

# Report

## Planning Committee

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### Part 1

Date: 6 January 2016

Item No: 4

**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**

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).

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## Risks

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

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

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

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

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

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

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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: 6 January 2016

## **APPLICATION DETAILS**

**No:** 15/0902      **Ward:** CAERLEON

**Type:** FULL (MAJOR)

**Expiry Date:** 12-NOV-2015

**Applicant:** LIGHTSOURCE SPV 209 LIMITED

**Site:** LAND TO THE WEST OF PARK FARM, MALTHOUSE LANE, CAERLEON NP18 3PB

**Proposal:** *INSTALLATION AND OPERATION OF A 3.91MW SOLAR FARM AND ASSOCIATED INFRASTRUCTURE, INCLUDING PHOTOVOLTAIC PANELS, MOUNTING FRAMES, INVERTERS, TRANSFORMERS, SUBSTATIONS, COMMUNICATIONS BUILDING, ACCESS TRACKS, FENCING AND POLE-MOUNTED CCTV CAMERAS, AFFECTING BRIDLEWAY ST39SW-125 AND FOOTPATHS ST395W - 131 AND ST395W - 132.*

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

- 1.1 The application is for a solar farm on 9.34Ha of land to the west of Park Farm, Malthouse Lane, Caerleon. The site consists of two agricultural fields which slope from north to south and are orientated in a southerly direction. The site is bordered to the east by a stream with a significantly wooded area and the boundary between the two fields is also wooded. These areas of woodland are ancient woodland. Other boundaries consist of hedges with substantial trees being present. The site will be accessed by a gravelled track leading from Malthouse Lane to Park Farm. The proposed lifespan of the scheme is 30 years.
- 1.2 The proposed solar farm will generate up to 3.91MW of electricity which would typically power 1375 houses. The panels will be mounted on frames and will be 0.8m high at the front and up to 2.2m high at the back. The panels will be angled at 25 degrees to catch the sun. The frames will be driven into the ground to a depth of 1.5m and will be 'H' or 'Z' in profile. The direct current from the panels will be converted to alternating current in a series of inverters housed in three buildings that will be 2.9m high with a footprint of 4.4 x 1.5m. Two transformers will be needed to step up the current and they will have associated switchgear. The transformer is either sited in a building similar to that for the inverters or is kept as free-standing plant. Two electrical substations are required to connect the farm to the grid. One of the substations will require lighting in the event of a breakdown. No other lighting is proposed.
- 1.3 The site will be secured by a 2m deer fence (timber posts and mesh), 16 No. security cameras on 2.4 poles will be installed. Other buildings required are a Communications Building (2.5m high with a footprint of 3.6m x 3.0m) which facilitates the remote monitoring of the site, a composting toilet and storage shed. There will be 11 structures / items of plant in total on the site. Swales are proposed to provide drainage. Approximately 30% of the site will be covered in solar panels, tracks or other development. 650m of track will be built on the site with a width of 4m. The rest will be retained as grass which can allow for sheep grazing. A programme of bio-diversity enhancement is proposed to include hedgerow infill planting, tree planting, grassland creation (including a wildflower margin around the perimeter of the site), bird and bat boxes and log/brush piles for reptiles and invertebrates.

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

None.



### 3. POLICY CONTEXT

#### 3.1 Planning Policy Wales (Edition 7) July 2014

Paragraph 4.8.10 **Local designations such as green wedges** may be justified where land is required to serve the same purpose to a Green Belt (see 4.8.3), but these designations do not convey the permanence of a Green Belt.

Paragraph 4.8.14 - When **considering applications for planning permission in Green Belts or green wedges**, a **presumption against inappropriate development** will apply. Local planning authorities should attach substantial weight to any harmful impact which a development would have on a Green Belt or green wedge.

Paragraph 4.8.15 - Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge. Green Belt and green wedge policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

Paragraph 4.8.16 - The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development (other than in particular identified circumstances).

Paragraph 4.8.18 - Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it.

Paragraph 4.10.1 - In the case of agricultural land, land of grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile, and should be conserved as a finite resource for the future. In development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

Paragraph 12.8.1 - The UK is subject to the requirements of the EU Renewable Energy Directive. These include a UK target of 15% of energy from renewables by 2020. The UK Renewable Energy Roadmap sets the path for the delivery of these targets, promoting renewable energy to reduce global warming and to secure future energy supplies. The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change whilst enhancing the economic, social and environmental wellbeing of the people and communities of Wales in order to achieve a better quality of life for our own and future generations. This is outlined in the Welsh Government's Energy Policy Statement *Energy Wales: A Low Carbon Transition* (2012).

Paragraph 12.8.6 - The Welsh Government's aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.

Paragraph 12.8.8 - The Welsh Government is committed to using the planning system to:

- optimise renewable energy generation;
- optimise low carbon energy generation;
- facilitate combined heat and power systems (and combined cooling, heat and power) where feasible; and
- recognise that the benefits of renewable energy are part of the overall commitment to tackle climate change by reducing greenhouse gas emissions as well as increasing energy security.

Paragraph 12.8.9 - Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. Specifically, they should make positive provision by:

- considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;
- ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations.

Paragraph 12.8.10 - At the same time, local planning authorities should:

- ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed;
- ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.

Paragraph 12.10.1 - In determining applications for renewable and low carbon energy development and associated infrastructure local planning authorities should take into account:

- the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;
- the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;
- the impact on the natural heritage, the Coast and the Historic Environment;
- the need to minimise impacts on local communities to safeguard quality of life for existing and future generations;
- ways to avoid, mitigate or compensate identified adverse impacts;
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so consider whether measures to adapt to climate change impacts give rise to additional impacts;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

Paragraph 12.10.3 - Developers for renewable and low carbon energy developments should seek to avoid or where possible minimise adverse impacts through careful consideration of location, scale, design and other measures.

## 3.2 Technical Advice Note 6

3.2.1 Paragraph 6.2.1 - When preparing development plans and considering planning applications, planning authorities should consider the quality of agricultural land and other agricultural factors and seek to minimise any adverse affects on the environment.

3.2.2 Paragraph 6.2.2 - Planning authorities should bear in mind that, once land is built on, the restoration of semi-natural and natural habitats and landscape features is rarely possible

and usually expensive, and archaeological and historic features cannot be replaced. Also, once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as best and most versatile agricultural land is seldom practicable.

- 3.2.3 Paragraph 6.2.3 - Agricultural land is classified by grades according to the extent to which its physical or chemical characteristics impose long term limitations on agricultural use for food production. There are 5 grades of land numbered 1 to 5, with grade 3 divided into two sub-grades. The best and most versatile land falls into grades 1, 2 and sub-grade 3a and is the most flexible, productive and efficient in response to inputs.
- 3.2.4 Paragraph 6.2.4 - The Agricultural Land Classification (ALC) map for Wales is published at a scale of 1:250,000. This map is produced for use in strategic planning and provides only a generalised indication of the distribution of land quality. The map is not suitable for use in evaluating individual sites. In such cases a resurvey at a larger scale is necessary to obtain a definitive grade.
- 3.2.5 Paragraph 6.2.5 - The nature of other development and its proximity to farms can influence the type of farming and the extent to which inherent land quality can be exploited. Certain locations may have agricultural advantages such as accessibility to markets, processing plant and certain industries associated with agriculture. Farms with development close to them tend to suffer from trespass and other forms of disturbance which may affect the efficiency and upkeep of holdings. It may be possible to reduce any detrimental effects of development by locating compatible uses adjacent to farm land, by landscaping or by detailed provision of amenity space and green corridors in the layout of residential development. Technical Advice Note 6: Planning for Sustainable Rural Communities.
- 3.2.6 Paragraph 6.2.6 - Farms vary considerably in size, type of farm business and layout. The loss of part of a holding can have important implications for the remainder. The effect of severance and fragmentation upon the farm and its structure may be relevant.
- 3.3 Technical Advice Note 8 – Planning for Renewable Energy (July 2005)
  - 3.3.1 Paragraph 2.16 - Experience has shown that there are opportunities to achieve community benefits (through major wind farm development). Some benefits can be justified as mitigation of development impacts through the planning process. In addition, developers may offer benefits not directly related to the planning process. Annex B provides further information and examples about the types of community benefit which have been provided. Local planning authorities, where reasonably practical, should facilitate and encourage such proposals. The Welsh Development Agency, and others can support and advise on community involvement in developing renewable energy and benefiting from it. Local planning authorities should make clear in their development plans the scope of possible "planning contributions". However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.
  - 3.3.2 Paragraph 3.15 - Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported.
  - 3.3.4 Annex B of TAN 8
    - Paragraph 2.1 - It is perfectly acceptable for a business to enter into a legally binding agreement with third parties to deliver particular and agreed benefits to the community. Many local planning authorities would be more comfortable with this approach as it separates, more clearly, community benefits from the planning decision. It is important that the developer is able to identify suitable local representative people or organisations with whom it can negotiate. If there are funds to be administered then an appropriately constituted and regulated body must be identified or created.
- 3.4 Practice Guidance – Planning Implications of Renewable Energy and Low Carbon Energy (February 2011)

Paragraph 8.4.16 - In view of the national policy support for farm diversification and the relatively large area of land required for solar PV arrays it is likely that a significant proportion of proposals for solar PV arrays will be on agricultural land. Both the use of natural resources (such as high quality agricultural land) and the reversibility of a development are factors in determining if EIA is required.

Paragraph 8.4.17 - In addition to avoiding the best and most versatile agricultural land, other possible mitigation includes taking steps to enhance the reversibility of the development (e.g. by use of removable mats rather than permanent access tracks and use of ground screws rather than buried concrete foundations to anchor solar arrays) and avoiding soil compaction or contamination during construction and maintenance.

### 3.5 ADOPTED NEWPORT LOCAL DEVELOPMENT PLAN 2013-2028

Policy	Text
SP1 Sustainability	Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to: ii) the reuse of previously developed land and empty properties in preference to greenfield sites; iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources;
SP5 Countryside	Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.
SP7 Green Wedges	Green wedges have been identified in order to prevent coalescence between the following settlements: iv) Caerleon and Cwmbran. Within these areas development which prejudices the open nature of the land will not be permitted.
SP9 Conservation of the Natural, Historic and Built Environment	The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.
GP1 General Development Principles – Climate Change	Development proposals should: ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on-site energy provision where practicable;
GP2 General Development Principles – 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;
GP3 General Development Principles – Service Infrastructure	Development will be permitted where, as applicable: i) necessary and appropriate service infrastructure either exists or can be provided;
GP5 General Development Principles – Natural	Development will be permitted where, as applicable: ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant

Environment	adverse effects on areas of nature conservation interest including international, European, national, Welsh Section 4233 and local protected habitats and species, and protecting features of importance for ecology; v) there would be no unacceptable impact on landscape quality; vii) the proposal includes appropriate tree planting or retention where appropriate and does not result in the unacceptable loss of or harm to trees, woodland or hedgerows that have wildlife or amenity value.
GP6 General Development Principles – Quality of Design	Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed: i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area; 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;
GP7 General Development Principles – 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.
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.
CE10 Renewable Energy	Small scale micro-generation will be encouraged within the settlement boundary. Large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist.
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.

### 3.6 OTHER LOCAL DOCUMENTS

#### 3.7 Renewable and Low Carbon Energy Assessment (May 2013)

This report has been produced by Verco as a joint study for Torfaen County Borough Council and Newport City Council on behalf of the Carbon Trust in Wales. The purpose of the study is to provide an evidence base for the potential development of renewable and low carbon energy within the two local authorities, to examine the low carbon potential for strategic development sites and explore strategic leadership opportunities. Chapter 12 - There is a significant resource potential for **land based solar PV** systems across the authority. The coastal areas have the best levels of irradiation, however all plots are 3km or more from the coast primarily due to ecological and agricultural constraints.

Areas of the City Council's Administrative Area are identified that have good potential for ground mounted solar PV arrays. Only land in agricultural grades 4 and 5 were included and then areas which suffered from other constraints such as sites designated for their

landscape, ecological or heritage value were excluded as were areas of common land. Other considerations were made in regard to aspect, slope, competing landuses and the viability of grid connection to arrive at an area of viable solar development.

Figure 57 identifies areas with good potential for Ground Mounted Solar PV. It is not clear if the application site is within such an area due to quality.

#### **4. CONSULTATIONS**

- 4.1 YMDDIRIEDOLAETH NATUR GWENT / GWENT WILDLIFE TRUST: GWT doesn't have any objection to the planting plans or management proposals, and welcome the increased areas for wildflower planting and other biodiversity enhancement. We are, however concerned that 10 years of management will go completely to waste if the site is not managed or managed inappropriately for the following 20 years.

We would therefore encourage commitment from the developer to manage the site for the operational life of the developments if possible.

- 4.2 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST:

- The submitted Desk Based Assessments and Geophysical Survey report meet current professional standards
- All ground works should be completed under archaeological supervision.
- A 'watching brief' should be secured under condition using the standard wording in Welsh Office Circular 60/96 (Section 23).

- 4.3 WELSH GOVERNMENT (RURAL AFFAIRS): Does not comment on the merit of the proposals but notes that the submitted Agricultural Land Classification Surveys are a fair and accurate assessment of the land quality of the assessed sites.

- 4.4 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): We have reviewed the application and offer no objection to proposed development. However, please note that we have not considered possible effects on all species and habitats (including nesting birds) listed in Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests.

To comply with your Authority's duty under Section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your Authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for Section 42 habitats and species ([www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk)).

The applicant should also be advised that, in addition to planning permission, it is their responsibility to ensure that they acquire all other permits/consents relevant to their development.

- 4.5 NETWORK RAIL:

Whilst there is no objection in principle to this proposal, the Design & Access report refers to a Swale being constructed; all surface water drainage should be directed away from Network Rail's property to the public mains system. A suitably worded condition should be added to any consent granted.

Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

##### Fencing

The applicant should refer to their conveyance for any particular fencing specifications however, due to the change of use the minimum specification should be 1.8 metre high

steel palisade. No encroachment to take place on Network Rail's property without prior agreement from Network Rail.

#### Safety barrier

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

#### Solar panels

We would advise that the provision of any reflective material used in the solar collecting equipment should not interfere with the line of sight of train drivers and the potential for glare or reflection of light from the panels that may impact upon signalling **must** be eliminated.

Network Rail would expect the applicant to demonstrate that the panels are either not reflective or that appropriate fencing/mitigation or other screening is erected between the railway and the solar panels to avoid this happening.

#### Drainage

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

#### Access points

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

- 4.6 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.
- 4.7 CADW: The proposed development is located within the vicinity of the scheduled monuments known as MM023 Lodge Wood Camp and MM044 Twm-Barlwm Mound and Bailey Castle and within the 1km Zone of Theoretical Visibility of the registered historic park and garden known as Gt20 Newport: Bryn Glas. Therefore given that only the location of the hillfort is visible and the screening effect of the vegetation means that the impact of the solar farm on the setting of MM023 Lodge Wood Camp will be very slight. The solar farm is likely to be visible in the direct view of Lodge Wood Camp from the hillfort at Twmbarlwm. As noted above this is a significant but long view and given that the solar farm will be screened by existing vegetation it is our opinion that, at worst, the proposed solar farm will have a very slight impact on the setting of MM044 Twmbarlwm. The intervening residential development and the earthworks of the A4042 will also block views of the solar farm from the registered historic park and garden of Bryn Glas. CADW confirm there is no adverse impact on the Motte (MM087) on Malthouse Lane and the Registered Historic Park and Garden at Llantarnam Abbey (PGWGt25) since they lie outside the development's zone of theoretical visibility.

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY): Comments as follows:  
I do not object to the management plan and welcome the inclusion of a 10 year monitoring programme. Details of monitoring will need to be submitted to myself after each session of monitoring. If the monitoring identified any failed mixes or unused bat/bird boxes it may be recommended that they be moved. I will require details of the ecological liaison person who will be overseeing the works and the monitoring of the enhancements.

5.2 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): Objects since the proposal will reduce the open character of the area which is allocated as green wedge under SP7iv of the Newport Local Development Plan 2011-2026.

5.3 HEAD OF STREETSCENE & CITY SERVICES (PUBLIC RIGHTS OF WAY): Comments as follows:

5.3.1 PROW 389/12 runs along part of the proposed access track. In addition to this, two additional PROW's also join the track near to its junction with Malthouse Road. PROW 389/17 joins from the southern side of the track and 389/18 joins from the northern side of the track.

Bridleway 389/9 runs along the northern boundary of the proposed solar farm and is crossed by the associated access track. For this reason, I have attached a British Horse Society (BHS) document containing advice on the provision of solar farms near bridleways.

Although there is no significant issue with the solar farm being situated adjacent to the bridleway, there are some concerns regarding the construction vehicles crossing it via the access track and some other aspects of the proposal. To summarise the BHS recommendations:

### 5.3.2 Construction Traffic

Bridleways, byways and unsurfaced roads should not be used for site access. However, to gain access to the proposed solar farm the track has to cross bridleway 389/9. If this is absolutely unavoidable, every effort should be made to ensure that the surface will be maintained and restored to a surface material suitable for horses following the construction of the solar farm.

In addition, if the volume of construction traffic is expected to be high a suitable and safe alternative route for equestrians should be provided during construction to minimise conflict.

This alternative route and the surface material (suitable for horses) should be agreed with the Council's Access Development Improvement Officer beforehand.

Closures without alternative routes should be avoided.

Trenches for cables should not cross or be laid along PROWs, unless unavoidable. If this is the case, authorisation will be required from the Council beforehand.

### 5.3.3 Drainage

Adequate drainage provision for the proposed solar farm must be taken into account to prevent potentially serious detrimental effects on the bridleway.

### 5.3.4 Fencing

Care must be taken not to create a narrow corridor through installation of new fencing. A minimum bridleway width of 4m is required (preferably 5m).



Due to safety implications for riders and in order to reduce intrusive appearance in a non built up location, the use of open mesh fencing is preferable to close boarding or metal palisade fencing with sharp points on top. Sharp points on fencing can be very dangerous should a rider be thrown onto or against the fence.

5.3.5 The following points should also be noted:

- The line of each PROW (as shown on the Definitive Map) has to remain completely unobstructed and must be clear and available for safe public use at all times (including during construction/maintenance/decommission works – unless a temporary closure/diversion order is applied for and granted beforehand);
- The PROW users must not be endangered or disadvantaged in any way by the proposals;
- The surface material of any PROW must not be adversely affected;
- PROW users must be protected from any vehicles/plant associated with the construction/maintenance/decommission of the solar farm. The potential conflict should be risk assessed and managed accordingly.

5.4 HEAD OF STREETSCENE & CITY SERVICES (TREES): No objection.

5.5 HEAD OF LAW & REGULATION (ENVIRONMENTAL HEALTH): No objection subject to conditions including an assessment of glare and glint, a construction environmental management plan and a condition restricting noise levels at residential properties.

5.6 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY): Comments as follows:

- The Planning Policy objection concerning the impact of the Green Wedge allocation remains. This policy seeks to ensure there is no coalescence between Caerleon and Cwmbran. Developments which prejudice the open nature of the land will not be permitted. The development will result in built structures that will have an adverse impact on the openness of the Green Wedge which can be viewed from a number of locations. The plans show a total of 9 structures on site as well as the panels and security features. This being the case an objection is raised and the proposal is not considered compliant with local or national policy.
- A previous appeal decision noted that such development in the Green Wedge would only be supported if very special circumstances were evidenced; that is that the potential harm can be outweighed by other considerations. It is considered that evidence has not been provided to support the special circumstances in this particular case.
- The construction and demolition plan is not considered to provide evidence as to how the quality of the agricultural land is to be maintained, particularly on the area graded as 3a.
- It is not clear as to why the swales have been included. The drainage report notes that there aren't any drainage issues with the site so it is not clear why the swales are needed. Their introduction is specifically questioned on this site because of their impact on land quality (BMV status) with the movement of so much soil for the swales.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 100m of the application site were consulted (05 properties) and a site notice was displayed at the end of Malthouse Lane. One representation objecting was received raising the following points:

- The site is in the green wedge,
- Harm to archaeological remains both directly and in terms of setting,
- Tidal lagoons proposed for the Severn could accommodate solar and wind power installations,

- Solar farms should be on brownfield land,
- Approval would set a precedent,
- Harm to visual amenity,
- The development will prevent the use of ground radar to look for archaeology,
- The applicant did not publicise his public meeting in relation to the development effectively,
- There is grid capacity elsewhere in Newport.

6.2 COUNCILLORS: Councillor Giles has objected to the application for the following reasons:

- Erosion of the green wedge,
- The proposal is overscaled,
- It involves the construction of 5 buildings,
- There is a pollution risk,
- It is unclear who will benefit from the proposed Community Benefit.

6.3 CAERLEON CIVIC SOCIETY: Objects for the following reasons:

- The proposal is harmful to the openness of the green wedge,
- The area has the scope to contain archaeological remains and there should be a full archaeological investigation,
- The land is of good quality in agricultural terms,
- The proposal is not sustainable,
- The proposal would urbanise the two sites and is not agricultural diversification,
- Brownfield sites should be developed in preference.

## 7. ASSESSMENT

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

- Impact of the openness of the green wedge
- Impact on Character and Appearance of the Countryside
- Impact on agricultural land / availability of other sites
- Impact on Archaeology
- Impact on trees & hedgerows
- Benefits of the scheme
  - Renewable electricity generation
  - Bio-diversity enhancements
- Minor Issues
  - Traffic management and public rights of way
  - Community Benefit
  - Pollution
  - Drainage

7.2 Impact of the openness of the green wedge

7.2.1 Inappropriate development is precluded in the green wedge unless very exceptional circumstances apply. Appropriate development is described at paragraph 4.8.16 of Planning Policy Wales as follows:

- justified rural enterprise needs;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings;
- limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies; or
- small scale diversification within farm complexes where this is run as part of the farm business.

The proposal is none of the above and must therefore be inappropriate development in the green wedge. This stance is supported by the approach taken by various planning inspectors in recent appeals. As such permission may only be granted if very exceptional circumstances are shown to be extant.

7.2.2 PPW is clear that substantial weight should be given to any harmful impact upon a green wedge. In terms of local policy, Policy SP7 (green wedges) places a clear prohibition on development which prejudices the open nature of the land. The proposal consists of built development including a sequence of small scale structures in addition to the solar arrays. The proposal would clearly be prejudicial to openness thereby contravening local and national policy. This harm will accrue substantial weight in the balance of considerations.

### 7.3 Character and Appearance

7.3.1 The applicant has provided a Landscape Appraisal (Landscape and Visual Impact Assessment) which addresses the impact of the proposed solar farm on landscape character and visual amenity. The main emphasis is on an area within 2Km of the site since beyond that distance the proposal is not readily perceptible within the landscape. The site is pastoral in an area of rolling terrain. Views into the site are limited with Malpas the most affected and nearest settlement. A bridleway runs along the northern edge of the site and views are available from other public rights of way in the vicinity. Special Landscape Areas lie within the 2Km study area to the north and west, both are in Torfaen. Existing field boundaries consisting of hedges and trees provide a degree of visual containment. It is proposed to strengthen the southern boundary by planting a new hedge and to strengthen the western boundary with additional planting.

7.3.2 Anticipated impacts within the LVIA are:

Topography: negligible during construction and operational phases.

Trees & Hedgerows: hedges are judged to be of medium sensitivity and trees of high sensitivity reflecting the required time to replace them. Trees and hedging are a key characteristic of the site and planting is proposed. The effect of the proposal is considered to be low beneficial within the vicinity of the site for trees and hedges due to the proposed planting. Pasture Land; is considered to be of low sensitivity to change but some would be lost through track construction, the overall impact on pasture is considered negligible.

7.3.3 In terms of the nearby Special Landscape Areas, the LVIA concludes that the development would not *'redefine the character of these non-statutory Landscape designations with only minor effects'*. The LVIA concludes that no Special Landscape Area would be materially affected by the proposed development. There is no reason to disagree with this assessment.

7.3.4 In Landscape terms the LVIA notes that the site lies within the Caerleon Farmlands 'aspect area' identified in Landmap. Its overall evaluation in visual and sensory terms is moderate and it is summarised as 'Pleasant rural farmland in a good condition affected by the A4042'. The landscape assessment notes the predominant character of the site is rural. The author assesses that the landscape has capacity to absorb the development and that the scheme has a limited visual envelope. Change to landscape character would be limited primarily to the application area and its immediate vicinity. The impact on the visual and sensory element of the Caerleon Farmlands aspect area is considered to be minor adverse for the lifetime of the development. In the event additional planting is retained following decommissioning there would be a minor to moderate beneficial effect after the development is removed. Cumulative Effects are considered with there being 1 park proposed within the 2Km study area (application 15/0903 – Park Farm Cottage) and two more outside of that (Henllys - proposed & Langstone Court – operational). The LVIA concludes that the cumulative impact would be negligible in overall landscape terms due to separation, screening effects of topography and vegetation and separation distances between the farms meaning that only long distance views would encompass more than one park.

7.3.5 In visual terms the LVIA considers the viewpoints of various groups and makes the following conclusions:

Dwellings: views from dwelling would be restricted and filtered through vegetation, changes to views would be modest and not harmful. The view from Claremont (Malpas) was considered representative and would experience a minor adverse visual effect.

Public Highways and Sustrans routes: views would be limited to glimpses with some views available from the A4042 Malpas by-pass. Views would tend to be fleeting and limited by landforms and vegetation. The amenity of these viewers would not be adversely affected.

Public Rights of Way: Views of the development would be available from certain viewpoints but they would be transitory and infrequent and the amenity of viewers would be preserved.

Bridleway (on northern edge of site): The LVIA notes the users have high sensitivity to visual changes with a high magnitude of change anticipated resulting in a major adverse visual effect for this user group.

Overall Conclusion: most visual impacts for most viewers will be minor or negligible with major impact on the users of the bridleway in the immediate vicinity of the site. More distant views are obscured by vegetation or landform.

7.3.6 In cumulative terms the LVIA concludes that the impact would be limited due to the lack of inter-visibility between the solar farms proposed or operational within the study area, that is in most views not more than one farm would be seen. Views from the footpaths on Lodge Hill might allow both this site and the one to the east at Park Farm Cottage to be seen both cumulatively and sequentially. Such viewers have a high sensitivity but the screening of the sites and the non-interruption of longer views would mean that the cumulative visual affect for these footpaths would be moderately adverse at worst.

7.3.7 Relevant local policy is SP5 (countryside) which requires that development in the countryside is appropriate, respects the landscape character and biodiversity of the site and wider area and is appropriate in scale and design. In those terms the LVIA identifies some harm to rural character and appearance but quantifies them as low in the main. The principal of the scheme is acceptable subject to compliance with NLDP Policy CE10 (renewable energy). National Policy notes at Paragraph 3.15 of TAN 6 '*other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported*'. This supports the view that the visual impacts of solar farms should be given relatively little weight in planning considerations. As noted in this case the impacts are assessed as being low in any case. The principle visual adverse impact is upon users of the bridleway where a major adverse and therefore significant impact is anticipated. However the affected stretch is relatively short being approximately 350m and in overall terms this is not considered to be significantly harmful to the utility of the bridleway. Overall it is considered that the harms to visual amenity are low and the contraventions of Policies SP5 (countryside) and GP2ii (visual amenity & character and appearance) are slight and should attract little weight in the overall consideration.

#### 7.4 Impact on agricultural land / availability of other sites

7.4.1 The applicant has provided an Agricultural Land Classification survey which concludes the land is in a mixture of grades tending from Grade 3a (29%) in the west of the site into Grade 3b (47%) and then into Grade 4 (24%) on the east of the site near the stream. Only Grade 3a is classed as best and most versatile land and benefits from national and local policy protection. As such 71% of the site is outside of the protected grades. It should also be noted the Grade 3a land is formed of two discrete parcels located in the two separate fields that form the site. It seems unlikely this site could be farmed up to Grade 3a potential given the small amount of and separation of the Grade 3a land significantly limiting the loss of agricultural potential.

7.4.2 It should also be noted that appeal decisions at Llanvapley in Monmouthshire and Court Farm in Newport have confirmed in the event that the applicant demonstrates lower grade sites were not meaningfully available and the development can be reversed then Inspectors have judged this means national policy is complied with. In this case the applicant has

prepared a 'Sequential Analysis Study' which considers the availability of sites for this development. The assessment only considers the administrative area of Newport given the proposal is of small scale and of local significance only. The study does not consider sites in grade 3 (since the national ALC maps do not distinguish between grades 3a & 3b meaning that these two grades cannot be distinguished other than by direct sampling which is accepted as unduly onerous). The study area is also limited by the availability of a 'point of connection' to the grid and the length of the connection cable (greater length reduces viability). Within the area of search there will only be a certain number of acceptable sites which must be large enough, south facing, accessible and not unduly limited by other development management constraints such as bio-diversity or landscape impacts. The Court Farm appeal confirmed that a 'broad brush' approach on this point is acceptable i.e. it was legitimate to discard a site in a SSSI without analysing in detail whether the proposal could have been accommodated within that constrained site. In short a site without that constraint is preferable. It should be noted there is no national or local guidance as to how these assessments are carried out and a proportionate and reasonable approach should be settled upon.

- 7.4.3 The applicant notes that a viable grid connection has been secured in area where network capacity is constrained and considers that a cable run of 1Km is acceptable with any further being unviable. However the whole area of Newport has been considered for alternative sites.
- 7.4.4 In terms of greenfield sites in ALC grades 4 & 5 the applicant identified 8 Assessment Areas where a solar farm might be accommodated, some of these comprised multiple sites (19 sites in total). They were discounted for varying reasons including inadequate site area, poor access, location within a SSSI, proximity to a Scheduled Ancient Monument, proximity to Listed Buildings, Historic Landscapes or Special Landscape Areas, high levels of visibility to dwellings or recreational routes or no viable grid connection within a suitable distance. Overall the study concludes no sites in lower agricultural grading were appropriate for the proposed development and available; this allows the default to the proposed site.
- 7.4.5 In terms of decommissioning the applicant has provided a 'Construction, Decommissioning and Traffic Management Statement'. This considers construction point to safeguard the agricultural potential of the site in the future and discusses the decommissioning. Specific points are:
- management of top soil during construction and careful backfilling of trenches;
  - careful removal of materials on site including buried cables and backfilling of trenches and footings.
- 7.4.6 The Llanvapley and Court Farm appeals confirm that Inspectors are satisfied that solar farms are fully reversible developments with no long term adverse impact on agricultural potential. Nor is the loss of agricultural land for a 'long' temporary period of 25-30 years considered to be an unacceptable harm to agricultural productivity. As such the proposal is considered to comply with national policy in relation to the best and most versatile agricultural land. NLDP Policy GP5iv (loss of high quality agricultural land) requires that the most versatile agricultural land should neither be lost or reduced in quality. It is clear that in this case the proposal will reduce the agricultural potential of the land for the lifetime of the development but not beyond that. However the harm is small given the small areas of BMV land that will be temporarily developed and given the concerns over its existing agricultural potential currently. Any harm to Policy GP5iv is slight and would not warrant significant weight in the opinion of officers.
- 7.4.7 NLDP Policy CE10 (renewable energy) favours renewable generation subject to a consideration of other relevant factors. The policy allows development outside of the urban area if there are no appropriate brownfield sites available. The applicant's 'Sequential Analysis Study' addresses this issue and considers what brownfield sites are available and the potential for rooftop installations. A series of sites are identified including former landfill sites. The technical difficulty of bringing capped landfill sites forward is noted (risk to breaking the cap and allowing and uncontrolled release of ground gas or other pollution).

The identified sites are discounted for various reasons including site area, allocation for other higher value landuses in the NLDP, distance from point of connection, the site's aspect, or its existing landuse (e.g. recreational use). Rooftop space is discounted due to roof size (too small), level of separation in the case of multiple roofs or separation into multiple ownerships making site assembly difficult. The applicant concludes no site within the urban area can accommodate the proposal meaning that Policy CE10 is complied with.

## 7.5 Impact on Archaeology & the Historic Environment

7.5.1 The applicant has considered the impact on archaeology by producing an 'Archaeological Desk Based Assessment' and an 'Archaeological Geophysical Survey'. They have also submitted a 'Historic Environment Settings Impact Assessment' to consider the impact of the proposal on the setting of any archaeological remains / Scheduled Ancient Monument.

7.5.2 Recorded archaeology on or near the site relates to two tracks one at the northern end of the site and one along the western boundary which are thought likely to relate the medieval deer park that occupied the site. These features would not be affected by the development of the site. There is some potential for Roman or Medieval artefacts to be found on the site. The Geophysical survey found some anomalies but concluded that there was a low potential for unrecorded archaeology to be present on the site. GGAT has been consulted and the Trust does not object subject to the application of a planning condition requiring a watching brief to be carried out during works of ground disturbance. It is considered that NLDP Policy CE6 (archaeology) is complied with.

7.5.3 It is considered that the proposal can proceed and relevant archaeological impacts can be mitigated as required and that the proposal is compliant with local and national policy in regard to this issue.

7.5.4 In terms of the settings of any archaeological resource the key issue is the relationship between the Lodge Hill Fort (Scheduled Ancient Monument) and the site. Planning Policy Wales confirms the setting of a Scheduled Ancient Monument to be a material planning consideration. The applicant's assessment concludes there would be no material harm to the setting of the fort since the impact of the proposal would be negligible and mitigated by proposed planting.

## 7.6 Impact on trees & hedgerows

7.6.1 The applicant has submitted a tree survey in support of the application. The tree survey identifies the key tree and hedge features on the site and identifies the appropriate root protection zones for those features. Slight adjustments to the site layout were made to accommodate the necessary root protection zones. The Tree Officer has no objection to the proposal which is considered to be in accordance with LDP Policy GP5vii (tree retention).

## 7.6 Benefits of the scheme

7.7.1 Renewable electricity generation: Planning Policy Wales is clear at Paragraphs 12.8.8 & 12.8.9 that the Welsh Government is committed to using the planning system to tackle climate change by optimising the use of low carbon / renewable energy. Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. As such national policy sees significant benefits in renewable generation. The renewable electricity generation provided by the scheme is the key benefit and should be given significant weight. The provision of renewable energy is supported by NLDP Policy CE10 where schemes are required to be considered favourably subject to other development management considerations being acceptable.

7.7.2 Bio-diversity enhancements: The scheme will provide the following bio-diversity enhancements which can be secured under condition. These are outlined in the submitted Bio-diversity Management Plan as follows:

- Hedgerow planting and hedgerow strengthening (southern and western boundaries)
- Tree planting

- Meadow creation (two areas)
- Bird and bat boxes (six of each)
- Appropriate Management regime.

7.7.3 Technical Advice Note 5 (Nature Conservation) allows for ecological enhancement and mitigation in development management decisions at Paragraph 4.1.1. Paragraph 4.6.4 of the same TAN confirms that conditions can be used to secure enhancement of habitats. In short habitat enhancement and the securing of that enhancement through conditions is enshrined in national policy. As such the proposed enhancements are material to the consideration and can be secured. The proposed enhancements weigh in favour of the proposed scheme and bring it into compliance with NLDP Policy SP9 (conservation of the natural, historic and built environment).

#### 7.6.1 Minor Issues

7.8.1 Traffic management and public rights of way: There has been no objection to the proposal on highway grounds. Delivery via the constrained road network in Caerleon is not desirable and a construction traffic routing can be conditioned as part of any approval. Part of the delivery route is along a Public Right of Way, again a traffic management plan can be conditioned to protect this route during construction. Similar safeguards can be put in place to protect the utility of the bridleway during construction. No significant harm to the public right of way network is anticipated during construction, operation or decommissioning of the solar farm.

7.8.2 Community Benefit: The applicant has offered a Community Benefit fund. This is not a material planning consideration and is of no relevance to this planning decision. The Council's stance on these matters is that they are arrangements between the applicant and a third party representative of the Community. The Council does not secure these benefits via section 106 of the Town & Country Planning Act (as amended) and currently considers such an arrangement to be contrary to the requirements of Section 122 of the Community Infrastructure Levy Regulations 2010.

7.8.3 Pollution: There is no reason to think the installation, operation and de-commissioning of the solar farm will provide any significant risk of pollution and this matter should be given little to no weight.

7.8.4 Drainage: The applicant has proposed a series of swales to deal with run-off on the site. There is no indication that the proposal will cause any appreciable increase in run-off and that any additional drainage measures are required. Additional ground works are not desirable in terms of the reversibility of the scheme; as such it is proposed to control the implementation of drainage via condition to allow the applicant the opportunity to propose alternative or no additional drainage provision on the site.

#### 7.9 Planning Balance

7.9.1 This assessment identifies significant harm to the openness of the green wedge, minor harm to character and appearance (with significant harm to a short stretch of the bridleway being identified) and compliance with other relevant policies. Significant benefits arise from the renewable generation and some benefit from the bio-diversity enhancement (the hedge planting and tree planting is required to mitigate identified landscape harms in any event).

7.9.2 The applicant has provided two appeal decisions in support of his application. These appeals confirm that solar farms are capable of meeting the 'very exceptional' test outlined in Planning Policy Wales thereby allowing inappropriate development in the green wedge to come forward. In short harm to the green wedge is capable of being outweighed by other material considerations relevant to the decision being made.

7.9.3 The Rowles Farm decision related to green belt land in Oxfordshire, north of Oxford. In that case the Inspector concluded that the limited harm to the character and appearance of the area in combination with the benefits of renewable electricity generation and the improved viability and stability of a rural business would outweigh the harm to the green

belt and would amount to very exceptional circumstances. A second appeal near Upminster in Essex concluded there was no or little harm to landscape character and that loss of agricultural land for 25 years should be given little weight. There was no harm to users of the nearby Motorway via glare and glint and that the bio-diversity merits of the scheme in an identified wildlife corridor in combination with the renewable electricity generated by the scheme would offset the harm to the openness of the green belt. These decisions confirm that solar farms in green belt / green wedge are inappropriate development but that this is not a moratorium upon their development subject to there being a clear planning balance in their favour, amounting to the very exceptional circumstances. Ultimately this is a matter of planning judgement.

- 7.9.4 In this case the Planning Policy Manager has objected to the proposal as inappropriate development in the green wedge. The identified harm is to the openness of the green wedge. Other harms have been quantified as minor. For example there is no significant harm to character and appearance beyond a short stretch of the bridleway. As such the key consideration is whether the harm to openness is outweighed by the benefits of renewable electricity generation and the bio-diversity enhancements of the scheme. As noted this is a matter for the decision maker and in this instance the harm to openness is mitigated by the visual enclosure of the site. It is concluded that the benefits of the renewable energy in combination with the ecological benefits of the scheme and its very limited harm to other interests do amount to very exceptional circumstances required for permission for inappropriate development to be granted in this instance. However this is a very finely balanced decision and the above conclusions would not automatically be replicated in the case of other similar applications in the green wedge / green belt where for example the extent of visual and landscape harm could be significantly greater.

## **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 acceptable subject to the following conditions.



## 10. RECOMMENDATION

### Granted with Conditions

#### Plans Condition

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

- Drawing L0374-14 C – Site Layout and Planting Proposals
- Drawing - Road\_Cross\_Section
- Drawing CCTV\_01 – CCTV Pole Details
- Drawing CSR\_01 – Client Side Substation Details
- Drawing CB\_01 – Communications Building Details
- Drawing – DEER FENCE- Inc MAMMAL GATE
- Drawing DNO\_01 – DNO Building Details
- Drawing XXX\_01\_A – GRP Cabinet
- Drawing TD\_01 – Transformer Details
- Drawing ID\_01 – Inverter Details
- Drawing TC\_01 – Toilet Cabinet
- Drawing TYP\_P\_E\_3L – Typical Panels Elevation 3 Landscape
- Drawing SITE\_AUX\_TRANSFORMER\_01 -  
SITE\_AUX\_TRANSFORMER\_PLANS+ELEVATIONS
- Drawing SB\_01 – Storage Building Details
- Drawing PFB\_01\_Rev5 – Park Farm Caerleon West\_Proposed\_Layout\_Rev3
- Drawing – Park Farm Caerleon West – Site Access & Location Plan
- Drawing L0374\_20 – Tree Protection Plan

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

#### Pre-commencement conditions

02 ROOT PROTECTION DETAILS: No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until Root Protection Barrier fencing to the standard described in British Standard (BS 5837:2012) has been installed around the root protection areas identified in Drawing L0374\_20 (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 Areas defined by the fencing. The fencing shall be retained for the full duration of the construction phase 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.

03 CONSTRUCTION METHOD STATEMENT: Development shall not be begun until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The construction method statement shall set out details of all on-site construction works; post-construction reinstatement; drainage; mitigation; and other restoration, together with details of their timetabling. It shall include details of, and measures to secure:

- (a) the phasing of construction works;
- (b) the formation and position of the temporary construction compound;
- (c) dust management and suppression;
- (d) cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- (e) pollution control, including the protection of water courses and ground water; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and

- disposal; and emergency procedures and pollution response plans;
- (f) temporary site illumination during the construction period;
- (g) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- (h) storage of materials and disposal of surplus materials;
- (i) the construction of the access into the site, the erection of any entrance gates and the creation and maintenance of associated visibility splays;
- (j) access tracks and other areas of hardstanding, including areas of temporary road matting;
- (l) the carrying out of foundation works, including the foundation of the solar arrays and any other structures to be installed on the site;
- (m) method of working cable trenches, including soil storage and back-filling;
- (n) general soil storage and handling;
- (o) post-construction restoration/reinstatement of the working areas, including cable trenches and area covered by any matting;
- (p) the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway;
- (q) details of the vehicles to be used on the site during construction activities
- (r) A qualified Arboriculturalist shall oversee the project (to perform a Watching Brief) for the duration of the development and shall be responsible for:
- Supervision and monitoring of the approved Root Protection Details;
  - Supervision and monitoring of the approved tree felling and pruning works;
  - Supervision of the alteration or temporary removal of any Barrier Fencing;
  - Oversee working within any Root Protection Area;
  - Reporting to the Local Planning Authority;
  - The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at monthly intervals - commencement to be agreed by the Council's Tree Officer.

The works shall proceed in full accordance with the agreed construction method statement.  
Reason: to protect the interests of the rural character of the area including tree and hedge interests, the integrity and safety of the highway network and to protect the amenity of residents and to ensure the site can be restored to agricultural use.

04 ARCHAEOLOGY: No development, to include demolition, shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To identify and record and features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

#### Other conditions requiring the submission of information

05 CONTROL OF RUN-OFF WITHIN THE SITE: Notwithstanding the submitted drainage details no means to intercept, store or otherwise dispose of surface water shall be implemented on the site until a scheme of surface water drainage has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented fully as agreed prior to the 'first export date' and shall be retained until the solar farm is decommissioned.

Reason: to ensure any ground disturbance is the minimum required to deal with surface water drainage in the interests of site restoration.

06 LANDSCAPING AND BIO-DIVERSITY: Prior to the first export date full details of landscaping and bio-diversity enhancements shall be submitted to the local planning authority. These shall include:

- Details of bat and bird boxes and their proposed locations;

- Details of seed mixes for wildflower meadows, planting density and locations;
- Details of species mix and planting density for proposed new hedges and hedge strengthening and their location;
- Details of species, location and size of trees to be planted and their location;
- A plan for the implementation of the landscaping & bio-diversity enhancements including timescales for actions; short, mid and long term management arrangements for landscaping and bio-diversity on the site, bio-diversity targets and monitoring schedules, the reporting of monitoring data to the Council and contingency plans for the agreement (with the Council) for the implementation of ameliorative action in the event stated bio-diversity targets are not met.

Reason: to ensure landscape harms are mitigated and stated bio-diversity benefits of the scheme accrue in the public interest.

07 DECOMMISSIONING – Decommissioning and restoration: Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the solar panels and all other associated equipment & paraphernalia and the subsequent restoration of the site. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife, habitats and tree features on the site;
- identification of access routes;
- location of material laydown areas;
- full details of the removal of the solar arrays, associated buildings and plant, any trackways and sub-surface cabling and all associated works of ground restoration including trench backfilling;
- full details of all works to restore the land to allow for agricultural production following the removal of structures from the site;
- a programme of implementation.

The approved scheme shall be implemented within 12 months of the expiry of this permission and shall proceed fully in accordance with the agreed details of the decommissioning programme.

Reason: to ensure the site is fully restored to allow agricultural use and to maintain the rural appearance of the area.

08 REPAIR, REPLACEMENT AND REMOVAL OF SOLAR FARM: If the solar farm hereby permitted fails to produce electricity for supply to the grid for a continuous period of 6 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the solar farm. Where repairs or replacements are required the scheme shall include a proposed programme of remedial works. Where removal of the solar farm is required the scheme shall include the same details required under condition 07) of this permission. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: to ensure the solar farm beneficially generates electricity or is otherwise removed to the benefit of the openness of the green wedge, character and appearance of the area and the agricultural potential of the site.

09 LIFETIME OF THE PROPOSAL: the permission hereby granted shall expire 30 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and

commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: the proposed scheme has a 30 year lifespan.

10 TRAFFIC MANAGEMENT PLAN: No HGV shall access the site until details of a traffic management plan (TMP) have been submitted to and approved in writing by the Local Planning Authority. The TMP shall include details of:

- A delivery route to the site;
- Temporary signage;
- Details of temporary traffic management measures, such as traffic lights;
- Measures to preserve the integrity and amenity of the local public rights of way network;
- All other measures to be taken to ensure the site can be accessed safely and with minimum disruption to the public highway including any public rights of way.

Reason: to protect the integrity and safety of the highway and public rights of way network.

#### Directive conditions

11 LIGHTING: There shall be no permanent illumination other than the lighting identified in this submission which shall be operated as described unless otherwise agreed in writing by the local planning authority.

Reason: to protect the rural character of the site.

12 REPTILES & AMPHIBIANS: All works shall proceed in accordance with the details provided at Appendix 1 of the Park Farm West Solar Farm Bio-diversity Management Plan (November 2015).

Reason: to protect the interest of reptiles and amphibians during the construction phase of the scheme.

#### *NOTE TO APPLICANT*

01 Non-conditioned documents submitted with this application were: Planning, Design and Access Statement, Park Farm West Caerleon – Landscape Appraisal (and appendices), Archaeological Desk Based Assessment (August 2015), Historic Environment Settings Impact Assessment (September 2015), Sequential Analysis Study (September 2015), Transport Statement (September 2015), Construction Decommissioning and Traffic Management Method Statement (September 2015), Archaeological Geophysical Survey (2015), Appeal Decision B5480/A/14/2227508, Appeal Decision C3105/A/13/2207532, Agricultural Land Classification (August 2015), Bio-diversity Management Plan (November 2015), Drainage Strategy, Preliminary Ecological Appraisal & Statement of Community Involvement (August 2015) & Tree Survey Report (November 2015).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP7, SP9, GP1, GP2, GP3, GP5, GP6, GP7, CE6, CE10 & T7 were relevant to the determination of this application.

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

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

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## **APPLICATION DETAILS**

No: 15/0902 Ward: **CAERLEON**

Type: Full

Expiry Date: 12-Nov-2015

Applicant: **LIGHTSOURCE SPV 209 LIMITED**

Site: **LAND TO THE WEST OF PARK FARM, MALTHOUSE LANE, CAERLEON NP18 3PB**

Proposal: **INSTALLATION AND OPERATION OF A 3.91MW SOLAR FARM AND ASSOCIATED INFRASTRUCTURE, INCLUDING PHOTOVOLTAIC PANELS, MOUNTING FRAMES, INVERTERS, TRANSFORMERS, SUBSTATIONS, COMMUNICATIONS BUILDING, ACCESS TRACKS, FENCING AND POLE-MOUNTED CCTV CAMERAS, AFFECTING BRIDLEWAY ST39SW-125 AND FOOTPATHS ST395W - 131 AND ST395W - 132.**

### **1. LATE REPRESENTATIONS**

Since the preparation of the officer report the following late representations have been received:

#### **1.1 R. Wall, A. Tovey & R. Barnes (4 College Glade, Caerleon)**

The following points are made:

- The designated Green Wedge is already too small and this proposal will destroy a large part of it.
- The proposal may damage protected historic sites in the vicinity.
- The area has a high water table and electricity could 'leak'.
- The application has been rushed through & people have not been allowed to comment.
- Solar panels should be on factory buildings and waste land, not farmland.
- The site will be brownfield at end of life and could be developed for other purposes.
- This decision should be postponed to allow further consultation.

#### **1.2 Keep Us Rural**

- The site is green wedge and should be exempt from development since its openness is protected by policy. The Council's Policy Section has objected to the development.
- No 'very exceptional circumstances' apply in this instance and permission should therefore be refused.
- The 2020 targets for renewable electricity generation will be exceeded by existing consented sites (Renewable Energy Foundation).
- 30 years may not be temporary and previous permissions on appeal have been based on projected lifespans of 25 years, not 30 years.

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

- 2.1 The impact of the proposal on the green wedge has been considered. Impacts on landscape character and visual amenity have been assessed and balanced against the scheme's benefits. Officer's conclude that the limited harms when balanced against the benefits of the scheme do amount to very exceptional circumstances sufficient to allow a grant or permission in this case. This stance is confirmed by appeal decisions in the past.
- 2.2 The site is not on a protected archaeological site and impacts upon the settings of nearby Scheduled Ancient Monuments have been assessed and found to be acceptable. There is no objection to the proposal from CADW or the Glamorgan & Gwent Archaeological Trust.
- 2.3 There is no reason to think ground conditions would preclude the development. Matters of technical implementation are not a planning consideration. The site is not in a flood plain and there is no objection from the Head of Streetscene and City Services in respect of drainage.

- 2.4 The application was registered on the 21 July 2015. The correct consultation and notification processes were carried out. The application has not been 'rushed' and people have had opportunity to comment. There is no reason to defer the application for further consultation.
- 2.5 Policy allows use of farmland for solar development in the event suitable urban sites are not available. The applicant has undertaken a 'Sequential Analysis Study' which shows no suitable urban or rooftop site is available thereby allowing a default to a rural location.
- 2.6 Conditional controls will restrict the lifetime of the permission and require the site's return to greenfield. The site will not become brownfield for planning purposes.
- 2.7 Planning Policy Wales does not set out targets for renewable energy delivery within Wales. No upper limit is set under planning guidance. The targets referred to by 'Keep Us Rural' are not clarified as being European, U.K. or Welsh targets. In any event any Welsh target is not set as an upper limit in Welsh national planning policy. As such there is no reason why the target cannot be exceeded. As such any national target should be given little weight in this context.
- 2.8 There is no guidance on what 'temporary' means in a planning context. As such it is a matter of judgment. The Planning Inspectorate has accepted 25 years as temporary. 30 years pushes the boundaries of temporary further. As noted this is in effect a judgement but for context purposes only, in flood resilience terms the lifetime of housing is considered to be 100 years and commercial development 75 years. 30 years is significantly less than this and officers have accepted this as temporary in the context of this application.

### **3. OFFICER RECOMMENDATION**

- 3.1 Officer recommendation remains that the application should be granted subject to conditions.

## **APPLICATION DETAILS**

**No:** 15/0903      **Ward:** CAERLEON

**Type:** FULL (MAJOR)

**Expiry Date:** 12-NOV-2015

**Applicant:** LIGHTSOURCE SPV 212 LIMITED

**Site:** LAND TO THE WEST OF PARK FARM COTTAGE, MALTHOUSE LANE, CAERLEON NP18 3PB

**Proposal:** *INSTALLATION AND OPERATION OF A 5 MW SOLAR FARM AND ASSOCIATED INFRASTRUCTURE, INCLUDING PHOTOVOLTAIC PANELS, MOUNTING FRAMES, INVERTERS, TRANSFORMERS, SUBSTATION, COMMUNICATIONS BUILDING, ACCESS TRACKS, FENCING AND POLE MOUNTED CCTV CAMERAS (AFFECTING FOOTPATHS ST395W-131 AND ST395W-132)*

**Recommendation:** **Granted with Conditions**

### **1. INTRODUCTION**

- 1.1 The application is for a solar farm on 11.19Ha of land to the west of Park Farm Cottage, Malthouse Lane, Caerleon. The site consists of three agricultural fields which slope gently from south to north and are orientated in a northerly direction. The site is bordered to the north by a small stream. Other boundaries consist of hedges with substantial trees being present. The site will be accessed by a gravelled track leading from Malthouse Lane to Park Farm. The proposed lifespan of the scheme is 30 years.
- 1.2 The proposed solar farm will generate up to 3.41MW of electricity which would typically power 1200 houses. The panels will be mounted on frames and will be 0.8m high at the front and up to 2.2m high at the back. The panels will be angled at 25 degrees to catch the sun. The frames will be driven into the ground to a depth of 1.5m and will be 'H' or 'Z' in profile. The direct current from the panels will be converted to alternating current in a series of inverters housed in three buildings that will be 2.9m high with a footprint of 4.4 x 1.5m. Three transformers will be needed to step up the current and they will have associated switchgear. The transformer is either sited in a building similar to that for the inverters or is kept as free-standing plant. Two electrical substations are required to connect the farm to the grid. One of the substations will require lighting in the event of a breakdown. No other lighting is proposed.
- 1.3 The site will be secured by a 2m deer fence (timber posts and mesh), 14 No. security cameras on 2.4 poles will be installed. Other buildings required are a Communications Building (2.5m high with a footprint of 3.6m x 3.0m) which facilitates the remote monitoring of the site, a composting toilet and storage shed. There will be 11 structures / items of plant in total on the site. Swales are proposed to provide drainage. Approximately 23% of the site will be covered in solar panels, tracks or other development. 150m of track will be built on the site with a width of 4m. The rest will be retained as grass which can allow for sheep grazing. A programme of bio-diversity enhancement is proposed to include hedgerow infill planting, tree planting, grassland creation (including a wildflower margin around the perimeter of the site), bird and bat boxes and log/brush piles for reptiles and invertebrates.

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

None.

### 3. POLICY CONTEXT

#### 3.1 Planning Policy Wales (Edition 7) July 2014

Paragraph 4.8.10 **Local designations such as green wedges** may be justified where land is required to serve the same purpose to a Green Belt (see 4.8.3), but these designations do not convey the permanence of a Green Belt.

Paragraph 4.8.14 - When **considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development** will apply. Local planning authorities should attach substantial weight to any harmful impact which a development would have on a Green Belt or green wedge.

Paragraph 4.8.15 - Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge. Green Belt and green wedge policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

Paragraph 4.8.16 - The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development (other than in particular identified circumstances).

Paragraph 4.8.18 - Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it.

Paragraph 4.10.1 - In the case of agricultural land, land of grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile, and should be conserved as a finite resource for the future. In development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

Paragraph 12.8.1 - The UK is subject to the requirements of the EU Renewable Energy Directive. These include a UK target of 15% of energy from renewables by 2020. The UK Renewable Energy Roadmap sets the path for the delivery of these targets, promoting renewable energy to reduce global warming and to secure future energy supplies. The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change whilst enhancing the economic, social and environmental wellbeing of the people and communities of Wales in order to achieve a better quality of life for our own and future generations. This is outlined in the Welsh Government's Energy Policy Statement *Energy Wales: A Low Carbon Transition* (2012).

Paragraph 12.8.6 - The Welsh Government's aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.



Paragraph 12.8.8 - The Welsh Government is committed to using the planning system to:

- optimise renewable energy generation;
- optimise low carbon energy generation;
- facilitate combined heat and power systems (and combined cooling, heat and power) where feasible; and
- recognise that the benefits of renewable energy are part of the overall commitment to tackle climate change by reducing greenhouse gas emissions as well as increasing energy security.

Paragraph 12.8.9 - Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. Specifically, they should make positive provision by:

- considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;
- ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations.

Paragraph 12.8.10 - At the same time, local planning authorities should:

- ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed;
- ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.

Paragraph 12.10.1 - In determining applications for renewable and low carbon energy development and associated infrastructure local planning authorities should take into account:

- the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;
- the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;
- the impact on the natural heritage, the Coast and the Historic Environment;
- the need to minimise impacts on local communities to safeguard quality of life for existing and future generations;
- ways to avoid, mitigate or compensate identified adverse impacts;
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so consider whether measures to adapt to climate change impacts give rise to additional impacts;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

Paragraph 12.10.3 - Developers for renewable and low carbon energy developments should seek to avoid or where possible minimise adverse impacts through careful consideration of location, scale, design and other measures.

## 3.2 Technical Advice Note 6

3.2.1 Paragraph 6.2.1 - When preparing development plans and considering planning applications, planning authorities should consider the quality of agricultural land and other agricultural factors and seek to minimise any adverse effects on the environment.

3.2.2 Paragraph 6.2.2 - Planning authorities should bear in mind that, once land is built on, the restoration of semi-natural and natural habitats and landscape features is rarely possible

and usually expensive, and archaeological and historic features cannot be replaced. Also, once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as best and most versatile agricultural land is seldom practicable.

- 3.2.3 Paragraph 6.2.3 - Agricultural land is classified by grades according to the extent to which its physical or chemical characteristics impose long term limitations on agricultural use for food production. There are 5 grades of land numbered 1 to 5, with grade 3 divided into two sub-grades. The best and most versatile land falls into grades 1, 2 and sub-grade 3a and is the most flexible, productive and efficient in response to inputs.
- 3.2.4 Paragraph 6.2.4 - The Agricultural Land Classification (ALC) map for Wales is published at a scale of 1:250,000. This map is produced for use in strategic planning and provides only a generalised indication of the distribution of land quality. The map is not suitable for use in evaluating individual sites. In such cases a resurvey at a larger scale is necessary to obtain a definitive grade.
- 3.2.5 Paragraph 6.2.5 - The nature of other development and its proximity to farms can influence the type of farming and the extent to which inherent land quality can be exploited. Certain locations may have agricultural advantages such as accessibility to markets, processing plant and certain industries associated with agriculture. Farms with development close to them tend to suffer from trespass and other forms of disturbance which may affect the efficiency and upkeep of holdings. It may be possible to reduce any detrimental effects of development by locating compatible uses adjacent to farm land, by landscaping or by detailed provision of amenity space and green corridors in the layout of residential development. Technical Advice Note 6: Planning for Sustainable Rural Communities.
- 3.2.6 Paragraph 6.2.6 - Farms vary considerably in size, type of farm business and layout. The loss of part of a holding can have important implications for the remainder. The effect of severance and fragmentation upon the farm and its structure may be relevant.
- 3.3 Technical Advice Note 8 – Planning for Renewable Energy (July 2005)
  - 3.3.1 Paragraph 2.16 - Experience has shown that there are opportunities to achieve community benefits through major wind farm development. Some benefits can be justified as mitigation of development impacts through the planning process. In addition, developers may offer benefits not directly related to the planning process. Annex B provides further information and examples about the types of community benefit which have been provided. Local planning authorities, where reasonably practical, should facilitate and encourage such proposals. The Welsh Development Agency, and others can support and advise on community involvement in developing renewable energy and benefiting from it. Local planning authorities should make clear in their development plans the scope of possible "planning contributions". However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.
  - 3.3.2 Paragraph 3.15 - Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported.
  - 3.3.4 Annex B of TAN 8
    - Paragraph 2.1 - It is perfectly acceptable for a business to enter into a legally binding agreement with third parties to deliver particular and agreed benefits to the community. Many local planning authorities would be more comfortable with this approach as it separates, more clearly, community benefits from the planning decision. It is important that the developer is able to identify suitable local representative people or organisations with whom it can negotiate. If there are funds to be administered then an appropriately constituted and regulated body must be identified or created.
- 3.4 Practice Guidance – Planning Implications of Renewable Energy and Low Carbon Energy (February 2011)

Paragraph 8.4.16 - In view of the national policy support for farm diversification and the relatively large area of land required for solar PV arrays it is likely that a significant proportion of proposals for solar PV arrays will be on agricultural land. Both the use of natural resources (such as high quality agricultural land) and the reversibility of a development are factors in determining if EIA is required.

Paragraph 8.4.17 - In addition to avoiding the best and most versatile agricultural land, other possible mitigation includes taking steps to enhance the reversibility of the development (e.g. by use of removable mats rather than permanent access tracks and use of ground screws rather than buried concrete foundations to anchor solar arrays) and avoiding soil compaction or contamination during construction and maintenance.

### 3.5 ADOPTED NEWPORT LOCAL DEVELOPMENT PLAN 2013-2028

Policy	Text
SP1 Sustainability	Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to: ii) the reuse of previously developed land and empty properties in preference to greenfield sites; iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources;
SP5 Countryside	Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.
SP7 Green Wedges	Green wedges have been identified in order to prevent coalescence between the following settlements: iv) Caerleon and Cwmbran. Within these areas development which prejudices the open nature of the land will not be permitted.
SP9 Conservation of the Natural, Historic and Built Environment	The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.
GP1 General Development Principles – Climate Change	Development proposals should: ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on-site energy provision where practicable;
GP2 General Development Principles – 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;
GP3 General Development Principles – Service Infrastructure	Development will be permitted where, as applicable: i) necessary and appropriate service infrastructure either exists or can be provided;
GP5 General Development Principles – Natural Environment	Development will be permitted where, as applicable: 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 4233 and local protected habitats and species, and protecting features of importance for ecology; v) there would be no unacceptable impact on landscape quality; vii) the proposal includes appropriate tree planting or retention where appropriate and does not result in the unacceptable loss of or harm to trees, woodland or hedgerows that have wildlife or amenity value.
GP6	General Development Principles – Quality of Design	Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed: i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area; 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;
GP7	General Development Principles – 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.
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.
CE10	Renewable Energy	Small scale micro-generation will be encouraged within the settlement boundary. Large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist.
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.

### 3.6 OTHER LOCAL DOCUMENTS

#### 3.7 Renewable and Low Carbon Energy Assessment (May 2013)

This report has been produced by Verco as a joint study for Torfaen County Borough Council and Newport City Council on behalf of the Carbon Trust in Wales. The purpose of the study is to provide an evidence base for the potential development of renewable and low carbon energy within the two local authorities, to examine the low carbon potential for strategic development sites and explore strategic leadership opportunities. Chapter 12 - There is a significant resource potential for **land based solar PV** systems across the authority. The coastal areas have the best levels of irradiation, however all plots are 3km or more from the coast primarily due to ecological and agricultural constraints.

Areas of the City Council's Administrative Area are identified that have good potential for ground mounted solar PV arrays. Only land in agricultural grades 4 and 5 were included and then areas which suffered from other constraints such as sites designated for their landscape, ecological or heritage value were excluded as were areas of common land.

Other considerations were made in regard to aspect, slope, competing landuses and the viability of grid connection to arrive at an area of viable solar development.

Figure 57 identifies areas with good potential for Ground Mounted Solar PV. It is not clear if the application site is within such an area due to quality.

#### **4. CONSULTATIONS**

- 4.1 YMDDIRIEDOLAETH NATUR GWENT / GWENT WILDLIFE TRUST: GWT doesn't have any objection to the planting plans or management proposals, and welcome the increased areas for wildflower planting and other biodiversity enhancement. We are, however concerned that 10 years of management will go completely to waste if the site is not managed or managed inappropriately for the following 20 years.

We would therefore encourage commitment from the developer to manage the site for the operational life of the developments if possible.

- 4.2 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST:

- The submitted Desk Based Assessments and Geophysical Survey report meet current professional standards
- All ground works should be completed under archaeological supervision.
- A 'watching brief' should be secured under condition using the standard wording in Welsh Office Circular 60/96 (Section 23).

- 4.3 WELSH GOVERNMENT (RURAL AFFAIRS): Does not comment on the merit of the proposals but notes that the submitted Agricultural Land Classification Surveys are a fair and accurate assessment of the land quality of the assessed sites.

- 4.4 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): We have reviewed the application and offer no objection to proposed development. However, please note that we have not considered possible effects on all species and habitats (including nesting birds) listed in Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests.

To comply with your Authority's duty under Section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your Authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for Section 42 habitats and species ([www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk)).

The applicant should also be advised that, in addition to planning permission, it is their responsibility to ensure that they acquire all other permits/consents relevant to their development.

- 4.5 NETWORK RAIL:

Whilst there is no objection in principle to this proposal, the Design & Access report refers to a Swale being constructed; all surface water drainage should be directed away from Network Rail's property to the public mains system. A suitably worded condition should be added to any consent granted.

Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

##### Fencing

The applicant should refer to their conveyance for any particular fencing specifications however, due to the change of use the minimum specification should be 1.8 metre high

steel palisade. No encroachment to take place on Network Rail's property without prior agreement from Network Rail.

#### Safety barrier

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

#### Solar panels

We would advise that the provision of any reflective material used in the solar collecting equipment should not interfere with the line of sight of train drivers and the potential for glare or reflection of light from the panels that may impact upon signalling **must** be eliminated.

Network Rail would expect the applicant to demonstrate that the panels are either not reflective or that appropriate fencing/mitigation or other screening is erected between the railway and the solar panels to avoid this happening.

#### Drainage

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

#### Access points

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

4.6 WESTERN POWER DISTRIBUTION: Advise of equipment in the area including high voltage overhead lines and safe working practices.

4.7 CADW: The proposed development is located within the vicinity of the scheduled monuments known as MM023 Lodge Wood Camp and MM044 Twm-Barlwm Mound and Bailey Castle and within the 1km Zone of Theoretical Visibility of the registered historic park and garden known as Gt20 Newport: Bryn Glas. Therefore given that only the location of the hillfort is visible and the screening effect of the vegetation means that the impact of the solar farm on the setting of MM023 Lodge Wood Camp will be very slight. The solar farm is likely to be visible in the direct view of Lodge Wood Camp from the hillfort at Twmbarlwm. As noted above this is a significant but long view and given that the solar farm will be screened by existing vegetation it is our opinion that, at worst, the proposed solar farm will have a very slight impact on the setting of MM044 Twmbarlwm. The intervening residential development and the earthworks of the A4042 will also block views of the solar farm from the registered historic park and garden of Bryn Glas.

## **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY): Comments as follows:

I do not object to the management plan and welcome the inclusion of a 10 year monitoring

programme. Details of monitoring will need to be submitted to myself after each session of monitoring. If the monitoring identified any failed mixes or unused bat/bird boxes it may be recommended that they be moved. I will require details of the ecological liaison person who will be overseeing the works and the monitoring of the enhancements.

5.2 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING): Objects since the proposal will reduce the open character of the area which is allocated as green wedge under SP7iv of the Newport Local Development Plan 2011-2026.

5.3 HEAD OF STREETSCENE & CITY SERVICES (PUBLIC RIGHTS OF WAY): Comments as follows:

5.3.1 A PROW (389/12) runs along part of the proposed access track. In addition to this, 2 additional PROW's also join the track towards the Malthouse Road end. PROW 389/17 joins from the southern side of the track and 389/18A from the northern side of the track.

- The line of each PROW (as shown on the Definitive Map) has to remain completely unobstructed and must be clear and available for safe public use at all times (including during construction/maintenance/decommissioning works – unless a temporary closure/diversion order is applied for and granted beforehand);
- The PROW users must not be endangered or disadvantaged in any way by the proposals – during construction/maintenance/decommissioning works and during the lifespan of the solar farm;
- The surface material of the PROW's must not be adversely affected;
- PROW users must be protected from any vehicles/plant associated with the construction/maintenance/decommissioning of the solar farm. The potential conflict should be risk assessed and managed accordingly.

5.4 HEAD OF STREETSCENE & CITY SERVICES (TREES): No objection.

5.5 HEAD OF LAW & REGULATION (ENVIRONMENTAL HEALTH): No objection subject to conditions including an assessment of glare and glint, a construction environmental management plan and a condition restricting noise levels at residential properties.

5.6 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY): Comments as follows:

- The Planning Policy objection concerning the impact of the Green Wedge allocation remains. This policy seeks to ensure there is no coalescence between Caerleon and Cwmbran. Developments which prejudice the open nature of the land will not be permitted. The development will result in built structures that will have an adverse impact on the openness of the Green Wedge which can be viewed from a number of locations. The plans show a total of 9 structures on site as well as the panels and security features. This being the case an objection is raised and the proposal is not considered compliant with local or national policy.
- A previous appeal decision noted that such development in the Green Wedge would only be supported if very special circumstances were evidenced; that is that the potential harm can be outweighed by other considerations. It is considered that evidence has not been provided to support the special circumstances in this particular case.
- The construction and demolition plan is not considered to provide evidence as to how the quality of the agricultural land is to be maintained, particularly on the area graded as 3a.
- It is not clear as to why the swales have been included. The drainage report notes that there aren't any drainage issues with the site so it is not clear why the swales are needed. Their introduction is specifically questioned on this site because of their impact on land quality (BMV status) with the movement of so much soil for the swales.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 100m of the application site were consulted (05 properties) and a site notice was displayed at the end of Malthouse Lane. One representation objecting was received raising the following points:

- The site is in the green wedge,
- Harm to archaeological remains both directly and in terms of setting,
- Tidal lagoons proposed for the Severn could accommodate solar and wind power installations,
- Solar farms should be on brownfield land,
- Approval would set a precedent,
- Harm to visual amenity,
- The development will prevent the use of ground radar to look for archaeology,
- The applicant did not publicise his public meeting in relation to the development effectively,
- There is grid capacity elsewhere in Newport.

### **6.2 COUNCILLORS:** Councillor Giles has objected to the application for the following reasons:

- Erosion of the green wedge,
- The proposal is overscaled,
- It involves the construction of 5 buildings,
- There is a pollution risk,
- It is unclear who will benefit from the proposed Community Benefit.

### **6.3 CAERLEON CIVIC SOCIETY:** Objects for the following reasons:

- The proposal is harmful to the openness of the green wedge,
- The area has the scope to contain archaeological remains and there should be a full archaeological investigation,
- The land is of good quality in agricultural terms,
- The proposal is not sustainable,
- The proposal would urbanise the two sites and is not agricultural diversification,
- Brownfield sites should be developed in preference.

## **7. ASSESSMENT**

### **7.1** The key issues relevant to the determination of this application are:

- Impact of the openness of the green wedge
- Impact on Character and Appearance of the Countryside
- Impact on agricultural land / availability of other sites
- Impact on Archaeology
- Impact on trees & hedgerows
- Benefits of the scheme
  - Renewable electricity generation
  - Bio-diversity enhancements
- Minor Issues
  - Traffic management and public rights of way
  - Community Benefit

### **7.2** Impact of the openness of the green wedge

#### **7.2.1** Inappropriate development is precluded in the green wedge unless very exceptional circumstances apply. Appropriate development is described at paragraph 4.8.16 of Planning Policy Wales as follows:

- justified rural enterprise needs;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings;



- limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies; or
- small scale diversification within farm complexes where this is run as part of the farm business.

The proposal is none of the above and must therefore be inappropriate development in the green wedge. This stance is supported by the approach taken by various planning inspectors in recent appeals. As such permission may only be granted if very exceptional circumstances are shown to be extant.

7.2.2 PPW is clear that substantial weight should be given to any harmful impact upon a green wedge. In terms of local policy, Policy SP7 (green wedges) places a clear prohibition on development which prejudices the open nature of the land. The proposal consists of built development including a sequence of small scale structures in addition to the solar arrays. The proposal would clearly be prejudicial to openness thereby contravening local and national policy. This harm will accrue substantial weight in the balance of considerations.

### 7.3 Character and Appearance

7.3.1 The applicant has provided a Landscape Appraisal (Landscape and Visual Impact Assessment) which addresses the impact of the proposed solar farm on landscape character and visual amenity. The main emphasis is on an area within 2Km of the site since beyond that distance the proposal is not readily perceptible within the landscape. The site is pastoral in an area of rolling terrain. Views into the site are limited with Caerleon the most affected and nearest settlement. Views into the site are available from public rights of way in the vicinity. Special Landscape Areas lie within the 2Km study area to the north and west, both are in Torfaen. Existing field boundaries consisting of hedges and trees provide a degree of visual containment and additional strengthening planting is proposed.

7.3.2 Anticipated impacts within the LVIA are:  
 Topography: negligible during construction and operational phases.  
 Trees & Hedgerows: hedges are judged to be of medium sensitivity and trees of high sensitivity reflecting the required time to replace them. Trees and hedging are a key characteristic of the site and planting is proposed. The effect of the proposal is considered to be negligible beneficial within the vicinity of the site for trees and hedges due to the proposed planting. Pasture Land; is considered to be of low sensitivity to change but some would be lost through track construction, the overall impact on pasture is considered negligible.

7.3.3 In terms of the nearby Special Landscape Areas, the LVIA concludes that the development would not '*redefine the character of these non-statutory Landscape designations with only minor effects*'. The LVIA concludes that no Special Landscape Area would be materially affected by the proposed development. There is no reason to disagree with this assessment.

7.3.4 In landscape terms the LVIA notes that the site lies within the 'Caerleon Farmlands' visual & sensory aspect area as identified in Landmap. Its overall evaluation in visual and sensory terms is moderate and it is summarised as 'Pleasant rural farmland in a good condition affected by the A4042'. The landscape assessment notes the predominant character of the site is rural. The author of the LVIA has carried out an assessment of the area and concludes it is of medium sensitivity to change and that the magnitude of the impact of the development on the landscape will be low in visual and sensory terms. This amounts to an overall impact of low adverse in significance with potential minor to moderate benefits in the future when the development is removed if additional planting is retained.

- 7.3.5 In visual terms the LVIA considers the viewpoints of various groups and makes the following conclusions:  
Dwellings: views from Park Farm Cottage would be significantly altered and there would be major adverse impact on this house in visual terms. Views from other houses would be distant and restricted with no significant changes to views.  
Public Highways: views would be limited to glimpses with some views available from the Malthouse Land and the Ponthir Road. Views would tend to be fleeting and limited by landforms and vegetation. The amenity of these viewers would not be adversely affected.  
Public Rights of Way: Views of the development would be available from certain viewpoints but they would be transitory and infrequent and the amenity of viewers would be preserved.  
Overall Conclusion: most visual impacts for most viewers will be moderate or minor when viewed from a selection of representative viewpoints. More distant views are obscured by vegetation or landform. None of the visual impacts of the proposal are significantly adverse.
- 7.3.6 In cumulative terms the LVIA concludes that the impact would be limited due to the lack of inter-visibility between the solar farms proposed or operational within the study area, that is in most views not more than one farm would be seen. Views from the footpaths on Lodge Hill might allow both this site and the one to the east at Park Farm Cottage to be seen both cumulatively and sequentially. Such viewers have a high sensitivity but the screening of the sites and the non-interruption of longer views would mean that the cumulative visual affect for these footpaths would be moderately adverse at worst in visual terms.
- 7.3.7 Relevant local policy is SP5 (countryside) which requires that development in the countryside is appropriate, respects the landscape character and biodiversity of the site and wider area and is appropriate in scale and design. In those terms the LVIA identifies some harm to rural character and appearance but quantifies them as low in the main. The principal of the scheme is acceptable subject to compliance with NLDP Policy CE10 (renewable energy). National Policy notes at Paragraph 3.15 of TAN 6 *'other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported'*. This supports the view that the visual impacts of solar farms should be given relatively little weight in planning considerations.
- 7.3.8 In this instance the impact on landscape character is assessed as low and officers consider that Policy SP5 (countryside) is complied with since landscape character is respected and the scale and design of the solar farm are acceptable within the rural context. The implicit support for solar developments in the countryside contained in NLDP Policy CE10 should be noted.
- 7.3.9 In visual terms a Major Adverse Impact on Park Farm Cottage has been identified. Policy GP2ii requires that developments are not detrimental to the visual amenities of nearby occupiers. In this case Policy GP2ii is contravened in relation to Park Farm Cottage. However views from the house towards the solar farm will be screened through existing trees which will be retained so there will be some mitigating effect. Ultimately the harm to the visual amenities of the occupiers of this single dwelling must weighed in the balance against the benefits of the scheme.
- 7.4 Impact on agricultural land / availability of other sites
- 7.4.1 The applicant has provided an Agricultural Land Classification survey which concludes the land is entirely in Grade 3a. Grade 3a is classed as best and most versatile land and benefits from national and local policy protection. As such the entire site is within the protected grades.
- 7.4.2 Appeal decisions at Llanvapley in Monmouthshire and Court Farm in Newport have confirmed in the event that the applicant demonstrates lower grade sites were not meaningfully available and the development can be reversed then Inspectors have judged this means national policy is complied with. In this case the applicant has prepared a 'Sequential Analysis Study' which considers the availability of sites for this development.

The assessment only considers the administrative area of Newport given the proposal is of small scale and of local significance only. The study does not consider sites in grade 3 (since the national ALC maps do not distinguish between grades 3a & 3b meaning that these two grades cannot be distinguished other than by direct sampling which is accepted as unduly onerous). The study area is also limited by the availability of a 'point of connection' to the grid and the length of the connection cable (greater length reduces viability). Within the area of search there will only be a certain number of acceptable sites which must be large enough, have a south facing aspect (reverse slopes can be used in some cases), accessible and not unduly limited by other development management constraints such as bio-diversity or landscape impacts. The Court Farm appeal confirmed that a 'broad brush' approach on this point is acceptable i.e. it was legitimate to discard a site in a SSSI without analysing in detail whether the proposal could have been accommodated within that constrained site. In short a site without that constraint is preferable. It should be noted there is no national or local guidance as to how these assessments are carried out and a proportionate and reasonable approach should be settled upon.

- 7.4.3 The applicant notes that a viable grid connection has been secured in area where network capacity is constrained and considers that a cable run of 1Km is acceptable with any further being unviable. However the whole area of Newport has been considered for alternative sites.
- 7.4.4 In terms of greenfield sites in ALC grades 4 & 5 the applicant identified 8 Assessment Areas where a solar farm might be accommodated, some of these comprised multiple sites (19 sites in total). They were discounted for varying reasons including inadequate site area, poor access, location within a SSSI, proximity to a Scheduled Ancient Monument, proximity to Listed Buildings, Historic Landscapes or Special Landscape Areas, high levels of visibility to dwellings or recreational routes or no viable grid connection within a suitable distance. Overall the study concludes no sites in lower agricultural grading were appropriate for the proposed development and available; this allows the default to the proposed site.
- 7.4.5 In terms of decommissioning the applicant has provided a 'Construction, Decommissioning and Traffic Management Statement'. This considers construction point to safeguard the agricultural potential of the site in the future and discusses the decommissioning. Specific points are:
- management of top soil during construction and careful backfilling of trenches;
  - careful removal of materials on site including buried cables and backfilling of trenches and footings.
- 7.4.6 The Llanvapley and Court Farm appeals confirm that Inspectors are satisfied that solar farms are fully reversible developments with no long term adverse impact on agricultural potential. Nor is the loss of agricultural land for a 'long' temporary period of 25-30 years considered to be an unacceptable harm to agricultural productivity. As such the proposal is considered to comply with national policy in relation to the best and most versatile agricultural land. NLDP Policy GP5iv (loss of high quality agricultural land) requires that the most versatile agricultural land should neither be lost or reduced in quality. It is clear that in this case the proposal will reduce the agricultural potential of the land for the lifetime of the development but not beyond that. However the harm is small given the small areas of BMV land that will be temporarily developed and given the concerns over its existing agricultural potential currently. Any harm to Policy GP5iv is slight and would not warrant significant weight in the opinion of officers.
- 7.4.7 NLDP Policy CE10 (renewable energy) favours renewable generation subject to a consideration of other relevant factors. The policy allows development outside of the urban area if there are no appropriate brownfield sites available. The applicant's 'Sequential Analysis Study' addresses this issue and considers what brownfield sites are available and the potential for rooftop installations. A series of sites are identified including former landfill sites. The technical difficulty of bringing capped landfill sites forward is noted (risk to breaking the cap and allowing and uncontrolled release of ground gas or other pollution).

The identified sites are discounted for various reasons including site area, allocation for other higher value landuses in the NLDP, distance from point of connection, the site's aspect, or its existing landuse (e.g. recreational use). Rooftop space is discounted due to roof size (too small), level of separation in the case of multiple roofs or separation into multiple ownerships making site assembly difficult. The applicant concludes no site within the urban area can accommodate the proposal meaning that Policy CE10 is complied with.

## 7.5 Impact on Archaeology & the Historic Environment

7.5.1 The applicant has considered the impact on archaeology by producing an 'Archaeological Desk Based Assessment' and an 'Archaeological Geophysical Survey'. They have also submitted a 'Historic Environment Settings Impact Assessment' to consider the impact of the proposal on the setting of any archaeological remains / Scheduled Ancient Monument.

7.5.2 There are no archaeological assets recorded within the site and the desk top study concludes there is a moderate potential to find Roman or Medieval remains in the site. Any remains that are found are likely to have a local or regional level of importance. There is no indication that a Roman aqueduct ran across the site. The level of ground disturbance caused by the proposal is low (approximately 1% of the site area). The Geophysical survey concluded that some magnetic anomalies in the south west of the site could indicate archaeological remains being present (infilled post holes). GGAT has been consulted and the Trust does not object subject to the application of a planning condition requiring an agreed programme of archaeological work to be carried out during works of ground disturbance. It is considered that NLDP Policy CE6 (archaeology) is complied with.

7.5.3 It is considered that the proposal can proceed and relevant archaeological impacts can be mitigated as required and that the proposal is compliant with local and national policy in regard to this issue.

7.5.4 In terms of the settings of any archaeological resource the key issue is the relationship between the Lodge Hill Fort (Scheduled Ancient Monument) and the site. Planning Policy Wales confirms the setting of a Scheduled Ancient Monument to be a material planning consideration. The applicant's assessment concludes there would be no material harm to the setting of the fort since the impact of the proposal would be negligible and mitigated by proposed planting. Other assets are too far from the site and are screened to experience any material harm.

## 7.6 Impact on trees & hedgerows

7.6.1 The applicant has submitted a tree survey in support of the application. The tree survey identifies the key tree and hedge features on the site and identifies the appropriate root protection zones for those features. Slight adjustments to the site layout were made to accommodate the necessary root protection zones. The Tree Officer has no objection to the proposal which is considered to be in accordance with LDP Policy GP5vii (tree retention).

## 7.7 Benefits of the scheme

7.7.1 Renewable electricity generation: Planning Policy Wales is clear at Paragraphs 12.8.8 & 12.8.9 that the Welsh Government is committed to using the planning system to tackle climate change by optimising the use of low carbon / renewable energy. Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. As such national policy sees significant benefits in renewable generation. The renewable electricity generation provided by the scheme is the key benefit and should be given significant weight. The provision of renewable energy is supported by NLDP Policy CE10 where schemes are required to be considered favourably subject to other development management considerations being acceptable.

7.7.2 Bio-diversity enhancements: The scheme will provide the following bio-diversity enhancements which can be secured under condition. These are outlined in the submitted Bio-diversity Management Plan as follows:

Hedgerow planting and hedgerow strengthening (southern and western boundaries)  
Tree planting  
Meadow creation (two areas)  
Bird and bat boxes (six of each)  
Appropriate Management regime.

7.7.3 Technical Advice Note 5 (Nature Conservation) allows for ecological enhancement and mitigation in development management decisions at Paragraph 4.1.1. Paragraph 4.6.4 of the same TAN confirms that conditions can be used to secure enhancement of habitats. In short habitat enhancement and the securing of that enhancement through conditions is enshrined in national policy. As such the proposed enhancements are material to the consideration and can be secured. The proposed enhancements weigh in favour of the proposed scheme and bring it into compliance with NLDP Policy SP9 (conservation of the natural, historic and built environment).

#### 7.7.1 Minor Issues

7.8.1 Traffic management and public rights of way: There has been no objection to the proposal on highway grounds. Delivery via the constrained road network in Caerleon is not desirable and a construction traffic routing can be conditioned as part of any approval. Part of the delivery route is along a Public Right of Way, again a traffic management plan can be conditioned to protect this route during construction. No significant harm to the public right of way network is anticipated during construction, operation or decommissioning of the solar farm.

7.8.5 Community Benefit: The applicant has offered a Community Benefit fund. This is not a material planning consideration and is of no relevance to this planning decision. The Council's stance on these matters is that they are arrangements between the applicant and a third party representative of the Community. The Council does not secure these benefits via section 106 of the Town & Country Planning Act (as amended) and currently considers such an arrangement to be contrary to the requirements of Section 122 of the Community Infrastructure Levy Regulations 2010.

#### 7.9 Planning Balance

7.9.1 This assessment identifies significant harm to the openness of the green wedge, minor harm to landscape character and major harm to the visual amenities of the occupiers of Park Farm Cottage, but no other visual harm. Other policies are complied with. Significant benefits arise from the renewable generation and some benefit from the bio-diversity enhancement (the hedge planting and tree planting is required to mitigate identified landscape harms in any event).

7.9.2 The applicant has provided two appeal decisions in support of his application. These appeals confirm that solar farms are capable of meeting the 'very exceptional' test outlined in Planning Policy Wales thereby allowing inappropriate development in the green wedge to come forward. In short harm to the green wedge is capable of being outweighed by other material considerations relevant to the decision being made.

7.9.3 The Rowles Farm decision related to green belt land in Oxfordshire, north of Oxford. In that case the Inspector concluded that the limited harm to the character and appearance of the area in combination with the benefits of renewable electricity generation and the improved viability and stability of a rural business would outweigh the harm to the green belt and would amount to very exceptional circumstances. A second appeal near Upminster in Essex concluded there was no or little harm to landscape character, loss of potential agricultural land for 25 years should be given little weight, there was no harm to users of the nearby Motorway via glare and glint and that the bio-diversity merits of the scheme in an identified wildlife corridor in combination with the renewable electricity generated by the scheme would offset the harm to the openness of the green belt. These decisions confirm that solar farms in green belt / green wedge are inappropriate development but that this is not a moratorium upon their development subject to there

being a clear planning balance in their favour amounting to the very exceptional circumstances required to justify the grant of permission. Ultimately this is a matter of planning judgement.

7.9.4 In this case the Planning Policy Manager has objected to the proposal as inappropriate development in the green wedge. However the identified significant harm is to the openness of the green wedge and to the visual amenities of the occupiers of Park Farm Cottage. Other harms have been quantified as minor. For example there is no significant harm to character and appearance. As such the key consideration is whether the harm to openness and the visual amenity of one dwelling is outweighed by the benefits of renewable electricity generation and the bio-diversity enhancements of the scheme. As noted this is a matter for the decision maker and in this instance the harm to openness is mitigated by the visual enclosure of the site. The impact on the visual amenity of the occupiers of Park Farm Cottage is partially mitigated by the retention of intervening vegetation and officers do not consider that this harm unto itself would be sufficiently weighty to justify a refusal of planning permission. Ultimately it is concluded that the benefits of the renewable energy in combination with the ecological benefits of the scheme and the limited harm to other interests do amount to very exceptional circumstances required for permission for inappropriate development to be granted in this instance. However this is a very finely balanced decision and the above conclusions would not automatically be replicated in the case of other similar applications in the green wedge / green belt where for example the extent of visual and landscape harm could be significantly greater.

## **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 acceptable subject to the following conditions.

## 10. RECOMMENDATION

### Granted with Conditions

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

- Drawing L03575\_12A – Site Layout and Planting Proposals
- Drawing PFA\_Rev3 – Park Farm Caerleon A\_Proposed \_Layout
- Drawing (un-numbered) – DEER FENCE – Inc. MAMMAL GATE
- Drawing CB\_01 – COMMUNICATION BUILDING DETAILS
- Drawing CSR\_01 – CLIENT SIDE SUBSTATION DETAILS
- Drawing CCTV\_01 – CCTV POLE DETAILS
- Drawing (un-numbered) – ROAD\_CROSS\_SECTION
- Drawing SB\_01 – STORAGE BUILDING DETAILS
- Drawing SITE\_AUX\_TRANSFORMER\_01 – SITE\_AUX\_TRANSFORMER\_PLANS+ELEVATIONS
- Drawing TYP\_P\_E\_3L – TYPICAL PANELS ELEVATION 3 LANDSCAPE
- Drawing TC\_01 – Toilet Cabinet
- Drawing ID\_01 – Inverter Details
- Drawing TD\_01 – Transformer Details
- Drawing XXX\_01\_A – GRP Cabinet
- Drawing DNO\_01 – DNO Building Details
- Drawing (un-numbered) – Park Farm Caerleon East – Site Access & Location Plan
- Drawing L0375\_20 – Tree Protection Plan

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

#### Pre-commencement conditions

02 ROOT PROTECTION DETAILS: No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until Root Protection Barrier fencing to the standard described in British Standard (BS 5837:2012) has been installed around the root protection areas identified in Drawing L0375\_20 (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 Areas defined by the fencing. The fencing shall be retained for the full duration of the construction phase 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.

03 CONSTRUCTION METHOD STATEMENT: Development shall not be begun until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The construction method statement shall set out details of all on-site construction works; post-construction reinstatement; drainage; mitigation; and other restoration, together with details of their timetabling. It shall include details of, and measures to secure:

- (a) the phasing of construction works;
- (b) the formation and position of the temporary construction compound;
- (c) dust management and suppression;
- (d) cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- (e) pollution control, including the protection of water courses and ground water; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and disposal; and emergency procedures and pollution response plans;

- (f) temporary site illumination during the construction period;
- (g) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- (h) storage of materials and disposal of surplus materials;
- (i) the construction of the access into the site, the erection of any entrance gates and the creation and maintenance of associated visibility splays;
- (j) access tracks and other areas of hardstanding, including areas of temporary road matting;
- (l) the carrying out of foundation works, including the foundation of the solar arrays and any other structures to be installed on the site;
- (m) method of working cable trenches, including soil storage and back-filling;
- (n) general soil storage and handling;
- (o) post-construction restoration/reinstatement of the working areas, including cable trenches and area covered by any matting;
- (p) the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway;
- (q) details of the vehicles to be used on the site during construction activities
- (r) A qualified Arboriculturalist shall oversee the project (to perform a Watching Brief) for the duration of the development and shall be responsible for:
  - Supervision and monitoring of the approved Root Protection Details;
  - Supervision and monitoring of the approved tree felling and pruning works;
  - Supervision of the alteration or temporary removal of any Barrier Fencing;
  - Oversee working within any Root Protection Area;
  - Reporting to the Local Planning Authority;
  - The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at monthly intervals - commencement to be agreed by the Council's Tree Officer.

The works shall proceed in full accordance with the agreed construction method statement. Reason: to protect the interests of the rural character of the area, the integrity and safety of the highway network and to protect the amenity of residents and to ensure the site can be restored to agricultural use.

**04 CONTROL OF RUN-OFF WITHIN THE SITE:** Notwithstanding the submitted drainage details no means to intercept, store or otherwise dispose of surface water shall be implemented on the site until a scheme of surface water drainage has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented fully as agreed prior to the 'first export date' and shall be retained until the solar farm is decommissioned.

Reason: to ensure any ground disturbance is the minimum required to deal with surface water drainage in the interests of site restoration.

**05 ARCHAEOLOGY:** No development, to include demolition, shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To identify and record and features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

**06 LANDSCAPING AND BIO-DIVERSITY:** Prior to the first export date full details of landscaping and bio-diversity enhancements shall be submitted to the local planning authority. These shall include:

- Details of bat and bird boxes and their proposed locations;
- Details of seed mixes for wildflower meadows, planting density and locations;
- Details of species mix and planting density for proposed new hedges and hedge strengthening and their location;
- Details of species, location and size of trees to be planted and their location;



- A plan for the implementation of the landscaping & bio-diversity enhancements including timescales for actions; short, mid and long term management arrangements for landscaping and bio-diversity on the site, bio-diversity targets and monitoring schedules, the reporting of monitoring data to the Council and contingency plans for the agreement (with the Council) for the implementation of ameliorative action in the event stated bio-diversity targets are not met.

Reason: to ensure landscape harms are mitigated and stated bio-diversity benefits of the scheme accrue in the public interest.

Other conditions requiring the submission of information

07 DECOMMISSIONING – Decommissioning and restoration: Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the solar panels and all other associated equipment & paraphernalia and the subsequent restoration of the site. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife, habitats and tree features on the site;
- identification of access routes;
- location of material laydown areas;
- full details of the removal of the solar arrays, associated buildings and plant, any trackways and sub-surface cabling and all associated works of ground restoration including trench backfilling;
- full details of all works to restore the land to allow for agricultural production following the removal of structures from the site;
- a programme of implementation.

The approved scheme shall be implemented within 12 months of the expiry of this permission and shall proceed fully in accordance with the agreed details of the decommissioning programme.

Reason: to ensure the site is fully restored to allow agricultural use and to maintain the rural appearance of the area.

08 REPAIR, REPLACEMENT AND REMOVAL OF SOLAR FARM: If the solar farm hereby permitted fails to produce electricity for supply to the grid for a continuous period of 6 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the solar farm. Where repairs or replacements are required the scheme shall include a proposed programme of remedial works. Where removal of the solar farm is required the scheme shall include the same details required under condition 07) of this permission. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: to ensure the solar farm beneficially generates electricity or is otherwise removed to the benefit of the character and appearance and the agricultural potential of the area.

09 LIFETIME OF THE PROPOSAL: the permission hereby granted shall expire 30 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: the proposed scheme has a 30 year lifespan.

10 TRAFFIC MANAGEMENT PLAN: No HGV shall access the site until details of a traffic management plan (TMP) have been submitted to and approved in writing by the Local Planning Authority. The TMP shall include details of:

- A delivery route to the site;
- Temporary signage;
- Details of temporary traffic management measures, such as traffic lights;
- Measures to preserve the integrity and amenity of the local public rights of way network;
- All other measures to be taken to ensure the site can be accessed safely and with minimum disruption to the public highway including any public rights of way.

Reason: to protect the integrity and safety of the highway and public rights of way network.

#### Directive conditions

11 LIGHTING: There shall be no permanent illumination other than the lighting identified in this submission which shall be operated as described unless otherwise agreed in writing by the local planning authority.

Reason: to protect the rural character of the site.

12 REPTILES & AMPHIBIANS: All works shall proceed in accordance with the details provided at Appendix 1 of the Park Farm West Solar Farm Bio-diversity Management Plan (November 2015).

Reason: to protect the interest of reptiles and amphibians during the construction phase of the scheme.

#### *NOTE TO APPLICANT*

01 Non-conditioned documents submitted with this application were: Planning, Design and Access Statement, Park Farm East Caerleon – Landscape Appraisal August 2015 (and appendices), Archaeological Desk Based Assessment (August 2015), Historic Environment Settings Impact Assessment (September 2015), Sequential Analysis Study (September 2015), Transport Statement (September 2015), Construction Decommissioning and Traffic Management Method Statement (December 2015), Archaeological Geophysical Survey (2015), Appeal Decision B5480/A/14/2227508, Appeal Decision C3105/A/13/2207532, Agricultural Land Classification (August 2015), Bio-diversity Management Plan (November 2015), Drainage Strategy, Preliminary Ecological Appraisal and Statement of Community Involvement (August 2015).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP7, SP9, GP1, GP2, GP3, GP5, GP6, GP7, CE6, CE10 & T7 were relevant to the determination of this application.

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

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

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## **APPLICATION DETAILS**

No: 15/0903 Ward: **CAERLEON**

Type: Full

Expiry Date: 12-Nov-2015

Applicant: **LIGHTSOURCE SPV 209 LIMITED**

Site: **LAND TO THE WEST OF PARK FARM COTTAGE, MALTHOUSE LANE, CAERLEON NP18 3PB**

Proposal: **INSTALLATION AND OPERATION OF A 3.41 MW SOLAR FARM AND ASSOCIATED INFRASTRUCTURE, INCLUDING PHOTOVOLTAIC PANELS, MOUNTING FRAMES, INVERTERS, TRANSFORMERS, SUBSTATION, COMMUNICATIONS BUILDING, ACCESS TRACKS, FENCING AND POLE MOUNTED CCTV CAMERAS (AFFECTING FOOTPATHS ST395W-131 AND ST395W-132)**

### **1. LATE REPRESENTATIONS**

Since the preparation of the officer report the following late representations have been received:

#### **1.1 Keep Us Rural**

- The site is green wedge and should be exempt from development since its openness is protected by policy. The Council's Policy Section has objected to the development.
- No 'very exceptional circumstances' apply in this instance and permission should therefore be refused.
- The 2020 targets for renewable electricity generation will be exceeded by existing consented sites (Renewable Energy Foundation).
- 30 years may not be temporary and previous permissions on appeal have been based on projected lifespans of 25 years, not 30 years.

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

- 2.1 The impact of the proposal on the green wedge has been considered. Impacts on landscape character and visual amenity have been assessed and balanced against the scheme's benefits. Officer's conclude that the limited harms when balanced against the benefits of the scheme do amount to very exceptional circumstances sufficient to allow a grant or permission in this case. This stance is confirmed by appeal decisions in the past.
- 2.2 Planning Policy Wales does not set out targets for renewable energy delivery within Wales. No upper limit is set under planning guidance. The targets referred to by 'Keep Us Rural' are not clarified as being European, U.K. or Welsh targets. In any event any Welsh target is not set as an upper limit in Welsh national planning policy. As such there is no reason why the target cannot be exceeded. As such any national target should be given little weight in this context.
- 2.8 There is no guidance on what 'temporary' means in a planning context. As such it is a matter of judgment. The Planning Inspectorate has accepted 25 years as temporary. 30 years pushes the boundaries of temporary further. As noted this is in effect a judgement but for context purposes only, in flood resilience terms the lifetime of housing is considered to be 100 years and commercial development 75 years. 30 years is significantly less than this and officers have accepted this as temporary in the context of this application.

### **3. OFFICER RECOMMENDATION**

- 3.1 Officer recommendation remains that the application should be granted subject to conditions.



## **APPLICATION DETAILS**

**No:** 15/0314      **Ward:** *PILLGWENLLY*

**Type:** **FULL (MAJOR)**

**Expiry Date:** **27-MAY-2015**

**Applicant:** *I CARTER, NEWPORT CITY HOMES*

**Site:** *PILLGWENLLY REGENERATION AREA TO THE WEST OF 145 TO 174 COMMERCIAL ROAD, NEWPORT*

**Proposal:** *PHYSICAL REGENERATION OF PILLGWENLLY ESTATE INCLUDING STRATEGIC DEMOLITION, CREATION OF 11NO. RESIDENTIAL UNITS, CONVERSION OF GARAGES (KNIGHTS CLOSE) TO A COMMUNITY USE AND PUBLIC REALM IMPROVEMENTS (AMENDMENTS INCLUDE RAISING OF FINISHED FLOOR LEVELS OF NEW BUILD RESIDENTIAL UNITS AT WILLIAMS CLOSE AND CHARLOTTE DRIVE, REMOVAL OF 9NO. GARAGE CONVERSIONS TO RESIDENTIAL UNITS, AND CONVERSION OF GARAGES AT KNIGHT CLOSE TO COMMUNITY USE)*

**Recommendation:** **GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 Full planning permission is sought for the physical regeneration of Pillgwenlly Estate including strategic demolition, creation of 11 residential units, conversion of garages (Knight Close) to a community use and public realm improvements. Due to issues relating to flood risk the scheme has been amended since the original submission. The revised scheme includes the raising of the floor levels of the new build units, the removal of the 9 garage conversion units to residential units, and the conversion of garages at Knight Close to a community use. As a result of demolition and the knock through at Raglan Court there will be a net gain of 1 residential unit throughout the site.
- 1.2 The application site comprises an established residential area based on the 'Radburn' layout that was completed in the 1970's. The application site comprises 4.75 hectares and 250 homes. The applicant, Newport City Homes owns and manages 208 of these properties, with a further 35 properties individually owned and 7 being leasehold properties. The existing built form is predominantly 2-4 storeys. Within the application site itself there are a number of underpasses, and the poor layout of the site has contributed to a poor pedestrian network and a lack of safe routes.
- 1.3 The rear of the properties that fall within the Commercial Road district centre back on to Francis Drive that forms the eastern boundary of the application site. Capel Crescent forms the southern boundary, to the west is Charlotte Drive. Pillgwenlly County Primary School lies to the south west, and Alma Street is located to the north. Apart from a block of flats at Pardoe Thomas Close, the northern section of the site consists mainly of houses. The southern section is generally more densely developed with blocks of two to four storey blocks of flats.

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

95/0233	Proposed landscaping enhancement scheme	Granted with conditions
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### **3. POLICY CONTEXT**

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

Policy SP1 identifies that proposals are required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary.

Policy SP2 identifies that proposal should seek to maximise their contribution to health and well-being.

Policy SP3 refers to flood risk and that development will only be permitted in flood risk areas in accordance with national guidance.

Policy SP12 identifies that development that affects existing community facilities should be designed to retain or enhance essential facilities.

Policy SP13 relates to Planning Obligations and that 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.

Policy SP18 identifies that proposals will be favoured which assist the regeneration of the urban area, particularly where they contribute to: vitality, viability and quality of the city centre, provision of residential opportunities, and re-use of vacant land.

Policy CE8 is relevant in relation to proposals affecting locally designated nature conservation sites.

Policy GP1 refers to general development principles designed to withstand climate change and reduce the risk to flooding.

Policy GP2 which aims to protect general amenity in terms of noise and disturbance, privacy, overbearing impact, light and visual amenities.

Policy GP3 development will be permitted where the necessary and appropriate service infrastructure exists and that there is sufficient capacity for the development within the public foul sewer and if not satisfactory improvements are provided by the developer.

Policy GP4 relates to highway and access and requires that development should provide access for pedestrians, cyclists, be accessible to main transport routes and provide cycle storage.

Policy GP5 seeks to protect the natural environment, including trees.

Policy GP6 seeks good quality of design in all development.

Policy GP7 refers to Environmental Protection and Public Health development will not be permitted which will cause risk to the environment, local amenity, health or safety.

Policy H2 states that residential development should be built to high standards of environmental and sustainable design, taking into account the whole life of the dwelling

Policy H4 refers to Affordable Housing and states that 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.

Policy H9 supports comprehensive estate regeneration.

Policy CF12 seeks to protect existing community facilities unless it can be demonstrated alternative provision can be made of at least an equal benefit to the local population or it can be demonstrated that the existing provision is surplus to the needs of the community.

Policy T4 states that development will be required to provide appropriate levels of parking, within defined parking zones, in accordance with adopted parking standards

#### **4. CONSULTATIONS**

- 4.1 **GLAMORGAN GWENT ARCHAEOLOGICAL TRUST:** This area of Pillgwenlly was set out in the mid 19<sup>th</sup> century as an area of housing and social infrastructure to serve the growing town of Newport and the expansion of the docks. The area was extensively redeveloped in the last two decades of the 20<sup>th</sup> century when the buildings subject to this application were built. The Historic Environment Record does not note any buried archaeology within the application boundaries. Historic mapping shows that the area has remained as a residential area from the time of the laying out of the first streets.
- 4.1.2 The nature of the regeneration works, which for the most part do not include large scale ground works, and the fact that this is on ground already disturbed by previous development means that it is unlikely that any archaeological resource will be encountered during the work. Therefore, as archaeological advisors to your members, we have no objection to the positive determination of the application.
- 4.2 **HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER):** The Gwent Police Designing out Crime Unit have no objections to this application.
- 4.3 **NEWPORT ACCESS GROUP:** No response
- 4.4 **NATURAL RESOURCES WALES:** We have reviewed the revised plans as detailed on your authority's website and also the Planning Addendum – Flood Consequence Assessment & Drainage Strategy – Planning Addendum, Project Number: 6873, prepared by HLN Engineering, October 2015.
- 4.4.1 Our advice is that the FCA and the updated addendum have demonstrated that the consequences of flooding can be acceptably managed over the lifetime of the development in accordance with TAN15. Therefore we remove our objection to this application as submitted subject to the inclusion of the following condition in any planning permission granted.
- 4.4.2 Condition**  
The proposals shall be carried out in accordance with the FCA Addendum – (Pillgwenlly Regeneration, Newport – Flood Consequence Assessment & Drainage Strategy – Planning Addendum, Project Number: 6873, prepared by HLN Engineering, October 2015) and the following mitigation measures detailed in the addendum:
- Finished floor levels for the Charlotte Drive Apartments are set no lower than 9.33m AOD.  
Finished floor levels for the Williams Close Apartments are set no lower than 9.33m AOD.  
Reason  
To reduce the risk of flooding to the proposed development and future users.
- 4.4.3 Please find our more detailed reasoning below.  
The FCA addendum states the following:  
Charlotte Drive Apartments  
- It is proposed to raise the floor level from a level of 9.08m AOD to a level of 9.33m AOD.  
  
- The flood level data from NRW shows that the 1 in 200 year flood in 2111 (100 year design life) is 9.32m AOD and the level for the 1 in 1000 year flood is 9.76m AOD (a flooded level of 430mm).

- In accordance with TAN15 and the Welsh Government's advice note ref: WG0701-14 raising the floor makes the apartment flood free for the 1 in 200 year flood and offers a flooding level less than 600mm above finished floor level for the 1 in 1000 year flood.

4.4.4 We confirm that with a proposed finished floor level of 9.33m AOD for the Charlotte Drive apartments that this development is predicted to be flood free in the 1 in 200 year flood event with climate change (with a 100 year lifetime of development) meeting the requirements of A1.14 of TAN15.

4.4.5 We also confirm that during the 1 in 1000 year extreme flood event with climate change (with a 100 year lifetime of development) that the development is predicted to flood up to a depth of 430mm which is within the tolerable limits as set out in A1.15 of TAN15.

4.4.6 Regarding the predicted maximum velocities at the site we advise these are above the indicative guidance at 0.44 metres/sec. The other criteria in A1.15 has not been assessed, however there is no readily available data for the applicant to use.

4.4.7 Williams Close Apartments

- It is proposed to raise the floor level from 8.60m AOD to a level of 9.33m AOD.

- The flood level data from NRW shows that the 1 in 200 year flood in 2111 (100 year design life) is 9.32m AOD and the level for the 1 in 1000 year flood is 9.77m AOD (a flooded level of 440mm).

4.4.8 In accordance with TAN15 and the Welsh Government's advice note ref: WG0701-14 raising the floor level makes the apartment flood free for the 1 in 200 year flood and offers a flooding level less than 600mm above the finished floor level for the 1 in 1000 year flood.

4.4.9 We confirm that with a proposed finished floor level of 9.33m AOD for the Williams Close apartments that this development is predicted to be flood free in the 1 in 200 year flood event with climate change (with a 100 year lifetime of development) meeting the requirements of A1.14 of TAN15.

4.4.10 We also confirm that during the 1 in 1000 year extreme flood event with climate change (with a 100 year lifetime of development) that the development is predicted to flood up to a depth of 440mm which is within the tolerable limits as set out in A1.15 of TAN15.

4.4.11 Regarding the predicted maximum velocities at the site we advise these are above the indicative guidance at 0.79 metres/sec. The other criteria in A1.15 has not been assessed, however there is no readily available data for the applicant to use.

4.4.12 Garage Conversions

We note the removal from the application of the 9 No garage conversions to residential units to be replaced by a Community Use facility. Given the proposed change of use (less vulnerable development to less vulnerable development) we do not have any objection to this. Further, it has been demonstrated that the new community facility will be flood free in the 1 in 200 year flood event with climate change (with a 75 year lifetime of development).

4.4.13 As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend that you consider consulting other professional advisors on the acceptability of the developer's proposals, on matters that we cannot advise you on such as emergency plans, procedures and measures to address structural damage that may result from flooding. We refer you to the above information and the FCA to aid these considerations. Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.



- 4.5 REGIONAL AMBULANCE OFFICER: We would not advise on the suitability of developments within flood risk areas as this is the responsibility of NRW and the respective local authority.
- 4.6 SOUTH WALES FIRE AND RESCUE: It is not the responsibility/practice of South Wales Fire and Rescue Service (SWF&RS) to comment on flood planning in relation to the attached development.
- 4.7 WALES AND WEST UTILITIES: No objection.
- 4.8 WELSH WATER: We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.
- 4.8.1 Conditions - Foul water and surface water discharges shall be drained separately from the site. Reason: To protect the integrity of the public sewerage system. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system from the creation of any new residential units unless otherwise approved in writing by the Local Planning Authority. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system. Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.
- 4.8.2 The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer. Reason: To protect the integrity of the public sewer and avoid damage thereto.
- 4.9 GWENT LOCAL RESILIENCE FORUM: It is not a requirement for the Local Resilience Forum to engage. It is not appropriate for Gwent LRF to provide advice on the application and/or to provide the liaison with Local Authority Emergency Planners or other constituent members of the LRF.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): The drainage scheme has been well considered and proposes to utilise the existing infrastructure, which has been surveyed and jetted, with some small scale additional connections. Overall there is a benefit in terms of impermeable areas and discharge to the public sewer therefore I have no adverse comments to make in respect of this application.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): In November 2014 I was asked to provide comments on the Phase 1 and Bat survey that was undertaken on the site (Nov 24<sup>th</sup> email correspondence with Greg McKay Stride Treglown Ltd). No bats were to be found using the building however I did request that a SEWBReC data search be undertaken and this would need to be submitted along with details of ecological enhancement with full application.
- 5.2.1 I can't seem to find neither the surveys nor details of enhancement that was outlined in the report e.g. built in bat roosts etc.
- 5.2.2 Also details of a sensitive lighting scheme will need to be submitted and agreed to ensure that we are minimising the disturbance to any foraging bats in the area.
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Do not oppose this application.

- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE OFFICER): I am happy to approve both the hard and soft landscape elements of this application.
- 5.5 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): No response.
- 5.6 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): All new trees will require a detailed planting and maintenance specification to include irrigation and rabbit guards to prevent strimmer damage. Please ask for this to be submitted to Richard Wood.
- 5.7 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL PROTECTION): I confirm that I do not have any objections to the proposals, however prior to commencement of development, a Construction and Environmental Management Plan should be submitted for approval, detailing means of mitigation for noise and dust arising from the development.
- 5.8 HEAD OF REGENERATION, INVESTMENT AND HOUSING (HOUSING DEVELOPMENT MANAGER): With regard to the above named application I can confirm the Housing Department are fully supportive of the proposal by Newport City Homes for the regeneration of their estate in Pill. The housing association have undertaken extensive consultation with the residents of the area who have had a significant input into the proposals. The intention is to have properties which meet Welsh Housing Quality Standard in an environment which is safe and secure, with an improved street scene and quality of space. There will be the creation of new units of accommodation which specifically address the prevailing housing need for the area, these properties will be allocated through the Common Housing Register. This application is very welcome.
- 5.9 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING CONTRIBUTIONS MANAGER): Given the small scale nature of the development and type of development proposed (i.e. affordable units) and the significant regeneration benefits of the proposal, it is considered that no planning obligations are required to further mitigate the impact of the development.
- 5.10 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY MANAGER): The proposal is supported on the basis that it is residential development on a brownfield site within the existing urban area and contributes to estate regeneration objectives. The scheme is considered to meet the policy requirements of the LDP, subject to no objection from Natural Resource Wales in respect of flood risk.
- 5.11 HEAD OF REGENERATION, INVESTMENT AND HOUSING (REGENERATION MANAGER): No response
- 5.12 CHIEF EDUCATION OFFICER: No response
- 5.13 NEWPORT NORSE: I have now had a chance to review all of the feedback given and we are happy with the majority of responses. The only query we have relates to the modular building which will be installed before development commences on Charlotte Drive. I understand that this work will be phased by the contractor. We would prefer that the phasing is made a condition so that Newport City Council are consulted regarding when works will be undertaken.
- 6. REPRESENTATIONS**
- 6.1 NEIGHBOURS: All properties within 50m with a common boundary with the application site were consulted, 5 site notices displayed, and a press notice published in South Wales Argus. No representations have been received.
- 6.2 COUNCILLOR OMAR ALI: Generally in Pill – most people welcome this development. This will greatly add to the overall improvement of Pill.

## **7. ASSESSMENT**

### **7.1 Background**

The development forms part of the Council's Vibrant and Viable Places (VVP) programme of work. The Design and Access Statement describes that extensive public consultation has been held on the proposals that included door to door consultation to ensure that appropriate time could be given to explaining the proposal. In addition, posts were put on Facebook and Twitter informing residents when they were in the area to discuss the consultation.

### **7.2 Proposal**

There are a significant number of elements to the proposal including demolition, new build, external façade improvements and garage conversions and these will be outlined in further detail below.

#### **7.2.1 *Demolition within southern part of site (Capel Crescent, Capel Close and Williams Close)***

Within the application site a number of demolition works are proposed including the demolition of the Community hub sited adjacent to Raglan Court, in the south western corner of the site. Within the southern part of the site three underpasses along Williams Close and two underpasses off Capel Crescent would be demolished. This would enable sightlines through the development from Commercial Road to the west and in a southerly direction, from Capel Crescent. Additionally, this would also facilitate the creation of a vehicular access point off Capel Crescent into Williams Close that would lead to parking areas.

7.2.2 The proposal also details the demolition of a single-storey block of 6 garages, two houses and a flat. Again this would allow for improved sightlines through the development from Commercial Road, through the creation of a new vista.

#### **7.2.3 *Demolition within middle portion of site (Coulson Close and Knight Close)***

Within this area the only demolition proposed relates to a single storey block of 6 garages attached to a 3 storey block of flats to the south of Coulson Close. It is also proposed to demolish a single-storey block of 6 garages some 15m to the south east of this and create an enlarged parking area around a central green space area.

7.2.4 At the end of Coulson Close 2 garages with terraced areas above would be demolished and to the east of this a similar structure would also be removed to create a pedestrian link in an east/west direction from Charlotte Drive through to Commercial Road.

#### **7.2.5 *Demolition within northern section of the site (Francis Street and Alma Street)***

The demolition in this area relates to the demolition of 3 flat roof garages at the south of Francis Street and the demolition of 7 garages at Alma Street.

#### **7.2.6 *New Build (Williams Close and Charlotte Drive)***

Two new build elements are proposed at Williams Close towards the south eastern corner of the site and at the end of Charlotte Drive to the west.

7.2.7 At Williams Close a three-storey block of 6 x 1 bed flats and 2 x 3 bed houses within an attached two-storey element are proposed. These units would lie to the south of a row of garages that are to be demolished that were described above (paragraph 7.2.1). Due to the proximity of the site to the zone C2 flood risk area the flats on the first and second floor result in the creation of an undercroft area. Revised plans have been received that illustrate that the floor levels have been raised from 8.60m AOD to 9.33m AOD.

7.2.8 This block of accommodation has the maximum dimensions of 29.1m by 8.9m. The flats would rise from an eaves height of 9.1m to a ridge height of 11.7m, whilst the dwellings would be 2.9m lower with a ridge height of 8.7m.

- 7.2.9 A contemporary approach has been taken with the exterior finished in a number of contrasting materials including a zinc alloy metal wall panel system, buff/grey facing brick, charcoal grey engineering brick and high pressure laminate feature cladding. The roof would be finished in an artificial grey slate. Windows and doors would be composite aluminium windows.
- 7.2.10 Balconies are proposed serving two of the flats that would overlook the parking area at Williams Close. At the rear, back gardens with a depth of 15m are proposed.
- 7.2.11 Turning to the new build element at Charlotte Drive this would be attached to the existing built form that fronts Coulson Close. The overarching aim of this part of the proposal is to create a focal point at the end of Charlotte Drive. Within this three-storey block, 3 x 1 bed flats are proposed. This block of flats would have a footprint of 10.48m by 8.1m. Revised plans have been received that illustrate the raising of the floor levels from 9.08m AOD to 9.33mAOD. Again, a contemporary approach is proposed with projecting bay windows. A mono-pitched roof having a maximum height of 11.4m is proposed. The palette of materials include high pressure laminate feature cladding to bays, charcoal grey engineering brick, buff/grey facing brick and zinc alloy metal wall panel system. The roof would be finished in artificial slate.
- 7.2.12 Amenity space is proposed at the rear of the flats.
- 7.2.13 **Garage Conversions**  
As part of the original proposal it was proposed to convert 34 garages to form 8 x 1 bed and 1 x 2 bed flats. The revised plans illustrate the removal of the conversion of garages to flats and the conversion of 5 garages facing the existing basketball court to a community space.
- 7.2.14 **Raglan Court Conversion**  
Raglan Court lies to the south western corner of the site, which provides sheltered accommodation within 16 x 1 bed flats. It wraps around a central courtyard area and it is proposed to rationalise the accommodation internally to provide 9x 2 bed flats. Improvements are proposed to the external fabric of part of the building consisting of the application of an external insulation render system, replacement infill balustrading to balcony areas and recladding of the exterior walls under the mono-pitched roof area with a zinc-alloy metal wall system. Where the former community hub was attached it is also proposed to make good through the application of the insulation render.
- 7.2.15 **Improvement of External Fabric of Existing Buildings**  
At Capel Crescent (Block A), Knights Close (Blocks A and B), Coulson Close (Blocks A and B) and Williams Close (Blocks A to C) it is proposed to improve the exterior of the existing of the building. Specifically, this would include the recladding of certain parts of the building with a similar palette of materials proposed within the new build elements. Typically these include the use of the insulation white colour render system and zinc-alloy metal wall system. In addition, slim profile replacement uPVC doors and windows finished in a grey colour are also proposed.
- 7.2.16 **Open Space Provision**  
The existing basketball court is sited at the end of Francis Drive and due to poor natural surveillance suffers from anti-social behaviour issues. The proposal details to remove this and create an area of open space with a parking area at either end. Further small pockets of public open space are proposed at Francis Street, Coulson Close and Raglan Court.
- 7.2.17 **Landscaping**  
A key feature of the proposals includes the use of soft landscaping and a comprehensive planting strategy has been devised that covers the entire housing estate. This includes the planting of 80 trees within the public areas (courtyards, open space and parking area) in the site. Strategic hedge planting and shrub buffer planting is also proposed to the curtilages and boundaries throughout the application site.

7.2.18 In relation to hard landscaping all roads and footpaths would be finished in black macadam. Shared surfaces would be finished in marshall's tegula concrete setts, while courtyards would be finished in textured concrete slabs. The areas below trees would be treated in sunset resin bound gravel.

#### 7.2.19 **Boundary Treatments**

The proposal details alterations throughout the site to boundary treatments and this includes the following:

- Front gardens – 1.0m high brick wall and steel bow top or 1.0m high timber board fences
- Back gardens facing highways – 1.8m high brick and steel bow top with access gates.
- Between gardens – 1.8m high timber vertical fencing.

### 7.3 **Principle of development**

Policy SP1 of the LDP expects proposals to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. Moreover, policy SP18 supports the provision of proposals that assist the regeneration of the urban area particularly where they contribute to the reuse of vacant, underused or derelict land and contribute to the provision of residential opportunities within the urban area. In this case the proposal involves the physical improvement to an established housing estate, classed as brownfield land and one that falls within the defined settlement boundary, thus is compliant with policies SP1 and SP18 of the LDP.

7.3.1 The proposal would result in the creation of 1 additional unit within the site, which would increase the number of units to 251. This equates to a density of 55 dwellings per hectare which is consistent with policy H3 of the LDP that promotes a minimum density of 30 dwellings per hectare. The proposal therefore represents an efficient use of the land and through the provision of a mix of houses and flats would ensure a mix of housing needs is met.

7.3.2 The community hub would be demolished and policy CF12 seeks to protect existing community facilities unless it can be demonstrated that the existing provision is surplus to the needs of the community. Newport City Homes has confirmed that the existing facility only serves the sheltered accommodation at Raglan Court and is not available for use by the wider community. The new units that are to be created would not be used for sheltered accommodation, and as such this facility is surplus to requirements. In any event the revised proposal includes the creation of a community use and there are existing community facilities within the area with Pill Millennium Centre located 105m to the south of the site. The proposal therefore complies with policy CF12.

7.3.3 Overall, the principle of the regeneration of this housing estate is considered to be acceptable, subject to other material discussions that will be discussed below.

### 7.4 **Impact on character and appearance of area**

Policy GP6 of the LDP seeks to ensure good quality design in development. Key design principles set out in the policy include context of the site; access, permeability and layout; preservation and enhancement of the character of the area; scale and form of the development; materials and detailing; and sustainability. Policy H9 refers specifically to housing estate regeneration and stipulates that proposals should enhance open space and the setting of the estate.

7.4.1 In this case the scheme has been presented to the Design Commission for Wales (DCfW), which aims to champion good design in the built environment. The first meeting with DCfW in May 2014 recommended that consideration should be given to the orientation of the houses and the scheme should be considered in the wider context. A further design review

was undertaken in July 2014 whereby the extensive community consultation that had been undertaken was praised and that a lighter touch in certain areas of the scheme would be beneficial. A final meeting was held with DCfW in January 2015, which identified that the steps taken in this landscape driven regeneration were beneficial.

- 7.4.2 There are a number of dimensions to the scheme, which have been outlined earlier in the report. The demolition works that essentially include the removal of the underpasses and garages are considered to be a positive feature of the scheme, as it results in the provision of clear sightlines and vistas through the development, as well as improving permeability. The removal of the incongruous underpasses would undoubtedly enhance the overall character of the estate.
- 7.4.3 The scheme has also been reviewed by the crime prevention officers in October 2014 found that the removal of the underpasses was one of the key principles and the scheme has been assessed as having Part 1 Secure by Design compliance that deals with layout, design and boundary treatments. The Gwent Police Designing out Crime Unit have been consulted on the application and have no objections.
- 7.4.4 The new build elements include the creation of two new build elements at Williams Close and at the end of Charlotte Drive. A contemporary design approach has been adopted at Williams Close, which includes the provision of a three-storey block of flats and attached two-storey dwelling. The adjacent units that would run perpendicular to the proposed block are two-storey. Due to careful design, contrasting heights and the palette of materials to be used, it is considered that this part of the proposal is of an appropriate design and scale. It would result in the provision of an acceptable form of development, which would enable the natural surveillance of the parking area to the north. An undercroft area is created at ground floor to ensure that no part of the development falls with flood risk zone C2. As identified above, the scheme has achieved Part 1 Secure by Design compliance, but it is considered that this space could potentially be an area for anti-social behaviour, and a condition would be added to any planning permission for a scheme to improve public safety in this area.
- 7.4.5 The new build at the end of Charlotte Drive has been designed so that it is three-storey and replicates the mono-pitched roof design of the adjacent block. A feature bay window at first and second floor has been added to the front elevation facing Charlotte Drive. Overall, it is considered that this is an appropriate addition in terms of its design and scale at the end of Charlotte Drive, which is beneficial in terms of creating a focal point. The palette of materials proposed is considered to be acceptable and would ensure a high quality finish.
- 7.4.6 The proposed recladding works are primarily focused within the southern section of the site and relate to the four-storey buildings are considered to be a positive feature of the scheme. They not only enhance the character of the building themselves, but also the wider estate. They would also significantly improve the legibility of the estate. Further to this the recladding would also improve the thermal efficiency of the units.
- 7.4.7 The proposed garage conversion to a community space represents a sustainable re-use of this underutilised space and would help create a vibrant frontage at ground floor level within the estate. The creation of useable space at ground floor with windows overlooking the public open space area that would improve the natural surveillance. The distinctive palette of materials to be used in the garage conversions consistent with those used in the proposed recladding would help improve the overall character and appearance of the estate.
- 7.4.8 Finally, as DCfW allude to in their response a positive feature of the scheme is the proposed landscaping. The planting of a significant number of trees within public areas of the estate would help soften the dense urban fabric, which would ultimately enhance the overall setting of the estate. Similarly, the replacement boundary treatments would further improve the character of the area. The proposal is supported by the Council's Landscape Architect.

## 7.5 Residential Amenity

Policy GP2 of the LDP seeks to ensure that there would not be a significant adverse effect on local amenity and that proposals should seek to design out the opportunity for crime and anti-social behaviour.

- 7.5.1 The scheme involves a comprehensive regeneration of the overall estate. However, within the application site area there are a number of properties that are owner occupied. The proposed alterations including the demolition of underpasses and garages would help create a safer environment for all residents who live on the estate, regardless of whether they are tenants of Newport City Homes. This would also be aided by the garage conversion to a community use and new build elements that would provide increased natural surveillance at ground floor overlooking public areas.
- 7.5.2 In relation to the new build at Williams Close, the three-storey gable end would be sited 21m off the rear elevation of properties on Commercial Road. This is considered to be a sufficient distance to safeguard the amenities of these properties. As a result of the distances maintained between the development site and these properties it is considered that it would not be overbearing.
- 7.5.3 The opposite gable end would be sited 9.0m off the rear elevation of Nos.3 and 4 Capel Close. Typically, a distance of 14m is required between the rear elevation of a property and a blank elevation. Given the density and height of the existing built form particularly in this part of the estate, together with the wider regeneration benefits it is considered that on balance this is a sufficient distance, and would not impact on the amenity of these properties through any overbearing impact to an extent that warrants the refusal of the application for this reason. No windows are proposed in the gable end facing these properties so there are no issues in relation to loss of privacy.
- 7.5.4 With regards the new build at the end of Charlotte Drive, due to its relationship with neighbouring properties there are no issues in terms of loss of privacy or any overbearing impact. The play area of Pillgwenlly Primary School falls adjacent to the west of the site. In the side elevation facing this area are ground, first and second floor secondary windows serving a lounge/dining area. Due to the proximity of these windows to the grounds of the school, it is considered that these should be obscurely glazed with non-opening windows, and this would be conditioned accordingly.

## 7.6 Amenity for future occupants

Policy GP2 also seeks to ensure that adequate amenity existing for future residents.

- 7.6.1 Future residents within the new build elements would have access to amenity areas within the estate, if no private amenity space exists for the individual units. Further to this due to the location of the site and its proximity to the city centre where there is a range of amenities it is considered that adequate amenity space and facilities would be available for future occupants.
- 7.6.2 In relation to access to bin storage and recycling areas, a waste strategy plan has been provided that annotates the location of these areas, which is similar to the existing arrangement, however, it is stipulated on the plans that these locations are subject to detailed design, and this would be conditioned accordingly.

## 7.7 Parking and Access

The majority of the parking at the site is restricted to the periphery of the site, although there is vehicular access into the site at Charlotte Street, Francis Street, Coulson Close and Knight Close that follow the approximate historic street pattern of the wider area.

- 7.7.1 Currently there are 109 garages, 74 demarcated parking bays and no existing cycle parking areas within the site. As part of this proposal it is proposed to retain 72 garages, convert 5 garages to a community use, demolish 32 garages, provide 154 demarcated parking bays and 31 cycle stands.

- 7.7.2 The proposal seeks to create continuous streets through the site in an east/west direction to improve permeability throughout the site and it is considered that the proposed layout achieves this. Additionally, the layout also improves access for refuse and emergency vehicles. The proposed increase in demarcated parking bays and the provision of cycle stands is also supported.
- 7.7.3 The provision of new residential units at the end of Charlotte Drive would result in the loss of vehicular access for delivery vehicles to the adjacent Primary School. Notwithstanding this, no issues have been raised as part of the consultation process from the Head teacher of the School in relation to this. The applicant has confirmed that discussions have been held with the Primary School on this and they consider that the creation of a pedestrian access is betterment to the existing arrangements, as deliveries can be made to the front of the school. The Head of Streetscene and City Services (Highways) has raised no issues in respect of this, but an appropriately worded condition would be added to any planning permission to secure the details of the pedestrian access to the school.
- 7.7.3 The Head of Streetscene and City Services (Highways) had initial concerns in relation to certain elements of the layout where the footway was of an insufficient depth, siting of trees obscuring visibility and positioning of bollards. Revised plans have been received that have addressed these issues. The proposed layout is considered to be acceptable and is one that would not result in any detrimental impact on highway and pedestrian safety.

## 7.8 **Flood Risk**

- 7.8.1 A small part of the site of the application site falls within zone C2 of the Development Advice Map contained in TAN 15. NRW's flood map information, which is updated on a quarterly basis, confirms the site to be partially within the 0.1% (1 in 1000 year) annual probability tidal flood outline of the River Usk.
- 7.8.2 A Flood Consequences Assessment (FCA) prepared by HLN Engineering was submitted in support of the planning application.
- 7.8.3 NRW in their initial consultation response advised that this area of Newport is at risk of flooding from the tidal dominated River Usk, which means that the flood risk predicted during a 0.5% (1 in 200 year) annual probability event over the lifetime of development is greater than the current day 0.1% (1 in 1000 year) annual probability event. NRW note that the flood map and development advice maps do not include climate change projections but provide outlines of the current day flood risk. They advised that the whole of the development is a risk of flooding when you consider climate change over the lifetime of the development. NRW objected on the basis that the FCA failed to demonstrate that the consequences of flooding could be acceptably managed over the lifetime of the development. Specifically they identified that the FCA should assess the consequences of flooding to the conversion of garages to residential use; the development should be designed to be flood free in the 0.5% plus an allowance for climate change and an assessment of climate change for the 0.1% (1 in 1000 year) annual probability event.
- 7.8.4 The applicant has sought to address these concerns through the removal of the garage conversions to residential units from the scheme and the raising of the finished floor levels of the new build elements to a level of 9.33mAOD. An addendum to the FCA has been provided that identifies that in respect of the new build at Charlotte Drive for the 1 in 200 year event (2111 – 100 year lifetime of development) the flood level is 9.32m AOD and for the 1 in 1000 year flood the level is 9.76m AOD (a flooded level of 430mm).
- 7.8.5 With regards the new build at Williams Close for the 1 in 200 year event (2111 – 100 year lifetime of development) the flood level is 9.32m AOD and for the 1 in 1000 year flood the level is 9.76m AOD (a flooded level of 430mm).
- 7.8.6 NRW has reviewed the revised scheme and addendum to the FCA and removed their objection. They are satisfied that the consequence of flooding can be acceptably managed over the lifetime of the development in accordance with TAN 15.



## TAN 15 Tests

7.8.7 Part of the application site falls within flood zone C2, but no footprint of any of the new builds as part of this proposal would fall within zone C2. However, as part of a precautionary approach advocated in TAN 15 it is considered necessary to assess the scheme against the policy criteria in section 6.2 of TAN 15. Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within zone C if determined by the planning authority to be justified in that location and demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region;

and,

- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

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

7.8.8 The proposal forms part of the Council's Vibrant and Viable Places (VVP) programme of work. The Council has been successful in securing £14.98 million from Welsh Government as part of their VVP programme over the next 3 years. The programme focuses on increasing the supply of residential units within the city centre and there is a target of creating 166 new homes within the 3 year period. The broad aim of the Council's VVP bid is to revitalise the City Centre, by creating additional residential units, improving existing living conditions, and to increase training and employment opportunities linked to VVP. In identifying properties within Newport, the main aims of the Welsh Government's VVP programme were used as a check list, these are:

- To revitalise and promote the sustainable development of town centres, making the most of their green infrastructure, heritage and historic character;
- To encourage wider investment in housing;
- To deliver strategic, regionally important projects of significant scale; and
- To tackle poverty by creating jobs, encouraging skills development and helping people into work.

7.8.9 The application site comprises an established residential area that falls within the most deprived ward in Newport. The proposal forms part of VVP, which is considered to be a local authority regeneration initiative. The proposal therefore satisfies criterion (i).

**Criterion (iii) – It concurs with the aims of PPW and meets the definition of previously developed land (PPW figure 2.1)**

7.8.10 The application site falls within an established residential area within the defined urban boundary. The proposal is considered to be compliant with Planning Policy Wales in delivering sustainable development and comprises previously developed land. The proposal therefore satisfies criterion (iii).

**Criterion (iv) – The potential consequences of a flooding event for the particular type of development have been considered and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.**

7.8.11 This criterion relates to the fact that the potential consequences of a flooding event for the particular type of development have been considered. To satisfy this test there are 10 criteria identified at A1.12 of TAN 15 that have to be satisfied:

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

7.8.12 NRW's Severn Estuary Flood Risk Management Strategy identifies that the existing defences along the River Usk include earth embankments and walls, and that even if the existing defences are maintained at the current height, by 2060 the risk of tidal flooding to most properties would increase to a 1 in 50 chance in any year. The strategy identifies that NRW aim to work with Newport City Council and local businesses to make improvements to the weaker sections of the defences around the Transporter Bridge in the next 5 to 10 years. Although the strategy identifies there is a need to improve the defences there are no planned improvements. As a result it is considered that this criterion has not been satisfied.

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

7.8.13 The proposed mitigation includes the raising of the floor level of the new build units so they are flood free during the 1 in 200 year event. The maintenance of the buildings would be undertaken by Newport City Homes. The proposal therefore satisfies this criterion.

**3. The developer must ensure that future occupiers of the development are aware of the flooding risks and consequences.**

7.8.14 The applicant could establish procedures for advising future occupants of the dwellings of the associated flooding risks and consequences. This criterion could therefore be satisfied.

**4. Effective flood warning are provided at the site**

7.8.15 Planning Officers are aware that tidal flood warnings are in place and all future occupants could sign up to receive these warnings. NRW do not raise any concerns in their response regarding the effectiveness of the flood warnings. The proposal therefore satisfies this criterion.

**5. Escape/evacuation routes are shown by the developer to be operational under all conditions**

7.8.16 The letter from the Welsh Government to Chief Planning Officers identifies that in providing their expert technical advice, NRW will comment on the acceptability of flooding consequences in terms of the risk to people and property within the development. However, they will not comment on whether access and egress can be achieved to and from the site as this is a matter for the emergency services to determine on a site by site basis depending upon operational capabilities and equipment. The Local Resilience Forum for your area may be able to provide further advice in liaison with Local Authority Emergency Planners.

7.8.17 Paragraph A1.15 of TAN 15 provides guidance on what is considered to be tolerable conditions for both property and access under extreme flood conditions (1 in 1000 year event). The following is a summary of the table:

Type of development	Maximum depth of flooding (mm)	Maximum rate of rise of floodwaters (metres/hr)	Maximum speed of inundation of flood risk area (hrs)	Maximum velocity of floodwaters (metres/sec)
	Property Access			Property Access
Residential (habitable rooms)	600 600	0.1	4	0.15 0.3
General	600	0.3	2	0.3

Infrastructure	600		0.3
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7.8.18 NRW state that the predicted maximum velocities are 0.44 metres/second at Charlotte Drive and 0.79 metres/second at Williams Close, which exceed the guidance of 0.3 metres/second. In respect of depths NRW across the site in the 1 in 1000 year event the depths at Charlotte Drive are 0.68m and 1.17m at Williams Close, which exceeds the guidance of 600mm. In respect of the remaining criteria, NRW identify that there is no readily available data for the applicant to use. Further advice was sought from NRW on this matter, and they have identified that the Local Planning Authority should note that Welsh Government have indicated they are in favour of a proportionate level of FCA, reflecting the scale and complexity of the FCA. In light of these comments it was considered that it was unreasonable to request the provision of this data.

7.8.19 The Gwent Local Resilience Form and the three emergency services are not intending to provide any comments in relation to issues of access and egress and the ability of these services to rescue people in a flood event. Officers consider that it has not been demonstrated that all escape/evacuation routes are operational under all conditions and there are no comments from the emergency services to provide any comfort in this respect. This criterion has therefore not been satisfied.

## **6. Flood emergency plans and procedures produced by the developer must be in place**

7.8.20 No such plan has been produced, and the Local Planning Authority does not have the in-house expertise to assess such plans. The Local Resilience Forum, the police, fire and ambulance service have confirmed that they are not willing to participate in the planning process and comment on the flood risk issues relating to the application. An informative note could be added to any planning permission advising that such a plan should be produced. The developer carries the responsibility of producing such a plan. The LPA is therefore not in a position to advise further.

## **7. The development is designed by the developer to be flood free, which allows for goods/possessions within these buildings to be stored safely away from floodwaters**

7.8.21 The new build units have been designed to be flood free, which allows for goods and personal belongings to be stored safely away from floodwaters in the 1 in 200 year event. The proposal therefore satisfies this criterion.

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

7.8.22 The proposed buildings have been designed to be flood free during the 1 in 200 year event so they can be easily returned to its prime use following a flood. This criterion is therefore satisfied.

## **9. No flooding elsewhere**

7.8.23 NRW has not raised this as an issue within their consultation response. It is therefore assumed that there would not be any increase in flooding elsewhere. The proposal therefore satisfies this criterion.

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

7.8.24 The lifetime of development for residential is 100 years , while for community uses it is 75 years. NRW are satisfied that the apartments at Charlotte Drive, the units at Williams Close and the community facility would be flood free in the 1 in 200 tidal flood event allowing for climate change over the lifetime of the development. The proposal therefore complies with paragraph A1.14 of TAN 15.

**Criterion (vi) In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 600mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour (refer to table at paragraph 7.18.17).**

7.8.25 The maximum velocities are 0.44 metres/second at Charlotte Drive and 0.79 metres/second, which exceed the guidance of 0.15metres /second within the property and 0.3metres/second on the access roads within the site. In relation to the depths, they are 0.68m at Charlotte Drive and 1.17m at Williams Close. However, the floor levels have been raised so that in an extreme event (1 in 1000) the Charlotte Drive Apartments will experience depths of up to 430mm and Williams Close will experience depths of 440mm, which comply with the guidance. As advised above, following NRW's advice it was considered that it would be unreasonable to request the provision of additional data. The proposal satisfies the criteria in relation to flood depths within property, but does not satisfy the guidance in relation to velocities. The proposal does therefore not fully satisfy this criteria.

7.8.26 In summary, NRW has removed their initial objection and are satisfied that the consequences of flooding can be acceptably managed over the lifetime of the development. The proposal fails 3 of the 13 criterion set out in TAN 15. However, there are significant regeneration benefits to be derived from this scheme for this part of Pill. The proposal would result in a net gain of 1 residential unit across the site and with the rationalisation of accommodation at Raglan Court there would be a reduction in the number of residents across the site. Furthermore the 11 new residential units would be flood free during the 1 in 200 year event. Overall it is considered that on the grounds of flood risk the proposal therefore represents a betterment to the existing situation.

## 7.9 Ecology

An extended Phase 1 Habitat Survey and Bat Habitat Suitability assessment was undertaken by Ecosulis at the site during June 2014. Buildings that are due to be demolished as part of the proposals were assessed as providing low to medium suitability to support roosting bats. A bat emerging survey was undertaken in August 2014 and no bats were recorded emerging from the buildings during the survey. Bat activity surveys recorded low levels of bat activity and no further survey works was required. Overall the survey works concluded that the site is considered to be of low ecological value.

7.9.1 The Council's Ecologist has sought clarification on whether the data search has come from SEWBReC and the agent has confirmed that it has. Further details have been sought from the Council's Ecologist in relation to a lighting scheme and enhancement works. It is considered that these can be secured via condition.

## 7.10 Planning Contributions

The Planning Contribution Manager has confirmed that given the small scale nature of the development and type of development proposed (i.e. affordable units) and the significant regeneration benefits of the proposal, it is considered that no planning obligations are required to further mitigate the impact of the development.

## **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.

### **8.5 *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 Having had regard to the Local Development Plan and all other material planning considerations it is considered that the proposed development is acceptable. It is, therefore, recommended that planning permission be granted subject to the conditions listed below.

## **10. RECOMMENDATION**

### **GRANTED WITH CONDITIONS**

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

LP (90) 100 Site Location Plan  
PL (0)6021 Rev A Garage Conversion 01 – Knight Close Block  
6022 B – Knight Close Block A Proposed Elevations  
LP (90) 0006 Rev G Planting Strategy  
PI (0) 3000 Rev C Charlotte Drive – Proposed Floor Plans  
PL (0) 3010 Rev C Charlotte Drive – Proposed Elevations  
PL (0) 6022 Rev B Knight Close Block A Proposed Elevations  
PL (0) 6034 Rev B Knight Close B Proposed Elevations  
PL (0) 6035 Rev B Knight Close B –Proposed Elevations  
PL (0) 6012 Rev B Coulson Close Block Proposed Elevations  
PL (0) 6001 Rev A Coulson Close Block A Proposed Elevations  
PL (0) 4012 Rev A Raglan Court Proposed Elevations  
PL (0) 4013 Rev A Raglan Court Proposed Elevations

(0)4000 Raglan Court Flat Type Analysis  
PL (0) 4005 Rev B Raglan Court Flat type E  
(0)4006 Rev B – Raglan Court Flat type F  
PL (90) 008 Rev C Williams Close – Proposed Floor Plans  
6042 Rev B Williams Close Block A – Proposed Elevations  
PL (0) 2010 Rev F Williams Close Proposed Development Houses and Apartment Block  
Proposed Elevations  
PL (0) 6052 Rev B Williams Close Block B Proposed Elevations  
PL (0) 6061 Williams Close Block C Proposed Elevations  
PL (0) 6072 Rev B Capel Crescent Block A Proposed Elevations  
LP (90) 004 Rev H – Boundary Treatment  
LP (90) 404 Rev B Rear boundary treatment brick and steel railing infill  
LP (90) 404 Rev B Rear plot boundary treatment timber  
LP(90) 406 Rev C Details Boundary Front boundary treatment brick and steel  
LP (90) 407 Rev B Details Boundary Front boundary plot treatment timber fence  
Reason: In the interests of clarity and to ensure the development complies with the  
submitted plans and documents on which this decision was based

### **Pre-commencement Conditions**

02 No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of the following during development:

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- wheel washing facilities;
- noise mitigation measures;
- details of any temporary lighting;
- details of enclosure of working areas;
- contractor parking areas;
- construction/demolition vehicular movements.

Development works shall be implemented in accordance with the approved CMP.

Reason: To protect the amenities of nearby residents.

03 No development, other than demolition shall commence until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.

Reason: To ensure that the development is completed in a manner compatible with its surroundings.

04 No development shall commence until details of bat boxes to be incorporated within the new builds at Charlotte Drive and Williams Close has been submitted to and approved in writing by the Local Planning Authority. The approved bat boxes shall be installed in accordance with the approved details and retained as such in perpetuity.

Reason: To secure biodiversity enhancements.

05. No development, other than demolition shall commence until full details of the new means of pedestrian access to Pillgwenlly Primary School off Charlotte Drive has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure an adequate means of pedestrian access to the school.

06 No development shall commence until full details of the foul and surface drainage systems has been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented fully in accordance with the approved scheme prior to the occupation of any dwelling.

Reason: To ensure adequate drainage is provided.

### **Prior to Occupation/First Use**

07 Prior to beneficial occupation of any flat/dwelling hereby approved full details of the bin storage and recycling areas shall be submitted to and approved in writing by the Local Planning Authority. The approved bin storage and recycling facilities shall be fully implemented prior to first beneficial occupation.

Reason: To ensure adequate bin is provided for the site in the interest of visual and residential amenity.

08 Prior to beneficial occupation of the six flats and two dwellings hereby approved at Williams Close, full details of security measures to be incorporated within the undercroft shall be submitted to and approved in writing by the Local Planning. The approved details shall be fully implemented prior to first beneficial occupation.

Reason: To safeguard the provision of a safe and secure environment.

### **Prior to installation**

09 Prior to the installation of any street lighting full details of the lighting, to include location and orientation of lighting, shall be submitted to and approved in writing by the Local Planning Authority and then implemented as per the approved details.

Reason: In the interest of bats.

### **General conditions**

10 The ground floor, first floor and second floor windows in the east elevation of the apartment block at Charlotte Drive as illustrated on drawing number PL(0) 3010 shall be obscurely glazed at the time of installation and shall be remained in that state in perpetuity

Reason: In the interests of safeguarding the amenity of pupils at the adjacent school.

11 The access, parking provision and general arrangement shall be carried out strictly in accordance with the details shown on the approved plans before the dwellings hereby permitted are first occupied and then maintained in such a state thereafter.

Reason: In the interests of highway safety.

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

Reason: To secure the satisfactory implementation of the proposal.

13 The finished floor levels at ground floor level of the new apartment block at Charlotte Drive and new apartment block and two dwellings at Williams Close hereby approved shall be set no lower than 9.33m AOD.

Reason: To reduce the risk of flooding.

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

01 This decision relates to the following plans and documents:

LP (90) 100 Site Location Plan

PL (0)6021 Rev A Garage Conversion 01 – Knight Close Block

6022 B – Knight Close Block A Proposed Elevations

LP (90) 0006 Rev G Planting Strategy

PI (0) 3000 Rev C Charlotte Drive – Proposed Floor Plans

PL (0) 3010 Rev C Charlotte Drive – Proposed Elevations

PL (0) 6022 Rev B Knight Close Block A Proposed Elevations

PL (0) 6034 Rev B Knight Close B Proposed Elevations  
 PL (0) 6035 Rev B Knight Close B –Proposed Elevations  
 PL (0) 6012 Rev B Coulson Close Block Proposed Elevations  
 PL (0) 6001 Rev A Coulson Close Block A Proposed Elevations  
 PL (0) 4012 Rev A Raglan Court Proposed Elevations  
 PL (0) 4013 Rev A Raglan Court Proposed Elevations  
 (0)4000 Raglan Court Flat Type Analysis  
 PL (0) 4005 Rev B Raglan Court Flat type E  
 (0)4006 Rev B – Raglan Court Flat type F  
 PL (90) 008 Rev C Williams Close – Proposed Floor Plans  
 6042 Rev B Williams Close Block A – Proposed Elevations  
 PL (0) 2010 Rev F Williams Close Proposed Development Houses and Apartment Block  
 Proposed Elevations  
 PL (0) 6052 Rev B Williams Close Block B Proposed Elevations  
 PL (0) 6061 Williams Close Block C Proposed Elevations  
 PL (0) 6072 Rev B Capel Crescent Block A Proposed Elevations  
 LP (90) 004 Rev H – Boundary Treatment  
 LP (90) 404 Rev B Rear boundary treatment brick and steel railing infill  
 LP (90) 404 Rev B Rear plot boundary treatment timber  
 LP(90) 406 Rev C Details Boundary Front boundary treatment brick and steel  
 LP (90) 407 Rev B Details Boundary Front boundary plot treatment timber fence  
 PL (0) 1000 Architectural Key Plan  
 LP (90) 0003 Rev H – Landscape General Arrangement  
 LP (90) 0002 Rev B – Tree Retention and Removal Plan  
 LP (90) 007 Rev G – Parking Strategy  
 111 Proposed Drainage Plan, New Williams Close Houses and Apartment Block  
 LP (90) 009 Rev C Raglan Court – Access and Security  
 PL (0) 7000 Rev B Street Elevations 01  
 PL (0) 7001 Rev B Street Elevations 02  
 LP (90) 300 Rev A Site Sections – Hart Gardens & Charlotte Drive  
 LP (90) 301 Rev B Site Sections – Coulson Close  
 LP (90) 302 Rev B Site Sections – Capel Close & Williams Close  
 LP (90) 400 Rev A Detail Tree Pit  
 LP (90) 401 Rev A Detail Tree Pit Soft Landscape  
 LP (90) 402 Rev A Detail Tree Pit Hard Landscape within street  
 LP (90) 403 Rev A Detail Raised Planter  
 LP (90) 007 Rev F Landscape Parking Strategy  
 WA0100-E-96-LM-100 P1 Indicative street lighting  
 LP(90) 0008 Rev E Waste Strategy  
 Design and Access Statement  
 Extended Phase 1 Habitat Survey prepared by Ecosulis - July 2014  
 Bat Surveys prepared by Ecosulis – August 2014  
 Flood Consequences Assessment and Drainage Strategy  
 Flood Consequences Assessment and Drainage Strategy – Planning Addendum

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP3, SP12, SP13, SP18, CE8, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H2, H4, H9, CF12 AND T4 were relevant to the determination of this application.

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

04 Foul water and surface water must be discharged separately from the site. No surface water or land drainage run off shall be allowed to connect to the public sewerage system.



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

06 Consideration should be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor, and locating electrical sockets/components at a higher level above possible flood levels. Further information can be obtained from the ODPM publication "Preparing for Floods" via the Planning Portal website at [www.planningportal.gov.uk](http://www.planningportal.gov.uk). The developer is also advised to inform future occupants to sign up to the Natural Resources Wales Floodline Warnings Direct Service.

07 The applicant will be required to enter into an Agreement under Section 278 of the Highways Act 1980 with the Council to facilitate the access.

08 Prior to the first use of the site full details of a flood site evacuation plan shall be prepared and implemented. The plan shall include detail of how the site will be included within the current Flood Warning Register and how evacuation of the site will be managed to ensure the safety of residents. A copy of the flood evacuation plan shall be made available to all residents. The Local Planning Authority and Newport City Council accept no liability for the effectiveness or implementation of the flood evacuation plans and procedures. Responsibility and liability lies with future occupiers and owners of the property.

09 Planning Policy Wales 7<sup>th</sup> Edition and Technical Advice Note 15: Development and Flood Risk) were relevant in the determination of this application.

10 The applicant's attention is drawn to the existence of a public sewer under the site. No development shall take place within the safety zone. For further advice contact Dwr Cymru Welsh Water on 0800 917 2652.

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## APPLICATION DETAILS

**No:** 15/1250      **Ward:** STOW HILL  
**Type:** LISTED BUILDING  
**Expiry Date:** 06-JAN-2016  
**Applicant:** R PRETTY, RICHARD HAYWARD PROPERTIES LTD  
**Site:** DELILAHS, 54-55, HIGH STREET, NEWPORT, NP20 1GA  
**Proposal:** LISTED BUILDING CONSENT FOR DISABLED RAMP ACCESS AND ENTRANCE STEPS TO MAIN ENTRANCE OF NEW HOTEL

**Recommendation:** GRANTED WITH CONDITIONS SUBJECT TO CADW APPROVAL

### 1. INTRODUCTION

- 1.1 This application Listed Building Consent for a disabled access ramp and steps at 54-55 High Street, Newport, the site of the future Premier Inn hotel. The building in question is Listed at Grade II.
- 1.2 This application is brought before committee as the ramp and steps would be sited on Council owned land.

### 2. RELEVANT SITE HISTORY

11/0991	LISTED BUILDING CONSENT FOR REFURBISHMENT WORK AND DEVELOPMENT TO CREATE ADDITIONAL FLOOR SPACE AT THIRD AND FOURTH FLOOR LEVELS TOGETHER WITH TWO NEW REPLACEMENT ENTRANCE DOORS, REPLACEMENT AND REFURBISHMENT OF WINDOWS, RECLADDING OF EXISTING ROOF TOP STRUCTURE AND CONSTRUCTION OF LIFT OVERRUN	Granted with Conditions
14/0135	VARIATION OF CONDITIONS 1 (JOINERY), 2 (ACOUSTIC GLAZING), 3 (STRUCTURAL ALTERATIONS), 4 (MATERIALS OF ROOF TOP EXTENSION) AND 6 (ROOF TOP PLANT EQUIPMENT) RELATING TO LISTED BUILDING CONSENT 11/0991 FOR REFURBISHMENT WORK AND DEVELOPMENT TO CREATE ADDITIONAL FLOOR SPACE AT THIRD AND FOURTH FLOOR LEVELS TOGETHER WITH TWO NEW REPLACEMENT ENTRANCE DOORS, REPLACEMENT AND REFURBISHMENT OF WINDOWS, RECLADDING OF EXISTING ROOF TOP STRUCTURE AND CONSTRUCTION OF LIFT OVERRUN	Granted with Conditions
15/1251	PROVISION OF NEW DISABLED RAMPED ACCESS AND ENTRANCE STEPS TO MAIN ENTRANCE OF NEW HOTEL	On this agenda

### 3. POLICY CONTEXT

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

### 4. CONSULTATIONS

- 4.1 TWENTIETH CENTURY SOCIETY: No response.

- 4.2 THE VICTORIAN SOCIETY: No response.
- 4.3 SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS: No response.
- 4.4 ROYAL COMMISSION FOR ANCIENT MONUMENTS: No response
- 4.5 GEORGIAN GROUP: No response.
- 4.6 COUNCIL FOR BRITISH ARCHAEOLOGY: No response.
- 4.7 ANCIENT MONUMENT SOCIETY: No response.
- 4.8 COMMUNITIES FIRST STOW HILL: No response.
- 4.9 NEWPORT ACCESS GROUP: No response.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HISTORIC BUILDINGS CONSERVATION OFFICER: The building is prominently located within the Town Centre Conservation Area and is listed at grade II as an ambitious interwar commercial block. Consent for a new hotel development has previously been granted and works to implement this consent are well underway. It is understandable that the hotel operator wishes to provide inclusive access at the principal entrance and as such, whilst the loss of the original stepped entrance is regrettable, I consider the installation of an appropriately designed ramp to be justified. Whilst I had concerns over the original design, the revised proposals would provide a simple and elegant modern solution using good quality materials which in my view would not have a significant adverse impact on the character of the listed building or the conservation area in which it stands. The applicant has suggested that the new work would be laid over the existing steps in a manner that ensures that the alterations would be reversible. We will need confirmation of exactly how this will be carried out, but a specification or method statement could be required by a condition of the listed building consent. In light of the above, I have no objection to the proposals.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: A site notice was displayed and a press notice published in South Wales Argus.

## **7. ASSESSMENT**

- 7.1 The building holds a prominent location wrapping around the corner of High Street/Cambrian Road and Queensway. The main hotel entrance would be on the corner of the High Street elevation as it curves around towards Queensway. As a result of the ground levels adjacent to the building, the entrance in question is accessed by a set of steps which are recessed into the doorway. In order to provide level access to the property for those with restricted mobility, the applicant proposed the provision of an access ramp and steps to the main entrance.
- 7.2 The proposed structure would contain a landing area adjacent to the front entrance which would be served by a set of steps in front and a ramp to the side. It would measure 2.4m in depth, 7.1m in width and reach a maximum height of 1.65m and would include 1m high balustrading and a handrail. The ramp proposed would achieve a gradient of 1:15. In terms of its appearance, it would have a natural stone face to its walls, integral structural glass for the balustrade and a stainless steel handrail. It is proposed that the existing steps are built over in such a way that they can be exposed again in future if required.
- 7.3 The Local Planning Authority is required to 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 as required by section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is considered that the design of the ramp would be a

modern, yet sympathetic addition to the building and the surrounding street scene. The use of glass balustrading allows for uninterrupted views of the Listed Building behind and the placement of the steps allow for views of the entrance to remain uninterrupted, compared with the original scheme which proposed the ramp to continue across the entrance. It is considered that the use of matching stone and a glass balustrade would represent a high quality finish, which would be appropriate within street scene and respect the host property.

7.4 The Council's Conservation Officer has offered no objection to the proposal. He considers that the ramp is appropriately designed (following a re-design to the originally proposed scheme) and would provide a simple and elegant modern solution using good quality materials. As such, it would not have a significant adverse impact on the character of the listed building.

7.5 The applicant has suggested that the new work would be laid over the existing steps in a manner that ensures that the alterations would be reversible – a condition is attached requiring a method statement which details how this will be carried out.

## **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 Having regard to the aforementioned policy of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and section 16(2) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990, it is concluded that the proposal would be appropriate and would not have a significant adverse impact on the character of the listed building. It is therefore recommended that Listed Building Consent is granted with conditions.

## 10. RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO CADW APPROVAL

01 The development shall be implemented in accordance with the following plans and documents; 1093-P02 rev.A and Design and Access Statement rev.A.

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

### ***Pre- commencement conditions***

02 Prior to the commencement of development of the steps/ramp hereby approved, a method statement shall be submitted to and approved in writing by the Local Planning Authority, detailing how the structure would be laid over the existing steps in a manner that ensures that the alteration would be reversible. The development shall then be implemented in accordance with the approved details.

Reason: In the interest of safeguarding the special character of the Listed Building.

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

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policy GP6 was relevant to the determination of this application.

02 Section 16(2) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 was relevant to the determination of this application.

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## APPLICATION DETAILS

**No:** 15/1251      **Ward:** STOW HILL

**Type:** FULL

**Expiry Date:** 06-JAN-2016

**Applicant:** R PRETTY, RICHARD HAYWARD PROPERTIES LTD

**Site:** DELILAHS, 54-55, HIGH STREET, NEWPORT, NP20 1GA

**Proposal:** PROVISION OF NEW DISABLED RAMPED ACCESS AND ENTRANCE STEPS TO MAIN ENTRANCE OF NEW HOTEL

**Recommendation:** GRANTED WITH CONDITIONS

### 1. INTRODUCTION

- 1.1 This application seeks planning permission for a disabled access ramp and steps at 54-55 High Street, Newport, the site of the future Premier Inn hotel.
- 1.2 This application is brought before committee as the ramp and steps would be sited on Council owned land.

### 2. RELEVANT SITE HISTORY

11/0992	REFURBISHMENT AND PARTIAL CHANGE OF USE TO PROVIDE NEW HOTEL INCLUDING DEVELOPMENT TO CREATE ADDITIONAL FLOORSPACE AT THIRD AND FOURTH FLOOR LEVELS, THE PROVISION OF THREE NEW REPLACEMENT ENTRANCE DOORS, NEW WINDOWS, RECLADDING OF AN EXISTING ROOF TOP STRUCTURE AND A LIFT OVERRUN	Granted with Conditions
14/0136	VARIATION OF CONDITIONS 1 (JOINERY DETAILS), 2 (MATERIALS) AND 3 (ROOF TOP PLANT EQUIPMENT) RELATING TO PLANNING PERMISSION 11/0992 FOR THE REFURBISHMENT AND PARTIAL CHANGE OF USE TO PROVIDE NEW HOTEL	Granted with Conditions
15/1250	LISTED BUILDING CONSENT FOR DISABLED RAMP ACCESS AND ENTRANCE STEPS TO MAIN ENTRANCE OF NEW HOTEL	On this agenda

### 3. POLICY CONTEXT

- 3.1 Policy GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- Policy GP4 General Development Principles – Highways and Accessibility states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.
- Policy GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is

developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

Policy CE7 Conservation Areas sets out the criteria that development proposals within or adjacent to the conservation area must comply with in order to preserve or enhance the conservation area.

#### **4. CONSULTATIONS**

4.1 NEWPORT ACCESS GROUP: No response.

#### **5. INTERNAL COUNCIL ADVICE**

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): Any alterations required in order for the access to become DDA compliant should be provided internally. Whilst I note that the applicant has stated that this is not possible, no information has been submitted to fully detail why this is the case. High Street is an adopted highway. The proposal to locate a ramp in this location will result in an unacceptable obstruction for users of the highway especially for individuals who are partially sighted or blind. For this reason I must oppose the application.

5.2 HISTORIC BUILDINGS CONSERVATION OFFICER: The building is prominently located within the Town Centre Conservation Area and is listed at grade II as an ambitious interwar commercial block. Consent for a new hotel development has previously been granted and works to implement this consent are well underway. It is understandable that the hotel operator wishes to provide inclusive access at the principal entrance and as such, whilst the loss of the original stepped entrance is regrettable, I consider the installation of an appropriately designed ramp to be justified. Whilst I had concerns over the original design, the revised proposals would provide a simple and elegant modern solution using good quality materials which in my view would not have a significant adverse impact on the character of the listed building or the conservation area in which it stands. The applicant has suggested that the new work would be laid over the existing steps in a manner that ensures that the alterations would be reversible. We will need confirmation of exactly how this will be carried out, but a specification or method statement could be required by a condition of the listed building consent. In light of the above, I have no objection to the proposals.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary and opposite the application site were consulted (11No properties), a site notice displayed and a press notice published in South Wales Argus. No representations were received.

#### **7. ASSESSMENT**

7.1 The building holds a prominent location wrapping around the corner of High Street/Cambrian Road and Queensway. The main hotel entrance would be on the corner of the High Street elevation as it curves around towards Queensway. As a result of the ground levels adjacent to the building, the entrance in question is accessed by a set of steps which are recessed into the doorway. In order to provide level access to the property for those with restricted mobility, the applicant proposed the provision of an access ramp and steps to the main entrance.

7.2 The proposed structure would contain a landing area adjacent to the front entrance which would be served by a set of steps in front and a ramp to the side. It would measure 2.4m in depth, 7.1m in width and reach a maximum height of 1.65m and would include 1m high balustrading and a handrail. The ramp proposed would achieve a gradient of 1:15. In terms of its appearance, it would have a natural stone face to its walls, integral structural glass for the balustrade and a stainless steel handrail. It is proposed that the existing steps are built over in such a way that they can be exposed again in future if required.

7.3 It is considered that the design of the ramp would be a modern, yet sympathetic addition to the building and the surrounding street scene. The use of glass balustrading allows for uninterrupted views of the Listed Building behind. The building in question lies within the Town Centre Conservation Area, although the area of which the ramp would be located is outside of it. However, it is considered that the use of matching stone and a glass balustrade would represent a high quality finish, which would be appropriate within the Conservation Area in any case. The ramp is of such minor scale that it would not have a detrimental impact on amenity in terms of overbearing impact or loss of light. The Council's Conservation Officer has offered no objection to the proposal.

### ***Highways***

7.4 The comments from the Council's highways officer are noted, although it is considered that there is ample circulation space in the immediate area surrounding the proposal, especially the pedestrianised area at Station Approach. As such, it is not considered that the proposal would result in an unacceptable obstruction for pedestrians. The applicant has stated it would not be possible for the ramp to be provided internally as it would reduce the internal circulation space and make the proposed use of the building as a hotel unviable, especially as the difference in internal levels already requires the provision of internal ramps.

7.5 The proposed ramp has been designed taking DDA guidance into account; such guidance offers a degree of flexibility with regards to Listed Buildings given the potential impact of such provisions on the special character of the building. It is stated that the ramp would be in compliance with part M of building regulations. On balance, the structure proposed would allow for a means of access to the property whilst still respecting its special character.

## **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 Having regard to the aforementioned policies of the Newport Local Development Plan 2011-2026 (Adopted January 2015), on balance it is concluded that the ramp would be acceptable in terms of; its appearance within the street scene, its impact on highways and pedestrian circulation and the impact on the character of the Listed Building building and Conservation Area. It is therefore recommended that planning permission is granted with conditions.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents; 1093-P02 rev.A and Design and Access Statement rev.A.

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

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4, GP6 and CE7 were relevant to the determination of this application.

02 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

03 Section 66 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 was relevant to the determination of this application.

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## **APPLICATION DETAILS**

**No:** 15/1312      **Ward:** MARSHFIELD

**Type:** FULL

**Expiry Date:** 16-DEC-2015

**Applicant:** G DRAPER

**Site:** MARSHFIELD JUNIOR AND INFANTS SCHOOL, MARSHFIELD ROAD, CARDIFF, CF3 2UW

**Proposal:** EXTENSION OF SCHOOL TO PROVIDE NURSERY

**Recommendation:** GRANTED WITH CONDITIONS

### **1. INTRODUCTION**

1.1 This application seeks planning permission for the erection of an extension at Marshfield Junior and Infants School, Marshfield Road. The proposed extension would provide new accommodation for an existing class of students, with the classroom vacated being converted to a 16No pupil nursery.

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

02/0635	ERECTION OF DEMOUNTABLE CLASSROOM	Granted with Conditions
04/0804	ERECTION OF DEMOUNTABLE CLASSROOM WITHIN EXISTING SCHOOL GROUNDS	Granted with Conditions
04/0959	ERECTION OF CLASSROOM EXTENSION	Granted with Conditions
04/1485	RELOCATION AND EXTENSION TO EXISTING DEMOUNTABLE CLASSROOM	Granted with Conditions
99/0816	ERECTION OF SINGLE STOREY CLASSROOM EXTENSION	Granted with Conditions
96/0415	ERECTION OF 4 NO. CLASSROOM EXTENSION AND STAFFROOM EXTENSION TO EXISTING BUILDING	Granted with Conditions
93/0535	SINGLE STOREY EXTENSION/INFILL OF FORMER PAVED COURTYARD AREA	Granted with Conditions

### **3. POLICY CONTEXT**

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

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

Policy GP6 (General Development Principles – Quality of Design) states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability. Policy T4 (Parking) states that development will be expected to provide appropriate levels of parking.

#### **4. CONSULTATIONS**

4.1 DWR CYMRU/WELSH WATER: Recommend advisory.

#### **5. INTERNAL COUNCIL ADVICE**

5.1.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): This school already causes significant traffic congestion during the start and end of the school day. A robust Travel Plan must be produced and implemented in support of any expansion of the school. The off street parking requirement for a nursery is 1 space per staff and 3 visitor spaces. Only 3 additional spaces are proposed which is not acceptable.

5.1.2 **An amended site layout plan providing an additional parking space was provided and agreement reached between the applicant and the Council's Highways Officer that a travel plan will be provided prior to occupation of the classroom.**

5.2 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): A tree protection plan and details of a replacement tree for the one to be removed by the car parking bay to be planted somewhere else within the school grounds shall be conditioned.

5.3 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE MANAGER): Ideally the proposal would drain any additional impermeable area via a SUDS method. However, if Welsh Water are willing to allow the additional discharge to their sewer then the decision as to whether they have conformed with planning policy would be the officer's.

5.4 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION MANAGER): No objection.

#### **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary with the application site were consulted (3No. properties) and a site notice displayed on 10<sup>th</sup> November 2015. No representations were received.

6.2 MARSHFIELD COMMUNITY COUNCIL: No observations.

#### **7. ASSESSMENT**

7.1 The proposed extension would be placed to the north of the existing building, adjoining to an existing protruding section. The new nursery would occupy an existing classroom vacated at the southern end of the building.

7.2 The proposed extension would have an L-shaped footprint, measuring a maximum of 10.12m in width, 12.93m in depth and reach a height of 3.46m to the highest point of its flat roof. It would be sited on an existing paved courtyard, although its footprint would allow for a section of courtyard to be retained. The extension would provide a classroom, staff and accessible toilets and a lobby.

7.3 The classroom extension has been designed to have regard to the host property by utilising a sympathetic design and matching materials, consisting of; buff brickwork (with blue brickworks bands) to the elevations and white and Blue powder coated aluminium windows and doors. Overall, its appearance is considered acceptable in its context.

- 7.4 Given the distance of the proposed extension from the boundary of the site and neighbouring properties, it is not considered that it would result in a detrimental impact on local residential amenity.

### **Highways**

- 7.5 Vehicular access to the site is restricted to staff and authorised visitors only. The nursery would provide for an additional 16No under 4s on site that would attend separate morning and afternoon sessions, the start and end of these sessions would differ from the main school, which would reduce the impact of the additional pupils being dropped off and collected from site. As expressed by the highways officer, the school already causes significant traffic congestion during the start and end of the school day, so the creation of additional classroom accommodation is likely to affect this. The highways officer has requested that a travel plan be submitted, although it has since been agreed that this can be submitted prior to occupation of the nursery to address traffic issues.

- 7.6 Additional on-site parking provision has been provided for the nursery, with 4No additional spaces being proposed in sections of the existing car park. As a result, the Council's Tree Officer has requested that a replacement tree be provided elsewhere on site.

### **Trees**

- 7.7 An existing tree is to be removed to accommodate one of the aforementioned additional car parking spaces. In addition, given the proximity of the additional spaces to other existing trees, a tree protection plan is also requested via condition.

### **Drainage**

- 7.8 It is proposed that surface water would be disposed of via the mains sewer. The applicant has not provided any evidence that a more sustainable alternative has been considered with discharge to the mains sewer considered a last resort. It has however been commented that the ground conditions in Marshfield would not be suitable for a soakaway alternative and that the area on which the extension would be placed is already impermeable as it is a hard surfaced recreation area. In light of this, and as there has been no objection to this means of drainage by Welsh Water, it is considered that this means of drainage would be acceptable.

## **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 Having regard to policies GP2, GP4 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015), it is concluded that design and impact of the proposed extension is acceptable visually and in terms of amenity and highway issues. It is therefore recommended that planning permission is granted with conditions.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS**

01 The development shall be implemented in accordance with the following plans and documents; NPS-1037-00-PL-A-01, NPS-1037-00-PL-A-02 rev.A, NPS-1037-00-PL-A-03, NPS-1037-00-PL-A-04, NPS-1037-00-PL-A-05, NPS-1037-00-PL-A-06.

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

***Pre- commencement conditions***

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) The root protection areas to be identified on plan for retained trees and hedges;
- c) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
- d) 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.

03 Prior to the felling of the tree in the car park to facilitate the construction of the additional car parking spaces hereby approved, full details of a replacement tree shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the position, species and size of the replacement tree. The replacement tree as approved shall be planted within the first full planting season (October to April) following the felling of the existing tree.

Reason: To secure an appropriate replacement tree in the interests of the visual amenities of the area.

***Pre –occupation conditions***

04 Prior to the first occupation of the nursery unit, a Travel Plan shall be submitted to and approved by the Local Planning Authority. 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.

05 Prior to first occupation of the nursery unit, the additional car parking spaces shall be provided and surfaced as indicated on the site layout plan hereby approved and individual parking spaces marked on the surface. Thereafter, these areas shall be kept available for those purposes at all times.

Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety.

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: Design and Access Statement dated October 2015.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP4 and GP6 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

04 Some public sewers and lateral drains may not be recorded on DCWW maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist DCWW in dealing with the proposal, they request the applicant contacts their Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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**APPLICATION DETAILS**

**No:** 15/1342      **Ward:** ALLT-YR-YN  
**Type:** FULL  
**Expiry Date:** 23-DEC-2015  
**Applicant:** L BIGMORE  
**Site:** LINDA VISTA, 2, GLASLLWCH CRESCENT, NEWPORT, NP20 3SE  
**Proposal:** REPOSITIONING OF GLASS BALUSTRADE TO MASTER BEDROOM  
(AMENDMENT TO PLANNING PERMISSION 11/0948)

**Recommendation:** GRANTED WITH CONDITIONS

**1. INTRODUCTION**

- 1.1 This application seeks an amendment to planning permission 11/0948 to relocate the balustrade of the balcony to the first floor master bedroom at Linda Vista, a detached property in the Allt-yr-yn ward.
- 1.2 This application is being considered by Planning Committee as requested by Councillor Ferris.

**2. RELEVANT SITE HISTORY**

11/0948	DEMOLITION OF EXISTING DWELLING HOUSE AND DETACHED GARAGE AND ERECTION OF NEW DWELLING HOUSE AND TWO NUMBER GARAGE BUILDINGS (RE-SUBMISSION FOLLOWING DISMISSAL OF APPEAL REF NO APP/G6935/A/10/2141965)	Granted with Conditions
10/0512	DEMOLITION OF EXISTING HOUSE AND DETACHED GARAGE AND PROVISION OF NEW HOUSE AND DETACHED GARAGES	Refused

**3. POLICY CONTEXT**

- 3.1 GP2 General Development Principles – General Amenity. States that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.2 GP6 General Development Principles – Quality of Design. States that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout, preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.
- 3.3 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) – This SPG provides additional guidance on the design of house extensions and other alterations.

**4. CONSULTATIONS**

- 4.1 None.

## **5. INTERNAL COUNCIL ADVICE**

5.1 None.

## **6. REPRESENTATIONS**

6.1 NEIGHBOURS: All properties with a common boundary were consulted (two addresses). One letter of objection was received objecting on the following grounds:

- Discussed the issue of overlooking from the balcony with the architect and agreed that the rail/balustrade should be set back at least 600mm under the previous application.
- Has viewed Orchard House from the balcony and has found that with the rail set back at 200mm views are afforded into the family room and conservatory at Orchard house. A compromise of 400mm was suggested.
- A previous appeal regarding overlook was decided by Mr P.G Horridge of the planning inspectorate on 05/04/11.

6.2 COUNCILLORS: Councillor Ferris requested that the application be determined by planning committee if recommended for approval due to concerns of unacceptable overlooking and loss of privacy to the neighbouring property, Orchard House.

## **7. ASSESSMENT**

7.1 This application seeks permission for the relocation of the balustrade of the balcony to the first floor master bedroom, increasing the balcony area.

7.2 The previously approved scheme (11/0948) granted permission for a balustrade set back from the rear edge of the building by 600mm, it is proposed to reduce this to 200mm. The balcony itself is recessed and screened by the side elevation of the property and faces north east.

7.3 Concerns have been raised by the occupants of Orchard House, directly to the north west, that the reduction in set back, would allow overlooking into the family room and conservatory of their property. The side elevation of the application property is 12 metres from the boundary, with the balcony a minimum of 11 metres from the nearest boundary and 20 metres from the side elevation of Orchard House.

7.4 It has been stated that issues regarding overlooking have been addressed in the Inspector's appeal decision relating to application 10/0512. This application was refused by the Council and the appeal dismissed. This application included a balcony in the same location as the approved scheme however, rather than being recessed, included a glazed screen. Mr P. G Horridge (PINs) stated the following: "There are two first floor bedroom windows in the side elevation of the existing house at Linda Vista which have a view towards the north-west and from where it is possible to see parts of the adjoining property. These parts include the side elevation of Orchard House... The new property would also contain first-floor windows facing in this direction... a large corner window in the master bedroom, a first floor balcony (the side panel of which is now proposed to be obscure glazed for its full height) and a large window to bedroom 3. Given the proposed obscure glazing, and that the outlook from the corner window and the front of the balcony is only obliquely towards the less sensitive areas of orchard House and its gardens, it is the latter which is the focus of the concern, although account does need to be taken of the overall extent of overlooking."

7.5 It is taken that the Inspector considered that the cumulative impact of a number of windows facing Orchard House resulted in a unacceptable loss of privacy rather than the proposed balcony in isolation as only oblique views to the less sensitive areas of Orchard House and its gardens, in excess of 10 metres away are apparent. Nevertheless, this appeal was dismissed and an application re-submitted which this application forms an amendment of.

7.6 Application 11/0948 resulted in no windows in the gable end of the proposed replacment dwelling and the glazed panel serving the balcony being removed and set back by 600mm from the rear elevation. The occupiers of Orchard House had no objection to the balcony on this basis.



7.7 It is acknowledged that the occupiers of Orchard House object to the relocation of the balustrade to 200mm from the rear elevation. However, it is considered that the proposal would not result in an unacceptable loss of privacy over and above that of the approved scheme. The balcony remains screened by the north west gable wall and is in excess of 10 metres from any boundary. It is accepted that the balcony has oblique views into the neighbouring property and to the north, however the impact is not significantly different to the scheme approved under application 11/0948.

## **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 to reduce the set-back of the balustrade by 400mm from 600mm to 200mm would not result in an unacceptable reduction in privacy to neighbouring properties over and above that of the approved scheme. The proposal is therefore considered acceptable when assessed in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015).

## **10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: House Elevations 1772-584 and First Floor Plans 1772-582

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

*NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2 and GP6 were relevant to the determination of this application.

02 House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) is also relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

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## **APPLICATION DETAILS**

**No:** 15/1157      **Ward:** Victoria  
**Type:** Full (Major)  
**Expiry Date:** 11-Nov-2015  
**Applicant:** EJL Properties LLP  
**Site:** LAND FORMERLY KNOWN AS 21, KELVEDON STREET, NEWPORT  
**Proposal:** PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING OF 2NO. SMALL RETAIL UNITS AND UNDERCROFT PARKING TO GROUND FLOOR AND 52NO. APARTMENTS TO UPPER FLOORS

**Recommendation:** Refused

### **1. INTRODUCTION**

- 1.1 This application seeks full planning permission for the development of the site for 52no apartments, two retail units and under-croft parking.
- 1.2 The site is situated off Corporation Road and is within the Victoria Ward of Newport. It has an area of 0.2 hectares. It is currently vacant and enclosed by palisade fencing with all buildings demolished but was historically a commercial printers until the mid-2000's.
- 1.3 The area is predominantly residential in character with the exception of a small industrial area immediately to the south of the site and a medical and pharmacy centre to the east.
- 1.4 The site is located within the urban boundary and constitutes previously developed land. As such the development of the site is welcomed in principle.

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

94/0918	CONSTRUCTION OF CAR PARK AND ERECTION OF 2.4M HIGH PALLISADE BOUNDARY FENCE	Granted Conditions	with
02/0353	CHANGE OF USE TO COMMERCIAL PRINTERS	Granted Conditions	with
05/0244	DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT OF SITE FOR RESIDENTIAL PURPOSES (MAXIMUM 25NO. UNITS) (OUTLINE)	Refused	

### **3. POLICY CONTEXT**

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

SP1 Sustainability: seeks to ensure the development takes into account sustainable development principles.

SP3 Flood Risk: There is a need to locate development outside of flood risk. Where a proposed site such as this is located partly in flood risk the consequence of flooding must be investigated and justified.

SP13 Planning Obligations: Proposals of this scale will be required to provide or make contributions to infrastructure.

GP1 General Development Principles – Climate Change: This policy seeks to ensure that the development is to withstand climate change over the lifetime of the development.

GP2 General Development Principles – General Amenity: There is to be no significant adverse effect on the amenity of the existing or new community.

GP3 General Development Principles – Services Infrastructure: This policy requires justification as to the suitability of the service infrastructure required by the proposal.

GP4 General Development Principles – Highways and Accessibility: The proposal must not detrimentally affect the highway capacity. There must be adequate public access and any new roads must be compliant with the Councils design scheme.

GP5 General Development Principles – Protection of the Natural Environment.

GP6 General Development Principles – Quality of Design. Good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment.

GP7 General Development Principles – Environmental Protection and Public Health: This policy seeks to ensure that there is no unacceptable harm to health from a development.

H2 Housing Standards: Housing developments will be required to be built to high standards of environmental and sustainable design.

H4 Affordable Housing: This policy requires sites of 10 or more units to provide on-site affordable housing provision.

T4 Parking: This policy requires adequate level of parking to ensure there is no detrimental impact on the new site or existing community.

### 3.2 **Supplementary Planning Guidance**

Planning Obligations adopted August 2015

Affordable Housing adopted August 2015

Wildlife and Development adopted August 2015

New Dwellings adopted August 2015

Parking Standards adopted August 2015

## 4. **CONSULTATIONS**

4.1 DWR CYMRU – WELSH WATER: Request drainage conditions.

4.2 GWENT POLICE ARCHITECTURAL LIAISON OFFICER: Offers no objection to the development of the site but raises the following concerns about some aspects of the design and layout of the development which could compromise the security of the site and vehicles within the curtilage:

-The plans show unrestricted vehicular access/ egress to the under croft parking. This can lead to unauthorised parking and criminal activity.

-In addition to above, there are two unrestricted pedestrian access/ egress points which can lead to anti-social behaviour and criminal activity.

-There is no surveillance over the car parking area which can act as a deterrent to criminal activity.

-There is no surveillance over the play area and its open access encourages its use by non-residents.

-Unsecure drying area.

-Because of the uncontrolled access to the inner public area the seating can encourage use by non-residents.

-There is no indication of lighting in the car parking area.

-Unsecure bin store at the main pedestrian access/ egress points which are unsightly to residents and could be a fire hazard.

This is a site that could benefit from being designed and developed to the standards found within Secured by Design (SBD) which with the present layout is far from achieving. However, we would welcome the opportunity to assist the developers in making this project less vulnerable to criminal activity and anti-social behaviour.

4.3 NATURAL RESOURCES WALES: Object to the proposed development due to insufficient information contained in the Flood Consequences Assessment.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The layout, residential parking provision and traffic generation associated with the application is acceptable. However, no off street parking is proposed for the two retail units whilst three are required and no details of off street delivery/servicing of the two units has been provided. On street parking and servicing is not acceptable due to the close proximity of the junctions of Feering and Witham Streets with Kelvedon Street.
- 4.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): Offers no objections subject to conditions requiring an ecologist being on site during ground preparation works and a reptile method statement being submitted and agreed by the Local Planning Authority.
- 4.3 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPING): Objects to the application as the landscape content is poor.
- 4.4 PLANNING CONTRIBUTIONS MANAGER: The following S106 planning obligations are considered suitable to mitigate the impact of the development and provide a sustainable development:  
Affordable Housing: 10 x one bed affordable apartments are proposed. This adheres to the Council's policy requirement of 20% provision (although type and mix proposed by the Applicant are yet to be verified by the Housing Manager). The units will be required to be offered at 50% of ACG and offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register and attain the appropriate Welsh Government standards.  
Education (Primary): The development falls within the catchment of St Andrew's Primary School (surplus of 54 places, as at January 2015). Taking into account the scale and type of development, as well as the current school surplus capacity, no contribution is requested.  
(Secondary): The development falls within the catchment area of Lliswerry High School (surplus of 135 pupil places, as at January 2015). Taking into account the scale and type of development, as well as the current school surplus capacity, no contribution is requested.  
Leisure: There is a deficit of 'Formal', 'Equipped' and 'Informal' play provision within the Victoria Ward. In addition to the provision of an on-site equipped play area, a commuted sum of £161,240 is required to upgrade and maintain off-site open space and play provision at Lysaghts Park. All Leisure Sums will be index linked to the RPI. Monitoring Fees & Legal Fees: A Monitoring Fee of £2,594 will be required to cover the Council's cost of negotiations and on-going monitoring of the planning obligations, to be paid upon signing of the legal agreement.
- 4.5 HEAD OF LAW AND REGULATION (POLLUTION): Objects to the application due to the lack of information concerning possible contamination and noise impact.
- 4.6 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): The proposal provides for 10 one bedroom affordable apartments which equates to 20% affordable housing as required in this area of Newport. The provision of one bedroom accommodation addresses the prevailing housing need for this location. The properties appear to have the appropriate space standards as required by Welsh Government, however this, and their compliance with other standards e.g. secure by design etc. would need to be verified by the Registered Social Landlord (RSL) that was acquiring the units. The apartments would need to be transferred to the RSL at 50% of the Welsh Government Acceptable Cost Guidance for this area. The RSL needs to be registered with Welsh Government and zoned to develop and acquire units in Newport. The properties will then be allocated using the Common Housing Register administered by the City Council.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the site were consulted (73no properties) and a site notice was displayed. 4no responses received with the following objections:
- There is not enough parking for existing residents;
  - There is already too high a volume of traffic in the area;
  - The height of the building is unacceptable and the building would stand out like a sore thumb;
  - Existing properties and their gardens would be overlooked;
  - Drug abuse and anti-social behaviour is already a problem in the area and the addition of a playground would make this worse;
  - Question, who will police the communal areas?
  - There is no need for any more retail units in the area;
  - The building would reduce light to existing properties;
  - A detailed study should be carried out of the loss of light to Witham Street;
  - The site formerly housed a commercial unit that was no higher than the surrounding houses;
  - The development is out of keeping with the character of the area;
  - The development would result in a loss of privacy;
  - The development would result in a loss of property value;
  - There are no primary school places left within the area;
  - There are a vast amount of vacant/for sale houses, shops and apartments in the area so why are more needed?
  - There are inaccuracies in the Design and Access Statement.

## 7. ASSESSMENT

- 7.1 The built form of the proposed development would be a horse-shoe shape around the edge of the site. It would be five storeys high with under-croft parking at ground floor level. As noted above, two retail units are also proposed at ground floor level with floor areas of 65sqm and 70sqm. The retail units would front Kelvedon Street and the junction with Witham Street. An equipped play area is proposed to the north of the site and small pockets of planting and landscaping areas are proposed to intersperse the parking around the site. Vehicle access to the parking areas would be from Kelvedon Street and vehicles would exit onto Feering Street to the south.
- 7.2 13no flats are proposed on each floor of the proposed building. 51no car parking spaces, a bicycle park, two bin storage and recycling areas are proposed at ground floor. 20no one bedroom flats and 32 two bed roomed flats are proposed. 20% of the units are intended for affordable housing.
- 7.3 An Outline application for the residential development of the site was made in 2005 and was eventually refused in 2008 on grounds of flooding and the applicant's failure to agree to the Council's Heads of Terms for financial contributions.
- 7.4 **Visual Impact**
- Surrounding residential development is largely two storeys in height and of a traditional terraced style. The roof height of the proposed five storey building would be 22.75m. The ridge height of neighbouring terrace properties is typically 15.350m. As such, the introduction of a five storey block within such close proximity to existing lower rise development would result in an alien form of development that would introduce a discordant and dominating element to the street scene.
- 7.5 Reference has been made to other high rise developments that have been approved, particularly near to the waterfront. However, much of this development relates to a different context to the application site and they have little relationship to this site. As such, it is not considered that the presence of these developments influences the proposed scheme.
- 7.6 Furthermore, the bland, box-like design of the building has no regard to the traditional style of the surrounding dwellings and the form of the new building would jar with the neighbouring terrace

dwellings, particularly where the existing and proposed buildings meet side-by-side in close proximity on Feering Street. In addition, the dead street frontage that would occur as a result of the under-croft car parking would be significantly out of keeping and detrimental to visual amenity.

7.7 It is acknowledged that the applicant purchased the site prior to the economic crash experienced several years ago and that consequently, the redevelopment of the site is limited in viability terms. However, no information has been submitted to demonstrate this. Whilst economic viability is a material consideration, it has not been proven in this case and it is not considered to justify the development of the site as proposed in light of the significant resultant harm to the visual amenity of the area that has been identified.

#### 7.8 **Amenity**

As noted above, the proposed building would be within close proximity to existing terrace properties, both side-by-side in the case of Feering Street and Witham Street and also opposite in the case of Witham Street. The building would be within 14m of no's 67 to 83 Witham Street with a face-to face relationship. This distance is considerably less than the 21m that is generally accepted as a suitable distance for such relationships between two storey buildings. It is acknowledged that this is the distance between the facades of many of the surrounding terrace properties. Whilst this maybe acceptable from a privacy perspective, being significantly greater in height, the proposed building would be considerably more overbearing than a two storey terrace property. Furthermore, there would be considerably more windows overlooking on multi-levels the existing properties, which would give existing residents opposite the site the feeling of being overlooked, to the detriment of their privacy and amenity.

7.9 Being to the south-west of no's 67 to 83 Witham Street, the proposed building would result in overshadowing. The applicant states that any impact on sunlight would be limited to late afternoons, in the summer months, assuming sunny weather prevails. However, no specific solar shading information has been provided with the application to evidence this and consequently inadequate information has been provided to enable the Local Planning Authority to satisfy itself that the proposals would not result in an unacceptable degree of overshadowing and therefore an unacceptable impact on the amenities of existing residents.

7.10 The scheme includes some external amenity space and small pockets of landscaping. These areas are interspersed amongst the under-croft parking areas. The Council's Landscape Officer has objected to the scheme and considers the landscape content to be poor. The Landscape Officer has described the scheme as a 'concrete jungle', stating "nobody would want to sit amongst parked cars and hard surfaces."

7.11 The Council's New Dwellings SPG sets out the desired requirement for amenity space for new dwellings including flats. Whilst the occupants of the proposed apartments would have access to some dedicated outside amenity space, the proposed level of amenity space would be contrary to the Council's guidance which requires 11sqm of communal amenity space per occupant for blocks containing 81-100 occupants. Furthermore, it is considered that the standard of the amenity space that would be provided would be of a poor standard and undesirable and would be unlikely to be used by the residents to any great degree.

7.12 It is considered that the scheme would provide a poor standard of amenity for existing and future residents, contrary to the Council's guidance.

#### 7.13 **Highways**

7.14 As noted above, under-croft car parking is proposed and vehicle access to the parking would be from Kelvedon Street, exiting onto Feering Street to the south. There would be provision for 51no parking spaces. No visitor parking would be provided. The Council's Parking Standards SPG

requires 1 space per bedroom and so the number of spaces proposed would fall short of the Council's guidance. However, the site is located in a sustainable location and the applicant has provided a sustainability assessment, which the guidance allows for. Points are awarded depending on proximity to services and public transport links. On the basis of the sustainability assessment the site scores maximum points and the parking requirement for the flats can justifiably be reduced to one space per unit which equates to 52no spaces.

7.15 Despite the shortfall of 1no parking space for the apartments, the Head of Streetscene and City Services (Highways) advises that the layout, residential parking provision and traffic generation associated with the application is acceptable. However, no off street parking is proposed for the two retail units, whilst three spaces are required. Also, no details of off-street delivery/servicing of the two retail units has been provided. On street parking and servicing is not acceptable due to the close proximity of the junctions of Feering and Witham Streets with Kelvedon Street. As such, it is considered that the lack of parking for the commercial element of the scheme and the lack of servicing arrangement would result in a detrimental highways impact. Pressure for on-street parking in the area is already high due to the terraced nature of the properties and lack of off-street parking. Providing the bare minimum parking for the residential units with no visitor parking allocation and no parking or servicing for the retail units would result in a significant adverse impact on highway safety and the amenities of existing residents.

#### 7.16 **Contamination and Noise**

The Head of Law and Regulation (Environmental Health) has been consulted and advises that the Council records indicate the site is a former print works. The site is likely to be contaminated with a range of organic solvents and potentially heavy metals used as pigments. No assessment of the site has been carried out to indicate the extent of contamination.

7.17 Furthermore, additional residential premises in the area will potentially give rise to additional concerns in respect of adverse air quality effects. NOx tube results for Corporation Road suggest levels of pollutants to be around 35µg/m<sup>3</sup>. No air quality impact assessment has been carried out to indicate the potential impact of the additional vehicles and domestic heating that the proposed development may have on local air quality. A detailed air quality assessment will need to be carried out to assess the potential air quality in the area and compare this with Air Quality Objective levels. The impact of the development on adjacent major roads in the area, plus the likely additional burden of pollutants generated by the development itself should be assessed and a monitoring regime agreed.

7.18 In respect of noise, the site is adjacent to both industrial and commercial land uses. The Head of Law and Regulation (Environmental Health) advises that whilst the Council has no current records of complaint from existing residential receptors, the ambient noise levels may be high and there may be particular industrial or commercial noise impacts that are capable of affecting the proposed development. An acoustic survey of environmental noise (a baseline survey) would be expected for the area. Furthermore, sound insulation between residential and commercial uses may be required. This matter could be dealt with by condition if planning permission were forthcoming.

7.19 Overall, on matters of public health, it is considered that the development of the site for residential accommodation has potential for unacceptable harm to human health due to noise and contamination. No information has been provided with the application to mitigate for this.

#### 7.20 **Ecology**



The site consists of rubble and deposited hard-core material. There is potential suitable reptile habitat in adjacent gardens. The Council's Ecology Officer therefore recommends that an ecologist be on site during the ground preparation works prior to commencement of development

to check (where possible) the material before it is removed. If any slow worms are found it is recommended that they be moved to the nearby playing fields on Corporation Road. In addition to this a reptile method statement should also be provided by condition. Subject to this, no objections are offered on grounds of ecology.

7.21 The above ecology matters could be dealt with by way of a suitable condition if it were intended to grant planning permission.

#### 7.22 ***Flooding***

The site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). NRW advise that their Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Usk, a designated main river.

7.23 NRW have reviewed the Flood Consequences Assessment (FCA) produced with the application. The FCA states that "the ground floor of the building will not be utilised for residential use which is categorised as 'highly vulnerable development'. The ground floor, which is liable to flooding, will be utilised for car parking along with two small shops which are categorised as 'less vulnerable development'". For all development, regardless of the vulnerability classification, the criteria set out in A1.14 requirement of TAN 15 remains the same. This states that all development must remain flood free during the 0.5% (1 in 200 year) plus climate change event. Therefore the FCA incorrectly states that by allowing car parking and commercial development on the ground floor that the development meets the requirements of TAN 15. In order to comply with the requirements of TAN 15 all new development should remain flood free during this flood event.

7.24 Whilst the FCA states the ground floor of the development will experience a degree of flooding, it does not state proposed finished ground levels. NRW have reviewed the Drawings submitted with the proposals and it is unclear whether these drawings provide the proposed finished ground levels. Therefore NRW cannot advise the Authority on the risk and consequences of flooding until finished ground / floor levels are provided. The FCA should demonstrate that the development is designed to be flood free in the 0.5% (1 in 200 year) plus climate change event and therefore in line with A1.14 of TAN 15. In addition the FCA should also assess the risk and consequences of flooding during the 0.1% (1 in 1000 year) plus climate change event. Without this information NRW cannot advise the LPA on the acceptability of the flooding consequences.

7.25 The proposed development, including the car parking area, should be considered as residential development. Therefore, the proposal should be designed to be flood free during the 0.5% plus climate change over the lifetime of development which should be considered as 100 years for residential development.

7.26 The FCA has incorrectly applied the tolerable limits of A1.15 of TAN 15 to the 0.5% (1 in 200 year) plus climate change event as stated in section 4.1. These figures apply to the maximum flood conditions during the extreme 0.1% (1 in 1000 year) current day flood event as set out in A1.15. NRW recommend that this is amended in the FCA.

7.27 There is no mention of access and egress for the development site. This information is important for the Authority to consider all aspects of flooding including the effects of flooding on evacuation routes.

7.28 NRW advise that the development does not meet criteria in TAN 15 and an amended FCA is required demonstrating that the development is flood free in the 0.5% plus climate change event over 100 years lifetime of development.

7.29 Insufficient information has been provided to enable the Local Planning Authority to be satisfied that the development is acceptable in terms of flooding, contrary to Policy SP3 of the Local Development Plan for Newport and Tan 15.

### 7.30 **Retail Impact**

The proposals include the provision of two new retail units. Policy SP19 Assessment of Retail Need of the Local Development Plan for Newport, 2011 to 2026 (Adopted January 2015) sets out the retail hierarchy for where retail development should be located as follows:

1. Newport City Centre;
2. A Defined District Centre;
3. Local Centres;
4. Out of Centre.

7.31 In order to promote established town and district centres Planning Policy Wales advocates a sequential approach for new retailing and leisure uses. As such regard must be had to the availability of sequentially preferable sites.

7.32 The site is not located within any of the above centres. The proposal is therefore deemed to be contrary to Policy SP19. No information has been submitted by the applicant to mitigate this objection.

### 7.33 **Financial Contributions**

The Contributions Manager advises that the following S106 planning obligations are considered suitable to mitigate the impact of the development and provide a sustainable development:

7.34 Affordable Housing: 10 x one bed affordable apartments are proposed. This adheres to the Councils policy requirement of 20% provision. The units will be required to be offered at 50% of ACG and offered on a 'neutral tenure' basis providing opportunities for applicants to rent or part-purchase their home. The properties will be allocated through the Common Housing Register and attain the appropriate Welsh Government standards.

7.35 Education (Primary): The development falls within the catchment of St Andrew's Primary School (surplus of 54 places, as at January 2015). Taking into account the scale and type of development, as well as the current school surplus capacity, no contribution is requested.

7.36 (Secondary): The development falls within the catchment area of Lliswerry High School (surplus of 135 pupil places, as at January 2015). Taking into account the scale and type of development, as well as the current school surplus capacity, no contribution is requested.

7.37 Leisure: There is a deficit of 'Formal', 'Equipped' and 'Informal' play provision within the Victoria Ward. The space identified for equipped play within the site is inadequate for a LEAP, fixed playground facility. The requirement under BS-EN 1176-7 is not less than 400 sqm with a minimum of 5 separate movements. A commuted sum of £161,240 is required to upgrade and maintain off-site open space and play provision at Lysaghts Park. All Leisure Sums will be index linked to the RPI.

7.38 Monitoring Fees & Legal Fees: A Monitoring Fee of £2,594 will be required to cover the Council's cost of negotiations and on-going monitoring of the planning obligations, to be paid upon signing of the legal agreement.

7.39 The Local Planning Authority has not received confirmation of agreement to the Heads of Terms from the applicant.

#### 7.40 ***Other Matters***

It should be noted that neighbouring objections relating to loss of property value are not material planning considerations.

### **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. Gwent Police advise that the current design would lead to criminal activity and anti-social behaviour, These comments have been considered and add weight to the proposed recommendation to refuse.

### **9. CONCLUSION**

9.1 Whilst the development of this brownfield site is welcomed in principle, a lack of regard has been had to the surrounding development and the proposed building would be discordant and dominating and would result in a detrimental impact to the visual amenity of the area and to neighbouring occupants.

9.2 Inadequate information has been provided to demonstrate that the proposed development would not result in an unacceptable impact in terms of flooding, noise and human health.

9.2 Furthermore, an inadequate level of parking provision would be provided to serve the retail units and visitors and the siting of the retail units is outside of sequentially preferable sites and is contrary to retail policy.

9.3 The impact of the proposals on local infrastructure, namely leisure and affordable housing is unacceptable.

9.4 It is therefore recommended that the application is refused.

### **10. RECOMMENDATION**

## REFUSED

01 The scale and massing of the building will have an adverse effect on existing residents by reason of overbearing and overlooking and will represent a stark change in the design and scale

and massing of buildings within the immediate area, to the detriment of the visual quality of the street scene. Inadequate information has been submitted to enable the Local Planning Authority to satisfy itself that the proposals would not result in an unacceptable degree of overshadowing to the detriment of existing residential amenities. The development would therefore be contrary to Policies GP2 and GP6 of the Local Development Plan for Newport, 2011-2026 (Adopted January 2015) and the Council's Supplementary Planning Guidance for New Dwellings.

02 The development has a significant adverse effect on interests of acknowledged importance, namely safety and residential amenity, by reason of the site's location in an area at risk from flooding. Insufficient information has been provided to mitigate this objection, which is contrary to Policy SP3 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015) and TAN 15.

03 It has not been demonstrated that the development of the site for residential accommodation, by reason of its location will suffer unacceptable effects to human health and amenity arising from contamination and noise factors. No information has been provided with the application to demonstrate the extent of the impact or any possible mitigation. The proposals are therefore contrary to Policy GP7 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015).

04 Insufficient information has been provided to demonstrate that the proposal would be served by a sufficient level of parking, or that the retail units can be adequately serviced, contrary to Policy GP4 of the Local Development Plan for Newport, 2011-2026 (Adopted January 2015) and to the detriment of highway safety.

05 The proposals will cause significant harm to interests of acknowledged importance, namely the vitality and viability of the sequentially preferable centres, by reason of the provision of new retail uses in a less sequentially preferable location. This is contrary to national retail planning policy contained in Planning Policy Wales (edition 7, July 2014), policy SP19 of the Local Development Plan for Newport, 2011-2026 (Adopted January 2015). No information has been provided that mitigates this objection.

06 The impact of the proposals on local infrastructure, namely leisure and affordable housing is unacceptable and the development is contrary to Policy SP13 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and the Council's Supplementary Planning Guidance for Affordable Housing and Planning Obligations, both of which were adopted August 2015.

07 An inadequate level of amenity would be afforded for the future occupiers of the apartments due to the substandard and undesirable level of outdoor amenity space to the detriment of their future amenity and contrary to Policy GP2 of the Newport Local Development Plan, 2011-2026 (Adopted January 2015) and the Council's Supplementary Planning Guidance for New Dwellings (Adopted August 2015).

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: MSP.2060/02A, MSP.2060/08, MSP.2060/03A, MSP.2060/06, MSP.2060/05, MSP.2060/04A, Design and Access Statement, Transport Statement, Flood Consequence Assessment.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP13, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H1, H2, H3, H4 and T4 were relevant to the determination of this application.

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

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