

Report

Planning Committee

Part 1

Date: 19 November 2015

Item No: 3

Subject Planning Application Schedule

Purpose To take decisions on items presented on the attached schedule

Author Head of Regeneration, Investment and Housing

Ward As indicated on the schedule

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

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

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

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

Action by Planning Committee

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

Background

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

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

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

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

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

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

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, 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.	Development Services Manager and Senior Legal Officer
			Ensure appeal timetables are	Development

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?
			adhered to.	Services Manager
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Planning Committee Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee Development Services Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Council's Corporate Plan 2012-2017 identifies five corporate aims: being a Caring City; a Fairer City; A Learning and Working City; A Greener and Healthier City; and a Safer City. Key priority outcomes include ensuring people live in sustainable communities; enabling people to lead independent lives; ensuring decisions are fair; improving the life-chances of children and young people; creating a strong and confident local economy; improving the attractiveness of the City; promoting environmental sustainability; ensuring people live in safe and inclusive communities; and making Newport a vibrant and welcoming place to visit and enjoy.

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 links to other strategies and plans, the main ones being:

- Single Integrated Plan;
- Local Development Plan 2011-2026 (Adopted January 2015);

The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City. Its vision is: "*Working together to create a proud and prosperous City with opportunities for all*"

The Single Integrated Plan has six priority themes, which are:

- Skills and Work
- Economic Opportunity
- Health and Wellbeing
- Safe and Cohesive Communities

- City Centre
- Alcohol and Substance Misuse

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

- 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.

Staffing Implications: Comments of Head of People and Business Change

Development Management work is undertaken by an in-house team and therefore there are no staffing implications arising from this report. Officer recommendations have been based on adopted planning policy which aligns with the Single Integrated Plan and the Council's Corporate Plan objectives.

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

Equalities Impact Assessment

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.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

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.

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 7 (July 2014)

Minerals Planning Policy Wales (December 2000)

PPW Technical Advice Notes (TAN):

TAN 1: Joint Housing Land Availability Studies (2006)

TAN 2: Planning and Affordable Housing (2006)

TAN 3: Simplified Planning Zones (1996)

TAN 4: Retailing and Town Centres (1996)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 7: Outdoor Advertisement Control (1996)

TAN 8: Renewable Energy (2005)

TAN 9: Enforcement of Planning Control (1997)

TAN 10: Tree Preservation Orders (1997)

TAN 11: Noise (1997)

TAN 12: Design (2014)

TAN 13: Tourism (1997)

TAN 14: Coastal Planning (1998)

TAN 15: Development and Flood Risk (2004)

TAN 16: Sport, Recreation and Open Space (2009)
TAN 18: Transport (2007)
TAN 19: Telecommunications (2002)
TAN 20: The Welsh Language: Unitary Development Plans and Planning Control (2013)
TAN 21: Waste (2014)
TAN 23: Economic Development (2014)

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

Welsh Government Circular 016/2014 on planning conditions

LOCAL POLICY

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

Supplementary Planning Guidance (SPG):

Affordable Housing (adopted August 2015)
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)
Flat Conversions (adopted August 2015)
House Extensions and Domestic Outbuildings (adopted August 2015)
Houses in Multiple Occupation (HMOs) (adopted August 2015)
New dwellings (adopted August 2015)
Parking Standards (adopted August 2015)
Planning Obligations (adopted August 2015)
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)
Wildlife and Development (adopted August 2015)

OTHER

The Colliers International Retail Study (July 2010) is not adopted policy but is a material consideration in making planning decisions.

The Economic Development Strategy is a material planning consideration.

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.

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (Wales) Regulations 2008 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

Dated: 12 November 2015

APPLICATION DETAILS

No: 15/0803 **Ward:** *SHAFTESBURY*

Type: *OUTLINE (MAJOR)*

Expiry Date: 27-AUG-2015

Applicant: *WYE VALLEY CITY PROJECTS LTD*

Site: *FORMER SAINSBURY, SHAFTESBURY STREET, NEWPORT*

Proposal: *DEMOLITION AND REDEVELOPMENT OF THE SITE TO PROVIDE A MIXED USE DEVELOPMENT INCLUDING STUDENT ACCOMMODATION OF UP TO 601 NO. BEDROOMS, UP TO 144 NO. DWELLINGS (USE CLASS C3), A HOTEL INCORPORATING UP TO 84 NO. BEDROOMS (USE CLASS C1), UP TO 406M² CONVENIENCE GOODS RETAIL FLOORSPACE (USE CLASS A1), UP TO 186M² CAFE/RESTAURANT FLOORSPACE (USE CLASS A3), UP TO 464M² OF HEALTH FACILITIES, INCLUDING A PHARMACY OF UP TO 75M² (USE CLASS D1 AND A1), WITH ASSOCIATED INFRASTRUCTURE INCLUDING VEHICULAR ACCESS AND SERVICING AREAS, PARKING SPACE FOR CARS, CYCLES, MOTOR CYCLES AND MOBILITY SCOOTERS, FLOOD DEFENCE WORKS INCLUDING ALTERATION OF GROUND LEVELS AND LANDSCAPING AND PUBLIC REALM WORKS INCLUDING PEDESTRIAN AND CYCLE ROUTES AND CONNECTIONS (OUTLINE)*

Recommendation: **GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 3 MONTHS OF A RESOLUTION TO GRANT PERMISSION.**

1. INTRODUCTION

1.1 The application is outline only however only design and landscaping are reserved matters with layout, scale and access being determined at this stage. The site comprises the former Sainsbury's supermarket site in Crindau and an area of domestic garaging immediately to the north of the site owned by Newport City Homes. The site area is approximately wedge shaped and covers 2.69 hectares. The former supermarket building is retained, as are the garages with the rest of the site being hard surfaces. The site is currently accessed by an in / out arrangement from the B4591 on the site's south western boundary. The garages are accessed from Pugsley Street. The site is constrained by Heidenheim Drive and its associated roads to the west and south, the River Usk to the east and Pugsley Street to the north. The site perimeters are significantly wooded with the trees being subject to a Tree Protection Order.

1.2 The proposal would see the construction of a hotel (incorporating a café), student accommodation blocks and residential flatted blocks along the river front as well as a river front walkway. A further block comprising a health centre, student accommodation and a convenience store would front Heidenheim Drive and its associated roads. Two further residential blocks would infill the remaining space. Much of the wooded perimeter would be retained. Three new accesses are proposed from Pugsley Street with an egress proposed for the B4591 in a similar position to the existing access. 307 parking spaces are proposed, some within basements and some within the rest of the site. Building heights will vary but the hotel will go up to 14 storeys. Arrangements will be made for cycle parking, motor-cycle parking and bins storage to serve the various buildings.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
09/0733	REDEVELOPMENT OF EXISTING SUPERMARKET FOR RESIDENTIAL AND HOTEL DEVELOPMENT (OUTLINE)	Disposed of 09 February 2015
13/1319	SCREENING OPINION REQUEST FOR TIDAL FLOOD ALLEVIATION SCHEME AT CRINDAU PILL	Environmental Statement (ES) not required 21 January 2014
15/0078	PROPOSED NEW RAISED FLOOD DEFENCES COMPRISING REINFORCED CONCRETE WALLS, EMBANKMENTS AND GROUND RAISING 0.2M-1.5M ABOVE EXISTING GROUND LEVELS AND ASSOCIATED WORKS	Granted with Conditions 01 April 2015
15/0392	SCREENING OPINION FOR MIXED USE DEVELOPMENT INCLUDING STUDENT ACCOMMODATION, PRIVATE RESIDENTIAL, HOTEL, COMMERCIAL AND RIVERSIDE PARK	Environmental Statement not required 22 April 2015

3. POLICY CONTEXT

3.1 Planning Policy Wales (Edition 7)

Outlines national planning policy.

3.2 Technical Advice Notes

These are national documents that offer more detailed planning advice in relation to particular issues.

The following are relevant to this proposal:

TAN4 – Retailing and Town Centres

TAN5 – Nature Conservation and Planning

TAN10 – Tree Preservation Orders

TAN11 – Noise

TAN15 – Development and Flood risk

TAN18 – Transport

TAN23 – Economic Development

3.3 Adopted Newport Local Development Plan 2011-2026

Policy	Text
SP1- Sustainability	REQUIRES PROPOSALS TO MAKE A POSITIVE CONTRIBUTION TO SUSTAINABLE DEVELOPMENT BY CONCENTRATING DEVELOPMENT IN SUSTAINABLE LOCATIONS ON BROWNFIELD LAND WITHIN THE SETTLEMENT BOUNDARY.
SP2 – Health	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.
SP3 – Flood Risk	NEWPORT'S COASTAL AND RIVERSIDE LOCATION NECESSITATES THAT DEVELOPMENT BE DIRECTED AWAY FROM AREAS WHERE FLOOD RISK IS IDENTIFIED AS A CONSTRAINT AND ENSURE THAT THE RISK OF FLOODING IS NOT INCREASED ELSEWHERE. DEVELOPMENT WILL ONLY BE PERMITTED IN FLOOD RISK AREAS IN ACCORDANCE WITH NATIONAL GUIDANCE. WHERE APPROPRIATE A DETAILED TECHNICAL ASSESSMENT WILL BE REQUIRED TO ENSURE THAT THE DEVELOPMENT IS DESIGNED TO COPE WITH THE THREAT AND CONSEQUENCES OF FLOODING OVER

	ITS LIFETIME. SUSTAINABLE SOLUTIONS TO MANAGE FLOOD RISK SHOULD BE PRIORITISED.
SP8 – Special Landscape Areas	SPECIAL LANDSCAPE AREAS ARE DESIGNATED AS FOLLOWS WITHIN WHICH PROPOSALS WILL BE REQUIRED TO CONTRIBUTE POSITIVELY TO THE AREA THROUGH HIGH QUALITY DESIGN, MATERIALS AND MANAGEMENT SCHEMES THAT DEMONSTRATE A CLEAR APPRECIATION OF THE AREA’S SPECIAL FEATURES.
SP9 – Conservation of the Natural, Historic & Built Environment	THE CONSERVATION, ENHANCEMENT AND MANAGEMENT OF RECOGNISED SITES WITHIN THE NATURAL, HISTORIC AND BUILT ENVIRONMENT WILL BE SOUGHT IN ALL PROPOSALS.
SP10 – House Building Requirement	PROVISION IS MADE FOR 11,623 UNITS TO DELIVER A HOUSING REQUIREMENT OF 10,350 UNITS OVER THE PLAN PERIOD. THE AFFORDABLE HOUSING TARGET FOR THE PLAN PERIOD IS SET AT 2,061 UNITS. THE LAND WILL BE PROVIDED PRIMARILY ON PREVIOUSLY DEVELOPED LAND IN THE FOLLOWING WAYS: i) SITES WITH PLANNING PERMISSION, INCLUDING SITES UNDER CONSTRUCTION; ii) THE EASTERN EXPANSION AREA; iii) ALLOCATIONS SET OUT IN POLICY H1; AND iv) INFILL, WINDFALL AND SMALL SITES.
SP12 – Community Facilities	THE DEVELOPMENT OF NEW COMMUNITY FACILITIES IN SUSTAINABLE LOCATIONS WILL BE ENCOURAGED
SP13 – Planning Obligations	DEVELOPMENT WILL BE REQUIRED TO HELP DELIVER MORE SUSTAINABLE COMMUNITIES BY PROVIDING, OR MAKING CONTRIBUTIONS TO, LOCAL AND REGIONAL INFRASTRUCTURE IN PROPORTION TO ITS SCALE AND THE SUSTAINABILITY OF ITS LOCATION.
SP15 – Integrated Transport	INTEGRATED TRANSPORT WILL BE PURSUED IN LINE WITH THE NATIONAL AND REGIONAL TRANSPORT STRATEGIES. SUCH TRANSPORT WILL COMPRISE: <ul style="list-style-type: none"> i) A CO-ORDINATED PEDESTRIAN NETWORK, INCLUDING SCHEMES SUCH AS “SAFE ROUTES IN COMMUNITIES”; ii) IMPLEMENTATION OF THE CYCLING STRATEGY; iii) INNOVATIVE FORMS OF PUBLIC TRANSPORT SUCH AS BUS PRIORITY, SAFEGUARDING AND ENHANCEMENT OF RAIL ROUTES AND IDENTIFICATION OF NEW STATIONS; iv) DESIGNATION OF TRANSPORT INTERCHANGES FOR PARK AND RIDE, PARK AND SHARE, AND ROAD TO RAIL FREIGHT CENTRES; v) A CENTRAL AREA PARKING STRATEGY; vi) FACILITIES FOR PUBLIC TRANSPORT, WALKING AND CYCLING IN MAJOR NEW DEVELOPMENT; vii) INTERCHANGE BETWEEN BUS, BICYCLE AND CAR TO ENABLE SUSTAINABLE USE OF THE COUNTRYSIDE. SIGNIFICANT DEVELOPMENT PROPOSALS SHALL BE ACCOMPANIED BY TRAVEL PLANS.
SP18 – Urban Regeneration	PROPOSALS WILL BE FAVOURED WHICH ASSIST THE REGENERATION OF THE URBAN AREA, PARTICULARLY WHERE THEY CONTRIBUTE TO (AMONG OTHERS): <ul style="list-style-type: none"> iii) REUSE OF VACANT, UNDERUSED OR DERELICT LAND;
SP19 – Assessment of Retail Need	RETAIL AND ASSOCIATED USES BEST LOCATED IN A CITY CENTRE WILL BE SUBJECT TO AN ASSESSMENT OF NEED IF NOT WITHIN A DEFINED CENTRE, AND APPLICATION OF THE SEQUENTIAL TEST IF NOT WITHIN THE CITY CENTRE.

GP1 – Climate Change	DEVELOPMENT PROPOSALS SHOULD: i) BE DESIGNED TO WITHSTAND THE PREDICTED CHANGES IN THE LOCAL CLIMATE AND TO REDUCE THE RISK OF FLOODING ON SITE AND ELSEWHERE BY DEMONSTRATING WHERE APPROPRIATE THAT THE RISKS AND CONSEQUENCES OF FLOODING CAN BE ACCEPTABLY MANAGED, INCLUDING AVOIDING THE USE OF NON-PERMEABLE HARD SURFACES;
GP2 – General Amenity	DEVELOPMENT WILL BE PERMITTED WHERE, AS APPLICABLE: i) THERE WILL NOT BE A SIGNIFICANT ADVERSE EFFECT ON LOCAL AMENITY, INCLUDING IN TERMS OF NOISE, DISTURBANCE, PRIVACY, OVERBEARING, LIGHT, ODOURS AND AIR QUALITY; ii) THE PROPOSED USE AND FORM OF DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE VISUAL AMENITIES OF NEARBY OCCUPIERS OR THE CHARACTER OR APPEARANCE OF THE SURROUNDING AREA; iii) THE PROPOSAL SEEKS TO DESIGN OUT THE OPPORTUNITY FOR CRIME AND ANTI-SOCIAL BEHAVIOUR; iv) THE PROPOSAL PROMOTES INCLUSIVE DESIGN BOTH FOR THE BUILT DEVELOPMENT AND ACCESS WITHIN AND AROUND THE DEVELOPMENT; v) ADEQUATE AMENITY FOR FUTURE OCCUPIERS.
GP3 – Service Infrastructure	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;
GP4 – Highways and Accessibility	DEVELOPMENT PROPOSALS SHOULD: i) PROVIDE APPROPRIATE ACCESS FOR PEDESTRIANS, CYCLISTS AND PUBLIC TRANSPORT IN ACCORDANCE WITH NATIONAL GUIDANCE; ii) BE ACCESSIBLE BY A CHOICE OF MEANS OF TRANSPORT; iii) BE DESIGNED TO AVOID OR REDUCE TRANSPORT SEVERANCE, NOISE AND AIR POLLUTION; iv) MAKE ADEQUATE PROVISION FOR CAR PARKING AND CYCLE STORAGE; v) PROVIDE SUITABLE AND SAFE ACCESS ARRANGEMENTS; vi) DESIGN AND BUILD NEW ROADS WITHIN PRIVATE DEVELOPMENT IN ACCORDANCE WITH THE HIGHWAY AUTHORITY’S DESIGN GUIDE AND RELEVANT NATIONAL GUIDANCE; vii) ENSURE THAT DEVELOPMENT WOULD NOT BE DETRIMENTAL TO HIGHWAY OR PEDESTRIAN SAFETY OR RESULT IN TRAFFIC GENERATION EXCEEDING THE CAPACITY OF THE HIGHWAY NETWORK.
GP5 – Natural Environment	DEVELOPMENT WILL BE PERMITTED WHERE, AS APPLICABLE: i) THE PROPOSALS ARE DESIGNED AND MANAGED TO PROTECT AND ENCOURAGE BIODIVERSITY AND ECOLOGICAL CONNECTIVITY, INCLUDING THROUGH THE INCORPORATION OF NEW FEATURES ON OR OFF SITE TO FURTHER THE UK, WELSH AND/OR NEWPORT BIODIVERSITY ACTION PLANS; ii) THE PROPOSALS DEMONSTRATE HOW THEY AVOID, OR MITIGATE AND COMPENSATE NEGATIVE IMPACTS TO BIODIVERSITY, ENSURING THAT THERE ARE NO SIGNIFICANT ADVERSE EFFECTS ON AREAS OF NATURE CONSERVATION INTEREST INCLUDING INTERNATIONAL, EUROPEAN, NATIONAL, WELSH SECTION 4232 AND LOCAL PROTECTED HABITATS AND SPECIES, AND PROTECTING FEATURES OF IMPORTANCE FOR ECOLOGY; iii) THE PROPOSAL WILL NOT RESULT IN AN UNACCEPTABLE IMPACT ON WATER QUALITY; iv) THE PROPOSAL SHOULD NOT RESULT IN THE LOSS OR REDUCTION IN QUALITY OF HIGH QUALITY AGRICULTURAL LAND (GRADES 1, 2 AND 3A); v) THERE WOULD BE NO UNACCEPTABLE IMPACT ON LANDSCAPE QUALITY; vi) THE PROPOSAL INCLUDES AN APPROPRIATE LANDSCAPE SCHEME, WHICH ENHANCES THE SITE AND THE WIDER CONTEXT INCLUDING GREEN INFRASTRUCTURE AND BIODIVERSITY NETWORKS;
GP6 – Quality of	GOOD QUALITY DESIGN WILL BE SOUGHT IN ALL FORMS OF DEVELOPMENT. THE

Design	<p>AIM IS TO CREATE A SAFE, ACCESSIBLE, ATTRACTIVE AND CONVENIENT ENVIRONMENT. IN CONSIDERING DEVELOPMENT PROPOSALS THE FOLLOWING FUNDAMENTAL DESIGN PRINCIPLES SHOULD BE ADDRESSED:</p> <ul style="list-style-type: none"> i) CONTEXT OF THE SITE: ii) ACCESS, PERMEABILITY AND LAYOUT: iii) PRESERVATION AND ENHANCEMENT: WHERE POSSIBLE DEVELOPMENT SHOULD REFLECT THE CHARACTER OF THE LOCALITY iv) SCALE AND FORM OF DEVELOPMENT: NEW DEVELOPMENT SHOULD APPROPRIATELY REFLECT THE SCALE OF ADJACENT TOWNSCAPE. CARE SHOULD BE TAKEN TO AVOID OVER-SCALED DEVELOPMENT; v) MATERIALS AND DETAILING: HIGH QUALITY, DURABLE AND PREFERABLY RENEWABLE MATERIALS SHOULD BE USED TO COMPLEMENT THE SITE CONTEXT. vi) SUSTAINABILITY: NEW DEVELOPMENT SHOULD BE INHERENTLY ROBUST, ENERGY AND WATER EFFICIENT, FLOOD RESILIENT AND ADAPTABLE,
GP7 – Environmental Protection and Public Health	DEVELOPMENT WILL NOT BE PERMITTED WHICH WOULD CAUSE OR RESULT IN UNACCEPTABLE HARM TO HEALTH BECAUSE OF LAND CONTAMINATION, DUST, INSTABILITY OR SUBSIDENCE, AIR, HEAT, NOISE OR LIGHT POLLUTION, FLOODING, WATER POLLUTION, OR ANY OTHER IDENTIFIED RISK TO ENVIRONMENT, LOCAL AMENITY OR PUBLIC HEALTH AND SAFETY.
CE1 – Routeways, Corridors and Gateways	DEVELOPMENT PROPOSALS SHOULD PROTECT AND ENHANCE THE APPEARANCE AND CONNECTIVITY OF EXISTING AND FUTURE MAIN ROUTE CORRIDORS AND GATEWAYS INTO THE CITY
CE2 – Waterfront Development	DEVELOPMENT IN A WATERSIDE LOCATION SHOULD INTEGRATE WITH THE WATERWAY AND NOT TURN ITS BACK ON IT, AND SHOULD TAKE ACCOUNT OF THE INTERESTS OF REGENERATION, LEISURE, NAVIGATION, WATER QUALITY AND FLOW, AND NATURE CONSERVATION.
CE3 – Environmental Spaces and Corridors	<p>IN AND ADJOINING THE URBAN AND VILLAGE AREAS, AND IN AREAS IDENTIFIED FOR COMPREHENSIVE DEVELOPMENT, SITES HAVING EXISTING IMPORTANCE FOR THEIR VISUAL QUALITIES, AS WILDLIFE HABITATS OR FOR RECREATIONAL OR AMENITY PURPOSES, WILL BE SAFEGUARDED AS “ENVIRONMENTAL SPACES AND CORRIDORS”. DEVELOPMENT IN THESE SPACES WILL BE PERMITTED ONLY WHERE:</p> <ul style="list-style-type: none"> i) THE EXISTING OR POTENTIAL ENVIRONMENTAL QUALITIES OF THE SITE WILL BE IMPROVED OR COMPLEMENTED; ii) THERE IS NO ADVERSE IMPACT ON INTERNATIONAL, EUROPEAN, NATIONAL, REGIONAL OR LOCAL NATURE CONSERVATION INTEREST; iii) THERE IS NOT A LOSS, WITHOUT APPROPRIATE REPLACEMENT, OF A RECREATIONAL, OPEN SPACE, OR AMENITY RESOURCE FOR THE IMMEDIATE LOCALITY UNLESS IT CAN BE DEMONSTRATED THAT THERE IS AN EXCESS OF PROVISION OR FACILITIES CAN BE ENHANCED THROUGH DEVELOPMENT OF A SMALL PART OF THE SITE. PROPOSALS TO ENHANCE OR IMPROVE EXISTING ENVIRONMENTAL SPACE PROVISION WILL BE ENCOURAGED WHERE PRACTICABLE. ADDITIONAL PROVISION WILL BE SOUGHT IN AREAS WHERE A DEFICIT HAS BEEN IDENTIFIED⁵²
CE6 – Archaeology	DEVELOPMENT PROPOSALS WILL NORMALLY BE REQUIRED TO UNDERTAKE AN ARCHAEOLOGICAL IMPACT ASSESSMENT BEFORE THE PROPOSAL IS DETERMINED: i) WHERE GROUNDWORKS AND/OR THE INSTALLATION OF SERVICES ARE PROPOSED WITHIN THE ARCHAEOLOGICALLY SENSITIVE AREAS OF CAERLEON, THE LEVELS, LOWER MACHEN AND THE CITY CENTRE , OR; ii) WITHIN OTHER AREAS OF

	RECOGNISED ARCHAEOLOGICAL INTEREST.
CE9 – Coastal Zone	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.
H2 – Housing Standards	RESIDENTIAL DEVELOPMENT SHOULD BE BUILT TO HIGH STANDARDS OF ENVIRONMENTAL AND SUSTAINABLE DESIGN, TAKING INTO ACCOUNT THE WHOLE LIFE OF THE DWELLING.
H3 – Housing Mix and Density	RESIDENTIAL DEVELOPMENT OF 10 DWELLINGS OR MORE SHOULD BE DESIGNED TO PROVIDE A MIX OF HOUSING TO MEET A RANGE OF NEEDS AND SHOULD BE BUILT AT A DENSITY OF AT LEAST 30 DWELLINGS PER HECTARE.
H4 – Affordable Housing	ON-SITE PROVISION OF AFFORDABLE HOUSING WILL BE REQUIRED ON ALL NEW HOUSING SITES OF 10 OR MORE DWELLINGS WITHIN THE SETTLEMENT BOUNDARY, OR 3 OR MORE DWELLINGS WITHIN THE DEFINED VILLAGE BOUNDARIES. East Newport – 20%
T3 – Road Hierarchy	IN ORDER TO FACILITATE THE EFFECTIVE AND SAFE USE OF THE HIGHWAY NETWORK A HIERARCHY OF ROADS WILL BE ESTABLISHED. THIS ROAD HIERARCHY WILL BE USED TO DETERMINE THE PRINCIPLE OF ACCESS FOR NEW DEVELOPMENTS iv) ACCESS ROUTES – THESE PROVIDE ACCESS TO RESIDENTIAL AREAS, INDUSTRIAL AREAS, THE CITY CENTRE AND SMALL RURAL COMMUNITIES AND BUSINESSES. IF NECESSARY, AND FOR REASONS OF SAFETY AND AMENITY, TRAFFIC MOVEMENTS AND SPEED WILL BE RESTRICTED. WALKING, CYCLING AND BUS ROUTES WILL BE INCORPORATED INTO LAYOUTS WHERE APPROPRIATE. THESE ROADS WILL OFTEN GIVE GREATER PRIORITY TO PEDESTRIANS AND CYCLISTS.
T4 – Parking	DEVELOPMENT WILL BE REQUIRED TO PROVIDE APPROPRIATE LEVELS OF PARKING, WITHIN DEFINED PARKING ZONES, IN ACCORDANCE WITH ADOPTED PARKING STANDARDS.
T5 – Walking and Cycling	A NETWORK OF SAFE WALKING AND CYCLING ROUTES WILL CONTINUE TO BE DEVELOPED AND PROTECTED. THEY WILL INCLUDE; i) NATIONAL CYCLE ROUTE NUMBER 47, CWMCARN TO NEWPORT. ii) NATIONAL CYCLE ROUTE 4 CAERPHILLY TO NEWPORT AND CHEPSTOW iii) NATIONAL COASTAL ROUTE 88 CAERLEON TO NEWPORT AND CARDIFF.
T6 – Public Rights of Way Improvement	PROPOSALS TO IMPROVE AND EXTEND THE PUBLIC RIGHTS OF WAY NETWORK ARE ENCOURAGED WITH AN EMPHASIS ON SUSTAINABILITY AND ACCESS FOR ALL.
T7 – Public Rights of Way and New Development	ANY PUBLIC FOOTPATH, BRIDLEWAY OR CYCLEWAY AFFECTED BY DEVELOPMENT PROPOSALS WILL REQUIRE RETENTION OR THE PROVISION OF A SUITABLE ALTERNATIVE. PROVISION OF ADDITIONAL ROUTES, WHERE APPROPRIATE, WILL BE SOUGHT IN NEW DEVELOPMENTS, WITH LINKAGES TO THE EXISTING NETWORK.
R8 – Small Scale Retail Proposals	PROPOSALS FOR NEW LOCAL RETAIL FACILITIES, EXTENSION OF FLOORSPACE OF EXISTING RETAIL OUTLETS OR THE CHANGE OF USE OF EXISTING BUILDINGS TO

	RETAILING OUTSIDE THE CITY AND DISTRICT CENTRES, WILL BE PERMITTED ONLY WHERE: i) NEW RESIDENTIAL DEVELOPMENT WOULD BE SERVED OR THE PROVISION WOULD CATER FOR UNDER-PROVISION IN THE AREA; ii) THE PROPOSAL IS OF A SCALE APPROPRIATE TO THE LOCALITY; iii) THERE WOULD BE NO ADVERSE EFFECTS ON THE VIABILITY AND VITALITY OF ANY DEFINED CENTRE; iv) THERE WOULD BE NO UNACCEPTABLE EFFECT ON THE LOCAL RESIDENTIAL AMENITIES OR THE GENERAL CHARACTER OF THE AREA IN TERMS OF NOISE AND DISTURBANCE OR EXTRA TRAFFIC GENERATED.
CF4 – Riverfront Access	ACCESS TO THE RIVERFRONT IN THE FORM OF MANAGED FOOTPATHS AND CYCLE ROUTES WILL BE ENCOURAGED WHERE PRACTICABLE.
CF8 – Tourism	NEW AND IMPROVED TOURISM RELATED DEVELOPMENTS, INCLUDING HOTEL AND OTHER VISITOR ACCOMMODATION, CONFERENCE AND EXHIBITION FACILITIES, HERITAGE INTERPRETATION FACILITIES, RURAL TOURISM AND ACTIVITY TOURISM IN THE COUNTRYSIDE WILL BE PERMITTED, PARTICULARLY WHERE REGENERATION OBJECTIVES WILL BE COMPLEMENTED.

3.4 Supplementary Planning Guidance

3.4.1 The Supplementary Planning Guidance was adopted in August 2015 and further clarifies LDP Policy in relation to the relevant issues:

- Planning Obligations: Clarifies the circumstances when developer contributions will be sought. Affordable Housing: Identifies the affordable housing provision the Council will seek on various housing sites (20% in east Newport).
- Archaeology and Archaeologically Sensitive Areas: Describes how developers can protect / record the archaeological resource where relevant.
- Wildlife and Development: Describes the core ideas of avoidance, mitigation, compensation & monitoring when habitats or species are impacted by development proposals.
- New Dwellings: Describes the amenity standards to be sought in new dwellings and how other considerations such as sustainability, design, parking, general highway issues, landscaping and protected trees should be addressed.
- Parking Standards: identifies appropriate levels of parking for varying developments within the different areas of the City and its surroundings.

4. **CONSULTATIONS**

4.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): Comments as follows:

- No objection on flood grounds subject to the site being raised to 9.3m AOD at an early stage to protect Crindau from flooding and to tie in with the proposed Flood Alleviation Scheme being implemented by CNC/NRW.
- Finished Floor Levels within buildings should be 9.8m above AOD and levels on the wider site should be 9.65m AOD to appropriately alleviate flood risk.
- Contaminated land conditions should be applied to protect the conservation interests of the River Usk SAC.
- Appropriate Assessment / Habitat Regulations Assessment: subject to the application of appropriate conditions in relation to working practices during construction and future site management controls over lighting and surface water disposal then the proposal is unlikely to have an adverse impact on the conservation interests of the River Usk Special Area of Conservation (SAC).

- No adverse impact on resident bat populations is anticipated.

4.2 SUSTRANS CYMRU: The site is bounded on two sides (south east and south west) by National Cycle Network routes 47 and 88. The routes also both form part of the draft Existing Routes Map for active travel routes in Newport. The proposed improvements to these routes are welcomed and will provide much better access for active travel for new residents and the existing community.

4.3 SOUTH WALES FIRE & RESCUE SERVICE: The developer should consider the need for the provision of:

- adequate water supplies on the site for firefighting purposes
- access for emergency firefighting appliances.

4.4 WALES & WEST UTILITIES: Advise of equipment in the area and safe working practices.

4.5 CSP FIBRE (Fibre Optic Cables): Advise of equipment in the area and safe working practices.

4.6 DWR CYMRU / WELSH WATER (DCWW): No objection but suggests conditional controls over foul and surface water drainage.

4.7 HEDDLU GWENT POLICE (DESIGNING OUT CRIME): The Gwent Police Designing Out Crime Unit have no objections to this application. This is a development that could benefit from being designed to the standards found within Secured by Design and we would welcome the opportunity to assist with this process.

4.8 HEDDLU GWENT POLICE (TRAFFIC MANAGEMENT): The following points should be considered;

- Wyndham Street and Pugsley Street, which is adjacent to the development site, has always been subject to vehicle parking during the working week as it is close to the City Centre, there are no current waiting restrictions. This situation has been further exasperated as the new office block which accommodates Admiral Insurance has recently opened and is within walking distance of this development. Parking time restrictions may assist this problem but will however have an effect on the adjacent residential area. Consideration should be given to Wyndham Street and Pugsley Street being subject to residential parking and controls put in place for the parking availability on the new development.
- I am concerned that the through route of the development from Pugsley Street to Shaftesbury Street is a straight section of road, this will I am sure be subject to vehicle speeds and would require traffic calming engineering measures and controls to ensure that the road is for access only to areas within the development.
- The junctions with the development on both Pugsley Street and Wyndham Street will need measures to ensure that good visibility is always maintained for exiting vehicle movements, similarly with the pedestrian crossing points.

4.9 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT): No objection subject to the application of a condition requiring a programme of archaeological work to be carried in accordance with a scheme that has been previously agreed with the Council.

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

4.11 GWENT WILDLIFE TRUST: Objects to the proposal for the following reasons:

- The applicant's 'Habitat Regulations Assessment' does not consider the cumulative impacts of this development in combination with others that are proposed, particularly the NRW's flood defence works, City Vizion and land south of Glan Usk School.
- Disturbance to the Usk SAC via noise, light, vibration, surface water run-off and littering is high, particularly in relation to otter.
- Mitigation of harm is possible via:
 - Application of a CEMP
 - Restriction of working hours
 - Controls over lighting
 - On-site mitigation such as green roofs / bird boxes / bat boxes / riverside planting
 - Provision of an otter holt
 - Provision of litter bins
 - Planting of native species
- The existing riverside path should be extinguished and re-routed along the proposed board walk.
- The Council is required to consider the impacts of the proposal on the River Usk SAC under its obligations under the Habitats Regulations.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPING): No objections to the proposals, (as long as the proposed tree planting layout follows the Landscape proposals drawing and not the ground floor plan). At Reserved Matters the following should be considered;

- Sedum roof finishes applied to all flat roofs, to enhance biodiversity / sustainability.
- Tree pit construction details for all trees in hard areas utilising root cells technology; to best ensure healthy, long-term growth.
- Protection methodologies for existing trees to be maintained along the street and riverside path.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No objection in principle to the proposals. The following comments are made:

- The Ecology report states that most trees will be retained, details of this will need to be submitted.
- Areas of scrub need to be maintained along the river side and enhanced where possible. Details of this will be required. A buffer zone along the river bank should be maintained. This would need to be fenced off during construction.
- Ecological enhancement such as inclusion of bat loft and bird boxes would need to be submitted and agreed with Ecology officer, as suggested in the Ecological Appraisal.
- Details of any wildflower areas and future proposed management need to be agreed. A native species list would need to be shown.
- Details outlined within the HRA letter need to be conditioned e.g. working hours etc.
- Details of lighting will need to be submitted and agreed. No lighting should be shone directly onto the river or the river bank to safeguard the features of the SAC and to maintain dark corridors for foraging bats.

- I would recommend that the applicant continue to liaise with NRW regarding any potential issues with the SAC/SSSI.

5.3 HEAD OF STREETSCENE AND CITY SERVICES (TREES): No objection subject to conditions relating to the following:

- Landscaping measures to compensate for the loss of protected trees
- Control over tree works in relation to retained trees on the site
- Implementation of appropriate tree protection barriers during construction
- Appointment of an arboriculturalist

5.4 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS) – No objection subject to the provision of Section 106 monies to fund traffic orders in Wyndham Street and control over certain junctions to prevent egress from the site via those junctions.

5.5 HEAD OF LAW & REGULATION (NOISE): No objection subject to the application conditions relating to:

- Road Traffic Noise (internal and external)
- Plant Noise
- Opening Hours of Commercial Units
- Control of delivery hours to Commercial Units

5.6 PLANNING POLICY:

5.6.1 Urban Regeneration: The Council encourages urban regeneration especially where the site is on previously developed land. Policy SP18 seeks to encourage mixed use regeneration which makes good use of the available hard and soft infrastructure in the area. This regeneration should not be at the expense of the vitality, viability and quality of the City Centre. The impact from the proposed uses for retail, health care and café will be dealt with under policy R8. This consideration is evidenced by the most recent retail study for Newport (Colliers 2010) which states that the assessment 'does not identify any significant quantitative need for new convenience good floor space across the study period' (Para 8.38). The proposal does provide residential and business opportunities with the proposal of the hotel use which is supported.

5.6.2 Flood Risk: The detailed comments on flood risk will be provided by NRW. However it is worth noting that the flood consequence assessment is based on full implementation of the NRW Crindau Flood Alleviation Scheme. It is therefore considered necessary to condition the permission on the basis that unless the NRW scheme is implemented the development has not detailed sufficient flood mitigation measures.

5.6.3 Conservation of the Natural Environment: The site is directly adjacent to the River Usk which is a Special Area of Conservation (SAC) and Site of Special Scientific Interest. The brownfield nature of the site does not preclude it from ecological significance the Council's ecologist will provide comments concerning this element of the proposal.

5.6.4 Housing: The site is allocated as a Housing Site within the LDP for 140 units. This is based on a previous application for residential units and a hotel use on the site, which was supported by the Council but a legal agreement was never signed. The continuation of the residential use is supported. Policy H3 states that the Council has a recommended density of 30 dwellings per hectare; in this case the proposal

would result in a high density scheme which is supported. The proposal has indicated its ability to provide a 21% affordable housing provision on site. This meets the minimum requirement of 20% affordable housing in the area and is therefore supported.

5.6.5 Retail: It is not clear from the Retail Assessment whether the proposed retail and health care uses have an adverse impact on the Malpas Road District Centre or the City Centre. The Retail Impact Assessment notes that the Council would consider the retail proposal to be Out of Centre. To clarify, although it is out of centre the most relevant term is small scale retail development. This clarification is set so that it is clear why Policy R8 is being utilised instead of R10 or R11. The assessment does not provide clear evidence as to the quantifiable impact to the Malpas Road District Centre. There are figures to justify the monies to be made from the scheme and how much is to be potentially diverted from the District Centre but there is no context of how significant that would be on the District Centre. In order to fully assess the compliance with policy R8 this information is needed. Paragraph 5.15 of the assessment makes the point that 'given that the district centres appear to be functioning well, the modest trade diversion as a result of the proposed development is unlikely to have a significant adverse impact on Malpas Road' however the centre is only rated as average and therefore we must be satisfied that this proposal will not adversely impact this status. The assessment notes that it will consider the impact of a health care use, a pharmacy and café but it does not do this. To explain, on reading the document the health care use was not considered. Where the pharmacy was noted it was dismissed as being unable to be relocated to the District Centre on the basis that it was ancillary to the health care use. In terms of the café it is clearly ancillary to the hotel and this is not questioned.

5.6.6 Retail: the applicant subsequently submitted a 'Retail Assessment Supplementary Statement' (July 2015) which satisfactorily addressed the concerns raised by the Planning Policy Section in Paragraph 5.6.5.

5.6.7 Access: Policy CE1 is clear that development should protect and enhance the appearance and connectivity of existing routes, particularly the riverside pathway. It is a Council priority to establish and continue public access to both banks of the River Usk. In this case the proposal is not only protecting but providing an improvement to a gateway site into the City and improving the existing public route adjacent to the river, which is supported.

5.6.8 OTHER CONSIDERATIONS

- The development is integrated with the River and does not turn its back on it and this is welcomed.
- Incorporating footpaths and cycle ways and improving the overall amenity of the area will result in a successful regeneration scheme.
- The proposal has taken into account the Special Landscape Area designation and the need to respect it. Comments on the impact of the proposal to the landscape will be considered by the Landscape Officer of the Council.
- An assessment of the proposal's impacts on the Trees is to be considered by the Tree Officer of the Council.
- An assessment of the highway implications will be considered by the highways section of the Council.
- The impact of the proposal on the SAM and other archaeological interests will be considered by the Councils Conservation Officer, GGAT and Cadw.

5.6.9 Assessment and conclusion: the regeneration of this brownfield gateway site is welcomed. The proposal is for a mix of uses which will provide residential units similar to those identified in the Housing Supply in the LDP (140 units). The location of the university within the City Centre does make a logical

link to the need for student accommodation and the provision for such a need is welcomed to support such an important educational establishment in the city. A hotel use is supported, and this follows on from the previous planning permission granted on the site for a mix of residential and hotel use. An objection remains due to the potential impact from the retail and health care uses on the relevant retail district centres. Policy R8 allows some level of retail where the new provision is to cater for under-provision in the area, at a scale that is appropriate to the locality. The assessment is currently not clear as to the significance of the impact from the health care use or retail use. To overcome this objection, evidence needs to be provided to justify the location outside of the district centre. Flood Risk is a particular issue on the site and it is clear that there is a clear link between the flood alleviation measures that are being undertaken by NRW and this development. Overall the regeneration of this gateway site is supported. Its link with the wider NRW flood alleviation scheme, improved access, its relationship with the river, a gateway design will only benefit the existing and proposed community in the area.

5.7 CONSERVATION OFFICER: Has reviewed the applicant's 'Setting Impact Assessment' and agrees with the content.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 100m of the application site were consulted (94 properties), 2 No. site notices were displayed, and a press notice published in South Wales Argus on the 11 July 2015. Two comments were received raising the following issues:

- The proposed access opposite 14/15 Pugsley Street (close to the Newport City Homes Garage Court) will place children at risk when they cross to the basketball court,
- The proposal will make roads in the local area busier,
- The site does not need so many accesses (4 vehicular), one would be enough,
- The long straight road through the development will be a rat run,
- The Harlequin roundabout will become even busier,
- People living in the new development will park in local roads which are already heavily parked by people who work in the city centre,
- A drop-kerb is proposed outside 15 Pugsley Street which will prevent on-street parking outside this property.

6.2 COUNCILLORS COCKERAM AND POOLE were notified of the application.

6.3 PAUL FLYNN MP: Comments as follows:

- The proposal constitutes overdevelopment;
- Parking from the site will be displaced into adjacent streets (inadequate parking);
- The site was formerly in Council ownership, significant sums of public money were spent making the site acceptable to Sainsbury's;
- The University in Newport is contracting, there is no evidence that the student rooms are needed;
- There is no demand for a city centre hotel (hotels in the city centre have recently closed);
- The provision of the medical facility / pharmacy is window dressing to make a poor development more acceptable;

7. ASSESSMENT

7.1 The key Issues relevant to the determination of this application are:

- Layout
- Scale
- Access & Parking
- Flooding
- Impact on the River Usk SAC / SSSI

- Ground contamination
- Light spill
- Run-off
- Sustainability
- Acceptability of retail provision and health centre outside a designated centre
- Protected Trees
- Impact on the River Usk Special Landscape Area and Newport Castle (listed building)
- Archaeology
- Affordable housing
- Noise

7.2 Layout & Scale

7.2.1 The proposal is to construct a series of 7 No. multi-storey blocks on the site essentially around the perimeter of the site with only one block not being adjacent to the site boundary. In broad terms the 4 blocks on the river frontage will orientate towards the river but will have a degree of dual frontage reflecting their visibility within the site. A fifth block will face the A4042 (Heidenheim Drive), a sixth smaller block will face Wyndham Street with the seventh block being located internally within the site. The layout achieves appropriate separation from the existing dwellings on Pugsley Street and Wyndham Street. Building D is the nearest to the houses on Wyndham Street and that will be 34m from the closest dwellings at a height of 4 storeys. On Pugsley Street the nearest block would be Block E (residential block) at a height of 3 to 4 storeys. That Block would be 24m away from the nearest house on Pugsley Street with the 3 storey element being the closest part, but primarily facing the Pugsley Street / Wheeler Street junction (rather than any houses) thereby limiting its impact overall.

7.2.2 Blocks J, K & L will be primarily student accommodation but will contain the proposed shop and health centre at ground floor level. They will face out onto the A4042 (Heidenheim Drive) although once again a degree of 'double frontedness' would be anticipated in the finalised design. These blocks will be higher being upto 11 storeys (the two southern blocks furthest from existing housing) with the third Block being 5 storeys but still separated from the nearest existing dwellings by 45m. It should also be noted that the nearest dwellings face out towards Heidenheim Drive and are 'gable end' on to the proposed development limiting the impact of the proposal.

7.2.3 Blocks A & B (residential) will face onto the River Usk and would have a floor area of approximately 100m by 32m. These blocks would be 5 storeys high and separated from the Pugsley Street houses by 34m.

7.2.4 Blocks F, G & H will contain the hotel development and a ground floor café as well as further student accommodation. Block F will go up to a height of 14 storeys and will consist mainly of hotel accommodation with Blocks G & H being 11 storeys and containing student accommodation. These blocks will be orientated towards the river with the highest tower being in the southernmost corner of the site and the furthest removed from the existing local housing.

7.2.5 Block C (residential) is located centrally within the site and would have a footprint of 7m by 17m and it would be 4 storeys high.

7.2.6 Overall it is considered that given the scale, separation and orientation of the proposed blocks and the existing houses that there would be no unacceptable overbearing effect, or overlooking or loss of direct or ambient light to any existing residents. In terms of future occupiers it is considered that the separation and orientation of the buildings within the site would not lead to any unacceptable levels of inter-visibility with separations being over 20m and normally at oblique angles. As such the proposal is judged to be acceptable in amenity terms and compliant with adopted NLDP policies GP2 (General Amenity).

7.2.7 The scheme will provide 307 parking spaces, 152 of which are allocated to the market flats. A total of 60 spaces will be provided for the student accommodation, 61 for the hotel and 34 for the shop/café/health centre.

7.2.8 The scheme will remove the existing riverside footpath / cycleway and provide an additional footway / cycleway at approximately 4m in width (or wider) but the new route will be relocated further from the river bank to provide a 'boardwalk'. This is considered beneficial in wildlife terms since it will allow the river edge to be landscaped and will reduce the risk of disturbance to species migrating along the river. The improvements in the footpath / cycleway are welcomed. The riverfront treatment is considered to be compliant with Policy CE3 (Environmental Spaces and Corridors) since the existing or potential environmental qualities of the site will be improved and conservation interests are protected. The enhancement of the footpath / cycleway is compliant with Policies T5 (walking and cycling), T6 (Public Rights of Way Improvement) & CF4 (Riverfront Access). Early delivery of the new footpath / cycleway can be secured under a phasing plan condition.

7.2.9 In terms of other Policy considerations the scale of the scheme is considered to comply with Policy CE1 (Routeways) since there is no reason to think the layout and scale of the proposed buildings would have an adverse impact on Heidenheim Drive. Control over appearance would be maintained under subsequent Reserved Matters submissions so compliance with GP6 (Quality of Design) can be secured at a later date. Policy CE2 (Waterfront Development) requires the proposal to address the riverfront and other relevant issues. The layout gives scope for that to happen and control over reserved matters (appearance) means that full compliance with the Policy can be secured at a later date. This proposal would support the regeneration element of Policy CE2 and upgrades in the riverfront footpath / cycleway will improve leisure provision so this element of the Policy is also complied with.

7.2.10 The site is allocated under Policy H1 (Housing Sites) to deliver 140 units. This scheme will deliver 144 units of which 30 will be affordable. The scheme is compliant with Policy H1 and supports the aims of the NLDP in terms of housing provision. Policy H3 (Housing Mix and Density) requires a range of housing to meet a variety of needs at a density of at least 30 dwellings per hectare. The proposal includes only flatted accommodation but will consist of 1, 2 and 3 bedroom units at a density of over 50 units per hectare so Policy H3 is considered to be complied with. The student flats are not considered to meet any identified housing need. In terms of the need for the student flats it is clear that this is a speculative development with the University having no direct involvement in their provision. The applicant has been in consultation with the University and considers that a demand is or will become present. In terms of the planning application it is appropriate to consider the proposal on face value. There is no planning requirement for the applicant to show a demand for the student accommodation and ultimately its uptake will be a matter determined by the market and is in effect a matter that lies outside of the planning remit (as would be the case with any other form of accommodation). It is appropriate to consider whether the site is appropriate for the proposed use. The site is allocated for residential use, it is close to the campus and other city centre facilities and adequate parking can be provided within the site. There is, therefore, no reason to think it is not a suitable site for student accommodation.

7.3 Access & Parking

7.3.1 Under the proposal an exit only onto the B4591 would be provided in the approximate position of the current site access. A further three vehicular accesses are proposed off Wyndham Street and Pugsley Street. That closest to the B4591 will be exit only, this can be secured under condition. Two pedestrian accesses are also proposed off Wyndham Street / Pugsley Street. This will make the site significantly more permeable than currently as access is restricted by perimeter walling. The Head of Streetscene and City Services has no objection to the proposed layout subject to controls over the egress only junctions. Concerns over speeding on the spine road through the development can be addressed by conditional controls requiring details of roads, this can include traffic calming.

7.3.2 In terms of parking 307 spaces are proposed to be contained within the site or within buildings either at ground floor or in sub-basements proposed for the river front blocks. The parking allocation would be:

	Spaces
Hotel Parking	61
Student Parking	60
Residential Parking	152
Retail / Health Centre / Café	34
Total	307

This level of parking provision is compliant with the adopted Parking SPG and has not been objected to by the Head of Streetscene and City Services. The reduction in provision allowed for the older living flats can be safeguarded by controls over the occupation of those units which will be achieved via the Section 106 Agreement.

7.3.3 It should be noted that the site falls into Parking Zone 3 (Urban) of the Council's SPG 'Newport City Council Parking Standards 2015' rather than Zone 2 (City Centre Fringe). However despite this the site can be considered to be in a sustainable location since the facilities of the City Centre and the Malpas Road District Centre can be accessed on foot or by bicycle over a short distance. It is approximately 400m walk to the Indoor Market, 600m to the railway station and approximately 500m walk to the nearest part of the Malpas Road District Centre. That said the walking / cycling routes are not attractive or inviting involving constrained routes adjacent to high speed roads and via underpasses which are not well lit or well used (particularly in the case of the underpass to the District Centre). The applicant is addressing this issue by providing the sum of £100,000 via the Section 106 Legal Agreement to be spent in upgrading the pedestrian and cycle links from the site to the City Centre. The money is not specifically earmarked for particular upgrades but there is an anticipation that the monies will be used to fund works identified in the Council's provisional 'Active Travel Plan' which is being prepared by the Head of Streetscene and City Services.

7.3.4 The scheme will also see improvements to National Cycle Routes 47 (Newport to Neath) which runs along the river front and National Cycle Route 88 (Newport to Caerleon) which runs along the dual carriageway which will improve the sustainability of the site.

7.3.5 There is no objection to the proposal in terms of traffic generation and junction capacity issues. In the light of the site's location and the proposed improvements to access to the nearby city and district centre it is considered that the parking provided is fully adequate and is policy compliant.

7.4 Flooding

7.4.1 The site lies in Zone C1 (defended floodplain) for the purposes of the Welsh Government's Development Advice Maps. The development is fully justifiable within a flood plain under the tests contained at Paragraph 6.2 of TAN 15 (Flooding). The site is allocated for housing under a current development plan and is previously developed land. The flood risk to the site is tidal flooding from the River Usk.

7.4.2 The submitted Flood Consequences Assessment (FCA) identifies the proposal as highly vulnerable development. The FCA makes reference to the recently approved Crindau Flood Defence Scheme which is to be delivered by CNC/NRW. This will take the form of an earth embankment that would pass through the Sainsbury's site effectively dividing the site in two parts. Under this proposal the 'spine' of the site would be raised to the level required to protect the site from flooding which would extend into the areas of Crindau which are subject to separate flood defence works. To protect the site from flooding it will be necessary to raise the site sufficiently to deal with the 1 in 200 year flood with allowance for climate change over the agreed lifetime of the development (100 years) which would give a required ground level of 9.65m AOD for the landform and a finished floor level of 9.8m AOD. It is proposed to raise the land to at least 9.3m AOD in the development's early phases to quickly provide the protection Crindau requires from flooding and to tie in with the approved CNC/NRW scheme that is going ahead. It is intended to protect basements with flood barriers up to 9.9m AOD in height in order to give protection against the 1 in 1000 year tidal flood. The basements will be built in a flood resistant way.

7.4.3 In terms of the extreme tidal flood (1 in 1000 year event plus allowance for climate change) the site is modelled to flood but not beyond the levels (depth, speed of flow, speed of inundation) identified as acceptable in TAN 15.

7.4.4 The proposed evacuation route is via the footbridge over Heidenheim Drive which is immediately to the south of the site. That route is dry in all circumstances other than the 1 in 1000 year tidal flood when part of the route would be flooded to a depth of 150mm which is not considered to be dangerous or a significant risk to occupiers. The applicant intends to sign up the CNC/NRW Flood Warning System.

7.4.5 Surface water will be drained from the site to the Usk by new surface water drains with those existing being removed or abandoned. There are no concerns in terms of the tidal Usk accepting the surface drainage from the site which is entirely hard surfaced at the current time. In the event that the on-site drainage is overwhelmed by heavy rain then a low point will be designed within the site to carry excess water away to the river. Foul water will drain to the Dwr Cymru / Welsh Water foul sewer with redundant sewers on the site being dug out or sealed up.

7.4.6 The landraising exercise proposed is considered to have a negligible impact on offsite locations in terms of increased flood risk and is therefore acceptable. Overall it is considered the proposal is in compliance with Policies SP3 (Flood Risk) and GP1 (Climate Change) since Flood Risk is not increased elsewhere and the development will be able to cope with the risks and consequences of flooding.

7.5 Impact on the River Usk SAC / SSSI

7.5.1 The main concerns in relation to the River Usk Special Area of Conservation (SAC) are:

- Otter features
- Fish features
- Water quality

7.5.2 These issues are addressed in more detail in the appropriate assessment (AA) at Paragraph 8.10 of this report. The AA is required to show the local planning authority has met its obligations under Regulation 61 of the Habitat Regulations to consider the impact of any development proposal on a European site before permitting it to go ahead.

7.5.3 In terms of local policy, GP5 (Natural Environment) requires that proposals that negative impacts on the natural environment be avoided, mitigated or compensated for. Policy CE2 (Waterfront Development) requires that nature conservation is taken account of in proposals. Policy CE3 (Environmental Spaces and Corridors) requires that there is no adverse impact on any nature conservation interest.

7.5.4 CNC/NRW has approved the Habitat Regulations Assessment / Appropriate Assessment shown at Paragraph 8.10 of this report.

7.6 Sustainability

7.6.1 The site lies in Zone 3 (urban) of the Council's Parking Standards SPG. As noted in Paragraph 7.3.3 above the site is close to city centre facilities and the services of the Malpas Road District centre. Currently its sustainability credentials are compromised by the limitations of the foot and cycle routes in the vicinity of the site.

7.6.2 That said the location of the site and its proximity to services potentially makes it a very sustainable location. The limitations that it faces are a product of the poor foot and cycle linkages available in the immediate area around the development. National Cycle Route 47 runs along the river bank and is constrained, badly finished and not overlooked. National Cycle Route 88 runs along the

pavement outside the site adjacent to the B4591 which regardless of its 'B' status is a dual carriageway linking between the Harlequin and Old Green roundabouts. Both cycle routes then cross the 'B' road via a footbridge before linking to the Old Green underpass via an elevated and constrained footway under the railway bridge (the path adjacent to the castle remains closed off to pedestrians following a sequence of crimes / anti-social behaviour issues). Accessing the town centre via the Railway Station underpass requires crossing the footbridge over Heidenheim Drive, which comes out by the Royal Mail Pub on Mill Street. Accessing the Malpas Road District Centre requires using the underpass under the elevated section of Heidenheim Way that is accessed adjacent to the Vanilla Spice restaurant and comes out near the Wickes Store. None of these routes are welcoming although the first two have regular footfall during the day but are much less well used at night. These deficiencies significantly reduce the sustainability credentials of the site as it stands.

7.6.3 To address these deficiencies the applicant is proposing to provide £100,000 pounds via a Section 106 agreement to upgrade the links between the site and the City Centre Campus. It is proposed to spend £85,000 improving the underpasses that link to the city centre (Old Green roundabout) and £15,000 on works to improve the underpass to the Malpas Road District Centre. Works will include new lighting, re-painting and new footway surfacing as well as re-tiling where appropriate. It is considered that the works that would be funded meet the relevant circular tests for planning obligations and address the current deficiencies in pedestrian access in the vicinity of the site. Bicycle parking is to be provided to serve both residents and members of the wider public who may visit the site to use the facilities that are to be provided.

7.6.4 As such the upgrades are considered to address the deficiencies in sustainability bringing the proposal more closely into alignment with the Policy SP1 (Sustainability) and SP2 (Health) and GP4 parts i (access for pedestrians, cyclists and public transport), ii (choice of transport), iii (reduction of transport severance).

7.6.6 In terms of the NLDP Policy GP(iv) requires that adequate provision is made for car parking and cycle storage. This is reiterated in Policy T4 (Parking) which requires the levels of parking provision identified for that zone (Zone 3) in the relevant SPG. There is a degree of tension between national policy which drives towards lower parking standards (maximum levels) and local Policy which still identifies a minimum level of provision. That said the NLDP is highly current (adopted January 2015) and the SPG even more so (August 2015). As such these policies have significant weight and have been complied with under this proposal.

7.7 Acceptability of retail provision and health centre

7.7.1 The proposal is not within an identified centre, the nearest centres being the City Centre and the Malpas Road District Centre. Planning Policy Wales sees established centres as the best location for most retail and leisure activities and requires such uses proposed outside of a centre to show a need for the development (need can be quantitative or qualitative). PPW is also clear that developers demonstrate that all 'in centre' and 'edge of centre' locations be discounted in a sequential test before 'non centre' locations can be considered.

7.7.2 NLDP Policy SP19 reflects national policy since it also requires an assessment of need and a sequential test for all developments not within the city centre. Policy R8 relates to small scale retail proposals outside of established centres and allows retail proposals to serve new development or to meet an under provision. The proposals must also be of appropriate scale, not adversely affect the vitality and viability of an existing centre or cause harm to other relevant material considerations (residential amenity etc.).

7.7.3 The proposal includes a convenience store (406 square metres), a health centre (493 square metres) and a cafe (186 square metres) to be contained in the ground floor of Blocks L, J & G respectively. All of these are considered to be uses best located in the City Centre. As such there needs to be a sequential assessment and a need assessment. Additionally no harm to existing centres would need to be demonstrated.

7.7.4 The proposed units are modest in scale and will primarily serve the local area. The applicant has provided a Retail Impact Assessment with the application which confirms that suitable units are not available within walking distance of the site within the nearby centres to accommodate the proposed uses. The applicant has also shown that a quantitative need would exist for the convenience store. Given the floor space of the proposed store it is likely to carry a larger range of goods than existing small local stores giving a better qualitative offer without necessitating trips to larger stores that are further away. The applicant has considered trade diversion (4% on convenience retail stores) from the Malpas Road District Centre and has confirmed that although there would be some diversion it would not be sufficient to harm the vitality and viability of the existing centres, particularly given that most of the impact would be on the Aldi store which is performing well and is robust. In conclusion the proposed shop is considered to be compliant with Policy SP19 (Assessment of Retail Need) since the relevant assessments have been carried out and with Policy R8 (Small Scale Retail Proposals) since additional need has been shown, the scale is appropriate, there would be no unacceptably adverse impact on an existing centre and the amenity and character of the area would not be harmed.

7.7.5 The Health Centre would have an ancillary pharmacy and would have no impact on the District Centre since there is no existing competition within the centre. Officers are satisfied that the proposed Health Centre would have no adverse impact on existing centres and nor could it be located within an existing centre due to the lack of appropriate premises within the 500m catchment identified around the application site. In terms of the café, it would primarily operate in an ancillary way to the proposed hotel. The provision of these facilities is judged compliant with Policy SP12 (Community Facilities) which is supportive of new facilities in sustainable locations.

7.7.6 The applicant was not asked to consider a 'centre' location for the hotel since the Council agreed the principle of building a hotel on this site under application 09/0733. Although there have been changes in the Policy environment since that application was submitted (adoption of the LDP and changes to PPW) and that application was 'finally disposed of' (meaning there is no fallback position to rely on), it is considered that Policy CF8 (Tourism) is complied with as is SP18 (Urban Regeneration) with the provision of a hotel in this location. In any event PPW does not identify hotels as a use best located within a centre and so the location of a hotel in this sustainable location is considered appropriate despite there being no explicit policy support.

7.8 Protected trees

7.8.1 The edge of the site contains a sequence of trees principally along Wyndham Street, Pugsley Street and the riverfront which are protected under TPO 07/2009. The scheme will necessitate the removal of some of the protected trees to facilitate accesses. The Tree Officer has not objected subject the application of conditions to control landscaping (tree replacement), the extent of works to retained trees, appropriate tree protection measures during construction and the appointment of an arboriculturalist. The Landscaping Officer has not objected to the proposal but has made suggestions as to what he might hope to see at Reserved Matters stage, landscaping being a reserved matter. Subject to conditional controls the proposal is considered to be acceptable in terms of its impact on the protected trees in the vicinity of the site

7.9 Impact on the River Usk SLA, wider visual amenity and the listed Newport Castle

7.9.1 The River Usk is a Special Landscape Area (SLA) identified under Policy SP8 of the NLDP which requires that development proposals should contribute positively to the SLA through high quality design, materials and management schemes. The applicant has provided a 'Landscape and Visual Impact - Appraisal Report' which concludes that although the proposal will have a low adverse impact on some viewpoints in the vicinity of the site, any harm is insufficiently great to outweigh the benefits of the

scheme in bringing the currently derelict site back into beneficial use. The appraisal concludes that some views, particularly those across Heidenheim Drive and its network of feeder / ancillary roads will be beneficial by reducing the dominance of the highway structures in the vicinity. Overall it is concluded that Policy SP8 is complied with and that there is no unacceptably adverse impact on the River Usk SLA which is dominated by townscape in this vicinity in any case. Improvements in the appearance of the frontage addressing Heidenheim Drive can be seen as beneficial and in compliance with Policy CE1 (Routeways) since the appearance of a gateway into the city will be enhanced. The impact of the proposal on the River Usk SLA and upon wider visual amenity is considered acceptable with the identified harms being modest and not unacceptable in their extent, particularly when balanced against the regeneration benefits the scheme would confer.

7.9.2 In terms of the setting of the castle (Scheduled Ancient Monument and Grade II* listed), the applicant has assessed the views of the castle from Newport Bridge (Town Bridge), the riverside walk (east bank) and from the Old Green roundabout. The study concludes that two of these views would be moderately adversely affected with the others being slightly adversely affected. Whilst minor to moderate harm to the setting of the castle is identified the study notes that the benefits of the scheme should also be considered in making a balanced decision. In Policy terms Policy SP9 (Conservation of the Natural, Historic & Built Environment) would be compromised since the setting of the castle would not be preserved and would suffer some harm if the proposal were to go ahead.

7.10 Archaeology

7.10.1 The site has been previously developed and is proximate to the castle and the river. As such there is a possibility that archaeological remains are present underneath the site. The Glamorgan & Gwent Archaeological Trust has no objection to the proposal so long as a condition is applied requiring the formulation and implementation of a programme of archaeological work. This is considered to be appropriate and necessary to ensure that Policy CE6 (Archaeology) of the adopted NLDP is complied with.

7.11 Affordable housing

7.11.1 The applicant is offering to provide 20% of the dwellings as affordable, that is 28 units consisting of 18 one bedroom flats and 10 two bedroom flats. The flats will be concentrated in two of the proposed blocks to facilitate management of the units. The number, type and distribution of the flats is considered acceptable. The units have been confirmed as being capable of meeting the Welsh Government's 'DQR' standards and as such the proposal is compliant with NLDP Policy H4 (Affordable Housing) and the advice of the recently adopted SPG.

7.11 Noise

7.11.1 The applicant has completed a noise survey since the site is adjacent to Heidenheim Drive and relatively close to the railway line. The noise survey confirmed road noise from Heidenheim Drive to be the prime source of noise in the area. The development would generate increased traffic in the surrounding streets but the noise increase from this traffic would be minor at worst (in Pugsley Street) and negligible elsewhere. The assessment concludes the noise from Heidenheim Drive can be mitigated by double glazing but that mechanical ventilation will be necessary for habitable rooms in certain parts of the site (near Heidenheim Drive). It is proposed to restrict plant noise from the shop / café etc. to no greater than background levels which the assessment considers achievable. The Head of Law & Regulation does not object to the proposal subject to conditions being applied to control road noise, plant noise and the opening and delivery hours of the commercial units. The proposal is considered compliant with NLDP Policy GP7 (Environmental Protection & Public Health) in relation to noise.

7.12 Section 106 Agreement

7.12.1 The applicant has agreed the following provisions under a Section 106 Agreement:

- £100,000 to improve pedestrian routes from the site to the City Centre and the Malpas Road District Centre.
- 20% of the flats provided on the site to be affordable (meeting the Welsh Government's 'Design Quality Requirements') and provided at 50% of the Welsh Government's Acceptable Cost Guidelines. The housing will be managed by Newport City Homes and will be provided on a neutral tenure basis.
- 35 of the dwellings will be for senior living (over 60)
- £112,805 to Crindau Junior School
- 7,347 square metres of public open space (riverfront) to be managed by a private management company and the sum of £5000 to enhance play equipment in Shaftesbury Park.
- The establishment of a management company to maintain public areas of the site
- The provision of £5000 to fund amended and new traffic orders in Wyndham Street necessary to accommodate the new access points that are proposed.

7.12.2 The sums offered are considered acceptable and compliant with NLDP Policy SP13 (Planning Obligations) and the affordable Housing and Planning Obligations Supplementary Planning Guidance.

8.10 Appropriate Assessment

8.10.1 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.

8.10.2 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.

8.10.3 In its consultation response of September 2015 CNC/NRW identified the following as key areas of concern:

Otter Features

8.11.1 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, particularly the treatment of the river edge;
- Site clearance and Construction, particularly:
 - Disturbance
 - Illumination of the riverbank

- Site Operation, particularly:
 - Disturbance by people and dogs
 - Illumination of the riverbank
- The effectiveness of mitigation proposals.

8.11.2 The proposed scheme is a mixed use development of residential flats, a hotel, a café and Health Centre with an attached pharmacy and a riverside walk. Some of the flats and the hotel will be adjacent to the river front. The proposal envisages a board walk along the river frontage, with a separation between the boardwalk and the bank top of between 15 and 10 metres. The applicant has indicated that this area will be landscaped (landscaping is a reserved matter) with existing trees being retained and the planting of native species such as alder and willow. Planting is proposed to alter as the top of the river bank is approached with 'mixed marginal planting' being put in. The river bank will be planted with species already present such as Norfolk reed (Landscape Strategy, Paragraph 5.2). However landscaping is a reserved matter which means that those details will be submitted at a later date (the submission of those details prior to development will be required under the standards conditions). CNC / NRW do not recommend any 'marginal planting' on the top of the river bank. That requirement can be added as an informative to this decision should permission be granted. Ultimate control will be retained and any unsuitable landscape submission at a later date can be refused or amended accordingly.

8.11.3 The existing public right of way (cyclepath) that runs along the top of the river bank will be removed opening up an enhanced buffer with the top of the river bank than currently exists. The removal of the existing right of way can be required under condition. Such a condition is considered necessary to protect the interests of the River Usk SAC. The removal of the existing footpath / cycleway will not prejudice public access since it will not be allowed prior to the provision of the new routeway along the proposed 'boardwalk'. The boardwalk will be part of the public open space to be provided under the Section 106 agreement – public access can be achieved even if the existing route is removed and access can be protected until the new route is provided (condition 40 – footpath removal and condition 08 – phasing). It is considered that the design of the proposal would not have an unacceptable impact on the otter feature of the River Usk subject to the proposed river front treatment being implemented in a timely way, that is early in the development project. A detailed landscaping scheme will be required under the submission of reserved matters condition. An appropriate management scheme for the landscaping can be required under conditional control once those reserved matters have been approved. The management scheme could include a timetable necessitating early implementation of the landscaping. The management scheme condition would be appropriately applied when the landscaping reserved matters are approved. Construction work (as differentiated from demolition work) would not be able to commence under the proposed conditional regime until reserved matters have been approved. A further layer of control would be achieved via 'phasing' condition (condition 08) applied to this report. This condition will require the applicant to provide a timetable for how the site will be developed. Early completion of the riverside works can be required under this condition.

Note: Landscaping is a reserved matter meaning details of landscaping must be submitted and agreed prior to development commencing.

8.11.4 The site will need to be de-contaminated and then raised for reasons of flood prevention. As such significant engineering works will be required at the outset of the project. In addition the parking sub-basement will need to be excavated. The risk 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,
- direct disturbance via operations near the top of the river bank.

8.11.5 Proposed conditions seek the submission of a Construction Environmental Management Plan (CEMP) (condition 7) which will require details of the working methods to be employed on the site. Specific clauses refer to control of run-off which should ensure that waters which are polluted by either contamination or sediment do not enter the river. Another requirement of the CEMP relates to specific measures to be taken in the sensitive river front area to limit or prevent direct disturbance to the sensitive river bank environment.

8.11.6 Further conditions relate to the storage of fuels and hydrocarbons (condition 34) so that they are stored in such a manner that reduces the risk of contamination to ground and surface waters. Conditions put in place controls over any piling methodology reducing the risk of the mobilisation of contaminated waters through the soil profile (condition 31).

8.11.7 De-contamination of the site is required under proposed conditions. The proposed scheme is one of capping the contaminated ground using imported materials. The proposed decontamination should isolate any contaminated soils below a chemically inert capping layer. The implementation of the accepted decontamination programme can be required under conditional controls. The chemical suitability of the imported materials can also be required under condition. Overall the proposed conditions should see the successful containment of any contamination and reduce the risk of it entering the river. Proposed conditions relate to the decontamination programme and the importation of capping materials onto the site. Conditions 06 (contamination remediation), 12 (contamination verification), 19 (decontamination contingency and monitoring), 20 (unforeseen contamination), 22 (imported material), 30 (infiltration) & 31 (piling) relate.

8.11.8 Overall it is considered that the proposed conditional controls acceptably control the risk posed by the otter interest of the River Usk during the construction phase of the development.

Risks from site operation to the otter interest arise from:

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

8.11.9 The proposal does not include physical measures to exclude people and animals. However the Local Planning Authority retains control over the landscaping which must be approved under reserved matters. Appropriate planting in terms of type and density can be sought under that reserved matters submission. Control over boundary treatments is required under condition 24 (boundary treatments) of this application and this can include riverside fencing. Condition 24 requires the long term maintenance of the fencing provided so the retention of the fence long term can be assured. It should be noted that the current Public Right of Way tracks close to the top of the bank and as such the proposal offers the prospect of enhancement in moving people away from the top of the river bank and inter-posing features that will reduce the likelihood of access (planting and fencing). Proposed conditions will place controls over permanent street lighting which will ensure that the sensitive river bank environment remains unlit and that the chances of disturbance to otters is reduced (condition 23). Proposed Condition 21 will require that surface water drainage from areas where hydro-carbons may be spilled from motor vehicles is cleansed of hydrocarbons. This will reduce the risks of contaminated run-off reaching the river.

Fish Features

8.12.1 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.

8.12.2 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.

8.12.3 Site clearance and operation has the potential to release contaminants or sediment but the proposed CEMP condition in association with the proposed decontamination condition would control these risks.

8.12.4 Specific proposed conditions would protect the fish interest by preventing works that would interrupt the migration of shad (condition 32). Other proposed conditions would prevent in-river works during the times of significant fish migrations (condition 33).

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

8.12.6 These conditions are considered adequate to prevent adverse impacts ion the conservation interests of the river during the operational phase of the development.

Contamination

8.13.1 The site is known to be contaminated by previous uses. The applicant has provided an assessment of ground conditions but has not yet formulated a detailed remediation / monitoring / verification strategy). Proposed conditions require a remediation strategy to be formulated, implemented and subsequently verified and monitored. The overall strategy is one of capping with clean material which will also act to raise the site for the purposes of flood prevention. Proposed conditions require imported material to be chemically tested and suitable for the proposed residential end use. This will also protect the integrity of the River Usk and its conservation objectives. It is considered that these controls will prevent risks to the river arising.

Water quality / Hydrology and Drainage

8.14.1 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.

8.14.2 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

8.14.3 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 site subject to conditional controls over the discharge of water from the site.

8.14.3 The proposed CEMP condition will protect the river during the construction phase reducing risks to the conservation interests of the River Usk. During the operational phase proposed conditions will deal with run-off requiring the removal of hydro-carbons (condition 21) as required and requiring a generalised control over foul and surface water run-off (condition 18) . Details of the new outfall to the Usk are required by proposed condition 18 including means to mitigate any adverse impact the outfall may have on the River Usk. The proposed conditions are considered adequate to prevent risk to the conservation interests of the river during the varying phases of the development.

Overall consideration

8.15.1 The concerns regarding the potential for impact on the River Usk SAC are impacts on the otter feature including via the design and location of development, site clearance and construction, disturbance during the operation phase and mitigation; impacts on fish features; contamination risks; impacts on water quality, hydrology and drainage.

8.15.2 Risks arise from the possible discharge of contaminated surface and groundwater water drainage with the potential resultant impacts on the fish and otter features of the SAC. There is the potential for significant effect on the migratory fish and otter features of the River Usk SAC. The specific concerns relate to: how surface water would be disposed of during construction and operation; how potential contamination of groundwater on the site will be addressed; and what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction as a result of disturbance of ground contamination and operational phases of the development. It is therefore recommended that should planning permission be granted conditions are imposed to provide suitable protection.

8.15.3 The current and previous uses of the site raise the question of contamination. It is therefore recommended that conditions be imposed to ensure that a full investigation of contamination on the site is carried out and any contamination which is found is remediated in accordance with an approved remedial strategy.

8.15.4 In terms of foul drainage, Conditions require full details of provision so as to ensure there is sufficient capacity in the system thereby avoiding contamination of waters entering the River Usk SAC.

8.15.5 It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significant adverse effect on the River Usk SAC.

8.15.6 Other risks to the river front, particularly the otter feature are addressed via the proposed layout of the site and the mechanisms in place to control the riverfront treatment. The riverfront treatment can be secured under proposed conditions and would see the provision of planting and fencing along the river that would deter ingress by people and dogs.

8.15.7 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. A site to the north on the east bank of the river (the Glan Usk School Site) was granted permission under outline application 00/0768/O and then Reserved Matters application 03/153/RM. The outline permission contained a suite of contamination related conditions which were subsequently discharged for the school site under succeeding approvals. Approval 09/0591 vetted the certification for the remediation of the school site. Application 13/1279 gave permission for the development of the site to the south of the Glan Usk School site in a broadly similar

reach of the Usk to this site. That permission also contained a suite of decontamination conditions and was subject to a Habitat Regulations Assessment. As such the development sites to the northeast of this site have been decontaminated or will be under the auspices of the permissions that have been granted on those sites. The Crindau Flood Alleviation Scheme allows for the provision of flood defence works will consist of new walls, piling, embankments and an area of ground raising. The height of the flood defences will typically vary from between 0.2m to 1.5m. The relevant application was screened and found not to be EIA development and was granted subject to a suite of conditions to protect the adjacent River Usk SAC. As such the impacts of this scheme upon the SAC via its construction and subsequent operation are not considered to be significant. The in-combination effects upon the SAC from other development sites and from this application site would not be greater than the effects emanating from the application site alone. These effects are judged manageable under an appropriate conditional regime.

8.15.8 Redevelopment sites to the south of the application site, south of the Town Bridge (Newport Bridge) have been subject to appropriate assessment and the issues that have arisen on these sites reflect those on this site. Those sites were also subject to a suite of planning conditions to control risks to the bio-diversity interests of the River Usk. These sites are mostly completed and given conditional compliance the in-combination effects of those sites with this site would be negligible.

8.15.9 With the inclusion of appropriate conditions it is considered that any adverse effects on the River Usk SAC associated with the development can be satisfactorily avoided.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

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

8.6 *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 proposed development does not materially affect the use of the Welsh language in Newport.

9. CONCLUSION

9.1 The proposal is considered to be Policy compliant in relation to the key issues. In terms of the listed Newport Castle the Council must have '*special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*' (Section 66 of the Listed Buildings and Conservation Areas Act 1990 as amended). In this instance the applicant's assessment of the impact on the setting of the castle is that there would be a slight adverse effect due to a negligible impact on an asset of high importance. Given the importance of the castle's protected status any harm must be given significant weight because of the requirements of the statutory test (special regard). However the proposal brings significant regeneration benefits to a derelict site clearly visible within a prominent routeway into the City. The scheme will offer visual enhancement from certain views, it will provide accommodation and additional local facilities (medical centre / pharmacy / shop and café), it will deliver a hotel facility, improvements to the local footpath and cycle network and it will provide areas of new public open space. The impact of the proposal on education, equipped areas of play and upon the highway network can be met through Section 106 contributions. Improvements in the site's accessibility can also be achieved under the Section 106 contributions. In the round it is considered that the scheme's overall benefits outweigh the small harm to the setting of the listed castle. As such the proposal is acceptable subject to an appropriate conditional regime being imposed.

10. RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE PERMISSION SHOULD THE AGREEMENT NOT BE SIGNED WITHIN 3 MONTHS OF A RESOLUTION TO GRANT PERMISSION.

Plans Condition

01 The development shall be carried out strictly in accordance with the following plans and documents:

Drawing L001 A – Site Location Plan

Drawing L005 A – Demolition Plan

Drawing L016 J – Proposed Parking Layout Plan

Drawing L099 L – Proposed Site Plan, Basement Level

Drawing L100 R – Proposed site Plan, Ground floor

Drawing L101 F – Proposed Site Plan, 1st Floor

Drawing L102 F – Proposed Site Plan, 2nd Floor

Drawing L103 D – Proposed Site Plan, 3rd Floor

Drawing L104 E – Proposed Site Plan, 4th Floor

Drawing L105 F – Proposed Site Plan, 5th Floor

Drawing L106 D – Proposed Site Plan, 6th Floor

Drawing L107 F – Proposed Site Plan, 7th Floor to 10th Floor

Drawing L111 F – Proposed Site Plan, 11th Floor to 13th Floor

Drawing L117 B – Proposed Building Storey Heights Diagram

Drawing L120 A – Proposed Site Sections

Drawing L125 F – Proposed bin Storage Locations and Motorcycle and Cycle Parking Layout

PRE-COMMENCEMENT CONDITIONS

Tree Protection Plan

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

- (a) Trees and hedges to be retained/felled clearly identified and marked on a plan;
- (b) Trees and hedges requiring surgery;
- (c) The root protection areas to be identified on plan for retained trees and hedges;

- (d) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
- (e) The precise location of the barrier fencing, to be shown on plan.

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

Reason: To protect important landscape features within the site.

Root Protection.

Root Protection Barrier

03 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site.

Arboricultural Method Statement

04 No operations of any description, (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection within the development, until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. (The Arboricultural Method Statement shall contain full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
- (b) Construction exclusion zones;
- (c) Protective barrier fencing;
- (d) Ground protection;
- (e) Service positions;
- (f) Special engineering requirements including 'no dig construction';
- (g) Pre construction tree works;
- (h) Approved tree removals;
- (i) Access facilitation pruning;
- (j) Landscaping;
- (k) Name, qualifications and contact details of the Arboricultural Contractor(s) and/or Consultant(s) who will be implementing the above are to be supplied to the Councils Tree Officer.

The development shall be carried out in full compliance with the Arboricultural Method Statement unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To protect important landscape features within the site.

Arboriculturalist

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

- (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 Councils Tree Officer.

Reason: To protect important landscape features within the site.

Contamination & Ground Remediation – Assessment, Implementation Scheme and Verification Plan (Appropriate Assessment)

06 Prior to the commencement of any development approved by this planning permission, other than the demolition and removal of surface structures the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

- a. A preliminary risk assessment which has identified:
 - i. all previous uses
 - ii. potential contaminants associated with those uses
 - iii. a conceptual model of the site indicating sources, pathways and receptors
 - iv. potentially unacceptable risks arising from contamination at the site.
- b. A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c. The site investigation results and the detailed risk assessment (b) 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.
- d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity due to proximity to River Usk SAC and contamination is known/strongly suspected.

Construction Environmental Management Plan (Appropriate Assessment)

07 Prior to the commencement of development in relation to each phase as defined by condition 08 or for any other works over any other agreed area of the site, a Construction Environmental Management Plan (CEMP) pertaining to those specific works and the area they affect shall be submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following:

- i. The position of temporary haul roads and compounds containing site offices, workers welfare facilities or compounds containing plant or for the storage of equipment and materials;
- ii. wheelwashing facilities;
- iii. dust suppression measures;
- iv. construction noise mitigation measures;
- v. details of temporary lighting during construction works; these shall include details of how light spill to the river will be prevented;
- vi. details of enclosure of working areas;

- vii. the drainage strategy to operate during construction setting out controls of contamination during construction, including controls to surface water run-off, water pumping, storage of fuels and hazardous materials, spill response plans and other pollution control measures.
- viii. Other pollution prevention and contingency measures that are to be implemented.
- ix. Details of specific measure to protect the conservation objectives of the river Usk in terms of control of operations within 10m of the top of the river bank.

Works for each phase or any other agreed area shall be implemented in accordance with the approved CEMP for that phase or area.

Reason: to protect the amenities of nearby residents and in the interests of safeguarding the conservation objectives of the River Usk SAC and SSSI.

Phasing Plan (Appropriate Assessment)

08 The development of the land shall proceed sequentially in accordance with an approved phasing plan and / or a written phasing programme setting out the proposed phasing of development on the site which shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development (other than the demolition and removal of surface structures). The development of the land shall proceed in accordance with the approved phasing plan and phasing programme and shall have regard to the requirement to implement the riverfront treatment at an early stage of the development in order to protect the interests of the River Usk SAC and the amenity of users of the riverside footpath / cycleway.

Reason: in the interests of controlling the phased development of the site and to protect the interests of the River Usk SAC and the users of the riverside footpath / cycleway.

Details of Roads/cycleways/footways

09 Roads/cycleways/footways on the site in relation to each phase (as defined by Condition 08) shall be constructed in accordance with plans submitted to and approved in writing by the local planning authority prior to commencement of development of the relevant phase (other than the demolition and removal of surface structures) and completed in accordance with the approved details prior to first occupation of that phase unless an alternative timescale has been submitted to and approved in writing by the local planning authority.

Reason: in the interests of highway and pedestrian safety and to ensure that the roads on the site are completed to an appropriate standard.

PRE-OCCUPATION CONDITIONS

Travel Plan

10 Prior to the first occupation of any unit hereby approved a Travel Plan shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall clearly explain how reliance on private motor vehicles is to be reduced and how the use of other forms of transport by occupiers of the site will be encouraged. The Travel Plan shall be implemented as approved.

Reason: To ensure the efficient function of the site, to avoid any adverse impacts on the local highways and to promote sustainable transport.

Parking Management Scheme

11 No building on the scheme shall be beneficially occupied until details of a parking management scheme in relation to that building have been submitted in writing to the Local Planning Authority. The scheme shall contain details of how parking is to be allocated to the various uses within that building and

how the allocated parking will be controlled in the interests of the amenity of residents and other users of the site. Following the Local Planning Authority's written agreement to such a scheme as may be submitted the scheme shall be implemented as agreed thereafter.

Reason: to ensure parking is provided in adequate amounts, is available for use.

Contamination & Ground Remediation – Verification Report

12 Prior to occupation of any part of the approved development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for that part 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 any plan (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, and for the reporting of this to the Local Planning Authority.

Reason: In order to demonstrate that the remediation criteria relating to controlled waters have been met. In order to (if necessary) secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Details of Recreation Areas

13 Reserved Matters (design) shall include details of all formal and informal recreation areas (details to include siting, design, external appearance, landscaping, means of access and play equipment as relevant). Following any approval of those reserved matters the approved recreation areas shall be provided fully as agreed prior to the occupation of the last building in the phase to which they pertain and shall be maintained as such thereafter.

Reason: to ensure that adequate levels of recreation facilities are provided to serve the development.

Open Space Management Scheme

14 No building shall be occupied in any particular phase of the approved scheme until a management strategy for the maintenance of all areas of formal and informal open space for that phase, not subject to adoption by the local authority, has been submitted to and approved in writing by the local planning authority. The strategy shall include details of any management company proposed and its terms of reference. The management strategy for each phase shall be implemented in accordance with the approved details for that phase.

Reason: to ensure that adequate safeguards are provided to ensure the future provision of recreation facilities.

OTHER CONDITIONS REQUIRING THE SUBMISSION OF INFORMATION

Traffic Management Plan

15 Prior to any works of road / access construction on the site a Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall identify means to slow vehicle speeds within the site and provide for mechanisms to control the access closest to the Wyndham Street / B4591 junction and the access from the site directly onto the B4591 so that they are egress from the site only. The Traffic Management Plan shall be implemented as approved.

Reason: To ensure the efficient function of the site, to avoid any adverse impacts on the local highways and to promote sustainable transport.

Road Traffic Noise – Internal

16 No development, other than demolition and removal of surface structures, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 40 dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected.

Road Traffic Noise – External

17 No development, other than demolition and removal of surface structures, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the maximum day time noise level in outdoor living areas exposed to external road traffic noise shall not exceed 55 dBA Leq 16 hour [free field]. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of future occupiers are protected.

General Control over Drainage (Appropriate Assessment)

18 No development shall commence in relation to each phase (unless in relation to the demolition and removal of surface structures or remediation of contamination) until details of the foul and surface water drainage and storage system for that phase including means of discharge into the drainage network (including full details of the proposed surface water outfall to the River Usk and methods to mitigate its impact on the River Usk SAC), have been submitted to and approved in writing by the local planning authority. The drainage shall be provided as approved prior to the occupation of the relevant phase.

Reason: to ensure the protection of the River Usk SSSI and the River Usk SAC and to prevent overloading of the local sewerage and surface water drainage network.

Decontamination – Reporting of contingency action and of monitoring reports (Appropriate Assessment)

19 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan as set out in the contamination remediation strategy or verification plan shall be submitted to the Local Planning Authority as set out in that particular plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Decontamination – Unforeseen contamination (Appropriate Assessment)

20 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

Hydrocarbon Removal (Appropriate Assessment)

21 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas, hardstandings and road surfaces shall be cleansed of hydrocarbons. The capacity and design of the mechanism to remove hydrocarbons shall be submitted to and approved in writing by the local planning authority prior to its installation. The mechanism shall be retained thereafter.

Reason: to safeguard the conservation objectives of the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

Contamination – Imported Material (Appropriate Assessment)

22 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 before that material is imported to the site. 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.

Lighting Details and Implementation

23 Details of all street lighting pertinent to any relevant phase of development shall be submitted to and approved in writing by the local planning authority prior to the construction of any building in that phase or in the event the phase contains no buildings then prior to the installation of the lighting. The lighting shall be implemented in accordance with the approved details prior to the occupation of the first building within that phase or in accordance with any implementation time table submitted with the details. Details for Phases that contain no buildings shall contain an implementation timetable. No other lighting shall be installed other than as agreed.

Reason: to protect the conservation interest of the River Usk and in the interests of residential amenity, highway and pedestrian safety and the security of the site.

Boundary Treatments

24 No work shall be commenced on the construction of any building in the approved scheme in relation to any relevant phase as defined by Condition 08 until full details of all boundary treatments have been submitted to and approved in writing by the local planning authority for that phase. Details of fencing to prevent access to the riverbank shall be provided in relation to that phase of development. The agreed fencing shall be implemented in full prior to the first beneficial use of the relevant phase and shall be retained as agreed.

Reason: to ensure adequate security and privacy and that the scheme is completed in a manner compatible to its surroundings.

Details of Cycle Parking & Bin Storage

25 Prior to the construction of any building served by a bin store or a cycle store as shown in Drawing L125 F full details of those stores shall be submitted to the local planning authority. Following the LPA's written agreement the store shall be provided fully as agreed prior to the occupation of any unit served by that store.

Reason: in the interests of residential amenity & sustainability.

Details of Flood Protection for Basement Parking

26 Prior to the first use of the basement parking a scheme including physical measures and future management protecting the basements from flooding shall be submitted to the Council. Following the Council's written agreement the approved scheme shall be implemented as agreed prior to any use of the basement parking.

Reason: to protect the site from the consequences of a flood event.

DIRECTIVE CONDITIONS

Plant Noise

27 The rating level of the noise emitted from any fixed plant and equipment located at the site shall not exceed the existing background level at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2014.

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

Opening Hours –Store, Retail units & Pharmacy

28 Prior to first beneficial use, details of opening hours of the Café, convenience store and pharmacy shall be submitted to and approved in writing by the Local Planning Authority. The use shall operate in accordance with the approved hours.

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

Deliveries - Café, Convenience Store, Hotel & retail units

29 There shall be no arrival, departure, loading or unloading of delivery vehicles serving the café, convenience store, pharmacy and hotel between the hours of 23:00 and 07:00 on any day.

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

Contamination & Ground Remediation – Infiltration of Surface Water (Appropriate Assessment)

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

Reason: There is an increased potential for pollution of controlled waters from inappropriately located infiltration systems such as soakaways, unsealed porous pavement systems or infiltration basins.

Contamination & Ground Remediation – Piling (Appropriate Assessment)

31 Piling or any other foundation designs using penetrative methods below 1m in depth shall not be 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 groundwater.

Reason: There is an increased potential for pollution of controlled waters from inappropriate methods of piling.

Piling – Impact on Shad (Appropriate Assessment)

32 No works within the River or associated with piling shall be undertaken during the period from 1 March to 30 June.

Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC and its conservation objectives.

Timing of In-river Works - Fish Migration (Appropriate Assessment)

33 No works in-river (below the top of the river bank) shall be undertaken other than January – February and July-August inclusive without the prior written approval of the LPA.

Reason: to avoid adverse impacts on migrating fish species including the Atlantic salmon and to protect the wider interests of the River Usk SAC and its conservation objectives.

Storage of fuels (Appropriate Assessment)

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

Reason: to prevent pollution of the water environment.

Timing of Works – Otter protection

35 No work of excavation, land raising or construction shall take place within 20 metres of the top of the riverbank between one hour prior to sunset and one hour after sunrise respectively unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure no disturbance is caused to otters migrating up or down the river.

Flooding

36 Finished Floor Levels of the buildings hereby approved must be set at 9.8 metres Above Ordnance Datum (mAOD). External areas for car parking (including entry points of entry to basement areas), main access routes within the development (including emergency routes i.e. Boardwalk) must be set at 9.65 metres Above Ordnance Datum.

Reason: To reduce the risk of flooding to the proposed development and future users.

37 The ground level on the site shall be raised to a level of 9.3 metres Above Ordnance Datum (mAOD) within 03 months of the implementation of this permission.

Reason: To correspond with the timing of the construction phases and the proposed standard of service of Natural Resources Wales (NRW) Crindau Flood Alleviation Scheme.

Controls over Use of the Health Centre

38 The premises identified as a health centre and ancillary pharmacy shall be used for those purposes only and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.

Reason: Other uses within that use class would not be acceptable in that context.

Occupation of Student Accommodation

39 The units identified as student accommodation shall only be occupied by persons enrolled in a full-time educational course.

Reason: the parking provision for these units is insufficient to meet the needs of the occupiers of other forms of accommodation.

Removal of Riverside Footpath

40 The existing riverside footpath / cycleway shall be removed following the provision of the 'boardwalk'.

Reason: to protect the interests of the River Usk SAC

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (adopted January 2015). Policies SP1, SP2, SP3, SP8, SP9, SP10, SP12, SP13, SP15, SP18, SP19, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE1, CE2, CE3, CE5, CE6, CE9, H1, H2, H3, H4, T3, T4, T5, T6, T7, R8, CF4 & CF8 were relevant to the determination of this application.

02 This permission is subject to a legal agreement under section 106 of the Town and Country Planning Act 1990, as amended.

03 Under the Wildlife and Countryside Act 1981 bird species are protected whilst nesting. Therefore, any vegetation to be removed to facilitate the application development should be cleared outside of the peak bird-breeding season (considered to be March through to August inclusive) or within the breeding season only if a pre-clearance survey shows no breeding birds to be present nesting or commencing nesting within the vegetation affected.

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

05 Non-conditioned documents submitted with this application were:

Drawing 1 Rev 1 – Tree Constraints Plan

Drawing 2 Rev 1 – Tree Removals and Protection Plan

Drawing 031-R001 – Illustrative Landscape Proposals

Schedule of Accommodation

Transport Assessment Addendum (September 2015)

Stage 1, 2 & 3 Arboricultural Impact Assessment and Method Statement Report

Retail Assessment Supplementary Statement (July 2015)

Retail Impact Assessment (June 2015)

Statement of Community and Stakeholder Involvement (June 2015)

Landscape & Visual Impact – Appraisal Report (26 June 2015)

Landscape Strategy Revision A (June 2015)

Archaeological Desk Based Assessment & Setting Impact Assessment (June 2015)

Preliminary Ecological Appraisal and Initial Bat Survey (April 2015)

Phase 1 & 2 GeoEnvironmental Investigation (May 2015)

Transport Assessment & Appendices (June 2015)

Asbestos Demolition Report (February 2015)

Habitat Regulations Screening Assessment (June 2015)

Noise Assessment (June 2015)

Flood Consequences Assessment & Appendices (June 2015)

Planning Statement (July 2015)

Design & Access Statement & Appendices (June 2015)

06 On the advice of CNC/NRW any landscaping scheme submitted under reserved matters should not contain marginal planting on the river front.

APPENDIX A

4. CONSERVATION OBJECTIVES (OF THE RIVER USK SAC)

Background to Conservation Objectives:

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

b. Format of the conservation objectives

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

Each conservation objective consists of the following two elements:

1. Vision for the feature
2. Performance indicators

As a result of the general practice developed and agreed within the UK Conservation Agencies, conservation objectives include performance indicators, the selection of which should be informed by JNCC guidance on Common Standards Monitoring¹.

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

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

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

4.1 Conservation Objective for the water course

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.2 Conservation Objective for Features 1-5:

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

- Atlantic salmon *Salmo salar* (EU Species Code: 1106);
- Bullhead *Cottus gobio* (EU Species Code: 1163)

<p>Vision for features 1-5</p> <p>The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:</p>	
<p>FCS component</p>	<p>Supporting information/current knowledge</p>
<p>The conservation objective for the water course as defined in 4.1 above must be met.</p> <p>The population of the feature in the SAC is stable or increasing over the long term.</p>	<p>Refer to sections 5.1 to 5.5 for current assessments of feature populations.</p> <p>Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates.</p> <p>Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of disease.</p>
<p>The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms e.g. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions e.g. food supply (as described in sections 2.2 and 5).</p> <p>Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural</p>	<p>Some reaches of the Usk SAC are more suitable for some features than others e.g. the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in section 3.2. Further details of feature habitat suitability are given in section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.</p> <p>The characteristic channel morphology provides the diversity of water depths,</p>

<p>range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4</p> <p>There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.</p>	<p>current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches e.g. through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.</p> <p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p> <p>Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.</p> <p>Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.</p>
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<p>Performance indicators for features 1-5</p> <p>The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.</p>
<p>Sea lamprey <i>Petromyzon marinus</i> :</p> <p><i>Performance indicators for feature condition</i></p>

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

		unfavourable condition.	
Brook lamprey <i>Lampetra planeri</i> and River lamprey <i>Lampetra fluviatilis</i> : <i>Performance indicators for feature condition</i>			
Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Age/size structure of ammocoete population	<p>Samples < 50 ammocoetes ~ 2 size classes</p> <p>Samples > 50 ammocoetes ~ at least 3 size classes</p>	<p>This gives an indication of recruitment to the population over the several years receding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability, therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment.</p>	2-10
(b) Distribution of ammocoetes within catchment	Present at not less than 2/3 of sites surveyed within natural range	<p>The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit i.e. all except unit 1.</p> <p>Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment.</p>	2-10
	No reduction in distribution of ammocoetes	<p>Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment.</p>	

(c) Ammocoete density	Optimal habitat: >10m ⁻² Overall catchment mean: >5m ⁻²	Optimal habitat comprises beds of stable fine sediment or sand >15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2-10
Twaite shad <i>Alosa fallax</i> and Allis shad <i>Alosa alosa</i> :			
<i>Performance indicators for feature condition</i>			
Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1-5
<i>Performance indicators for factors affecting the feature</i>			
(a) Flow	Targets are set in Relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be	1-5

		discouraged on shad rivers during this period.	
Atlantic salmon <i>Salmo salar</i> :			
<i>Performance indicators for feature condition</i>			
(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-seawinter component. As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality. Assessed using electro fishing data.	6-10
<i>Performance indicators for factors affecting the feature:</i>			
Water quality			
(a) Biological quality	Biological GQA class A	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6-10
(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used	All

		throughout the SAC [see Annex 3].	
<i>Performance indicators for factors affecting the feature:</i>			
Hydromorphology			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
Bullhead <i>Cottus gobio</i> :			
<i>Performance indicators for feature condition</i>			
a) Adult densities	No less than 0.2 m ⁻² in sampled reaches	CSM guidance states that densities should be no less than 0.2 m ⁻² in upland rivers (source altitude >100m) and 0.5 m ⁻² in lowland rivers (source altitude <100m). A significant reduction in densities may also lead to an unfavourable condition assessment.	2-10
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by ongoing monitoring will result in an unfavourable condition assessment.	2-10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition	2-10

		assessment.	
<p>4.3 Conservation Objective for Feature 6:</p> <p>- European otter <i>Lutra lutra</i> (EU Species Code: 1355)</p>			
<p>Vision for feature 6</p> <p>The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:</p>			
FCS component		Supporting information/current knowledge	
<p>The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour. The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole area of the Usk SAC is considered to form potentially suitable breeding habitat for otters.</p> <p>The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.</p> <p>The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and</p>		<p>Refer to section 5.9 for current assessment of feature population.</p> <p>Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance.</p> <p>The decline in eel populations may be having an adverse effect on the population of otters in the Usk.</p> <p>Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.</p>	

underpasses, ledges, fencing etc. at road bridges and other artificial barriers.			
Performance indicators for feature 6			
The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.			
Attribute	Specified Limits	Comments	Relevant Unit(s)
<i>Performance indicators for feature condition</i>			
(a) Distribution	Otter signs present at 90% of Otter Survey of Wales sites	Ref: CCW Environmental Monitoring Report No. 19 (2005) ³	All
(b) Breeding activity	2 reports of cub/family sightings at least 1 year in 6	Ref: CCW Environmental Monitoring Report No. 19 (2005) ³	All
(c) Actual and potential breeding sites	No decline in number and quality of mapped breeding sites in subcatchments (see Ref)	Ref: CCW Environmental Monitoring Report No. 19 (2005) ³ In the Usk catchment, 77 actual or potential breeding sites have been identified, distributed throughout the catchment on the main river and tributaries.	All

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