Inspector considered the Notice was not sound. Officers believe the Inspector considered that the whole farm unit (see figure 2) should form the boundary of any Notice having regard to the breach identified but despite attempts to further clarify this, the Inspector would not confirm it. Officers considered the decision frustrating and unclear but as the only mechanism to challenge was via Judicial Review, determined that it was not in the public interest to take such steps and it should proceed to serve a new and revised Notice(s).
- 6.11 The Castle Farm owners and planning agents have been advised by officers to regularise the breach of planning control with an application to retain the machines and associated building. Officers consider this has merit but would seek to control its operating hours. The agent has confirmed that an application will not be made as they consider the machines do not require permission. Furthermore, the hours cited in the original notice are too restrictive.
- 6.12 In late 2023 a Lawful Development Certificate was submitted to demonstrate that the retail activities at the farm (that, at the time, also included the shop) and the vending machines were lawful. This was on the basis that they were incidental to the farm operation. This application (23/0844) was refused on the 10th November 2023. The reasons for not issuing the certificate were “The use of the milk/milkshake vending machine (housed in an unlawful building) and shop are not ordinarily incidental to the agricultural use of the farm unit, resulting in a material change of use and consequently are not lawful in accordance with section 191 of the Town and Country Planning Act 1990 (as amended).” No appeal has been submitted in relation to the refusal of this Lawful Development Certificate.

Figure 2: The red line boundary for the proposed Enforcement Notice includes the whole farm unit



- 6.13 To date no full planning application has been submitted despite the advice of officers. The farm shop has now been closed. Having given a substantial period for the farm owners to either apply for planning permission or otherwise remedy the breach of planning control, a new Enforcement Notice was served 28th February 2024 identifying the area of land in Figure 2 that was intended to address issues raised as part of the previous appeal. The Notice is intended to under-enforce as it does not require the cessation of the use of the vending machines or the removal of the building associated with them. It only limits the operating hours of the machines. The Notice served in February 2024 was withdrawn as it had not taken effect and officers were of the view that the validity of the Notice could be questioned. Therefore it was prudent to withdraw and seek authorisation for the avoidance of doubt, hence this report to Committee.
- 6.14 Policy SP1 states that “proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary.” The machines are located within the farmyard of Castle Farm and accessed via a track over 100m from the main road. The machines are not located within the settlement boundary and are nearly a mile outside of the nearest settlement boundary which is Underwood. Unfettered, 24/7 access to an isolated retail facility that requires access across an agricultural field in close proximity to rural housing, is not sustainable.
- 6.15 Policy SP2 states that “development proposals should seek to maximise their positive contribution to health and well-being and minimise any negative effects by being located in the most sustainable locations, close to public transport links and providing efficient walking and cycling routes and other green infrastructure as part of development schemes.” As outlined above the machine is located over a mile from Underwood. Bus connections to and from Bishton are irregular / minimal. Public Rights of Way run close to and through the farm unit and whilst some locals may access the machines on foot, the majority will access by car particularly during the hours the Council is seeking to control.
- 6.16 Bishton Road is a rural road with no footpaths or street lighting and is bounded by hedgerows. Bishton Road is therefore unsuitable for pedestrians who may wish to walk to the site from either Bishton Village or Underwood. It has poor horizontal and vertical alignment and any use that significantly intensifies traffic movements would be of concern. The farm is also subject to expected agricultural traffic, some of which is heavy goods vehicles, tractors and similar. The mix of private vehicles and HGVs, agricultural traffic has the potential to give rise to conflicts with associated impacts upon highway safety. However, with restricted hours

and noting the more recent closure of the unauthorised shop on site and the modest size and limited retail offer of the machines (bottles, milk, milkshakes), the machines by themselves are unlikely to give rise to an intensification of traffic that would be of demonstrable harm to highway interests.

- 6.17 Policy SP5 states that *“development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.”* The Notice requirements, by underenforcing and focussing upon the hours of operation, are considered to be a fair, reasonable and effective approach to the remediation of the harm identified. In addition to reducing the scope for use during unsociable hours when impact upon amenity will be most pronounced, it limits the to-ing and fro-ing of private vehicles not associated with the agricultural operations along the agricultural track and the associated intrusion of car headlights, engines, doors opening and closing, etc during periods when background noise levels are very low and during the hours of darkness. Such activity is not characteristic of this rural area.
- 6.18 The noise and vehicle movements, generated by the unauthorised use of this site by customers accessing the machines, has the potential to have a direct and significant adverse impact on the neighbouring residential properties contrary to Policy GP2 of the LDP. Officers know, from experience and information already obtained that the hours of operation are critical to mitigating harm. Any Notice requiring the operation hours to be limited must then be effectively advertised and managed by the owners to limit the potential of customers accessing the site regardless and when the machines are closed. The building must be effectively locked down outside operating hours. Disturbance has an immediate and detrimental impact on residents' enjoyment of their properties in this quiet rural area and over and above reasonable, lawful agricultural activities. Policy GP2 (General Development Principles – General Amenity) states that development will be permitted where:
- (i) There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
 - (ii) The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
 - (iii) Adequate amenity for future occupiers
- 6.19 The building that houses the machines is within forty metres of the nearby converted barn complex. Currently, the retailing of milk and milkshakes is being advertised on various social media such as Facebook, Instagram and Tik Tok.
- 6.20 The Council has been in protracted dialogue with the agents acting for the owners of Castle Farm and informally requested that they lock and secure the milk vending machine unit to prevent public/customer access outside the times identified below:
- Monday to Saturday 0830 to 1830 hours.
 - Sundays Bank & Public Holidays 0900 to 1230 hours.
- These hours are intended to mitigate the significant and immediate issues currently identified in relation to the vending machine and arising in large part during night-time hours and periods when neighbours have a right to expect greater peace and quiet. However, in the absence of a planning application and conditional controls as a mechanism to enforce any subsequent breach of these hours and intensification of use, enforcement action must be taken.
- 6.21 Despite repeated requests, ongoing dialogue and meetings between parties, attempts to resolve this matter informally have been unsuccessful.

7.0 Other Considerations

7.1 *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 enforcement matter. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed enforcement action.

7.2 *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. 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.

The above duty has been given due consideration in the assessment of this enforcement matter. 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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this case. 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.

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

The above duty has been given due consideration in the determination of this application. It is considered that the development and this recommendation does not materially affect the use of the Welsh language in Newport.

8 CONCLUSION AND OPTIONS CONSIDERED/AVAILABLE

8.1 The Council has powers under Section 172 of the Town and Country Planning Act 1990 to issue an Enforcement Notice requiring steps to be taken to remedy this breach of planning control. Failure to comply with the requirements of an Enforcement Notice is a criminal offence, against which prosecution proceedings may be taken at the Magistrates' Court. The maximum penalty for this offence is currently a fine of £20,000 or, upon conviction on indictment, an unlimited fine.

8.2 In this instance officers recommend an Enforcement Notice be issued requiring the vending machine unit(s) be locked and secured to prevent public/customer access outside the times identified below:

- Monday to Saturday 0830 to 1830 hours.
- Sundays, Bank & Public Holidays 0900 to 1230 hours.

Alternatively, if it is considered that the use of the vending machine(s) does not have an unacceptable impact on neighbouring properties then it can resolve to take no further action. If the Committee considers the machine has an unacceptable impact and control of hours does not remedy the harm it can resolve to take action to require the removal of the machines and the associated building. It can also resolve to control different hours.

Should enforcement action not be taken, after four years the building and operational development will be immune from any further enforcement action and after ten years the retail use will become immune from any further enforcement action and it will not be possible to mitigate any harm caused.

9 RECOMMENDATION

Committee is requested to:

1. Authorise the Head of Law and Standards to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act, that requires the vending machines and associated building be locked and secured to prohibit public/customer access outside the times identified below:
 - Monday to Saturday 0830 to 1830 hours.
 - Sundays, Bank & Public Holidays 0900 to 1230 hours.

 2. Confirm a compliance period of 14 days from the effective date on the Notice.
-

5.

ENFORCEMENT DETAILS

Ref No: E23/0250 **Ward:** Beechwood

Site address: The Lawns, 11 Kensington Grove, Newport, NP19 8GJ

Description of Breach: Fire damaged and derelict 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 Fire damaged and derelict listed building.

2. RELEVANT SITE HISTORY

01/1287 ERECTION OF 2NO. DETACHED DWELLINGS AND CONVERSION OF FORMER LAWN CLUB BUILDING TO 2NO. SELF CONTAINED DWELLINGS – Granted with conditions.

01/1288 LISTED BUILDING CONSENT APPLICATION FOR CONVERSION OF FORMER LAWN CLUB BUILDING TO 2NO. SELF CONTAINED DWELLINGS, DEMOLITION OF FLAT ROOF EXTENSION AND ERECTION OF 2NO. DETACHED DWELLINGS – Granted with conditions.

03/0396 PARTIAL DISCHARGE OF CONDITION 04 (SPECIFICATION FOR CLEANING AND REPAIR OF ASHLAR STONEMWORK AND COVERING OF THE FLAT ROOFS) OF PP 01/1288 FOR CONVERSION OF FORMER LAWNS CLUB AND ERECTION OF 2 DETACHED DWELLINGS – Approved

06/0524 LISTED BUILDING CONSENT FOR DEMOLITION OF LISTED BUILDING – Refused

09/0915 RESTORATION AND CONVERSION OF FORMER LAWNS CLUB INTO 2NO. DWELLINGS – Refused

09/0925 LISTED BUILDING CONSENT FOR RESTORATION AND CONVERSION OF FORMER LAWNS CLUB INTO 2NO. DWELLINGS – Refused

14/1276 LISTED BUILDING CONSENT FOR THE RESTORATION AND CONVERSION OF THE FORMER LAWNS CLUB TO 2NO. RESIDENTIAL UNITS – Refused

14/1299 RESTORATION AND CONVERSION OF FORMER LAWNS CLUB TO 2NO. RESIDENTIAL UNITS – Refused

17/0794 LISTED BUILDING CONSENT FOR RESTORATION CONVERSION OF BUILDING TO 2NO DWELLINGS AND ERECTION OF 2NO. DETACHED DWELLINGS – Refused

17/0795 RESTORATION OF BUILDING AND CONVERSION TO 2NO. DWELLINGS AND ERECTION OF 2NO. DETACHED DWELLINGS – Refused

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

CE7 Conservation Areas

4. CONSULTATIONS

4.1 CADW: CADW are aware of the issues with this listed building and are supportive of action being taken.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (BUILDING CONTROL): aware of the poor condition of the building and are supportive of a notice being served.

5.2 HEAD OF REGENERATION AND ECONOMIC DEVELOPMENT (CONSERVATION OFFICER): supportive of action being taken.

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 allow for such a notice to be issued under delegated powers. The building has been vacant for a significant period of time, during which, it has suffered from fire damage and vandalism. Over time, most of the roof of the structure has been completely destroyed, leaving the building vulnerable to further deterioration. Such a notice is therefore required to safeguard the future of The Lawns, 11 Kensington Grove, a grade II listed building. The Lawns occupies a prominent position on Kensington Grove, as seen in the photograph below:



Photograph 1: View of The Lawns from Kensington Place.

The reasons for listing, given by Cadw, is that it is a good example of an Italianate villa, contributing to the Kensington Place Conservation Area, with a group value that includes Cambrian House and the Church of St John the Evangelist. The building is also in the Kensington Place conservation area.

- 6.2 The building has been vacant for many years. There is evidence inside the building of people trespassing within the site. This puts these individuals at risk from falling masonry and other risks associated with being in a derelict building. The following are identified as key issues of concern:
- there are various pieces of ashlar² which are projecting from the building and are about to fall off as there are no ties into the brickwork to secure the stone;
 - in the front elevation in the blind windows there are a number of stone panels missing that are indicative of corroding iron ties. These corrode over time which causes them to burst and damage the facing stone. There are cracks over openings in the walls;
 - there are areas where branches, buddleia roots and ivy are growing against or through cracks in the walls which compromises the integrity of the structure;
 - a bay window and three facets are distorted since losing the roofing connection to the building;
 - at all levels, there are built in wall plates which are almost completely decayed. Photos 2-5 below show examples of the above-mentioned issues.



Photograph 2: Ivy growing up the walls of the building.



Photograph 3: A piece of ashlar which is hanging off the building.

² masonry made of large square-cut stones, used as a facing on walls of brick or stone rubble.



Photographs 4 and 5: Buddleia roots growing through gaps in the masonry of the building.

- 6.3 An Urgent Works Notice should generally 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.
- 6.4 The premises has been targeted by the Empty Property Enforcement Action Group, due to the building's significance in this locale and its poor state. Due to officers' concerns, a structural report was commissioned in February 2024. In addition to this report, the Authority may require a further report to ascertain what will be required in terms of structurally supportive scaffolding to make the building safe and ensure that the public are also safe. There may well be additional works required to prevent water ingress into the wall plate, amongst other elements. Whilst the owner has been forthcoming with engaging with the planning department and accommodating to assist with site visits and surveys/reports, the Urgent Works Notice is necessary to require immediate works to stabilise the building after many years of complete neglect.
- 6.5 **Requirements to be included in the Urgent Works Notice:**
- All vegetation to be cut from the building and not pulled, as this will dislodge masonry. The remaining stumps of the vegetation are to be treated with a herbicide (as many times as it takes to ensure that they are dead), to prevent it growing through the walls and pushing the masonry apart. Open cracks should be infilled with a suitable strength lime mortar.
 - All loose masonry and ashlar to be removed and then refixed with a lime mortar or replaced like for like.
 - The ground floor to be reviewed from below and reinforced or supported where it is not structurally sound.
 - A birdcage scaffolding with a roof over must be erected above the three-storey tower and the two-storey remainder to prevent further deterioration due to water ingress and to allow the building to begin drying out. The scaffolding must be of a sufficient height so that the walls can be investigated, and loose fragile stone, bricks and mortar can be removed and retained in a secure location. No scaffolding is to be fixed into the walls.
 - Potentially scaffolding may need to be erected to reinforce vulnerable elements of the structure, where there are areas of loss of structural integrity. No scaffolding is to be fixed into the walls.
 - Remaining decayed or fire-damaged timber lintels should be propped with Acrow props pending approval of a schedule of conservation-based repair and replacement.

- At the level of the floors, there are wall plates built in and where these are decayed, they will need to be replaced. Remove decayed wall plates, by removing short lengths of decayed timber at a time, to not destabilise the wall and replace them.

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 of the works were unnecessary, temporary works have continued for too long, the amounts were unreasonable, or recovery would cause hardship.

6.7 The Council has taken on advice from a CARE (Conservation Accreditation Register for Engineers) Conservation Accredited Engineer with 53 years of experience in his field, and had a structural report produced by this consultant. The consultant has advised on best practice with regards to the urgent works required. In their view, works are urgently required for the proper preservation of the building and to prevent further deterioration.

6.8 The costs of the works will need to be met from existing budgets.

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 ultimately the building will collapse, and its loss will have a significantly adverse impact on national heritage interests (the Building is listed and therefore nationally important) and the character and appearance of the Conservation Area.

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 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 collapse and its loss to the historic character of the surrounding area and conservation area will be significant. Action is therefore required to avoid a further decline to the structural fabric of the building and to prevent the loss of this grade II listed historic asset.

12. **RECOMMENDATION**

Committee is requested to:

- a) 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.
- b) Authorise the Head of Regeneration & Economic Development to take all necessary steps or execution of the works by the Council in the event of non-compliance with the Urgent Works Notice.
- c) 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 and potential collapse.

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

