

# Report

## Planning Committee – Hybrid Meeting

### Part 1

Date: 7<sup>th</sup> August 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.

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## Risks

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

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

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

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

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

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

\* Taking account of proposed mitigation measures

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

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

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

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

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

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

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

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

### **Options Available and considered**

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

### **Preferred Option and Why**

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

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

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

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

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

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

### **Comments of Monitoring Officer**

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

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

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

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

## **Comments of Cabinet Member**

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

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

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

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

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

Long term: Decisions made by the Planning Committee balances the need to improve the appearance of areas as well as meeting the needs of residents in order to make places safe to live in and encourage investment and employment opportunities. Planning decisions aim to build sustainable and cohesive communities.

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

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

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

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

### **Consultation**

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

### **Background Papers**

#### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 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.

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1.

**APPLICATION DETAILS**

**No:** 23/0989      **Ward:** Pillgwenlly

**Type:** Full (Major)

**Expiry Date:** 13 August 2024

**Applicant:** E Laity

**Site:** Land South Of Docks Way Disposal Site Docks Way Newport South Wales

**Proposal:** PROPOSED GROUND MOUNTED SOLAR DEVELOPMENT AND ASSOCIATED WORKS

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 The application is seeking full planning permission for a 1MW ground mounted solar farm. The site is located to the south of the Newport Household Waste Recycling Centre, which is to the south of A48 Docks Way. The site is owned by Newport City Council.
- 1.2 The site comprises 3.09 hectares of land and so this is a ‘major’ planning application. Therefore, the application is being reported to Planning Committee.

**2. RELEVANT SITE HISTORY**

11/1226	CHANGE OF USE OF LAND FOR CITY'S REFUSE COLLECTION FLEET INCORPORATING REFUSE VEHICLE SHELTER BUILDINGS, STAFF ACCOMMODATION BLOCKS, FUEL TANKS AND CAR PARKING	GRANTED WITH CONDITIONS
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**3. POLICY CONTEXT**

**National Development Framework: Future Wales – the National Plan 2040 24th February 2021**

Regarding renewable energy, Future Wales states on page 48: “Wales can become a world leader in renewable energy technologies. Our wind and tidal resources, our potential for solar generation, our support for both large and community scaled projects and our commitment to ensuring the planning system provides a strong lead for renewable energy development, mean we are well placed to support the renewable sector, attract new investment, and reduce carbon emissions.”

Policy 17 of the Plan (page 95) relates to Renewable and Low Carbon Energy and Associated Infrastructure and stipulates: “The Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. In determining planning applications for renewable and low carbon energy development, decisionmakers must give significant weight to the need to meet Wales’s international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency. Applications for large-scale wind and solar will not be permitted in National Parks and Areas of Outstanding Natural Beauty and all proposals should demonstrate that they will not have an unacceptable adverse impact on the environment. Proposals should describe the net benefits the scheme will bring in terms of social, economic, environmental and cultural improvements to local communities. New strategic grid infrastructure for the transmission and distribution of energy should be designed to minimise visual impact on nearby communities. The Welsh Government will work with stakeholders, including National Grid

and Distribution Network Operators, to transition to a multi-vector grid network and reduce the barriers to the implementation of new grid infrastructure.”

## **Planning Policy Wales (PPW) Edition 12 - February 2024**

Paragraph 5.7.1 emphasises that low carbon electricity must become the main source of energy in Wales. Renewable electricity will be used to provide both heating and transport in addition to power. The future energy supply mix will depend on a range of established and emerging low carbon technologies, including biomethane and green hydrogen.

Paragraph 5.7.14 establishes Welsh Government’s targets for the generation of renewable energy which are as follows:

- for Wales to generate 70% of its electricity consumption from renewable energy by 2030;
- for one Gigawatt of renewable energy capacity in Wales to be locally owned by 2030; and
- for new energy projects to have at least an element of local ownership.

Paragraph 5.7.15 goes on to state: “The planning system has an active role to help ensure the delivery of these targets, in terms of new renewable energy generating capacity ...”

Paragraph 5.9.1 relates to Renewable and Low Carbon Energy, stating: “Local authorities should facilitate all forms of renewable and low carbon energy development and should seek cross-department cooperation to achieve this. In doing so, planning authorities should seek to ensure their area’s full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved. Planning authorities should seek to maximise the potential of renewable energy by linking the development plan with other local authority strategies, including Local Well-being plans and Economic/ Regeneration strategies.”

### **Newport Local Development Plan**

**Policy SP1 (Sustainability)** favours proposals which make a positive contribution to sustainable development.

**Policy GP1 (Climate Change)** requires proposals to withstand predicted climate change, reduce flood risk, minimise energy requirements, incorporate renewable/low/zero energy sources and recycle existing materials.

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

**Policy GP3 (Service Infrastructure)** states that development will be permitted where, as applicable:

- i) necessary and appropriate service infrastructure either exists or can be provided;
- ii) in areas served by the public foul sewer, there is capacity for the development within the system or, if not, satisfactory improvements are provided by the developer; in areas served by the public foul sewer, development will not be permitted with connections to private facilities unless there are exceptional circumstances.

**Policy GP4 (Highways and Accessibility)** states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

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

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

**Policy GP7 (Environmental Protection and Public Health)** states that development will not be permitted which would cause or result in unacceptable harm to health.

**Policy CE9 (Coastal Zone)** states that development will not be permitted in the coastal area unless it is required to be on the coast to meet exceptional needs that can't be reasonably accommodated elsewhere and the area is not at risk nor would the proposed development exacerbate risks from erosion, flooding or land instability.

**Policy CE10 (Renewable Energy)** encourages the development of renewable energy schemes as long as they do not have any over-riding environmental or amenity issues.

**Policy T4 (Parking)** requires development to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards.

#### **Newport's Supplementary Planning Guidance**

Wildlife and Development SPG (2015)

Parking Standards SPG (2015)

Air Quality SPG (2018).

#### **The Welsh National Marine Plan**

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

## **4. CONSULTATIONS**

4.1 NATURAL RESOURCES WALES: We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome if the documents identified below are included in the approved plans and documents condition on the decision notice, and conditions regarding European Protected Species and land contamination be attached to any planning permission granted.

Please note, without the inclusion of these documents and conditions we would object to this planning application. Further details are provided below.

### **European Protected Species**

#### **Otters**

Further to our previous advice on this case, we note the findings of an otter survey of the site carried out by Lee Jenkins on 13/05/2024 and 20/05/2025. Given that use of the site by otters cannot be ruled out, we advise that the design of the security fence proposed around the solar farm includes features at intervals along the fence line which will allow otters (and other mammals) to permeate the site boundary and use the site. We note that the current fence design does not include any such provision.

Appropriate provision could be in the form of individual fence panels installed to leave a suitably sized gap underneath, or for individual panels to include a suitably sized hole at the bottom of the panel.

### **Summary**

We have concerns regarding the application but consider that these could be addressed through the application of appropriately worded conditions on any consent issued for the scheme to:

- i. Include the following documents and drawings in the condition listing the approved documents and drawings:
  - Drawing 001 (Version A) 'Docksway Recycling Centre Solar Farm. Site Location Plan' by Dulas dated 30/8/23;
  - Drawing 002 (Version B) 'Docksway Recycling Centre Solar Farm. Site Layout' by Dulas dated 3/1/24;
  - Drawing RMA-500-01 'Docksway Solar Farm, Newport, 'Proposed Softworks Layout' by Rob Malcomson Associates dated January 2024;
  - 'Landscape Management Plan. Docks Way Solar PV, Newport (V2)' by RMA dated September 2023.
- ii. Implementation of the recommendations within Table 6/section 5 of the 'Preliminary Ecological Appraisal Final. Land at Docks Way, Newport, NP20 2NS' by Wildwood Ecology dated 05/03/2024;  
and
- iii. Prior to the works commencing on site, the submission for your Authority's written approval of a revised security fence drawing (Drawing 005 (Version A)) which includes appropriate provision for otters to move through the fence at intermittent locations around the security fence. The fence design shall be implemented as agreed.

### **Great Crested Newts (GCN)**

We note that eDNA surveys of the pond have been carried out and were found to be negative for GCN. We note that the ditch at the western site boundary was dry at the time of PEA walkover survey.

We concur with the comments in Table 6 of the PEA report which state that the ditch should be checked again during the GCN breeding season to see if it has filled with water and if it is suitable to support breeding GCN, eDNA surveys should be carried out.

### **Land Contamination**

We have concerns with the proposals as there is potential for contamination associated with the historical landfill at the site. The site is of relatively high sensitivity as it lies over secondary aquifers and is in close proximity to the Ebbw River. In the absence of additional information being provided, we recommend that you should only grant planning permission for this scheme if the conditions listed below are attached to the planning permission:

#### **Condition 1**

No development on the site 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.

### **Condition 2**

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

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

### **Condition 3**

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.

### **Wintering and breeding birds**

We have reviewed the following documents submitted in support of the planning application:

- 'Land at The Newport Household Waste Recycling Centre - Winter Bird Survey and Breeding Bird Survey Report' produced by BE Ecological Ltd, Issue 1, Version 5, dated 4th September 2022
- 'Proposed Development: Land at Docksway, Newport – Proposed Solar Site, Ecological Appraisal' produced by BE Ecological Ltd, Issue 1, VB, dated November 2021.

We agree with the nature and the extent of the surveys undertaken. Whilst only one year of birds surveys have taken place, given the size of the proposed scheme, and the habitats on site, we view this as sufficient.

### **Flood Risk**

We note the submission of 'Land at Docks Way Disposal Site, Newport – Flood Risk Statement' produced by JBA Consulting, dated September 2023. We note that the application is not in the flood outlines. We therefore advise consultation with the Lead Local Flood Authority (LLFA) for advice on localised flood risk from pluvial, surface water or groundwater should be sought as early as possible in the development process.

4.2 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.

4.3 DWR CYMRU WELSH WATER: As there is no intention to connect foul or surface water flows to the public sewer, Welsh Water has no comment to make.

- 4.4 WILDLIFE IN NEWPORT: no comments received.
- 4.5 NEWPORT ACCESS GROUP: no comments received.
- 4.6 NEWPORT CIVIC SOCIETY: no comments received.

## 5. INTERNAL COUNCIL ADVICE

- 5.1 HIGHWAY OFFICER: No objection. The proposals would have no impact on highways except during construction. The submission deals with the potential impacts of construction satisfactorily. We would ordinarily suggest that a Construction Management Plan is secured by way of condition. However, the Transport Statement could be used instead as an approved document to secure the mitigation measures proposed therein.
- 5.2 ECOLOGY OFFICER: I support the methodology and conclusions of the Preliminary Ecological Appraisal Final Rev A dated 05/03/24, and the implementation of the recommendations set out in section 5.4 (Table 6) should be secured by planning condition.

I note also the undated and untitled Otter survey report, which includes as a conclusion:- *'The habitat shows good potential for otter commuting, limited feeding (pond) and resting places, but the site is very heavily disturbed, so it is thought that if a (sic) otter was using the site, that it would be on rare occasions and during the quieter hours. It is recommended that the ecologist onsite during the habitat removal is mindful of potential otter activity and checks the bramble thickets prior to removal.'* This recommendation, together with those made by NRW in relation to the design of the fence, should be secured by planning condition along with the recommendations from the PEA.

In general, I support the comments made by NRW in their letter of 26<sup>th</sup> June 2024, although they seem to draw no conclusion or provide specific advice in relation to wintering and breeding birds, other than to agree with the survey methodology. In relation to a Habitats Regulations Assessment, we should consider potential impacts upon overwintering and migratory wetland birds, which are features of the Severn Estuary European Marine Site, together with impacts upon Otters, which are a feature of the River Usk SAC.

However, in their consultation responses NRW have not advised that there is likely to be a significant effect upon these features. The surveys to date have not suggested any likely significant effect upon wintering birds and otters, so we are entitled to conclude that an Appropriate Assessment is not necessary on this occasion.

I welcome the Green Infrastructure Statement, in the form of the Green Infrastructure Opportunities & Strategy RMA 500-3, and advise that implementation of the measures set out on that plan be secured by planning condition.

- 5.3 LANDSCAPE OFFICER: has commented as follows:

A Landscape and Visual Appraisal, Landscape Plan and Landscape Management Plan all by Rob Malcomson Associates Ltd June 2023 have been submitted. All documents are to industry standards.

Viewpoints include the key receptors of the Transporter Bridge VP1, Wales Coastal Path VP 4,5,6 and conclude the proposal will not be visible from these locations.

The LVA concludes para 9.9 that the development will be viewed in the context of the existing industrial edge and comfortably assimilated into the wider landscape by a combination of existing and proposed planting.

Mitigation and enhancement planting is detailed in the Landscape Plan.

New native hedges will be cut at 2m height.

Soils (the site is a former landfill site) is dealt with in the Landscape Management Plan appendices – this will be Tree Planting Compost (TMPC) mixed with existing topsoil.

The underground cable route must retain vegetation screen along the A48 - note this is not included within the Tree Survey. Retention should be conditioned and replacement planting provided as required otherwise views will be opened up onto the recycling centre.



5.4 PUBLIC RIGHTS OF WAY OFFICER: no comments received.

5.5 TREE OFFICER: No objection subject to conditions as follows:

In terms of the proposal to translocate tree T3, the instructions provided by Treecare in terms of methodology shall be followed.

There should be a pre-commencement site meeting with the Tree Consultant, Contractor and with at least 1 member of the Tree Team.

Tree Protective Fencing shall be provided in accordance with the information supplied

There shall be an Arboricultural Watching brief for the period of the project.

When marking out the line of fencing as shown on the plan (group G1), the exact line of fences must be agreed on site by the Tree Consultant and the NCC Tree Team.

5.6 PUBLIC PROTECTION: no objections. The service area is supportive of the proposal; the scheme will not disrupt any activities at the site with all areas now completely capped.

The following conditions have been requested:

#### **Plant and Equipment Noise – Sub-station / electrical distribution**

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, measured at the façade of the nearest noise sensitive receptor.

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

#### **Solar Farms – Glint & Glare**

An assessment of potential glint and glare from panels and supporting structures shall be submitted, which includes the identification of any mitigation measures required to ensure there is no detrimental impact on sensitive properties. The assessment, together with details of any necessary mitigation measures, shall be submitted for approval prior to commencement of development and once approved, the solar farm shall operate in accordance with the approved details.

#### **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.

- 5.7 SCIENTIFIC OFFICER: The land on which the solar panel array is proposed has landfilling former uses associated with it and as such the proposed development is likely to encounter land contamination. It is considered that risks to human health can probably be managed however any potential risks to controlled waters are unknown and as such a full ground investigation which considers both human health and controlled waters is relevant to this application. The preliminary geotechnical feasibility study is noted however conditions which require full consideration of land contamination would be needed in order to provide both the LPA and NRW with reassurance that there will not be any unintended consequences through such a development.

The following conditions should be applied where any permission is considered:

### **Contamination**

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

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

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

- d) Following remediation a Completion/Verification Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.
- e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

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



### **Contamination – Unforeseen**

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

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

### **Contamination – Imported Material**

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

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

- 5.8 PLANNING POLICY MANAGER: no comments received.
- 5.9 HERITAGE OFFICER: no objection. Sufficient planting to provide screening should be provided.
- 5.10 DRAINAGE OFFICER: no comments received.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 100m of the application site were notified, a site notice was displayed, and a notice has been placed in the press. No comments have been received.
- 6.2 COUNCILLORS ADAN AND JENKINS: have been consulted. No comments received.

## **7. ASSESSMENT**

### **The site and its surroundings**

- 7.1 The site is located to the south of Newport Household Waste Recycling Centre which is to the south of the A48 Docks Way. The land is part of the Council's landfill site. Newport East Retail Park is located to the north, the river Ebbw runs parallel to the site some 75 metres off to the west beyond an access track associated with the recycling centre and the remainder of the landfill site is located to the east. To the east of that are the Docks and associated employment uses.
- 7.2 Ground levels are highest along the southeastern boundary and generally fall in a north westerly direction towards the western boundary. Ground levels are approximately 24.6m AOD at the highest point along the eastern boundary of the site and fall to 13.6m AOD along the western boundary of the site. A localised topographic depression is present within the central area of the site which forms a pond.
- 7.3 A high voltage overhead electricity line carried on steel lattice towers runs along the western part of the site aligned north-east to south-west. There are no public rights of way within or adjacent to the site.

### **The development**

- 7.4 The proposed development seeks to develop a ground mounted solar development. The scheme would involve the provision of 81 full tables of solar arrays, in addition to 11 half tables in 24 rows, resulting in the installation of a total of 2,076 solar modules. The scheme would provide a total capacity of 1 MWp, which would typically power 173 houses.
- 7.5 The panels will be mounted on frames which in turn would be mounted on concrete ballast blocks. The frame would be set at an incline to maximise solar gain and so would be set off the ground by a minimum of 800mm rising to 3.28 metres. Each module mounting table is

4.6 m (length) x 13.67m (width), with a distance of 5m proposed between each row of mounting tables.

- 7.6 The primary access to the solar farm would be via the existing access road serving Newport Household Waste Recycling Centre, which is accessed off the A48 (Docks Way) roundabout to the north-west of the site. An access track from the north of the site to the south-west boundary would be constructed beneath the overhead power lines, to allow for the maintenance and repair of the proposed solar arrays.
- 7.7 A perimeter mesh style fence with a height of 3.3m is proposed. A CCTV monitoring system consisting of 15 cameras is proposed at various locations on the proposed perimeter fence. The CCTV system will be operational 24 hours a day.
- 7.8 A switch room is proposed at the north of the site close to the site's entrance from Newport Household Waste Recycling Centre. The switch room is proposed to have dimensions of 3.4m (height) x 9.0m (length) x 2.40m (width).
- 7.9 An area near the north-west/south-east boundary of the site and at the far south of the site are options to accommodate a temporary compound, which will be used during the construction/installation of the facility. These areas would be restored following the construction works.
- 7.10 A temporary construction access would be provided via the western boundary, but this would be closed following construction works.
- 7.11 The proposed lifespan of the scheme is 25 years.

#### **Issues**

- 7.12 The following issues have been considered as part of the application:
- Planning policies
  - Site Suitability
  - Visual impact
  - Trees
  - Ecology
  - Contamination
  - Highways and Access
  - Flooding

#### **Planning policies**

- 7.13 The site is located within the urban boundary, as defined by the Local Development Plan Proposals Map. The site comprises a former landfill site and represents a brownfield site. Policy SP1 'Sustainability' states that proposals are required to make a positive contribution to sustainable development, by concentrating development in sustainable locations on brownfield land within the settlement boundary.
- 7.14 Policy CE9 Coastal Zone of the Local Development Plan states:

'Development will not be permitted in the coastal area or adjoining the tidal river unless: i) in the undeveloped coastal area such development is required to be on the coast to meet an exceptional need which cannot reasonably be accommodated elsewhere;

ii) the area is not itself at risk nor will the proposed development exacerbate risks from erosion, flooding or land instability development which requires a coastal location should be sited within the developed coastal zone.'

7.15 The site is located within the Developed Coastal Zone and the development will not exacerbate risks of erosion or flooding, and so the proposal accords with this policy.

7.16 Local Development Plan Policy CE10 'Renewable Energy' states:

'Renewable energy schemes will be considered favourably, subject to there being no over-riding environmental and amenity considerations. small scale micro-generation will be encouraged within the settlement boundary. large scale proposals may be more

appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist. the cumulative impacts of renewable energy schemes will be an important consideration.'

7.17 Planning Policy Wales is clear that the Welsh Government is committed to using the planning system to tackle climate change by optimising the use of low carbon / renewable energy. Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. As such national policy sees significant benefits in renewable generation.

7.18 This proposal seeks to address the need for increased renewable development, which is an overarching theme in both national and local planning policy, and highlights Newport City Council's attitude towards working towards net-zero and achieving sustainable development. In passing the motion which declared an ecological and climate emergency, Newport City Council committed to reduce its carbon emissions to net zero by 2030 and to develop a clear climate change plan. This application is in direct response to this strategy as it would allow the fleet of refuse vehicles to be powered by renewable energy thereby phasing out its reliance on diesel-powered engines.

### **Site Suitability**

7.19 A sequential assessment has been submitted with the application which concludes that the site is suitable for a number of reasons:

- The site is owned by the Council which assists with the viability of the scheme.
- The site is adjacent to the Household Waste Recycling Centre where a substation is located, which will lower grid connection cost. 12 electric refuse vehicles are docked at the site and so there is the opportunity for solar generated electricity to directly charge vehicles.
- The site benefits from good access to allow for delivery of panels and construction traffic.
- The site comprises previously developed land.
- There are no nearby residential or other incompatible type uses that may be affected.
- The site does not lie within the Gwent Levels Registered Landscape of Outstanding Historic Interest or the Gwent Levels Special Landscape Area. The overall conclusion of the Landscape and Visual Assessment is that the development would be viewed in the context of the existing industrial edge and so would easily be assimilated into the wider landscape by a combination of existing and proposed landscaping.
- The former landfill use significantly restricts potential future uses. The site is not being used for agricultural purposes. The proposal would therefore secure a valuable use for the site.

7.20 The assessment concludes that there are no other suitable or viable alternative sites for the development of solar PV, within the search area on Newport City Council owned land. The proposed development was the only site suitable for construction and with a viable grid connection. Therefore, it is necessary for the development to be located on this application site.

### **Visual impact**

7.21 Policy CE1 'Routeways, corridors and gateways' states that:

'Development proposals should protect and enhance the appearance and connectivity of existing and future main route corridors and gateways into the city'. The southern distributor road (Docks Way) is one of the routes identified in the policy.

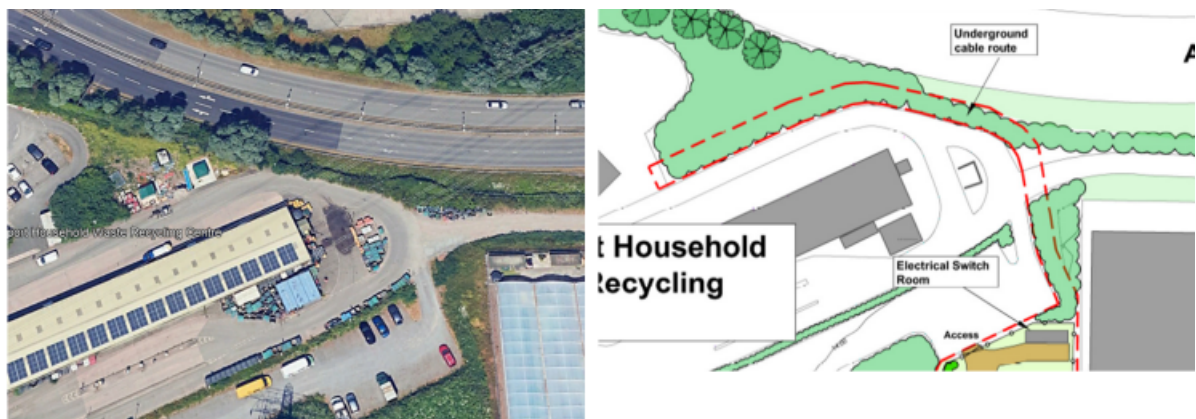
7.22 The scheme would involve panels / fencing that would have a maximum height of just over 3 metres, and so the development is relatively low level in terms of any impact. The solar farm would be largely screened from the north by the Newport Household Waste Recycling Centre and existing trees and shrubbery adjacent to the A48.

7.23 A Landscape Appraisal (Landscape and Visual Impact Assessment) has been submitted with the application which concludes that the development will be viewed in the context of an

existing industrial edge and 'can be comfortably assimilated into the wider landscape by a combination of existing and proposed planting'. Proposed landscaping with planting of native species particularly along the northern and western boundaries would minimise visual impact and help contribute to the local landscape character.

7.24 The Council's Landscape Officer has raised no objection to the application but has pointed out that the underground cable route would impact upon the existing vegetation screen along the A48 and has requested mitigation / replacement planting to avoid views being opened up onto the recycling centre.

7.25 The Proposed Softworks Layout indicates that the underground cable shall be routed to minimise the removal of existing vegetation and following installation of the cable, the area disturbed shall be re-planted with a mix of planting. A condition has been attached to ensure that this replanting takes place.



### Trees

7.26 Paragraph 6.4.42 of Planning Policy Wales states 'Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits. Where individual or groups of trees and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.15. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure. The application proposes the removal of 12 trees within the site but proposes the translocation of a Field Maple (T3) and the replanting of 39 trees within the proposed hedgerow. The group of trees adjacent to the pond are to be retained. This replanting at a ratio of 3:1 accords with Planning Policy Wales.

7.27 The Council's Tree Officer has raised no objection subject to conditions to deal with the translocation of one of the trees affected by the scheme, the provision of tree protective fencing and the appointment of an Arboriculturist to perform a Watching brief during the works. These conditions have been imposed.

### Ecology

7.28 There are a number of national and international nature conservation designations within the vicinity but well outside the site. These are the Gwent Levels Site of Special Scientific Interest (SSSI), River Usk Special Area of Conservation (SAC) and SSSI, the Severn Estuary RAMSAR, Special Protection Area (SPA), SAC and SSSI. The appraisal considers that these are sufficiently well separated so that adverse impacts on their designated features are not anticipated. Natural Resources Wales has not advised that there is likely to be a significant effect upon these features. The surveys to date have not suggested any likely significant effect upon wintering birds and otters, so an Appropriate Assessment is not necessary on this occasion.

7.29 The application has been accompanied by a Preliminary Ecological Appraisal. This sets out that the site consists of grassland and scrub and a pond, and the proposal will involve some vegetation clearance. The appraisal contains several recommendations:

- A Construction Management Plan, including working methods, to avoid pollution and protect protected species
- Retain the pond and provide a construction buffer zone
- Details of lighting if any is proposed to protect bats
- An otter survey to be undertaken
- Provide gaps in bases of fences to allow otters to traverse the site
- Reptile mitigation strategy prior to removal of vegetation
- Provide 4no. hibernacula for reptiles around the pond (a shelter occupied during the winter by a dormant animal).
- Bird nesting and bat roosting boxes
- Planting of a native hedgerow
- Planting a diverse seed mix is proposed around the solar panels.

7.30 The application has been accompanied by a Green Infrastructure Strategy and a Proposed Softworks Plan which has taken on board these recommendations and indicate the provision of this biodiversity mitigation and enhancement. This includes the planting of a diverse seed mix across the site, the planting of a hedgerow and tress along the northern and western boundaries, and provision of 4no. hibernacula. Trees lost are proposed to be replanted at a ratio of 3:1 as detailed in Planning Policy Wales.

### **Otters**

7.31 In terms of protected species, the Preliminary Ecological Appraisal recommended that an otter survey be carried out and this was then submitted during the planning application. No signs of otters were found during the survey, but the habitat shows good potential for otter commuting, limited feeding (pond) and resting places.

7.32 Natural Resources Wales has stated that given that use of the site by otters cannot be ruled out, the security fence proposed around the solar farm should be designed to provide gaps at intervals to allow otters (and other mammals) to permeate the site boundary and use the site. A condition has been imposed accordingly.

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

7.34 The solar farm would provide a source of renewable energy which would help contribute to Welsh Government's targets on renewable energy as supported by Future Wales, Planning Policy Wales and Policy CE10 of the Local Development Plan. The proposal would constitute overriding public interest of a social nature. This test is therefore passed.

7.35 ii. There is no satisfactory alternative.

7.36 The application has been accompanied by a sequential assessment which sets out the reasons why this site was selected and these are set out in Paragraph 7.19 of this report. In summary, the site comprises brownfield land and is preferable to greenfield locations. This test has been met.

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

7.38 The otter survey did not find evidence of otters on the site, but given the potential for use, a condition is imposed to require gaps in the security fence to enable otters to benefit from the site. On this basis, it is not considered that the proposals would be detrimental to a population of otters, and so this test is passed.

### **Contamination**

7.39 The application site lies within the wider Docks Way Disposal Site, which has been subject to waste and landfill activity for a significant period of time. Both Natural Resources Wales

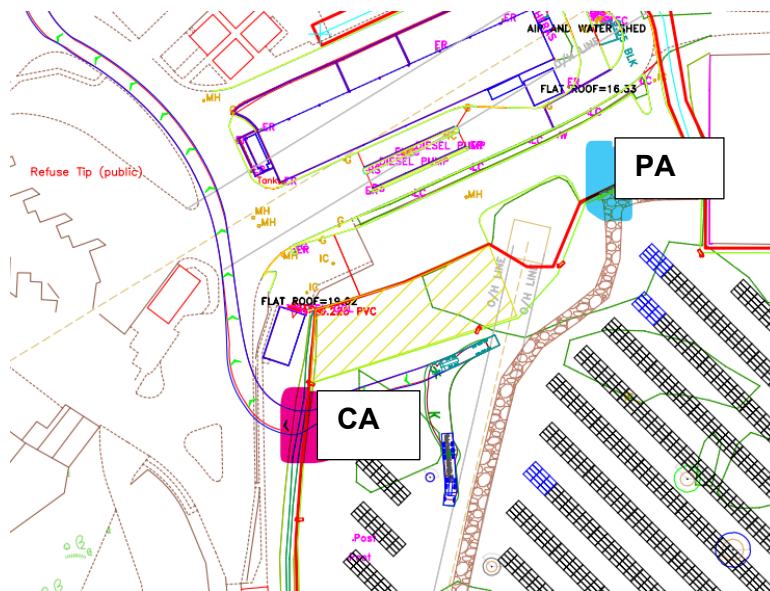
and the Public Protection Manager have requested that conditions be imposed to require contamination reports to be undertaken and these conditions have been imposed.

7.40 The use of concrete “ballast” or surface pad foundations avoids the need for ground penetration. A condition has been imposed to require that this type of foundation shall be used.

7.41 The applicant has advised that the manager of the landfill site has no concerns.

### Highways and Access

7.42 A transport statement has been submitted with the application which acknowledges that the Docks Way Household Waste Recycling Centre already accommodates significant amounts of HGV movements. It is not considered that further mitigation measures to allow for the accommodation of additional vehicular movements will be required. The plan below shows the proposed construction access (marked ‘CA’) and proposed primary access (marked ‘PA’). The construction access would be blocked up following construction. The primary access, which is gained via the existing service road that serves the Recycling Centre would be used to maintain the solar farm. No staff would be based at the site. It is expected that during the operational phase, traffic movements would be low (approximately four times a year, with trips typically made by small vans or 4x4 vehicles).



7.43 The Council’s highways officer has raised no objection and suggest that a condition be imposed to require mitigation measures proposed within the Transport Statement to be secured.

### Flooding

7.44 The application has been accompanied by a flood risk statement. This has found that the proposed development lies within Zone B of the Natural Resources Wales (NRW) Development Advice Map (DAM) and Flood Zone 1 of the Flood Map for Planning for Rivers and the Sea. Zone B is used as part of a precautionary approach to indicate where site levels should be checked against the extreme (0.1%) flood level. Flood Zone 1 represents areas with less than a 1 in 1000 (0.1%) chance of flooding in a given year, including climate change. The site has a very low risk of fluvial, tidal and reservoir flooding and generally has a very low risk of surface water and small watercourses flooding. Flood modelling of the River Ebbw and River Usk shows that the proposed development site is flood free in all climate change scenarios and therefore complies with A1.14 and A1.15 of TAN 15.

### Decommissioning

7.45 The applicant has indicated that the development would have a lifespan of 25 years. Given the location of the site on a former landfill site and the acceptable impact of the scheme in amenity and environmental terms, it is not considered necessary in this instance to impose a planning condition to require the decommissioning of the solar farm within this timescale.

## 8. OTHER CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

## 9. CONCLUSION

### 9.1 The proposal is acceptable subject to the following conditions.

## 10. RECOMMENDATION

### GRANTED WITH CONDITIONS

#### Plans Condition

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

Site Location Plan 001.A draft 1

Site Layout 002. Version B

Solar Module and Mounting Table 003.A Issue 1

Electric Switch Room 004.A Issue 1

Security Fence, Gate and CCTV Camera 005.A Issue 1

Cable Trench Cross Section 006.A draft 1

Above Ground Cable Ducting 007.A Issue 1

Access Track Construction 008.A Issue 1

Gas Infrastructure Plan 6372\_GI06

Design and Access Statement Asbri Planning October 2023

Planning Statement Asbri Planning October 2023

PAC Report \* Asbri Planning

Proposed Maintenance Plan Newport City Council

Site Sequential Assessment Newport City Council

Proposed Softworks Layout RMA-500-01 July 2024 Issue 4

Landscape and Visual Impact Appraisal June 2023

Landscape and Visual Impact Appraisal Appendices

Landscape Management Plan Rob Malcolmson Associates version 3 July 2024

GI Assets RMA 500-2

GI Opportunities and Strategy RMA 500-3 Rev A

Tree Information Treecare Consulting 13 October 2022

Transplanting and Aftercare by Treecare Consulting 24 July 2024

Tree Constraints Plan 24 July 2024

Site Layout showing Arboricultural Survey Data 010 Version D

Flood Risk Statement JBA September 2023

Flood Consequences Assessment and Drainage Strategy PHG September 2023

Ecological Appraisal 2021 BEEcological Issue 1 Version B November 2021

Winter Bird and Breeding Bird Survey BEEcological Issue 1 Version 5 4 September 2022

Preliminary Ecological Appraisal Wildwood Ecology Rev A 5 March 2024

Invertebrate Survey Wildwood Ecology 30 May 2022

Reptile and Invertebrates Report Wildwood Ecology 20 October 2022

eDNA Survey Results Sure Screen Scientifics 12 May 2022

Otter Survey Report by Wildlife Surveys received 3 June 2024

Preliminary Geotechnical Feasibility Assessment Stantec October 2021

Transport Statement Asbri Transport revised July 2024.

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

#### **Construction Environmental Management Plan (Highways)**

02 The scheme shall be implemented in accordance with the mitigation measures outlined in Section 5 of the Transport Statement hereby approved.

Reason: In the interests of highway safety.



### **Construction Environmental Management Plan (Amenity)**

03 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.

### **Contamination**

04 No development on the site 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.

5. 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
6. 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.
7. 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.
8. 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.

### **Grid connection landscaping**

05 Prior to the commencement of development, a landscaping and tree planting scheme, in relation to the grid connection cabling, indicating the number, species, heights on planting and positions of all trees and shrubs scheme 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 completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting

in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

### **Arboriculturist**

06 No development shall commence until an Arboriculturist has been appointed, as first agreed in writing by the Local Planning Authority. The appointed Arboriculturist shall oversee the project and perform an Arboricultural Watching Brief for the duration of the development and shall be responsible for -

- (a) Supervision and monitoring of the approved Tree Protection Plan;
- (b) Supervision and monitoring of the approved tree felling and pruning works;
- (c) Supervision of the alteration or temporary removal of any Barrier Fencing;
- (d) Oversee working within any Root Protection Area;
- (e) Reporting to the Local Planning Authority;
- (f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Council's Tree Officer (to include a pre-commencement meeting) and agree on site with the Tree Officer the line of fencing as shown on the plan (group G1).

Reason: To protect important landscape features within the site.

### **Tree protection and translocation**

07 Prior to the installation of any solar arrays, Tree T3 shall be translocated in full accordance with the Transplanting and Aftercare dated 24 July 2024 by Treecare. The works and all protective fencing shall be provided and undertaken in full accordance with the Tree Information dated 13 October 2022.

Reason: To protect trees.

### **Contamination**

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

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

### **Ecology**

09 The ecological mitigation and enhancements outlined in Table 6/section 5 of the 'Preliminary Ecological Appraisal, the Green Infrastructure Statement and proposed softworks layout hereby approved shall be fully implemented as part of the development.

Reason: In the interests of protecting ecology.

### **Ecology**

10 Prior to the erection of the security fence, and notwithstanding the plans submitted, full details of the fence which shall be designed to allow provision for otters to move through the fence at intermittent locations shall be submitted to and agreed in writing with the Local Planning Authority. The fence shall be erected and retained in accordance with the agreed plans.

Reason: In the interests of protecting ecology.

### **Plant and Equipment Noise – Sub-station / electrical distribution**

11 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, measured at the façade of the nearest noise sensitive receptor.

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

### **Landscaping**

12 The scheme of landscaping / 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 retained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and retained 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.

### **Lighting**

13 There shall be no permanent illumination installed at the site.

Reason: To clarify the extent of this permission in the interests of ecology.

### **Foundations**

14 The solar arrays hereby approved shall be installed using solely 'ballast' (surface pad) foundations.

Reason: To ensure that the capping layer of the landfill site is not disturbed, in the interests of ecology and pollution prevention.

### **Contamination**

15 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

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

### **Closure of Construction Access**

16 Prior to the beneficial operation of the solar farm, the construction access shall be permanently closed.

Reason: In the interest of highway safety.

### **NOTE TO APPLICANT**

The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE9, CE10 and T4 were relevant to the determination of this application.

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

04 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.

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