

Report

Planning Committee

Part 1

Date: 11 January 2017

Item No: 5

Subject **Planning Application Schedule**

Purpose To take decisions on items presented on the attached schedule

Author **Interim 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 Interim Development and Regeneration Manager to draft any amendments to, additional conditions or reasons for refusal in respect of the Planning Applications Schedule attached

Action by Planning Committee

Timetable Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

Background

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

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

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

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

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

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

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

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

Financial Summary

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

Risks

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

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

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

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

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

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

Risk	Impact of risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect?	Who is responsible for dealing with the risk?
Council				
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 and the Equalities Act 2010

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

groups to participate in public life or in other activities where their participation is disproportionately low.

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.

Wellbeing of Future Generations (Wales) Act 2015

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

Objective 9 (Health and Well Being) of the adopted Newport Local Development Plan (2011-2026) links to this duty with its requirement to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

Planning (Wales) Act 2015 (Welsh Language)

Section 11 of the Act makes it mandatory for all Local Planning Authorities to consider the effect of their Local Development Plans on the Welsh language, by undertaking an appropriate assessment as part of the Sustainability Appraisal of the plan. It also requires Local Planning Authorities to keep evidence relating to the use of the Welsh language in the area up-to-date.

Section 31 clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. The provision does not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the decision maker.

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. Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

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 9 (November 2016)

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.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 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

APPLICATION DETAILS

No: 16/0489 **Ward:** GAER
Type: FULL
Expiry Date: 31-AUG-2016
Applicant: SANDRA MULLINS
Site: 38, PARK DRIVE, NEWPORT, NP20 3AL
Proposal: REPLACE FLAT ROOF WITH TILED PITCHED ROOF TO GARAGE AND REPOSITION OF SIDE WALL TO NEW REAR EXTENSION (AMENDMENTS TO PREVIOUS APPROVAL 15/0847)

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 Planning permission 15/0847 was granted on 1 October 2015 for a part single and part two storey rear extension and the demolition of a single detached garage and construction of a replacement double garage. However, works on site has deviated from the approved plans.
- 1.2 This current application seeks permission to regularise these deviations from the previously approved scheme. The amendments include a widening of the single storey extension and installing a pitched roof over the garage instead of the mono-pitched roof previously approved.

2. RELEVANT SITE HISTORY

15/0847	DEMOLISH SINGLE STOREY REAR EXTENSION AND REPLACE WITH NEW PART SINGLE STOREY AND PART TWO STOREY REAR EXTENSION, PLUS DEMOLITION OF EXISTING SINGLE DETACHED GARAGE AND REPLACE WITH NEW DOUBLE DETACHED GARAGE	Granted with Conditions
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3. POLICY CONTEXT

3.1 Newport Local Development Plan 2011-2016 (Adopted January 2015).

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 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.

3.2 *House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015)*

Provides guidance on suitable extensions to dwellings and domestic outbuildings.

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).

Two letters were received objecting on the following grounds:

- The size of the garage is not fitting with a modest terraced house, but the previous flat sloping roof was acceptable and a garage would ease parking issues. The pitched roof is too large and causes overshadowing.
- Loss of light and overbearing to neighbouring properties and gardens.
- Plans suggest that the extension is in line with the extension at no. 36 but it in fact projects further.
- Damage to neighbouring property.
- Health and Safety disregarded during building.
- Poor behaviour of the builders.
- Lack of respect to the planning system.

A further letter has been received on behalf of the neighbouring properties raising the following points:

- The application drawings show the extension wholly within the grounds of no. 38 Park Drive. However, it appears that the east elevation wall has not been constructed in accordance with the submitted drawings. The party wall has been raised and the outer leaf of the east elevation wall has been built astride the boundary line with no. 36. The extension should be made smaller or other applications made in accordance with the Party Wall Act requesting permission to raise the party wall.
- The west elevation wall has been built too close to no. 40. The previous application (15/0847) included a manhole with adequate space. They now have 320mm to form the inspection chamber and have undermined part of the adjacent patio of no. 40. The actual boundary is set within the curtalige on no. 38 as the existing fence is constructed wholly within the boundary of no. 40 and the inspection chamber has been constructed astride the boundary. The location of the inspection chamber is not compliant with Welsh Water requirements including health & safety requirements for access. The extension should be made smaller and damage made good.
- Both neighbours object to the pitched roof of the garage due to its size and form and the roof is large and excessive. A flat roof would be in keeping with the street scene whereas a pitched roof is excessive and unnecessary and not in keeping with the general street scene.

6.2 COUNCILLORS: Councillor Wilcox requested that the application be determined by Planning Committee.

7. ASSESSMENT

7.1 This application seeks permission to retain amendments to planning permission 15/0847 for the erection of a part single storey and part two storey rear extension and erection of a detached double garage at the terraced property in the Gaer Ward. The amendments relate to a widening of the single storey extension and installing a pitched roof to the garage instead of the mono-pitched roof previously approved.

- 7.2 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (Adopted January 2015) are relevant to the determination of this application. The Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance (Adopted August 2015) is also relevant to the determination of this application.
- 7.3 The part single storey part two storey extension projects a maximum of 3 metres in depth comparable to that previously approved. The part single storey part two storey extension has a combined width of 5 metres, which represents an increase of approx. 0.5 metres over the previously approved scheme. The two storey element of the extension has a pitched roof which is approx. 6.3 metres in height to ridge and approx. 5.3 metres to the eaves, which is the same as previously approved. The single storey extension has a lean to extension with a maximum height of 3.5 metres, which again, is the same as previously approved.
- 7.4 There are no openings in either side elevation of the extensions. There are two rear facing windows in the two storey extension, one at first and ground floor level respectively. The single storey extension has sliding doors in the rear elevation and a roof light in the roof slope. The extensions have been constructed in blockwork and finished with a spar render finish which matches the render applied to the house.
- 7.5 The side elevation of the two storey extension facing No. 36 has not been rendered. It would be in the interests of the applicant to render this external wall to prevent water ingress into the extension. It would also be in the interests of the visual amenities of the area for this work to be completed. This report therefore suggests imposing a condition to require the render to be completed, to encourage the work to be completed. However, this work cannot be completed without the owners of no. 36 Park Drive allowing the applicant and his builder access their property and officers understand that permission to enter No. 36 has not been permitted. It should be clear that unless permission to enter their property is forthcoming from the owners of No. 36, the condition will not be enforceable in practice.
- 7.5 The extensions have been finished with red tiles to the roof. Whilst these tiles do not match the tiles on the roof of the main dwelling, being brighter in appearance, it is considered that as the extensions are at the rear of the property and the tiles are likely to weather over time, the materials are not unacceptable in visual amenity terms.
- 7.5 In terms of assessing the impact on neighbouring residential properties, the Council's House Extensions and Domestic Outbuildings Supplementary Planning Guidance states that extensions that breach both the vertical and horizontal 45 degree line are unlikely to be acceptable due to their overbearing impact and loss of light to neighbouring properties.
- 7.5 **Impact of the extensions on No. 40 Park Drive**
No. 40 is adjacent to the single storey extension. The two storey extension is set off from the boundary with No. 40 by 2.6 metres and is considered to have an acceptable impact, passing both the horizontal and vertical tests. The single storey extension passes the vertical test but breaches the horizontal 45 degree line in respect of the windows affected at No. 40. The two storey and single storey extensions are therefore considered to have an acceptable impact on No. 40.
- 7.6 **Impact of the extensions on No. 36**
No. 36 is adjacent to the two storey extension. The two storey extension only exceeds the depth of the existing single storey extension at No. 36 by 650 mm and so its impact on the ground floor of No. 36 and its garden area is considered to be acceptable. A first floor rear window at No. 36 Park Drive is situated close the two storey extension. In relation to this window, the extension breaches both the horizontal and vertical tests. However, given the narrow plot sizes of terraced properties, it is considered that only very modest extensions

would satisfy these 45 degree tests. Furthermore, this window is obscure glazed and appears to serve a bathroom and is therefore not a protected window. The Council's SPG on House Extensions states that in most cases two storey extensions should not be more than 3 metres deep. As such the depth of the extensions at 3 metres is considered to be acceptable.

7.7 Objections have been received in relation to the rear extension. Concerns have been raised that the two storey extension encroaches on the land of no. 36 Park Drive, with failure to comply with the Party Wall Act and damage caused to the property. These are matters that fall outside of the Town and Country Planning Act and cannot be controlled via this application. Further comments have been received in relation to the proximity of the single storey element to the boundary of no. 40 and the narrow space available to service the inspection chamber. It is also stated that the construction of the inspection chamber has taken place astride the boundary with no. 40 and has resulted in damage to the patio at no. 40. Again, encroachment on the boundary and damage is a civil matter between the respective owners and the requirements of the inspection chamber prescribed separately by Dwr Cymru Welsh Water.

7.8 **Impact of the garage**

The garage, which is detached, has been partially constructed within the rear garden of the property, having replaced a smaller garage. It measures 5 metres in width and 8 metres in length, which matches the footprint of the garage as previously approved. The garage as previously approved was to have a gently sloping roof (almost flat) with a height varying between 3.2 up to a maximum of 3.4 metres. However, the garage was not constructed in accordance with the approved plans. It has been partially built with a pitched roof with a maximum height to ridge of 4.2 metres and height of 2.7 metres to eaves.

7.9 However, a reduction in height has been negotiated reducing the height of the garage to 3.9 metres to ridge and 2.5 metres to eaves. The garage would have a garage door in the rear elevation, fronting the rear access lane and a door and 1no, window facing into the rear garden of the application property.

7.10 Objections have been received in relation to the pitched roof of the garage due to its size and form, stating that the roof is large and excessive. Representations state that a flat roof would be in keeping with the street scene whereas a pitched roof is excessive and unnecessary and not in keeping with the general street scene.

7.11 The roof of the garage as proposed would result in a greater visual impact over the originally approved mono-pitched roof. However, it is not considered that the roof would have an overbearing impact on neighbouring occupiers. The eaves would be lower than the side walls previously approved (2.5 metres high compared to a height sloping between 3.2 and 3.4 metres) and whilst the roof would have a maximum height of 3.9 metres, this would be at a point centrally within the plot set off from neighbouring boundaries. The design and scale of the garage is considered to be acceptable in this rear lane location.

7.12 The original garage (now demolished) due to its size, would not have been considered a usable parking space under Newport City Council's Parking Standards. Therefore, the proposed garage increases the availability of off street parking which is desirable in highway terms.

8. **OTHER CONSIDERATIONS**

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

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in

its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

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

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. **CONCLUSION**

9.1 It is considered that the proposed extensions and replacement garage would not have an unacceptable adverse impact on the amenity of surrounding occupiers or the character and appearance of the street scene.

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Site location plan received 20 December 2016, Proposed Elevations, Proposed Floor Plans, Proposed Garage Proposed Plans and Elevations Rev B and Existing and Proposed Site Plan 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

02 The side elevation of the two storey rear extension hereby approved shall be rendered to match the remainder of the extension within 6 months of the date of this permission.
Reason: In the interests of visual amenities.

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) was relevant to the determination of this application.

03 Newport City Council Parking Standards (Adopted August 2015) were relevant to the determination of this application.

04 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.

APPLICATION DETAILS

No: 15/1007 **Ward:** GAER

Type: FULL (MAJOR)

Expiry Date: 12-JAN-2017

Applicant: T BORLEY, BORLEY DEVELOPMENT

Site: EBBW BRIDGE CLUB & INSTITUTE, 217, CARDIFF ROAD, NEWPORT, GWENT, NP20 3AG

Proposal: DEMOLITION OF EXISTING BUILDINGS AND NEW MIXED DEVELOPMENT COMPRISING 21 FLATS (16 X 1 BED AND 5 X 2 BED) AND TWO RETAIL UNITS (TOTAL 482M2) AND ASSOCIATED CAR PARKING, CYCLE, REFUSE AND AMENITY FACILITIES

Recommendation: GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THE DECISION.

1. INTRODUCTION

- 1.1** Planning Committee resolved on 2 March 2016 to grant planning permission for this scheme subject to conditions and a Section 106 agreement with delegated powers to refuse in the event that the agreement is not signed within three months of the decision. However, the agreement has not been signed and so planning permission has not been issued to date.
- 1.2** Following the Planning Committee's resolution to approve the development, the applicant has been in negotiation with funders to secure finance for the scheme. In line with the funders request, an analysis of the development costs and market value was undertaken by a quantity surveyor and local estate agents and it became evident that the development may not be viable or deliverable due to the contributions requested by the Council. A viability study was then undertaken using the Council's preferred Three Dragons Development Appraisal Toolkit, which confirmed that the contributions would render the development unviable.
- 1.3** The Heads of Terms agreed by Committee last March required a commuted sum of £5,551 for off site play provision and the provision of 6 affordable dwelling units within the development. The current Heads of Terms still requires a commuted leisure sum of £5,551, but in lieu of providing 6 on site affordable housing units, on the basis of the viability information submitted, it is now required that a commuted sum of £46,000 for off site affordable housing be provided to serve Newport. The agent has confirmed that these revised contributions would allow the regeneration of this site to be delivered.
- 1.4** Economic viability and the regeneration benefits associated with a development are important material considerations in the assessment of planning applications and determining the scope and scale of planning obligations. On the basis of the information provided by the agent, it is considered that these revised contributions, which the applicant has agreed to, are reasonable and so it is recommended that planning permission be granted subject to a Section 16 agreement on these terms.

- 1.5 **For clarity, the application is identical to that approved at Planning Committee in March 2016 in all other respects. Text in bold throughout this report addresses the issues arising from the amendments sought to planning obligations.**
- 1.6 Full planning permission is sought for the demolition of the former Ebbw Bridge Club and Institute and the provision of a development comprising 21 flats (16x1 bed and 5x2 bed) and two ground floor retail units.
- 1.7 The Ebbw Bridge Club is a vacant three-storey, flat roof building occupying a position fronting Cardiff Road with Old Cardiff Road running to the rear. The rear element of the building facing Old Cardiff Road is single-storey. The site is bounded by residential properties to the north east and south west. Further residential properties are sited to the north and south. Cardiff Road Local Centre lies 100m to the north east.
- 1.8 The former club built in 1936 would be demolished and replaced with a building whose central section would be four-storey set between two wings that would be three-storey. At ground floor the two new retail units would be accessed from Cardiff Road. The larger unit would be 325sq m with the smaller unit being 157 sq m. At the front of the building 14 car parking spaces are proposed, while 22 spaces are proposed at the rear.
- 1.9 At first and second floor levels the accommodation would comprise 8 self-contained residential units per floor (6x1 bed and 2x2 bed). At third floor level, the accommodation would comprise a further 5 residential units (1x2 bed and 4x1 bed). The first and second floor flats facing Old Cardiff Road would all have a private balcony area with 1.8m high privacy screens. Additionally, a roof terraced area (105sqm) at the third floor will provide amenity space. A 1.8m high timber screen is proposed along the western edge of the roof terrace.
- 1.10 A bin store and cycle store is proposed at the rear.

2. RELEVANT SITE HISTORY

14/0031	Residential development comprising 1No. two bed flats and 2No. 1 bed flats	Granted with conditions
12/0941	Proposed residential development comprising 3No. two bedroom self contained flats	Refused
11/1316	Change of use of office building to residential use	Granted with conditions

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.

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

SP18 Urban Regeneration supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.

SP19 Assessment of Retail Need sets out the retail hierarchy for where retail development should be located. 1. Newport City Centre; 2. A Defined District Centre; 3. Local Centres; 4. Out of Centre.

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.

R8 Small Scale Retail Proposals: This policy states new small scale retail proposals outside of the city and district centres will only be permitted when new residential development would be served or the proposals would cater for under-provision; the proposal is of an appropriate scale; there's no adverse effects on viability of any defined centre; and there are no unacceptable effects on the local amenities or general character of the area.

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 HEDDLU GWENT POLICE (ARCHITECTURAL LIAISON OFFICER): Thank you for the opportunity to comment upon this matter, the Designing out Crime Unit at Gwent Police have no objections to the proposed development and demolition of existing buildings. I am pleased to see under the heading of Community Safety that the development will provide 'habitable windows positioned to afford natural surveillance at the entrances' as well as 'defensible space', all principles that are found within Secured by Design.

4.2 REGIONAL AMBULANCE OFFICER: No response.

4.3 SOUTH WALES FIRE AND RESCUE: No response.

4.4 WALES AND WEST UTILITIES: Apparatus in the area.

4.5 WELSH WATER: We would request that if you are minded to grant Planning Consent for the above development that the Condition 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.

4.5.1 No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be

implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

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

4.6 WESTERN POWER DISTRIBUTION: Apparatus in the area.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): No response.

5.2 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): I do not object to this application.

I have visited the site and the roof is a flat roof with no obvious access points for bats. The edge trims are all intact there are no obvious gaps/holes in the brickwork.

Ecological enhancements should be incorporated into the design such as a green roof.

5.3 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The proposed layout is now considered acceptable.

5.4 HEAD OF STREETSCENE AND CITY SERVICES (LEISURE): Planning Contributions Manager has commented in respect of leisure contributions.

5.5 HEAD OF LEGAL AND REGULATION (ENVIRONMENTAL PROTECTION): The site is a former commercial use that was the subject of occasional noise complaints in the area and was directly adjacent to a former petrol station. We would have no objection to the proposed development subject to the following conditions:

(1) Contamination – Unforeseen EH02

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

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

(2) Road Traffic Noise – Internal EH06

No development, other than demolition, shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35dBA Leq 16 hour during the day and 30dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

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

5.6 **HEAD OF REGENERATION, INVESTMENT AND HOUSING (HOUSING DEVELOPMENT MANAGER):** The site triggers the requirement for onsite affordable housing as per the policy and should equate to 30%. There is considerable housing need within the area due to its sustainable location, and proximity to schools, and therefore I can confirm there is a need for both 1 and 2 bed apartments. 30% would equate to 6 units on site, preferably 4 x one bed and 2 x two bed, they would need to meet Welsh Government standards, Design Quality Requirement, Lifetime Homes, Secure by Design etc. The properties would need to be transferred to an RSL zoned to develop in Newport at a price not exceeding 50% of ACG (acceptable cost guidance) for this area of the City.

5.7 **HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING CONTRIBUTIONS MANAGER):** has made the following comments:

5.7.1 **Section 106 planning obligations are normally required to either carry out works or contribute financially towards measures that mitigate the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability is an important material planning consideration on the potential scope and scale of planning obligations, especially when considering wider regeneration benefits and whether these issues outweigh the harm caused by the loss of S106 planning obligations.**

5.7.2 **The following planning obligations are required to mitigate the impact of the development and provide a sustainable development.**

5.7.3 **Education**

No education contributions are generated, reflecting the flatted nature of the development.

5.7.4 **Leisure**

There is a surplus of 'Formal' and 'Informal' play provision within the Gaer Ward. As such, no contributions are requested for these categories of play. However, owing to a deficit of 'Equipped' play provision within the Gaer Ward, a commuted sum of £5,551 is required to upgrade and maintain off-site play provision in the vicinity of the development. All Leisure Sums will be index linked to the RPI and paid prior to occupation of the 6th dwelling.

5.7.5 **Affordable Housing**

Originally 6 affordable housing dwellings were requested (equating to 30% provision). However, in-lieu of on-site provision, a commuted sum payment for off-site affordable housing provision may be considered for practical planning issues.

An 'open book' appraisal was undertaken utilising the Council's Three Dragons Toolkit. It has concluded that, due to the limited viability of this project, a commuted sum of £46,000 is requested for Affordable Housing provision serving Newport. This sum would be index linked to the Retail Price Index and paid prior to occupation of the 6th dwelling.

The Authority will seek to prioritise spending this sum within the Rogerstone & Newport West Housing Target Area. If following 3 years, no suitable scheme has been identified within this area then all Housing Target Areas will be considered for a further 2 years. If following a total of 5 years from receipt, the sum has not been spent or committed to be spent, it will be returned to the developer at a rate adjusted to reflect interest over 5 years

5.7.6 **Monitoring Fees**

Originally, £2,772 was required to cover negotiations and on-going monitoring of the planning obligations. However, further to recent case law, it has been decided that the Council can no longer request such contributions.

5.8 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY MANAGER): No policy objection.

5.9 CHIEF EDUCATION OFFICER: No response

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (36No. properties), a site notice displayed, and a press notice published in South Wales Argus. Three responses were received and summarised as follows:

- Design of the proposed building will not fit in with area, but good idea to have flats.
- Excessive number of dwellings will lead to increase in car numbers.
- Insufficeint parking.

6.2 COUNCILLORS: Cllr Wilcox: Request that the planning application is heard at Planning Committee to enable a fuller range of responses to a significant change of use of the property.

7. ASSESSMENT

7.1 Principle of Development

7.1.1 The vacant property is located within the settlement boundary. 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. In this case the proposed site is one that is considered to be a sustainable location. 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.

7.1.2 The principle of the residential redevelopment and provision two retail units is considered to be acceptable, subject to other material considerations that will be discussed below.

7.2 Visual Impact

7.2.1 The proposal would result in the introduction of a four-storey building with three-storey wings. The four-storey element would be 3m higher than the building it replaces at a maximum height of 13.0m, while the three-storey elements adjacent to No.215 Cardiff Road and No.6 Old Cardiff Road would be 0.5m higher than the existing building, at a height of 10.4m. A contemporary design approach has been adopted and the building would be readily visible from Cardiff Road and Old Cardiff Road. From these vantage points, the proposal would be viewed in the context of the two-storey residential properties, but the variation in heights allow for the successful transition to these properties. The massing of the building is broken up by recessed areas and the pallette of materials help secure a high quality finish. Overall, the proposed building is considered to be an appropriate addition to this street scene and would enhance the character of the area.

7.3 Residential Amenity

7.3.1 In relation to the impact on the residential amenity of neighbouring properties, the nearest residential properties are No.215 Cardiff Road that forms the north eastern boundary and No. 6 Old Cardiff Road bounds the south western boundary. In respect of No.215 Cardiff Road, the existing building that is three-storey is set immediately adjacent to the boundary, and a single-storey structure extends along the entire boundary of this property. The proposed building would be sited 1.4m off the boundary of No.215 Cardiff Road, but the

nearest part of the building would be 0.5m higher than the building it replaces. The building would be stepped adjacent to existing properties and when applying the 45 degree test for natural light as set out in the Council's New Dwellings Supplementary Planning Guidance, there would be an improvement to the level of natural light as the built form would not extend along the entirety of this property as is currently the case. Additionally, no windows are proposed in the side elevation and the terraced areas to the rear would be provided with 1.8m high timber privacy screens. It is, therefore, considered that there would be no detrimental impact on the residential amenity of this property through loss of privacy or any overbearing impact.

7.3.2 Along the opposite boundary lies No. 6 Old Cardiff Road and the proposed building would be sited at its closest point 1.4m off the boundary. Given this situation and the fact that the existing single-storey structure would be removed it is considered that there would be an improvement to the existing situation. Furthermore, no windows are proposed in the side elevation and the terraced areas would be provided with a 1.8m high privacy screen to safeguard the amenity of this property. The proposal would therefore have no detrimental impact on the residential amenity of this property.

7.3.3 Turning to the properties that are sited 36m to the south and 40m to the north it is considered that given the presence of the highway and the separation distances involved (36m and 40m) there would be no detrimental impact on the amenity of these properties through loss of privacy and light.

7.4 Amenity for future residents

7.4.1 All of the units proposed are considered to provide sufficient internal space and each room within the units would have an adequate provision of day light. Concerns were raised in relation to the lack of amenity space for all residential units and this has been resolved through the provision of a shared roof terrace area. External bin storage and a bike store are proposed at the rear. Overall it is considered that adequate amenity space and facilities would be available for future residents.

7.5 Noise and Contamination

7.5.1 The Head of Law and Regulation (Environmental Health) advises that the site is a former commercial use that was the subject of occasional noise complaints in the area and adjacent to a former petrol station. They have no objection to the application subject to conditions relating to unforeseen contamination and a scheme of noise insulation to include glazing and mechanical ventilation where required.

7.6 Highways

7.6.1 Access to the site would be achievable off both Cardiff Road and Old Cardiff Road. Improvements are proposed to the access off Cardiff Road and a parking area for 14 vehicles and 2 delivery vehicles is proposed that will serve the two ground floor retail units. At the rear 22 spaces are proposed that would serve the residential units. The Head of Street Scene and City Services (Highways) is satisfied that when considering the existing use of the property the proposed level of parking is considered to be acceptable. Overall, it is considered that the level of off-street parking, the layout and traffic generation associated with the development would be acceptable and would not result in any detrimental impact on highway safety.

7.7 Ecology

7.7.1 The Council's Ecologist has confirmed that given the building has a flat roof with no obvious access points for bats the proposal would not have any significant effect on protected species.

7.8 Retail Impact

- 7.8.1 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.
- 7.8.2 Part (i) of Policy R8 relates to small scale retail proposals and identifies that such proposals outside the city and district centres will only be permitted where it would serve new residential development or cater for under provision in the area. Part (ii) of the policy require that the proposal is of an appropriate scale to the locality, while part (iii) requires that there would be no adverse effects on the viability and vitality of any defined centre.
- 7.8.3 In order to promote established town and district centres Planning Policy Wales 8th Edition advocates a sequential approach for new retailing and leisure uses. As such regard must be had to the availability of sequentially preferable sites. Planning Officers requested that a Retail Impact Assessment be provided to justify the retail element of the proposal. The Retail Impact Assessment defined the retail catchment area as Maesglas, which is readily defined by physical constraints including the Docks Way, the River Ebbw and the railway embankment. The Council's Planning Policy Section considers that the retail catchment area is reasonable to assess whether there are any sequentially preferable locations for the retail units. The nearest district centre is Commercial Road, some 2km to the east and so is not within the catchment area. Cardiff Road Local Centre is the only retail centre within the defined catchment area and all the units are currently occupied. It is, therefore considered that there are no preferably sequential sites and that the proposal accords with policy SP19.
- 7.8.4 With regards the requirements of policy R8 (i) the supporting information identifies that within the defined catchment area an additional 110 residential units (21 that form part of this application and 89 at the South Wales Argus site (known as 'Greenfield Court') would support the additional retail provision. Additionally, housing allocation Bideford Road for 35 residential units lies within the defined catchment area. The proposal therefore complies with part (i) of policy R8 as new residential development would be served.
- 7.8.5 In relation to policy R8(ii) 482m² gross retail floorspace is proposed within 2 units – unit 1,325 sq m and unit 2,157 sq m. This scale of retail development is considered to be of an appropriate scale in this locality, thus satisfying policy R8 (ii) of the LDP.
- 7.8.6 One of the objectives for retailing and town centres set out in PPW is to enhance the vitality, attractiveness and viability of town, district, local and village centres. It says that in determining applications for retail use, the impact on existing centres should be taken into account. This is also reflected in policy R8(iii) of the LDP. Although it was accepted that given the physical constraints confining the catchment area, it is accepted that a retail development in this locality is unlikely to have any adverse effects on the vitality and viability of any centres higher up the retail hierarchy (city and district centres) or the nearest Local Centre outside of the catchment area i.e. the Gaer Local Centre. However, no quantitative evidence was provided to demonstrate the need for the development and that there is a sufficient level of expenditure in the catchment to ensure that the proposal would not undermine the vitality and viability of the defined local centre. This applicant has provided this evidence and will be discussed below.
- 7.8.7 Within the defined catchment area there are currently approximately 1,035 homes which equates to 2,587 people. The applicant has sought to calculate the available expenditure

based on the most up to date evidence contained within the Colliers Retail Study (2010). It is assumed that the average convenience goods expenditure that is available within the catchment area is £1,743/person. The total available convenience expenditure within the catchment area taking into account the existing population (2,587) and proposed increase in population (363) is calculated to be £5.14m. It is assumed 40% of this figure would be available as “top up” convenience expenditure, which equates to £2.05m. Taking into account the turnover of the existing convenience stores (£520,000) in the Cardiff Road Local Centre the available expenditure in the catchment area is £1.53m. The turnover of the proposed store is estimated to be £1.04m. There would therefore be a surplus of £492,000 to be spent elsewhere. It has therefore been demonstrated that there is a shortfall between the available expenditure and supply within the catchment area. The proposal therefore accords with policy R8 (iii) of the LDP.

- 7.8.8 Overall, the proposal would bring a vacant site back into use in a prominent location on one of the main arterial routes into Newport. It would provide two small scale retail units that would be within walking distance from an established residential area, with further properties planned to be built. From the supporting evidence provided it is considered that the proposal would not harm the viability and vitality of the city centre, district centre or nearby local centre. The proposal therefore accords with policy SP19 and R8 of the LDP.

7.9 S106 Contributions

- 7.9.1 The comments of the Planning Contribution Manager are shown in full in section 5.7 of this report. In summary, a commuted sum of £5,551 is required to upgrade and maintain off play provision within the vicinity of the development **together with a commuted sum of £46,000 for off site affordable housing provision**. The applicant has agreed to the Heads of Terms.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

- 8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 Having had regard to the 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 and subject to a Section 106 agreement.

10. RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO A S106 AGREEMENT WITH DELEGATED POWERS TO REFUSE IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN THREE MONTHS OF THE DECISION.

01 The development shall be implemented in accordance with the following plans and documents: AL (00) 01 Rev A Site location plan, A (90)01 Rev A Proposed site plan, AL (01) 01 Rev A proposed ground floor plan, AL (01) 02 Proposed first and second floor plans, AL (01) 03 Rev A proposed third floor and roof plan, AI (01) 10 Rev B elevations.

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 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.

03 No development shall commence until a scheme of sound-insulation and ventilation measures, devised in the light of a comprehensive assessment of external noise, has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme must ensure that all habitable rooms exposed to external noise in excess of 55 dBA Leq 16 hour (free field) during the day (07:00 to 23:00 hours) or 45 dBA Leq 8 hour (free field) during the night (23:00 to 07:00 hours) achieve an internal noise level of 40 dBA Leq 16 during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows.

Reason: To secure an adequate level of residential amenity for future occupiers.

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

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities;
- noise mitigation measures;
- details of temporary lighting;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including controls to surface water run off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.
- pollution prevention and contingency measures.

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

Reason: To protect the amenities of nearby residents

05 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

06 Prior to the beneficial occupation of any part of the development hereby approved, the car parking spaces hereby approved for that development shall be provided in accordance with the approved plans and retained at all times thereafter.

Reason: To ensure the provision of adequate parking in the interest of highway safety.

07 Prior to the first beneficial occupation of any part of the development hereby approved the bin storage shall be provided and be kept available for such use at all times.

Reason: In the interest of visual amenities.

08 Prior to the beneficial occupation of the flats hereby approved the secure cycle area shall be provided and retained for such use at all times.

Reason: In order to promote sustainable modes of transport.

09 Prior to the beneficial occupation of the flats hereby approved the privacy screens as illustrated on drawing number AL (01) 10 Rev B shall be provided and retained as such in perpetuity.

Reason: To safeguard the residential amenity of neighbouring properties.

10 Prior to the beneficial occupation of the retail units, details of opening hours and delivery times of the retail units hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The retail units shall operate strictly in accordance with the approved opening hours and delivery times.

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

General conditions

11 The proposed development hereby approved shall include two Class A1 retail units with a net internal floorspace permitted not exceeding 325sq m within the larger unit (Unit 1) and 157 sq m within the smaller unit (Unit 2) as proposed.

Reason: To limit the amount of floor space in the retail units in order to assess the impact of any future increases in retail floor area on nearby centres.

12 Notwithstanding the provisions of the Town and Country Planning (use Classes) Order 1987, or the Town & Country Planning (General Permitted Development) Order 1995, or any Order revoking, re-enacting or modifying those Orders, the retail floorspace hereby permitted within the larger unit (unit 1) shall be used restricted to convenience goods only.
Reason: To limit the amount of floor space in the retail units in order to assess the impact of any future increases in retail floor area on nearby centres.

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

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

NOTE TO APPLICANT

01 This decision relates to the following documents: Design and Access Statement, Retail Impact Assessment, Retail Assessment Need Additional Information V5, AI (90)03 Indicative Vehicle tracking plan, On-street parking plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP13, SP18, SP19, GP1, GP2, GP3, GP4, GP5, GP6, GP7, H2, H4, R8 and T4 were relevant to the determination of this application.

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

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

05 Planning Policy Wales **9th Edition November 2016** and Technical Advice Note 4: Retailing and Town Centres were relevant in the determination of this application.

APPLICATION DETAILS

No: 16/0665 **Ward:** *Victoria*

Type: Full (Major)

Expiry Date: 09-Dec-2016

Applicant: *EJL Properties LLP*

Site: *Land Formerly Known As 21, KELVEDON STREET, NEWPORT, NP19 0DW*

Proposal: *PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING UNDERCROFT PARKING TO GROUND FLOOR AND 52 NO. APARTMENTS TO UPPER FLOORS (RESUBMISSION)*

Recommendation: **Refused**

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the development comprising undercroft parking to ground floor with 52no apartments to upper floors at land formerly known as 21 Kelvedon Street. The application is a resubmission following the withdrawal of a similar proposal.
- 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 centre 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 with Conditions
02/0353	CHANGE OF USE TO COMMERCIAL PRINTERS	Granted with Conditions
05/0244	DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT OF SITE FOR RESIDENTIAL PURPOSES (MAXIMUM 25NO. UNITS) (OUTLINE)	Refused
15/1157	PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING OF 2NO. SMALL RETAIL UNITS AND UNDERCROFT PARKING TO GROUND FLOOR AND 52NO. APARTMENTS TO UPPER FLOORS	Withdrawn

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 areas. Where a proposed site such as this is located partly in a flood risk area 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: No response.

4.3 NATURAL RESOURCES WALES (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). Our 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. The FCA accompanying the application states that in the predicted 0.5% (1 in 200 year) plus climate change event the flood levels are 7.82m AOD. They note that the proposed finished floor levels for the parking on the ground floor will be set at 7.85m AOD and the development is therefore A1.14 compliant. Offer no objection subject to a condition setting finished floor levels no lower than 7.85m AOD being included on any permission the Authority is minded to grant. During the 0.1% (1 in 1000 year) plus climate change event the flood levels are 9.06m AOD. Given the proposed finished floor levels the site would flood to a depth of 1.21m, which is over the tolerable limits set out in A1.15 of TAN 15. In relation to access and egress NRW note from the information provided that the developer would evacuate the building if a flood warning were to be received. The applicant would register with Flood Warnings Direct in order to receive a direct warning through this

system. Within this area Natural Resources Wales attempt to provide 2 hours warning of an imminent flood event. When a flood is expected the Local Authority and local emergency services will be responsible for public care and safety. The development includes provision for safe refuge areas at first floor level.

NRW are able to provide flood data for given evacuation routes when requested to do so. The document provided does not include this information. As such NRW are unable to provide any comment in relation to speed or velocity of the flood waters on the evacuation routes. NRW would discourage the use of an emergency route that puts people closer to the source of flooding such as the use of footbridges over the river.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The site is located within a sustainable location and a sustainability test has been undertaken. No objection is offered.

5.2 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.

5.3 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPING): Objects to the application, as the central amenity space is of insufficient area, fragmented and would not be a pleasant place in which to relax, within the car-dominated environment.

The Landscape officer confirms that his objections remain despite the submission of proposals for a 'living wall'.

5.4 PLANNING CONTRIBUTIONS MANAGER: The following S106 planning obligations are required to mitigate the impact of the development:

Affordable Housing - 4 x one bed affordable apartments are proposed. 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. Taking into account the scale and type of development, as well as school capacity, no contribution is requested. (Secondary) The development falls within the catchment area of Lliswerry High School. Taking into account the scale and type of development, as well as school 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 (to be maintained by a private management company), a commuted sum of £116,835 is required to upgrade and maintain off-site formal and informal open space and play provision at Lysaghts Park.

5.5 HEAD OF LAW AND REGULATION (POLLUTION): No objection subject to conditions.

5.6 HEAD OF LAW AND REGULATION (NOISE): No objection subject to conditions.

5.7 HOUSING AND COMMUNITY REGENERATION MANAGER (AFFORDABLE HOUSING): 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 (115no properties) and a site notice was displayed. 3no responses received with the following objections:
- The application is riddled with mistakes and assumptions that have no foundations;
 - The building would result in overshadowing and loss of light to neighbouring properties. Neighbours have a right to light and will begin proceedings for compensation if the planning permission is given consent;
 - A detailed study should be carried out of the loss of light to Witham Street;
 - The development would be out of keeping with the immediate area and is totally unacceptable in terms of visual impact;
 - The development would result in a loss of privacy for neighbours;
 - The development would result in a loss of property value;
 - There is not enough parking for existing residents;
 - Question whether parking restrictions could be imposed if planning permission is granted;
 - There is already too high a volume of traffic in the area;
 - There are no primary school places available in the area;
 - There are already vacant properties and shops in the area and there is no need for any more;
 - The development will in no way enhance the area;
 - There will be noise and disruption to neighbours during the construction of the building;
 - The height of the building is unacceptable;
 - 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;
 - Communal bins are a health hazard.

7. ASSESSMENT

- 7.1 The built form of the proposed development would take a horse-shoe shape around the edge of the site. The building would be five storeys high with under-croft parking at ground floor level. The scheme initially included two retail units at ground floor level fronting Kelvedon Street and the junction with Witham Street. The retail units have been removed from the scheme in order to provide additional parking provision. 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 of the four floors. 58no car parking spaces, a bicycle park, two bin storage and recycling areas are proposed at ground floor. A mixture of two bed and one bed flats are proposed. Four of the units would be of an affordable nature.
- 7.3 An Outline application for the residential development of the site for up to 25 units 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 four storey building with under-croft parking would be 15m. The ridge height of neighbouring terrace properties is typically 9m. 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 in the City, in particular near to the waterfront and within close proximity to existing two storey dwellings. The applicant has specifically referred to a development at Rodney Road (known as City Vizion) which is situated on the east riverbank. The applicant points out that this

development included a 5 storey apartment building opposite 2 storey terrace properties with a distance of 14m between the two. The approved building has steep gables with pitched roofs that have (in the applicant's opinion) a far greater impact than the flat roof design of the proposed building at Kelvedon Street. The presence of such developments is acknowledged. However, every application must be considered on its merits. The regeneration characteristics of the site referred to are particularly relevant and the site differs from Kelvedon Street site in that it formed part of a wider site that was the subject of Supplementary Planning Guidance and was considered to "represent one of the highest profile development opportunities in the City" – (Development Brief – Rodney Parade, Newport Planning and Design Guidelines SPG July 2006). Obviously a major development site within the City of Newport and situated adjacent to the riverfront, a key design principle of the development as required by the SPG was that it should provide a "coherence to the urban edge of the river, a strong, permeable, urban façade, along the riverfront" with "landmark buildings and public spaces in key locations". Clearly, a low density development would not have been appropriate in this location and the regeneration benefits of the area were recognised as being City-wide.

- 7.6 Furthermore, the site is very much edge of city centre where higher rise buildings are more commonplace, unlike the site which is situated within an area characterised by a lower built form.

Whilst the re-development of the Kelvedon Street site is recognised as having regeneration benefits, they are not considered to be of the same significance to the key riverfront site identified by the applicant and do not outweigh the visual harm that the development would result in. In addition, the building referred to by the applicant is situated at a former builder's merchant's yard and so the residential development represented a significantly more compatible neighbour. In contrast, whilst the application site was previously occupied by a commercial printing factory, it has been vacant for a considerable amount of time and there is currently no fall back to be given weight here as the site is cleared.

- 7.7 Furthermore, the bland, box-like design of the proposed 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.

- 7.8 It is acknowledged that the applicant purchased the site prior to the economic crash experienced several years ago and that consequently, the redevelopment options for the site are limited in viability terms. The applicant has submitted financial information in support of this. Whilst economic viability can be a material consideration, it is for the Council to consider how much weight should be given to this when balanced against all other considerations. In this instance the harm identified by officers as described above, is significant. The site is a windfall not allocated for residential use in the LDP and the Council has a healthy 5.9 year residential land supply.

7.9 ***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 nos 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 may be acceptable from a privacy perspective, being significantly greater in height, the proposed building would be considerably more overbearing than a two storey terrace-type property. Furthermore, there

would be considerably more windows overlooking the existing properties on multi-levels, which would give existing residents opposite the site the feeling of being overlooked, to the detriment of their privacy and amenity.

- 7.10 Being to the south-west of no's 67 to 83 Witham Street, the proposed building would result in overshadowing. No solar shading information has been provided with the application 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.
- 7.11 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 previously objected to the scheme and considered the landscape content to be poor. The applicant states that the landscaping has subsequently been improved so that additional planting beds are provided and have been enlarged and the number of trees has been increased from three to nine.
- 7.12 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 improvements to the landscaping arrangement, as noted above, are considered insufficient and despite the relatively minor changes, 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.
- 7.13 It is considered that the scheme would provide a poor standard of amenity for existing and future residents, contrary to the Council's guidance.
- 7.14 In an attempt to address officer's concerns about the appearance of the building and the subsequent visual impact, the applicant has submitted revised plans including the provision of a 'living wall' to sections of the elevations facing Kelvedon Street, Feering Street, Witham Street and also the inner courtyard elevations. A 'green roof' is also to be provided to three sections of the building's roof. In addition to their aesthetic value, the applicant advises that these areas provide a natural 'Eco-System' within the urban environment. However, the proposed 'living wall' solutions do not address the unacceptable scale or massing of the building and would not overcome the resultant impact to the visual amenity of the area or impact on neighbouring amenity.
- 7.15 It should be noted that neighbouring objections relating to loss of property value are not material planning considerations.

7.16 **Highways**

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 58no parking spaces, including 6no visitor parking spaces. The Council's Parking Standards SPG requires 1 space per bedroom and 1 visitor space per 5 units (total of 11 visitor spaces) 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 that demonstrates sufficient points scored to justify a reduction of 1 space per unit. Points are awarded depending on proximity to services and public transport links. The sustainability assessment demonstrates that the site is within close proximity to local facilities with a chemist and medical centre within 200m. The site is within 300m of a bus stop which is serviced by four bus routes. On the

basis of the sustainability assessment the site scores well and the parking requirement for the flats can justifiably be reduced to one space per unit (52no spaces). However, the requirement for 11no visitor parking spaces remains with only 6no spaces being proposed.

7.17 The Head of Streetscene and City Services (Highways) confirms no objection is offered to the proposals. Notwithstanding this, the Local Planning Authority must have due regard to the acceptability of the proposals and the potential for adverse impact on neighbouring amenity as a result of the shortfall in visitor parking spaces. Given that properties in the vicinity are traditional terrace style without off street parking provision, demand for on-street parking is likely to be high and consequently it is considered that any additional demand for on-street parking due to the shortfall in visitor parking provision is likely to result in an unacceptable adverse impact to neighbouring amenity.

7.18 **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. 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. Furthermore, additional residential premises in the area will potentially give rise to additional concerns in respect of adverse air quality effects.

7.19 The necessary environmental assessments have been carried out and the findings submitted with the application. Environmental Health officers confirm no objections are offered to the proposals subject to conditions relating to further contamination surveys, a condition requiring a construction noise management plan and noise insulation.

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 advise that the FCA accompanying the application states that in the predicted 0.5% (1 in 200 year) plus climate change event the flood levels are 7.82m AOD. They note that the proposed finished floor levels for the parking on the ground floor will be set at 7.85m AOD and the development is therefore A1.14 compliant. NRW advise that a condition to set the finished floor levels no lower than 7.85m AOD is included on any permission the Authority is minded to grant.

7.24 NRW advise that during the 0.1% (1 in 1000 year) plus climate change event the flood levels are 9.06m AOD. Given the proposed finished floor levels the site would flood to a depth of 1.21m, which is over the tolerable limits set out in A1.15 of TAN 15.

7.25 **TAN 15 Tests**

Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within zone C1 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.

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

7.26 **Test 1 – Justification**

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

7.27 Located within the settlement boundary, Officers consider that the development is necessary as part of a local authority strategy required to sustain an existing settlement.

7.28 **It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1)**

PPW defines previously developed land as:

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

7.29 The proposal satisfies this test.

7.30 **Tests 2 to 12 – Consequences of Flooding**

Moreover, criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable. These are referred to as tests 2 to 12 below.

7.31 **Test 2 - Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a 1 in 1000 chance of occurring in any year).**

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

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

No flood mitigation measures are proposed as part of the development.

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

Notification of this could be provided to the developer by way of an informative if planning permission were forthcoming.

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

NRW identify that whilst they seek to provide timely and robust warning they cannot guarantee their provision. No objection is offered by NRW on this basis.

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

The applicant has provided details of the proposed escape/evacuation route. The route follows Willenhall Street and Argosy Way to reach the riverfront walkway and eventually crossing the footbridge to the west bank. The applicant advises that the route maintains an average level of 10.5m AOD and exceeds the level required for flood free passage of pedestrians. However, as noted by NRW the applicant has not provided flood data in relation to the proposed route and it is therefore not possible to assess depth, speed or velocity of flood waters as required by TAN15. Furthermore, NRW discourage the use of an emergency route that puts people closer to the source of flooding such as the use of footbridges over the river.

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

NRW advise that if, as the planning authority, you are satisfied that the proposed location is the only possible location in planning terms, only then should you consider whether the above risks and consequences can be managed through measures such as emergency planning and evacuation.

- 7.37 The applicant advises that in the event of a flood the building will be evacuated as a precaution. The applicant would be responsible for activating the evacuation and would register with Flood Warnings Direct in order to receive a direct warning through this system. NRW advise that within this area they attempt to provide 2 hours warning of an imminent flood event. When a flood is expected the Local Authority and local emergency services will be responsible for public care and safety. The development includes provision for safe refuge areas at first floor level.

- 7.38 The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements.

- 7.39 ***Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters and Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.***

The development would be flood free.

7.40 **Test 10 - No flooding elsewhere.**

NRW do not object to the development on this basis.

7.41 **Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.15) 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.**

NRW do not object to the development on this basis subject to a condition requiring finished floor levels to be set no lower than 7.85mAOD.

7.42 **Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 1000mm 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 0.45m/second in properties and the maximum rate of rise of floodwater would not exceed 0.3m/hour (refer to table at paragraph 7.7.41).**

No flood data has been provided to enable the Local Planning Authority to assess the acceptability of escape/evacuation routes.

7.43 NRW advise that during the 0.1% (1 in 1000 year) plus climate change event the flood levels are 9.06m AOD. Given the proposed finished floor levels the site would flood to a depth of 1.21m, which is over the tolerable limits set out in A1.15 of TAN 15, although this would affect the parking areas only and the residential units would not be affected. Given the less vulnerable nature of these uses and the nature of the flood event (1 in 1000 year), on balance, this is considered to be acceptable.

7.44 However, due to the absence of information the Local Planning Authority is unable to assess the acceptability of access/escape routes in any flood event.

7.45 In summary, it has not been demonstrated that the development is acceptable in terms of flood risk.

7.46 **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:

7.47 **Affordable Housing:** 4 x one bed affordable apartments are proposed. This falls short of the Councils policy requirement of 20% provision. However, the applicant has provided information concerning the viability of the scheme which justifies a reduction in the number of affordable units. 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.

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

7.49 Leisure: There is a deficit of 'Formal', 'Equipped' and 'Informal' play provision within the Victoria Ward. A commuted sum of £116, 835 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.

7.50 The applicant has agreed to the Heads of Terms.

7.51 ***Other Matters***

7.52 As noted above, the site is located within the urban boundary and constitutes previously developed land. The derelict site is also somewhat unsightly and as such the development of the site is welcomed in principle. However, whilst the applicant has submitted the relevant surveys to address concerns relating to noise, air quality and contamination, for reasons outlined above, the development as proposed is unacceptable. No pre-application advice was sought from the Local Planning Authority in respect of these proposals.

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 there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

- 9.1 Whilst 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 and would provide an inadequate level of visitor parking provision and a substandard level of amenity for future residents.
- 9.2 Inadequate information has been provided to demonstrate that the proposed development would be acceptable in terms of flooding.
- 9.3 It is therefore recommended that the application is refused.

10. RECOMMENDATION

REFUSED

01 The scale and massing of the building will have a significant adverse impact on existing residents by reason of overbearing effect and overlooking and will represent an unduly dominant building in the street, to the detriment of the visual quality of the street scene and immediate area. No information has been provided that would mitigate this objection. 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 proposal will have a significant adverse effect on interests of acknowledged importance, namely public safety and amenity, by reason of flood risk and specifically the availability and acceptability of escape/evacuation routes. No information has been provided that would mitigate this objection. This is contrary to Policy SP3 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015) and Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004).

03 The proposal will have a significant adverse effect on interests of acknowledged importance, namely highway amenity, by reason of an inadequate level of visitor parking provision. No information has been provided that would mitigate this objection. This is contrary to Policy GP4 of the Local Development Plan for Newport, 2011-2026 (Adopted January 2015) and to the detriment of highway safety and residential amenity.

04 An inadequate level of amenity would be afforded to the future occupiers of the apartments due to the substandard and undesirable size, location and design 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.2060/06A, MSP.2060/09B & MSP.2060/10B, MSP.2060/01A, MSP.2060/02A, MSP.2060/03C, MSP.2060/02B, MSP.2060/04B, MSP.2060/05, MSP.2060/07A, MSP.2060/08A Design and Access Statement, Flood Risk Assessment, Transport Statement, Noise Impact Assessment, Air Quality Assessment, Contamination Report, Construction Noise Management Plan.

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.

APPLICATION DETAILS

No: 16/1021 **Ward:** STOW HILL

Type: FULL

Expiry Date: 13-JAN-2017

Applicant: P TULLY

Site: 5, CLYTHA PARK ROAD, NEWPORT, NP20 4NZ

Proposal: CHANGE OF USE FROM COMPUTER IT SHOP (A1) TO MICROPUB (A3)

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the change of use of an A1 retail unit to an A3 'micropub' at the mid-terrace commercial property at 5 Clytha Park Road, Newport. The site is located within the Clytha Park Road Local Centre, as designated by the Newport Local Development Plan 2011-2026 (Adopted January 2015).
- 1.2 This application is presented to committee at the request of Councillor Al-Nuaimi.

2. RELEVANT SITE HISTORY

- 2.1 None.

3. POLICY CONTEXT

- 3.1 Newport Local Development Plan 2011-2026 (Adopted January 2015), "LDP"
Policy SP18 (Urban Regeneration) supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
- 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 (GP7 General Development Principles – Environmental Protection and Public Health) states that development will not be permitted which would cause or result in unacceptable harm to health.
- Policy R9 (Change of Use to Non-Retail Uses Inside Local Centres) states that use classes A2 and A3 and leisure/community uses will be permitted in Local Centres providing they would not prejudice the viability of the centre's retailing role; no adverse effects on the highway; and there would be no unacceptable effect on the local residential amenities or general character.
- Policy T4 (Parking) states that development will be expected to provide appropriate levels of parking.

4. CONSULTATIONS

- 4.1 No external consultation was undertaken.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The property is located within close proximity to the City Centre and therefore a range of public transport links and public car parks. A public car park is also available off Faulkner Road. The applicant has stated that there will be deliveries associated with the Micro pub however this would also be the case with the existing A1 use. When taking this into consideration, I would offer no objection to the application.
- 5.2 PUBLIC PROTECTION MANAGER: No objection subject to conditions relating to delivery times, plant noise and future fume extraction.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m of the application site were consulted (89No addresses) and a site notice posted. One representation was received, objecting to the proposal on the following summarised grounds;
- i) There are plenty of drinking venues in the area, including the city centre,
 - ii) The proposed use would result in constant noise and problems late into the night,
 - iii) Claim to have 'inside knowledge' that the permission will be granted no matter how many residents object,
 - iv) There are already parking problems because of Tesco Express and it will result in more illegal parking (of which they will notify the police), and
 - v) Newport suffers from anti-social behaviour issues, which will be exacerbated by this proposal.
- 6.2 COUNCILLOR AL-NUAIMI: Requests that the application is determined by committee because it has attracted interests from residents, who are concerned about issues of over development, odours, parking and traffic, compounded by the recent Tesco Express development.

7. ASSESSMENT

- 7.1 The unit in question was most recently used as a computer repair shop, but is currently vacant. It is noted that there are currently 3No other units within the local centre that are vacant, all of which have a lawful A1 retail use.
- 7.2 This proposal would see the change of use of the unit to a 'micropub', which has an A3 use. The applicant intends to operate the unit as a traditional style public house, without a jukebox, amplified music or televisions, with the emphasis on conversation and socialising. According to the Micropub association, a micropub is "*a small freehouse which listens to its customers, mainly serves cask ales, promotes conversation, shuns all forms of electronic entertainment and dabbles in traditional pub snacks*". It is proposed that it would operate between 11:00 and 23:00 and provide two part-time jobs. The applicant has also confirmed that there will be no rear access or smoking area at the premises, with access only provided from Clytha Park Road. Deliveries would take place from the car park off Ford Street.
- 7.3 It is noted that this is the intention of the applicant, although what has to be considered is the A3 use of the unit more generally, which could in future be operated by another A3 operator in another manner; perhaps as a more 'modern' public house, or as a restaurant or takeaway for example.
- 7.4 As the proposal is located within a local centre, policy R9 is relevant to this decision, which states;
- "PROPOSALS FOR CHANGE OF USE OF EXISTING SHOP PREMISES TO FINANCIAL AND PROFESSIONAL SERVICES (USE CLASS A2), FOOD AND DRINK USES (USE CLASS A3), AND LEISURE AND COMMUNITY USES WITHIN LOCAL CENTRES WILL BE PERMITTED ONLY WHERE:***
- i) THE CONCENTRATION OF SUCH USES AT GROUND FLOOR LEVEL WOULD NOT PREJUDICE THE VIABILITY OF THE CENTRE'S RETAILING ROLE;***
 - ii) THERE WILL BE NO UNACCEPTABLE ADVERSE EFFECTS ON THE LOCAL HIGHWAY NETWORK; AND***

iii) THERE WILL BE NO UNACCEPTABLE EFFECTS ON LOCAL RESIDENTIAL AMENITY OR THE GENERAL CHARACTER OF THE AREA IN TERMS OF NOISE AND DISTURBANCE OR EXTRA TRAFFIC GENERATED”.

- 7.5 A recent survey undertaken by the officer identifies that there are a total of 15No units in the local centre (some of which are a combination of address points; such as Gemellis at 42a-42b and Lifestyle Convenience Store at 30-31), and that 11No of the units currently have a lawful A1 use, equating to 73.3%. The loss of the application site to A3 use would reduce the total number of A1 units to 10, equating to 66.6% of the units being in retail use if this application is approved, although the policy doesn't stipulate a level of retail units that should be maintained in order to preserve the viability of the centre's retailing role. There are a number of other A3 uses nearby (including Meat, Gemellis, Harbour Fish Bar and La Pizzeria), which are distributed throughout the centre, interspersed amongst existing retail units, some of which have a strong presence and level of trade, such as Tesco, All About Eve and Lifestyle Convenience Store. Further, the application site and other lawful retail units in the area are currently vacant, which illustrates that there is currently a weak appetite for retail floorspace in this centre. As a result, it is not considered that the change of use of this unit would prejudice the viability of the local centre's retailing role, maintaining 66.6% of the units in retail use. It is therefore considered to satisfy criterion i).
- 7.6 The Council's Highways Officer has offered no objection to the application due to its proximity to the city centre, transportation links and a public car park. It is acknowledged that on-street parking is in high demand in the area, but self-limiting in terms of this proposal due to the legal restriction on drink driving likely to reduce the demand for parking in relation to the proposed use. In order to prevent future highway/parking issues from any subsequent A3 use that may occur at the property, a condition is attached to prevent takeaway sales from the unit to reduce the instances of short stay parking associated with a takeaway use. It is therefore considered that the proposal also satisfies criterion ii).
- 7.7 Criterion iii) seeks to protect local residential amenity and the character of the area, as does policy GP2. It is not considered that there would be an impact on the character of the area as the proposal remains a commercial use in a relatively vibrant local centre. With regards to residential amenity, it is acknowledged that A3 uses can sometimes be associated with late night noise and disturbance. However, in this case, the applicant proposes only to operate until 11pm (which can be controlled by condition), thereby preventing any late night activity and disturbance that may occur with a late-night hot food takeaway. In addition, it has been confirmed that there will be no public access to the unit from the rear (accessed off Ford Street), nor will there be a smoking area to the rear. As such, the proposal mitigates impact on local residents as much as possible. Other units in the vicinity have lawful opening hours until 11pm (including Meat, Harbour Fish Bar, La Pizzeria and Tesco), therefore activity in the local centre until this time is common. Also the current use is completely unrestricted in terms of opening hours. Taking this in to account, it is considered that the proposal's impact on the character of the area and amenities of local residents would be acceptable, in compliance with policy GP2 and R9. It is noted that the applicant seeks opening hours of 11:00-23:00, which would be its proposed hours of operation. However, it is not considered that any harm would arise from having opening hours aligned with other units, which can operate from 07:00 and 08:00 respectively.
- 7.8 There are recognised benefits to the proposal by making use of a vacant unit within a designated centre and creating employment opportunities, as supported by policy SP18.
- 7.9 Conditions are attached to control plant noise, future fume extraction, delivery hours, and opening hours in the interest of safeguarding local residential amenity.
- 7.10 The comments of the objector are noted, although a number of the issues have been addressed above. Other issues such as enforcing illegal parking, speculation of anti-social behaviour are not a consideration for this application. Further, comments that the application has already been granted or predetermined are clearly incorrect and unfounded.

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 there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 Having regard to the relevant policies of the LDP, it is concluded that the impact on the proposal on the local centre, residential amenity, character of the area and highways is acceptable and it also aids in urban regeneration by making use of a vacant unit and creating jobs. 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; D4, email Chris Charters dated 05/12/2016 and email from Paul Tully dated 22/11/2016.

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

02 The hours of operation shall be restricted to 07:00 to 23:00 on any day. Outside of these hours the premises shall be vacated and closed to the public.

Reason: In the interests of the amenities of occupiers of nearby properties.

03 There shall be no arrival, departure, loading or unloading of vehicles between the hours of 8:00pm and 8:00am on any day.

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

04 The permitted A3 use shall occur on the ground floor of 5 Clytha Park Road only.

Reason: To ensure the Local Planning Authority retains control over the use.

05 Notwithstanding the provision of Class A3 of the Town and Country Planning (Use Classes) Order 1987 this permission shall not extend to permit the use of the premises as a takeaway for the sale of hot food for consumption off the premises or to allow hot food to be delivered from the premises.

Reason: In the interests of highway safety and to ensure the amenities of occupiers of other premises in the vicinity are protected.

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

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

07 If at any time the use of the premises is to involve the preparation and cooking of hot food the extraction of all fumes from the food preparation areas shall be mechanically extracted to a point to be agreed in writing by the Local Planning Authority, and the extraction system shall be provided with de-greasing and de-odorising filters. Details of the above equipment (including scaled schematics, location plans, odour attenuation measures and future maintenance) shall be submitted to and approved in writing by the Local Planning Authority prior to its installation and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the approved details.

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

NOTE TO APPLICANT

01 This decision also relates to plan Nos: D3, supporting photographs, design and access statement, site location plan, block plan

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP18, GP2, GP4, GP7, R9 and T4 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 Condition 05 removes the right to sell hot food for consumption off the premises, to reduce demand for short term parking within close proximity to the unit.

APPLICATION DETAILS

No: 16/1021 **Ward:** **STOW HILL**

Type: FULL

Expiry Date: 25-DEC-2016

Applicant: *P TULLY*

Site: *5, CLYTHA PARK ROAD, NEWPORT, NP20 4NZ*

Proposal: ***CHANGE OF USE FROM COMPUTER IT SHOP (A1) TO MICROPUB (A3)***

1. LATE REPRESENTATIONS

- 1.1 A representation has been received by the owner of a MEAT, a nearby business at 3 Clytha Park Road in support of the application.
- 1.2 He notes that there are a number of vacant commercial units in the area, including the application site. He states that the city can't and shouldn't be competing with Cardiff or Bristol, but the Council should be looking to encourage independent businesses in the Newport, and we should embrace the applicant wanting to invest in Newport.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 The Council acknowledges the investment proposed by the applicant as one of the economic benefits of the proposal, along with bringing a vacant unit back in to use. These were some of the considerations of the original officer's report and contribute to officers' recommendation that planning permission be granted.

3. OFFICER RECOMMENDATION

- 3.1 As per the Officer's report.

APPLICATION DETAILS

No: 16/0983 **Ward:** *LLANWERN*
Type: FULL
Expiry Date: 08-JAN-2017
Applicant: *G LLOYD*
Site: *2, CHURCH ROW, MAGOR, CALDICOT, NP26 3DE*
Proposal: *ERECTION OF PORCH*
Recommendation: REFUSED

1. INTRODUCTION

- 1.1 This application seeks planning permission for the retention and completion of a porch to the front of 2 Church Row, Redwick in the Llanwern ward. The application has been referred to the Planning Committee by Councillor Kellaway to assess the impact of the development on the Redwick Conservation Area.
- 1.2 The property is located to the east of Church Row and is one of a row of three cottages from the mid-19th century which are acknowledged within the adopted Redwick Conservation Area appraisal as making a strong contribution to the character of the village. The site adjoins no.1 Church Row to the north and no.3 Church Row to the south.

2. RELEVANT SITE HISTORY

98/0101	ERECTION OF STABLE/STORAGE BUILDING TOGETHER WITH DEMOLITION OF EXISTING STABLES	GRANTED WITH CONDITIONS
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3. POLICY CONTEXT

- 3.1 The following policies of the Newport Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 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.
- 3.3 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.
- 3.4 CE7 The Historic Environment – Conservation Areas states development within or adjacent to conservation areas will be required to be designed to:
- i) Be designed to preserve or enhance the character or appearance of the conservation area, having regard to the conservation area appraisal where appropriate.

ii) Avoid the removal of the existing historic features, including traditional shopfronts and joinery.

iii) Use materials which are traditional, or appropriate to their context.

iv) Complement or reflect the architectural qualities of nearby buildings which make a positive contribution to the character of the area.

v) Pay special attention to the settings of buildings, and avoid the loss of any existing domestic gardens and open spaces which contribute to the character of the area.

vi) Avoid adverse impact on any significant views, within, towards and outwards from the conservation area.

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF REGENERATION AND REGULATORY SERVICES (CONSERVATION OFFICER):

The site is located within the Redwick Conservation Area. It is one of a row of three similar cottages from the mid-19th century, which are acknowledged within the adopted conservation area appraisal as making a strong contribution to the character of the village. The appraisal notes that the cottages have been considerably altered in recent years, with the loss of original timber sash windows being particularly unfortunate, but the original form and proportion of the terrace still remains clear and it retains its historic whitewashed finish along with its simply detailed slate roof.

The new porch replaces an apparently mid-20th century structure which was lacking in historic or architectural merit. However, it was simple and modestly-sized, and its white finish and slate roof helped it to harmonise with the host building. As such, it was a relatively unobtrusive addition.

By contrast, the new porch which has already been partially constructed is much larger, and in my view appears grossly out of scale with the modestly proportioned cottage. Whilst it is clear that some effort has been made to source local stone for the walls, it is not clear whether this would be lime washed to match the host building or left unfinished as a more prominent contrast. It is also unclear how the roof would be finished, but the construction to date includes a wide projecting eaves detail which appears at odds with the simplicity of the cottage's close-cropped roof detail. The suggestion of plastic windows and an "oak look alike" door also seems inappropriate to a simple cottage of this nature where joinery would ordinarily be painted timber. As such, I am unconvinced that the finish and detailing of the porch is likely to alleviate its impact.

I note letters of support from some nearby residents, but I also note that this matter was drawn to the Council's attention by means of a complaint from a member of the public. Support letters suggest that the porch is an attractive structure; whilst this is a matter of subjective judgment, it is not the level of perceived attractiveness that is the issue here, more that the porch does not sit happily with the historic character of the host building. One letter suggests that the porch makes a bolder statement and adds gravitas and scale to a previously understated frontage, but in my view it is the understated frontage that lent historic character to the building. There appear to be concerns that if the porch is not granted consent then the building will be left to deteriorate or with an unsightly appearance, but legislation exists to deal with such an eventuality if it should arise.

In light of the above, I am unable to support this application as I consider it would fail to preserve or enhance the character of the conservation area.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties that share a common boundary with the application site were consulted (4no. properties), a site notice displayed to the front of the property and a press notice published in South Wales Argus. 4 no. letters supporting the application have been received raising the following points;

- The porch, both in its design and in its dimensions enhances the property by adding gravitas and scale to what was hitherto a rather reticent, understated frontage.
- The porch makes a bolder, more emphatic statement and by redefining the front face of the cottage, improves The Stables by adding impact and definition to the property.
- The previous porch was a total eyesore and the new porch is very well constructed from attractive stonework.
- The new porch is an asset to the street and makes the row of cottages far more attractive.
- The stone porch and wall have greatly improved the appearance of the cottage and are in keeping with the property. The time and money spent to build the porch in stone rather than a cheaper alternative which would not be in character with the village as a whole is commendable.

6.2 COUNCILLORS: Councillor Kellaway has requested that the application is determined at Planning Committee so that the impact on the Conservation Area can be assessed.

6.3 REDWICK COMMUNITY COUNCIL: Whilst the porch is considered to be a little out of proportion in size, the quality of work undertaken so far and the materials used in construction are considered to have been sympathetically managed. It is understood that neighbours have raised no objections to the development and are in favour of the planned work continuing to completion. Councillors are also content for work to continue to proceed with the Local Authority overseeing the architectural detail to completion.

An observation has been raised with regards to the fact that this proposal is a retrospective application and request if possible a note to the applicant that the planning system should be observed and not dis-respected.

7. ASSESSMENT

7.1 The porch that has been part completed replaces an existing porch that although not original, was a modest addition to the front elevation of the property. The new porch is centrally located within the front elevation of the house, protrudes 1.8 metres in depth, has a width of 2.7 metres and a height of 2.0 metres to the eaves and 3.35 metres to the roof pitch. The porch has been constructed with a natural stone finish, the roof is proposed to be finished in slate and the fascia board will be wooden, although no details of this have been provided. Fenestration will consist of a 2.0 metre high by 1.0 wide replica oak 'conservation style' front door and 1.0 metre high by 0.45 metre wide uPVC window in the north east facing side elevation.

7.2 Policies GP2 (General Amenity), GP6 (Quality of Design) and CE7 Conservation Areas of the Newport Local Development Plan 2011-2026 (adopted January 2015) and the '*House Extensions and Domestic Outbuildings*' Supplementary Planning Guidance are relevant to the determination of this application.

7.3 The new porch replaces a modestly sized 20th century porch that was simple in design and integrated sympathetically with the row of three properties along Church Row. In contrast, the new porch is much larger in scale and is considered to be out of scale with the

modestly proportioned cottage. It is acknowledged that the applicant has put time and thought into the materials proposed as part of this scheme, however it is considered that given the scale and wide eaves of the porch it is out of context with the host property and creates a dominant feature within the principal elevation of the property that does not enhance or preserve the Redwick Conservation Area. Whilst materials have not been submitted in relation to the window and door, it is typically not considered appropriate to install a plastic window or oak lookalike door in a simple cottage of this nature where joinery would ordinarily be painted timber.

- 7.4 In terms of the amenity of the neighbouring properties at no.1 and no.3 Church Row, although the scale of the porch is considered unduly dominant within the street scene it is not considered that it would cause any demonstrable impact on either neighbouring property.
- 7.5 A number of letters supporting this application have been received from neighbours generally citing the quality of material and finish to the porch. Officers have already noted that the applicant has not taken care in selecting the materials and finishes, however the main issue here is that the scale of the porch does not sit comfortably with the host building. It is overly bulky and prejudices the simple, traditional and characteristic proportions of the dwelling and the row. One letter suggests that the porch makes a bolder statement and adds gravitas and scale to a previously understated frontage, however it is considered that it is the simplicity of the host cottage that adds to the historic character of the building.
- 7.6 On balance, although it is recognised that the applicant has given thought and time to the overall construction of the porch it is considered that the proposal fails to preserve or enhance the character of the Redwick Conservation area and is contrary to policies GP6 and CE7 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

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

8.2 *Equality Act 2010*

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

8.3 Having due regard to advancing equality involves:

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

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 The porch introduces a much larger and unduly dominant addition to the existing simplistic frontage which is considered to be out of scale with this modestly proportioned cottage, failing to preserve or enhance the Redwick Conservation Area contrary to Policies CE7 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

10. RECOMMENDATION

REFUSED

01 The porch, by reason of its scale and design, introduces an unduly dominant addition to the building frontage that is overly bulky and prejudices the simple, traditional and characteristic proportions of this modestly designed and sized cottage to the detriment of its appearance and the appearance of the terraced row of cottages. It fails to preserve or enhance the Redwick Conservation Area, contrary to policies CE7 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan; Annotated Side Elevation Photo of Porch; Annotated Front Elevation Photo of Porch; Proposed Roof Finish.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6 and CE7 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 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.

APPLICATION DETAILS

No: 16/0788 **Ward:** STOW HILL

Type: FULL (MAJOR)

Expiry Date: 13-JAN-2017

Applicant: T HARRIS, DERWEN (C/O POBL GROUP)

Site: LAND AND BUILDINGS ENCOMPASSING 123 TO 129, COMMERCIAL STREET, NEWPORT

Proposal: DEMOLITION OF EXISTING BUILDINGS (123-129, COMMERCIAL STREET INCLUSIVE), CHANGE OF USE (IN PART) AND THE CONSTRUCTION OF A MIXED USE DEVELOPMENT COMPRISING OF A GROUND FLOOR RETAIL UNIT, RECONFIGURED PEDESTRIAN ACCESS TO EXISTING CAR PARK AND 38 NO. APARTMENTS FOR OVER 55-YEAR OLDS (COMPLETE WITH ASSOCIATED CAR PARKING, BIN STORAGE, HARD AND SOFT LANDSCAPING AND AMENITY AREAS)

Recommendation: GRANTED SUBJECT TO A LEGAL AGREEMENT AND CONDITIONS

1. INTRODUCTION

- 1.1 The application seeks consent for a major town-centre regeneration proposal on Commercial Street. It is proposed to demolish a cluster of buildings addressed as 123-129 Commercial Street and construct a 9-storey building which would primarily consist of a ground floor retail unit and 38 residential apartments above. The proposal would also involve the retention of a pedestrian walkway into Park Square multi-storey car park and the creation of a private car park to serve the new residential apartments.
- 1.2 The application site is located within the Town Centre Shopping Area and forms part of the Secondary Shopping Frontage. The site also lies within an Archaeologically Sensitive Area and within Zone B Flood Risk Area, defined by Technical Advice Note 15. The site is deemed to be within Zone 1 of the Council's Parking Standards Supplementary Planning Guidance.
- 1.3 The site lies outside any designated Conservation Area, although it is approximately 40m from St.Woolos Conservation Area which is to the west and approximately 50m from the Town Centre Conservation Area to the north. Lower Dock Street Conservation Area is to the east of the application site at an approximate distance of 140m. The nearest Listed Building is 46 Commercial Street which is approximately 90m to the north of the application site.
- 1.4 The proposal has been subject to extensive pre-application discussions between the applicant, agent and the Planning Department, with input from a variety of other Council departments, particularly the Regeneration Section. The scheme, which is led by a Pobl Housing Group, is considered to be of strategic importance for the continued regeneration of the City Centre. As such, the scheme is subject to significant grant funding under the Welsh Government's Vibrant and Viable Places Framework which is a National Regeneration Initiative aiming to achieve long-lasting economic and social change through investing in people and places. This Initiative and grant funding commitments are due to cease in April 2017.
- 1.5 The scheme has been subject to a review by the Design Commission for Wales. The Review Panel were primarily supportive of the scheme which subsequently led to the submission of this formal planning application.

2. RELEVANT SITE HISTORY

05/0511	ENTRANCE TO PARK SQUARE CAR PARK – INSTALLATION OF ROLLER SHUTTER DOOR	Granted with Conditions	23/05/2005
00/0564	127-129 COMMERCIAL STREET - ALTERATIONS TO SHOPFRONT	Granted with Conditions	23/06/2000
92/0723	HORNBLOWER PUBLIC HOUSE - PROPOSED EXTENSION AND BREWHOUSE	Granted with Conditions	30/12/1992
95/0608	HORNBLOWER PUBLIC HOUSE – ERECTION OF REAR GROUND FLOOR EXTENSION	Granted with Conditions	11/09/1995
98/0811	HORNBLOWER PUBLIC HOUSE - ERECTION OF AN EXTERNALLY ILLUMINATED SIGN	Granted with Conditions	25/09/1998
98/0941	HORNBLOWER PUBLIC HOUSE - CERTIFICATE OF LAWFULNESS FOR PROPOSED ALTERATION TO FRONT ENTRANCE DOOR	Issued	05/01/1998
15/0997	HORNBLOWER PUBLIC HOUSE – PROPOSED CHANGE OF USE OF VACANT FLAT ABOVE PUBLIC HOUSE INTO TWO SELF CONTAINED FLATS	Resolved to Grant with Conditions (Subject to completion of Legal Agreement)	
97/0256	123 COMMERCIAL STREET – SECURITY SHUTTERS	Granted with Conditions	12/05/1997
99/0313	125 COMMERCIAL STREET - REMOVE EXISTING SHOPFRONT AND REPLACE WITH A PUNCHED LATH ROLLER SHUTTER GRILL	Refused	07/05/1999
92/0069	125 COMMERCIAL STREET – REPLACEMENT OF SHOPFRONT	Granted with Conditions	03/03/1992
91/1171	125 COMMERCIAL STREET – PROPOSED USE OF UPPER FLOORS AS OFFICES AND CONFIRMATION OF USE CLASS FOR THE SALE OF BAKED PRODUCTS	Permitted Development	28/11/1991

3. POLICY CONTEXT

3.1 Adopted Newport Local Development Plan 2011-2026 (NLDP)

Policy SP1 Sustainability favours proposals which make a positive contribution to sustainable development.
Policy SP2 Health promotes development which has a positive contribution to health and well-being by being in a sustainable location, close to walking/cycling routes and green infrastructure.
Policy SP3 Flood Risk ensures development is directed away from flood risk areas.
Policy SP4 Water Resources favours developments that minimises water consumption,

incorporates SUDs and generally manages water resources and drainage effectively.
Policy SP9 Conservation of the Natural, Historic and Built Environment protects habitats and species as well as Newport's listed buildings, conservation areas, historic parks and gardens, scheduled ancient monuments, archaeologically sensitive areas and landscape designated as being of outstanding historic interest.
Policy SP10 Housing Building Requirements states that provision is made for 11,623 units within the plan period in order to deliver a requirement of 10,350 units. The plan seeks to deliver 2,061 affordable units.
Policy SP13 Planning Obligations enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.
Policy SP18 Urban Regeneration supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
Policy GP1 General Development Principles – Climate Change states that development should be designed to withstand predicted climate change and reduce the risks and consequences of flooding, minimise energy requirements, reuse/recycle construction material and meet the relevant BREEAM or Code for Sustainable Homes Level.
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 GP3 General Development Principles – Service Infrastructure states that development will only be provided where necessary and appropriate service infrastructure either exists or can be provided. This includes power supplies, water, means of sewage disposal and telecommunications.
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 GP5 General Development Principles – Natural Environment states that proposals should be designed to protect and encourage biodiversity and ecological connectivity and ensure there are no negative impacts on protected habitats. Proposals should not result in an unacceptable impact of water quality or the loss or reduction in quality of agricultural land (Grades 1, 2 and 3A). There should be no unacceptable impact on landscape quality and proposals should enhance the site and wider context including green infrastructure and biodiversity.
Policy GP6 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 GP7 General Development Principles – Environmental Protection and Public Health states that development will not be permitted which would cause or result in unacceptable harm to health.
Policy CE6 Archaeology states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.
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.

Policy H2 Housing Standards promotes high quality design taking into consideration the whole life of the dwelling.
Policy H3 Housing Density seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.
Policy H4 Affordable Housing sets out the affordable housing targets for the four submarket areas within Newport. For new housing sites of fewer than 10 dwellings within the settlement boundary, and fewer than 3 dwellings within the village boundaries, a commuted sum will be sought.
Policy T4 Parking states that development will be expected to provide appropriate levels of parking.
Policy R1 City Centre Schemes states redevelopment schemes to enhance the provision of retail facilities in the City Centre will be favoured providing they are appropriate in scale, design and character.
Policy R3 Non-Retail Uses in Secondary City Centre Shopping Areas states the secondary shopping frontage is defined on the City Centre inset. Proposals for non-retail uses in the secondary frontages will be permitted provided that the proposal does not result in a break of the retail frontage of more than 20m; would not result in a gap in the retail frontage of more than 2 units; at least 60% of any frontage length is maintained in retail use; does not involve a prominent or corner unit; would not adversely affect local residential amenity; any anticipated environmental disturbance can be controlled using conditions or noise abatement zone; and the development is accessible in terms of public transport provision and pedestrian movement.
Policy W3 Provision for Waste Management Facilities in Development states that where appropriate, facilities for waste management will be sought on all new development.

4. CONSULTATIONS

4.1 NATURAL RESOURCES WALES

No objections subject to advisory notes.

4.2 DWR CYMRU/WELSH WATER

No objections subject to a condition to control foul surface and land drainage. Advisory notes were also provided.

4.3 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST (GGAT)

No objections subject to a condition for the submission of a scheme of historic environment mitigation.

4.4 WALES AND WEST UTILITIES

No objections subject to advisory notes.

4.5 SOUTH WALES FIRE AND RESCUE SERVICE

No objections subject to advisory notes.

4.6 THE VICTORIAN SOCIETY

Objects to the proposal:

We object to the demolition of the buildings at 123-126 and 68 Commercial Street, which would harm the setting of the adjacent Town Centre Conservation Area and would erode the well preserved Victorian and Edwardian streetscape that characterises much of central Newport.

4.7 The two application sites comprise six buildings on Commercial Street. Of them, four - numbers 123-126 on the west side and number 68 on the east – make a positive contribution to the consistent and rich local historic streetscape. In close proximity to the proposed development

sites is the southern boundary of the Town Centre Conservation Area. As the Council's website notes, the Conservation Area is defined by attractive late Victorian and Edwardian buildings. By virtue of their attractive detailing, coherence of scale, grain, materiality and their architectural and aesthetic merit, the buildings at 123-126 and 68 Commercial Street must be considered of the type that define the special qualities of the Conservation Area.

- 4.8 Furthermore, the prominence and proximity of the sites in relation to the Conservation Area mean that they play a significant role in providing and enhancing the setting of the Conservation Area and views into and through it. On the basis of the merit of many of the buildings on this stretch of Commercial Street, and their evident similarities with the Street's northern section, we would urge the Council to consider extending the boundaries of the Conservation Area. There is surely a strong case to extend it at least as far as the Grade II-listed St Paul's Church, though the majority of the buildings on both sides of Commercial St south of the church would, in our view, also merit inclusion.
- 4.9 The demolitions proposed would entail the loss of four attractive historic buildings of a type that help create much of Newport's architectural identity. It would be detrimental to the setting of the adjacent Conservation Area, harming views into and through it and would erode its special interest. This harm would be compounded by the highly inappropriate developments proposed. That on the west side would be of a typology without real precedent in the immediate context, possessing characteristics and a scale that would be alien, incongruous and damaging to the historic character of the area and the setting of the Conservation Area. On the east side the creation of a square would fracture Commercial Street's well preserved and characteristic scale and building line and would have a similarly detrimental impact on views and setting of the Conservation Area. Both developments should be resisted. In light of the above we object to both these application and urge you to refuse them consent.
- 4.10 *Officer Note: In their observations, The Victorian Society has also referred to buildings associated with another scheme at Commercial Street/Emlyn Walk (application 16/0781 refers). This has been assessed on its own merits and was granted with conditions on 07 December 2016.*

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE (HIGHWAYS)

No objections subject to conditions relating to the entrance of the private car park serving the apartments and the submission of a Construction Management Plan.

5.2 VIBRANT AND VIABLE PLACES MANAGER (REGENERATION)

Newport City Council is currently delivering a significant programme of regeneration under the auspices of the Welsh Government 'Vibrant and Viable Places' Framework. The City Council is the fore-runner for this national regeneration initiative, aimed at revitalising towns and city centres across Wales, with Newport's core grant investment of £17m being used to support extensive redevelopment of commercial and residential space in the City Centre.

- 5.3 The project represents an exemplar scheme in terms of revitalising the spiral of decline intrinsic to low-value and poorly maintained property, which characterises large sections of Commercial Street. Persistent high levels of vacant retail property resulting from a perfect storm of low rental values, high relative rates liabilities, disrepair, and trends towards internet and out-of-town shopping are exacerbated by high levels of crime and anti-social behaviour in such densely-populated urban settings as Newport. The fact that the only use of the property 123 Commercial Street in the last five years was as a legal high store closed down by the Police due to the danger posed to the public, speaks volumes. Much of the poor quality retail space in Newport City Centre is now surplus to local retail requirements, particularly since the opening of a major retail and leisure destination nearby at Friar's Walk. These properties detract from the current and potential success of Newport as a thriving urban environment and social space, and alternative uses for vacant property, and rationalisation in keeping with local Planning directives, is key to restoring vibrancy and vitality to the city centre.

- 5.4 The significance of the project that is the subject of this application to the programme outlined above therefore cannot be underestimated. It accords with the strategic priorities of the authority, with City Regeneration and Development a key focus of both the NCC continuous Improvement Plan and Economic Growth Strategy. Within the more general support this project will provide to the housing need and city centre development policies discussed in the current Local Development Plan, the specific demographic need for housing appropriate to the over-55 age group is also highlighted within the 2012-17 Local Housing Strategy.
- 5.5 The inclusion of the project of a refurbished entrance to the car park entrance will support better management and operational strategy, as well as generating a greater revenue return for the Council and discourage the rising incidence of dangerous driving in the City Centre pedestrianised zone. A forecast 50 jobs will be created or enabled in the construction industry alone as a result of the development. The funding apportioned to the scheme is a considerable inward investment to Newport (circa £5m) which will be lost if the scheme does not proceed.
- 5.6 Newport is currently benefitting from a generational opportunity to maximise the groundswell of positivity and interest that Friar's Walk has generated, and must ensure that the momentum of regeneration begun by Friar's Walk is not lost. The communities of the City Centre, along with the citizens of the wider Newport and those of the Cardiff Capital Region, who rely on Newport as a generator of jobs and opportunity, rely on projects such as this being delivered. I therefore write to lend this project my full and unequivocal support to this critical and far-reaching scheme and the benefits it will bring to the City of Newport.
- 5.7 CONSERVATION OFFICER (HISTORIC BUILDINGS)
Objects to the proposal:
Part of the street is included within the Town Centre Conservation Area which was designated in 1987. The conservation area is due for review, but presently the Southern boundary coincides with the pedestrianised area with the application site being a short distance outside. However, it is clear that the architectural and historic value of buildings beyond the boundary remains high. The street also forms part of the wider setting of a number of listed buildings, with those closest to the application site being St Paul's Church to the south and numbers 46 and 142 Commercial Street to the north. The framed view of part of the grade I listed Transporter Bridge to the south has particularly high townscape value.
- 5.8 Of particular note is the grandeur of the pair of buildings at numbers 123-124 with their former double-height shopfronts. In my view these earlier buildings make a significant positive contribution to the character of the conservation area and the setting of nearby listed buildings and as such their loss would be most unwelcome. I note that some of the buildings are in poor condition and that their shopfronts are altered, but it is difficult to see why their facades could not be retained and enhanced in any development scheme.
- 5.9 The elevational treatment of the replacement building appears to have been designed with regard for the surrounding buildings where it fronts Commercial Street, but set back from the street is a much taller structure. This would be highly visible in views up and down the street where it would not seem to relate well to the existing characterful historic roofscape. This would seem to have a further detrimental impact on the setting of the Town Centre Conservation Area, but I have more concern regarding its impact on Park Square to the west, which lies within the St Woolos Conservation Area.
- 5.10 Park square was laid out in the mid-19th century as a fashionable suburban residential development, apparently taking advantage of the fine views from the sloping site across the River Usk to the wooded hills of Maindee and outwards towards Wentwood. Unfortunately the character of the eastern side of the square has been seriously undermined by late 20th century development, including the Park Square multi-storey car park, but the historic views can still be appreciated when looking out from the northern side of the square. The proposed development would seem to completely block these views with a structure of similar height to the car park, and in my view this would be highly detrimental to the character of the conservation area. Whilst it

seems that the car park structure is being seen as a precedent, it should be noted that this is at least screened by trees to the centre of the square in a way that the new development would not be.

- 5.11 Whilst I appreciate that there may be difficulties in providing a viable development on this site, it is not clear to what extent other alternatives have been explored. It is notable, for example, that the existing service yard to the rear of the buildings would no longer seem to be required after the demolition of the existing former supermarket. There would seem to be significant opportunities to extend over this and provide an appropriate built frontage towards the conservation area; something which has been sadly lacking since the 20th century redevelopment. In light of the above, I must object to the proposals as I consider that they would fail to preserve or enhance the character of the nearby conservation areas.
- 5.12 HEAD OF STREETSCENE (LANDSCAPING OFFICER)
No objection subject to advisory notes.
- 5.13 HEAD OF STREETSCENE (ECOLOGY OFFICER)
No objection subject to a condition relating to the need to obtain a protected species (bats) licence from Natural Resources Wales and the implementation of mitigation measures.
- 5.14 HEAD OF LAW AND REGULATION (PUBLIC PROTECTION)
No objection subject to conditions for the submission of a Construction and Environmental Management Plan, control of opening hours of the retail unit, the installation of sound insulation and to limit noise associated with plant equipment and road traffic on internal and external residential spaces.
- 5.15 HEAD OF STREETSCENE (DRAINAGE OFFICER)
No objections to the proposal subject to a condition for the agreement of drainage details.
- 5.16 HEAD OF STREETSCENE (PARK AND OUTDOOR RECREATION MANAGER)
No objection. Confirmed that a financial contribution towards outdoor recreation would not be required.
- 5.17 STRATEGY AND DEVELOPMENT MANAGER (HOUSING)
Supports the proposal. Confirmed that the proposal is a strategic regeneration scheme in which there is a considerable need for housing in this location which is intended for occupiers over 55 years of age.
- 5.18 PLANNING CONTRIBUTIONS MANAGER
There is a growing pressure, from both National Government and Welsh Government, to increase affordable house provision. As such, given the significant shortfall of provision within Newport, the Council have had to find increasingly innovative ways to encourage the provision of affordable housing. To reflect this policy position, and in order to incentivise provision, the adopted Planning Obligations SPG (2015) stipulates that affordable housing is exempt from contributing towards leisure and education planning obligations.
- 5.19 Affordable Housing
The development is proposed by a partner housing association of the City Council and will provide 38 apartments (comprising 17 x 1 bed flats and 21 x 2 bed flats) in the centre of the city for applicants over 55 years of age. The housing will be allocated through the common housing register and be let on a neutral tenure basis.
- 5.20 However, should the developer decide to sell or rent the properties on the open market there would be a requirement for 30% affordable housing provision on-site (mix and type to be agreed with the Council) or a commensurate financial commuted sum for the provision of affordable housing for the City of Newport.

5.21 Education

The development falls within the catchment area of John Frost High School and St Woolos Primary School. Whilst it is recognised in the Council's adopted SPG that no education contribution is requested for affordable housing, it is necessary to build-in safeguards to ensure that if any of the dwellings are sold or rented on the open market, the following formula will be applied:

- Number of secondary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at John Frost High School x £15,302 = Secondary Education Sum;
- Number of post 16 pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at John Frost High School x £16,427 = Post 16 Education Sum;
- Number of primary pupils generated by market dwellings (prior to commencement of development) in excess of available capacity at St Woolos Primary School x £16,115 = Primary Education Sum.

Prior to commencement of the development, the Owner and/or developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings. All Education Sums will be index linked to the BCIS

5.22 Leisure

There is a deficit of equipped and formal play provision within the St Woolos Ward. Whilst it is recognised in the Council's adopted SPG that no leisure contribution is requested for affordable housing dwellings, it is necessary to build-in safeguards to ensure that any dwellings sold or rented on the open market, will be subject to leisure planning obligation contributions. As such, any 'open market' dwellings will be subject to a financial leisure contribution, based on the following formula:

- Number of one bed 'open market' apartments (at date of commencement of development) x £1,821;
- Number of two bed 'open market' apartments (at date of commencement of development) x £3,815.

Prior to commencement of the development, the Owner and/or developer will notify the Council in writing of the number and type of dwellings which are to be 'open market' dwellings. All Leisure Sums will be index linked to the RPI.

5.23 PLANNING POLICY MANAGER

The site is located within the Settlement Boundary specifically within the City Centre. It is located within the City Centre Archaeologically Sensitive Area, the 30% Affordable Housing Submarket Area as designated within the Local Development Plan. The site is also within flood Zone B of the Development Advice Maps created by Welsh Government. The site also has the potential to impact on two of the City's conservation areas; City Centre and St Woolos. There are two key policy aspects to the scheme, namely retail impact and design.

5.24 There is clearly a loss of retail units resulting from the proposed scheme. This is contrary to Policy R1 of the Local Development Plan which seeks to enhance the provision of retail facilities within the city centre. The case made by the applicant as to the benefit of the scheme and the current vacancy levels within the city centre which they note have suffered from the recession, should be taken into account when considering the schemes benefits. This means that although units are lost, they were vacant and due to the high vacancy rates there are clear opportunities for relocation of units within the City Centre. The redevelopment scheme itself would enhance this section of the city centre which has not seen much investment in recent years and should

provide a positive environment for people to enjoy as well as providing much needed affordable housing. Another benefit of the scheme is the improved public access to the public car park which should enhance the vitality of the city centre through increased visitor numbers.

- 5.25 Key policy considerations on design are set out in policy GP6 of the Local Development Plan. The overall aim of the policy is to create a safe, attractive and convenient environment. The site is clearly in a sustainable and convenient location being within the City Centre.
- 5.26 The design has considered its context, and although is part of Victorian street scene a well-designed modern inclusion can be appropriate. There are clear links to the current historic features of the design with a nod to the second storey shopfront spaces on the primary fascia. The scale of a previous design (six storeys) was considered appropriate, even though the final number of storeys was much greater than its neighbouring buildings, due to the fact that the stepped back nature of the development created a non-intrusive design. The addition of two additional storeys to the proposal within this application is considered to be intrusive when considering the site from Commercial Street.
- 5.27 The proposal will improve public access in this space which is not considered attractive or safe at present. The materials are modern and the use of brick on the primary fascia helps bring the design into context with its surrounding. However, the use of the dark grey panelling on the set back 'fourth storey' seems to seek to reflect the slate roofs adjacent to the site. It is considered that the previous design with a lighter horizontal design drew the eye into the scheme and away from the additional bulk of the scheme.
- 5.28 It is considered that although the site context has been considered there are elements which are thought to have a detrimental impact on the street scene. These may be overcome through the use of different materials and colours to reduce their impact. In conclusion, the principle of the proposal is welcomed, however there are still concerns regarding the design as set out in this response.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 50m with a common boundary with the application site were consulted (101 properties), a site notice displayed and a press notice published in South Wales Argus. A response was received from the following property:

30 PARK SQUARE:

Objects to the proposal:

1. Loss of light and reliant on artificial lighting
2. Loss of privacy
3. Increased traffic

7. ASSESSMENT

- 7.1 The application is referred to Committee as the scheme constitutes major development. It is proposed to demolish a cluster of buildings addressed as 123-129 Commercial Street and construct a 9-storey building which would primarily consist of a ground floor retail unit and 38 residential apartments above. The proposal would also involve the retention of a pedestrian walkway into Park Square multi-storey car park and the creation of a private car park to serve the new residential apartments.
- 7.2 The proposed building would have a multi-tiered appearance with the footprint of the development gradually reducing in area as the height increases. There is also a degree of change in the levels of the site with the ground floor fronting Commercial Street being lower than the rear access lane to the west. In this respect, the first floor of the proposed building, when viewed from Commercial Street, would be approximately level with the rear access lane.

- 7.3 The building would have an unconventional footprint. At its largest dimensions, the ground floor would measure the full width of the frontage of Commercial Street (approximately 34m), 37m deep at the former B-Wise plot (127-129 Commercial Street) and 29m deep at the remaining parts of the site (123-125 Commercial Street). The ground floor would consist of: a private car park (20 spaces), entrance lobby and servicing to serve the new residential apartments, entrance to Park Square multi-storey car park and a new retail unit which has an approximate floorspace of 74 sq.m.
- 7.4 At first floor level, the footprint of the building begins to reduce and outdoor spaces would be introduced to serve the residential apartments. The elevation fronting Commercial Street would have a curved and recessed configuration, resulting in the creation of an outdoor terrace and balconies. The rear elevation would include a courtyard area and a small private outdoor space serving one of the apartments. This floor would contain 5 apartments and given that the proposal is limited to 1 and 2 bedroom flats, a standalone guest bedroom would be provided. This would act as a 'spare bedroom' which would be exclusively available for occupiers of all the apartments on a booking basis, thereby catering for a visiting friend or relative.
- 7.5 The second floor would have a similar footprint as the first floor, however the terrace fronting Commercial Street would be omitted and only balconies provided, thereby reducing the massing of the building. At the rear, part of this floor would be marginally increased, supported by pillars emanating from a section of the rear courtyard underneath. This floor would contain 7 apartments. The third floor would have a near identical footprint as the second floor and would also contain 7 apartments.
- 7.6 The fourth floor would introduce the smallest footprint of the building. This would represent the central core of the building and the footprint would be replicated for the remaining upper floors. To achieve the transition in footprint, the roof of the large northern wing fronting Commercial Street would be flat and used as a communal terrace/allotment garden. This would represent the main source of communal outdoor amenity space for the occupiers of the apartments. The roof of the smaller southern wing which also fronts Commercial Street would be flat and used as a private terrace serving one of the apartments. The fourth floor would contain 3 apartments.
- 7.7 The fifth to eighth floor would each contain 4 apartments. The roof of the 8th floor would be flat and would contain a relatively small structure (6m x 2m and reaching approximately 2.5m high) providing maintenance access. This structure would be located immediately adjacent to the stairwell shaft structure serving the adjacent Park Square multi-storey car park. This would be supplemented by several solar panels which would be largely hidden from view by the parapet roof structure.
- 7.8 Given the multi-tiered configuration of the proposed building and the difference in levels between Commercial Street and the rear access lane, the height would differ at various floors. In this respect, the height to the first front terrace from Commercial Street would be approximately 4m. The height to the fourth floor outdoor terraces and allotment garden from Commercial Street would be approximately 14.5m. The height to the roof of the 8th floor from Commercial Street would be approximately 29.5m, whereas it would be approximately 25.5m measured from the rear access lane (excluding the roof access structure).
- 7.9 **Design and Visual Amenity**
Key local policy considerations on design are set out in Policy GP6 of the Newport Local Development Plan (NLDP). The overall aim of the policy is to create a safe, attractive and convenient environment. At National level, Policy GP6 is underpinned by Technical Advice Note 12: Design and Planning Policy Wales.
- 7.10 The site, although being located along the long linear street of Commercial Street, is located opposite Emlyn Walk which is considered to be a strategic junction within the City Centre as it provides access to the Kingsway Shopping Centre. As such, there is scope to create an 'incident building' which reinforces the status of this junction and to encourage greater footfall to the lower

part of Commercial Street which has been in gradual decline, particularly due to a shift in the retailing core of the city, changes in retailing patterns and an economic recession resulting in high vacancy rates.

- 7.11 In addition to the above, whilst this part of Commercial Street is largely characterised by Victorian and Edwardian buildings, several of these buildings have suffered significant neglect. It is acknowledged that several of these period buildings have some features of design quality and interest, however these are predominantly limited to upper floors and their overall condition have declined or inappropriately altered to such a degree that it has collectively degraded sections of the street-frontage. Furthermore, several post-war buildings have appeared within the street which were constructed to be functional rather than based on good design principles and has, to a degree, disrupted the architectural rhythm and character of the street.
- 7.12 In this context, the application site consists of a cluster of buildings of mixed quality and character, some of which have been subject to fire damage and significant deterioration of its fabric. The former B-Wise building (127-129 Commercial Street) is a post-war structure which has an unfortunate design and appearance. It poorly relates to the street-scene and of the buildings under consideration by this application, amounts to approximately 40% of the site-frontage.
- 7.13 The former Hornblower Public House and the adjacent shop 'Prime Phones' (125-126 Commercial Street) have been significantly altered at ground floor level with no significant design quality. The façade of the upper floors, however, have intricate period features of architectural interest but the overall buildings have suffered from neglect and damage. These buildings amount to approximately 30% of the site-frontage.
- 7.14 The unit which contains the pedestrian access to Park Square Car Park and the former Dancewear shop (123-124 Commercial Street) have been unsympathetically altered on the lower two floors. Whilst there are some period features present on the façade at the second floor and within the front-facing roof slope (dormers), the overall character of the building has been lost. The building has also suffered significant neglect with a large section of the rear of the roof missing, thereby exposing the structure to outdoor conditions. This building amounts to approximately 30% of the site-frontage.
- 7.15 Whilst it is acknowledged that the Conservation Officer has objected to the scheme, the existing structures to be demolished are not Listed Buildings, they are not locally listed buildings, nor are they located within a Conservation Area. Since planning control for unlisted and unprotected buildings such as those included in this application is limited to the agreement of the method of demolition and site restoration, it is not possible to resist the principle of demolition.
- 7.16 Notwithstanding the above, Policy CE7 of the NLDP refers to consider the setting of the Conservation Area and any significant views, within, towards and outwards from the Conservation Area.
- 7.17 The Town Centre Conservation Area is approximately 50m to the north of the application site and, as such, the site does not form part of the immediate setting for this particular Conservation Area, being separated by approximately 6 other units of reasonable Victorian character (130-135 Commercial Street). As a result, the application site is not adjacent to the Conservation Area, as required by Policy CE7 of the NLDP.
- 7.18 When viewing the site from this Conservation Area, the large post-war building of 127-129 Commercial Street dominates the view as it amounts to approximately 40% of the site-frontage and has a poor relationship with the street-scene. This building obscures significant proportion of the frontages of the Victorian buildings within the site and, as such, limits their prominence and weakening the overall assertion that they represent a critical component of the setting of the Town Centre Conservation Area. At the time of assessment, there are no formal proposals to extend the Conservation Area to include the application site or adjoining land. The demolition of

the buildings therefore would preserve the character, appearance or setting of this particular Conservation Area.

- 7.19 The nearest listed building is 46 Commercial Street which is approximately 90m to the north of the application. Having regard to this distance, only very limited and indirect views of the site are possible from the frontage of this listed building and the proposed demolition works would not harm its setting.
- 7.20 The site is also approximately 40m from St.Woolos Conservation Area which is to the west. From this designation, existing views of the site are limited to the rear of buildings which contain ad-hoc structures of no significant design merit and servicing areas. The site is seen in context with Park Street car park which dominates the streetscape. The demolition of the buildings therefore would preserve the character, appearance or setting of this particular Conservation Area.
- 7.21 Whilst the Victorian Society has also commented on other period buildings on the opposite side of Commercial Street, their proposed demolition was considered under application 16/0781 and approved by the Planning Committee in December 2016. Each application must be considered on their own merits and it would be unreasonable to give any significant weight to the adjacent scheme.
- 7.22 In addition to the above, the impact of the proposal on the Conservation Areas must be balanced against the overall benefits of the proposed development. In this particular case, a reasonable case has been made by the applicant's agent to justify the demolition of the buildings and that there are compelling reasons why the development would provide significant and overriding public benefits.
- 7.23 The submitted Design and Access Statement explains the design rationale of the development. In this respect, the design concept and principles are sound and this was recognised by the Design Commission for Wales as part of the pre-application process. The design of the proposed development has clearly considered its context, and although is part of Victorian street scene, a well-designed modern inclusion can be appropriate, especially when there is scope to create an 'incident building' to denote the gateway to Kingsway Shopping Centre which is immediately opposite, via Emlyn Walk.
- 7.24 In the case of this proposal, reasonable efforts have been made to respect the linear building-line and scale of the site frontage and in a manner which adopts a contemporary style but does not detract from the character and appearance of traditional period buildings and their frontages. For example, the ground floor frontage would include openings which are of a size compatible with shopfrontages. This would be reinforced by the inclusion of a new retail unit and the retention of a pedestrian entrance to Park Square Car Park.
- 7.25 It is acknowledged that the ground floor of the development would have a significantly less commercial frontage, thereby changing the dynamics of a relatively small section of the street at pedestrian level. However, this would not be at such a detriment to the wider vitality, viability and attractiveness of the street and the city centre because the building would have sufficient design interest, supplemented by a three-dimensional frontage and activity at multiple levels. A condition for the agreement of materials and colours of the development would ensure that visual amenity is safeguarded.
- 7.26 The proposed development would also involve the retention and significant enhancement of the pedestrian access from Commercial Street to Park Street car park. This is considered to be an important component of the scheme since it aims to improve the visitor environment. Currently, the pedestrian access is subject to instances of anti-social behaviour attributed to its poor design and lack of natural surveillance. As a result, the present access is not considered attractive or particularly safe which may deter visitors from using the car park altogether, to the detriment of visitor experience and the general viability and viability of the town centre. Furthermore, the

impact of an underutilised car park places unnecessary pressure upon other parking provisions within the town centre, therefore this aspect of the proposal presents an opportunity to have multiple benefits to the wider economic, social and environment regeneration of the city centre.

- 7.27 The proposed pedestrian access would ensure a direct and linear route thereby enabling the user to have a clear line of sight. The southern section of the path would be adjacent to the proposed commercial unit which would have a substantial amount of glazing, thereby providing natural surveillance and a safer and softer tone to the walking environment. This layout would be akin to an indoor arcade which also provides a secondary public frontage to the development at pedestrian level. Whilst this is acceptable in principle, the external finishes and components of the shopfront, including appropriate roller shutter doors, would be secured via planning conditions.
- 7.28 The northern elevation of the pedestrian walkway/arcade would be a tapered blank wall. The applicant has acknowledged that there is a need to retain public interest on this elevation and has indicated that the wall will include public art. Whilst no details of the artwork have been provided, it is considered that this would be acceptable in principle and a condition would be imposed for the specific details to be agreed.
- 7.29 The first and second floor facade would be framed to the eaves level of neighbouring buildings and predominantly finished in red brick. This would reflect continuity in the scale, massing and form of the street-frontage, supplemented by vertical-emphasis openings which are common features within the upper floors of properties along the street. Most of these openings would serve balconies emanating from main part of the building which has been recessed from the immediate site frontage.
- 7.30 The third floor would at a height comparable with the roof of adjacent buildings. Similar to the lower floors, a contemporary interpretation has been adopted when referencing the adjacent Victorian buildings. In this respect, the slate roof finishes of the majority of properties prevalent in the street would be interpreted through the use of metal cladding in grey colour. Although the third floor would have a roof which is divergent to the pitched style of most building along the street, the recessed nature of this part of the building would ensure that the development would not appear as an overly prominent or incongruous feature within the streetscene. This has been reasonably demonstrated through visual illustrations of the streetscene contained within the Design and Access Statement.
- 7.31 The central core of the building, which extends the building to nine floors, would be recessed even further into the site when viewed from Commercial Street (approximately 7m). This recess is deliberate as it enables the immediate street-frontage to retain consistency in scale and massing, whilst allowing for a respectful transition in the scale of the building. The core of the building sits behind the street-frontage and the curved wings either side containing the outdoor amenity space, draws the eye inwards towards the core or gives the building an open and inviting appearance.
- 7.32 In context to Policy CE7 of the NLDP, retaining a scale and height which is similar to established frontages along Commercial Street, supplemented by appropriate design and materials, ensures that there would be not be any dominant or incongruous features present in the street-scene. This ensures that the views within, towards and outwards from the Town Centre Conservation Area and the setting of the listed building 46 Commercial Street would be preserved. This has been effectively illustrated by indicative street-scene massing plans within the Design and Access Statement (Section 4.2). The core of the building would comfortably sit behind without adversely affecting visual amenity.
- 7.33 Whilst the proposed building would have a scale which is much greater to the majority of buildings in this area, it has been demonstrated that this is needed in order to make the scheme viable. Furthermore, the site is immediately adjacent to Park Street multi-storey car park which is a very tall building constructed of red brick and concrete. It has a dated appearance and lacks

any design merit. It has no cohesion with its surroundings and is deemed to visually detract from the appearance of the area. Furthermore, its purpose as a destination for visitors to park within the centre has also been diminished, mainly due to the economic decline of this part of Commercial Street and matters of anti-social behaviour attributed to the poor design of the pedestrian entrance from the street frontage.

- 7.34 The proposed development, albeit having a similar scale to the adjacent car park, would achieve a much higher standard of design. It has been purposefully designed to wrap-around the northern and eastern corner of the car park, thereby deliberately concealing parts of the car park from view. The design and appearance of the central core of the proposed building has greater visual interest and a type of building which would be compatible in a city centre location. The transition in scale is addressed effectively through a change in external finishes, with lighter colours being introduced to soften its appearance and prominence.
- 7.35 When viewing the proposed development directly in front of the site from Commercial Street, the fourth floor and above is only 12m wide before it begins to fade away given the tapered design of the central core. This configuration reduces the overall massing of the building as the scale is increased, allowing for a relatively slender appearance.
- 7.36 Similarly, when viewing the rear of the proposed building from the elevated streets to the west which also includes St.Woolos Conservation Area the nearest projecting element is only 14m wide until it becomes recessed and begins to wrap around the car park. From this perspective, the building would predominantly appear in the backdrop of the car park rather than an overly dominant or imposing structure alongside. It is therefore considered that the proposal would ensure that the character and appearance of this Conservation Area would be preserved.
- 7.37 Having regard to the above, it is considered that the proposed demolition of the existing buildings is justified and that the proposed development would be of high quality of design that would ensure that the development would not have any significant adverse impact on visual amenity and the character and appearance of neighbouring Conservation Areas and the setting of listed buildings would be preserved. Conditions have been recommended for the agreement of all external finishes, boundary treatments, hard and soft landscaping and the shopfront and roller shutter doors of the ground floor unit and the ground floor artwork. In this respect, it is considered that the proposal satisfies Policies SP1, SP9, SP18, CE7 AND GP6 of the NLDP.
- 7.38 **Retailing**
Policy R1 of the NLDP favours redevelopment schemes or proposal which seeks to enhance the provision of retail facilities within the city centre shopping area. The site is designated as a secondary shopping frontage and the proposed development would involve the demolition of commercial buildings, most of which are, or last used, as retail.
- 7.39 Policy R3 of the NLDP establishes the criteria for permitting non-retail uses in secondary city centre shopping frontages. Whilst this proposal would conflict with the objectives of Policies R1 and R3 of the NLDP, there are clear material considerations in this particular instance in which this proposal is deemed to outweigh these policies.
- 7.40 Firstly, the case made by the applicant as to the current high vacancy levels of retailing and commercial units within the city centre is compelling and should be taken into account when considering the entire merits of the proposal. This essentially means that although retailing units are lost, the majority of which are vacant. Due to high vacancy rates, there are clear opportunities for relocation of units within the City Centre, particularly due to the retailing core being shifted towards 'Friars Walk'.
- 7.41 Secondly, the proposed development would not result in the complete loss of a retail frontage. The scheme would involve the construction of a new retail unit on the ground floor. This would enable the retention of a degree of retailing frontage within the site whilst softening the transition between retailing and non-retailing spaces.

- 7.42 Thirdly, significant weight should be given the redevelopment scheme itself. Enhancements would be made in the attractiveness of the centre by replacing relatively neglected and derelict buildings with a development which is based on good design principles and encourages sustainable living. The improved access to the public car park attempts to reduce the incidence and fear of crime and anti-social behaviour and is likely to improve well-being and enhance the vitality of the city centre through increased visitor numbers. In this respect, the development clearly satisfies Policy SP18 of the NLDP which supports urban regeneration, particularly the city centre.
- 7.43 Whilst the loss of retail units is usually considered to harm the viability of the retail offer, in this particular case, this proposal would result in the area becoming more attractive for people to live and visit. As such, the proposal is likely to result in benefits to the remaining retail provision, thereby enhancing the overall viability of the centre. Additionally, this section of the city centre has not been subject to any significant investment in recent years and the proposed development would provide a positive approach to well-being and environment for people to enjoy as well as providing much needed affordable housing.
- 7.44 In this respect, consideration is given to Chapter 10 of Planning Policy Wales (PPW Edition 9) which establishes the National approach to considering proposals within retailing and commercial centres. Paragraph 10.3.5 explains that: "Achieving diversity of use and activity may require a flexible approach to planning. Where the right balance of use and activity is not being achieved, local planning authorities should consider making changes to the acceptable uses in primary or secondary areas, the location of retail and commercial centre boundaries or, if necessary, the removal of these boundaries altogether."
- 7.45 Paragraph 10.3.6 of PPW elaborates further on the need to be responsive to local trends and conditions in retailing and commercial areas: "In some situations over emphasis on A1 uses in either primary or secondary areas may undermine a centre's prospects, potentially leading to high vacancy rates. In such circumstances local planning authorities should consider how non-A1 uses may play a greater role in retail and commercial centres to increase diversity and reduce vacancy levels".
- 7.46 This scheme provides a clear opportunity to act as a further catalyst for economic development in the city centre with wider social and environmental benefits to the locality. The scheme is considered to be a timely and complementary proposal to recent major development in the centre, thereby reinforcing it as an attractive and vibrant destination for the local population and visitors. The Regeneration Manager has provided observations confirming the current declining state of this part of Commercial Street and that this proposal is of strategic importance to the continued regeneration of the city centre. The Regeneration Manager, therefore, fully supports the proposal.
- 7.47 **Residential Amenity**
This aspect of the proposal is primarily assessed against Policies H2, GP2 and GP7 of the NLDP and Supplementary Planning Guidance: New Dwellings (SPG: ND).
- 7.48 The proposed development would involve the construction 38 residential apartments of a mixture of 1 and 2 bedrooms and ranging between 55 and 87.5 square metres. The internal size of each apartment would exceed the minimum standards specified within SPG: ND.
- 7.49 The proposal would exceed the minimum density stated by Policy H3 of the NLDP and contribute to the overall provision of residential units, particularly affordable housing, within Newport, as defined by Policy SP10 of the NLDP. Having regard to the premise of encouraging sustainable development, the habitable rooms within each apartment would enjoy a reasonable degree of amenity. In a city centre location, some reductions in the level of residential amenity are to be expected by virtue of a mixture of uses and the scale and density of buildings. In this context, it is considered that the habitable rooms within each apartment would enjoy a reasonable degree of

amenity and well-being for city centre living, with particular regard to light, outlook, privacy and impact from noise/disturbance. The multi-tiered design and tapered central core of the building enables the occupiers of the development to enjoy a range of internal and external spaces, thereby maximising the use of the site. The green roof amenity spaces are considered to be a highly attractive and positive aspect of the development, adding quality outdoor spaces, encouraging social interaction between occupiers and expressing an active frontage which adds visual interest and vitality to the streetscene. Having regard to the premise of encouraging sustainable forms of development, the overall standard of amenity to be enjoyed by the future occupiers of the residential element of proposal would be acceptable.

- 7.50 The Public Protection Department has no objections to the proposal subject to conditions for the submission of a Construction and Environmental Management Plan , the installation of sound insulation and to limit noise associated with plant equipment, road traffic and city centre noise on internal residential spaces, thereby satisfying Policies H2, SP2, GP2 and GP7 of the NLDP and advice within SPG: ND. Whilst the Public Protection Department has recommended that a condition should be imposed to control the opening hours of the proposed ground floor retail premises, it is considered that this is unreasonable given that the site is within the city centre, within the shopping area and would be limited to retailing (A1) only. Furthermore, other conditions would be imposed to control noise insulation thereby ensuring that the proposed development would not have such an adverse effect on the amenities of the future occupiers of the apartments whilst the amenities of neighbouring properties would not be exacerbated.
- 7.51 In a city centre location whereby the majority of neighbouring buildings, particularly at ground floor level, are in commercial use rather than residential, the impact of the proposed development upon residential amenity is generally low. Notwithstanding the above, it is acknowledged that the construction of a 9-storey building would have a degree of impact on the limited amount of residential uses that are present.
- 7.52 The applicant has produced several photomontages of the development in context with adjacent buildings. This also includes an existing and proposed sun study which demonstrates the approximate impact of the development upon sunlight and shadowing at various times of the day and seasons of the year.
- 7.53 A large proportion of the site would be directly opposite the pedestrianised area of Emlyn Walk to the East and, as such, is partly devoid of directly-facing buildings. The central core of the proposed building, which extends to 9-storeys, would be generally aligned with Emlyn Walk.
- 7.54 Records indicate that the nearest residential property on the opposite side of Commercial Street is a flat occupying the upper floor of No.65. This property would be predominantly aligned with the four-storey northern wing of the proposed building. Given the comparable height of this structure to the existing buildings currently at the site, it is considered that the proposed development would not have such an adverse effect on their residential amenity so as to be deemed unacceptable.
- 7.55 Commercial Street transverses in a north-south direction and the application site would infill between the side elevations of buildings fronting this street. This arrangement limits any direct impact of the proposed development upon buildings positioned alongside the application site. Furthermore, Park Square Car Park is generally to the south of the site and any flats above commercial uses in this direction are impacted upon by pre-existing circumstances rather than as a result of the proposed development.
- 7.56 The northern elevation would predominantly face across the rear service areas of premises along this section of Commercial Street and the junction of Hill Street/Ivor Street. Records indicate that the nearest residential properties in this direction are two flats occupying the upper floors of 132 Commercial Street. Whilst the tapered design of the development would result in windows spanning along the entire elevation, there would not be any directly facing windows within 21m of

another residential unit. 132 Commercial Street does not benefit from any significant private amenity space and, as such, would not be unreasonably affected by the proposal.

- 7.57 To the north-west of the site is a two-storey building commercial building with the main occupant being the 'Salvation Army'. Given the close proximity of the proposed development to this building, it is considered that there would be some impact upon this building. However, given that it is limited to commercial use only, it is considered that the impact would not be so adverse so as to be unacceptable.
- 7.58 Further to the west of the site is Mount Zion Church, a vehicle repair garage and the side elevation of an end-of-link property, 30 Park Square. An objection has been received from the occupier of No.30 and the Case Officer viewed the development from this property. In this respect, the main habitable room windows of this property are located on the front (south) and rear (north) elevations. These windows would not directly face the application site, with the front facing Park Square Car Park and the rear facing the vehicle repair garage.
- 7.59 On the main side elevation of the property which directly faces the application site, there are two clear-glazed windows positioned immediately adjacent to one another and at first floor level. Each window serves a separate bedroom, however they also benefit from windows positioned on the front and rear elevations. There is also a two-storey rear element which has two small windows on its side elevation facing the application site. The ground floor window is clear-glazed serving a small kitchen whilst the first floor window has been fitted with obscured glass and serving a bathroom.
- 7.60 No.30 Park Square property is located at a higher level than the application site and is located at an approximate distance of 24m. This distance exceeds the minimum requirements between directly-facing habitable room windows and, as such, would not result in any unreasonable loss of privacy.
- 7.61 The existing and proposed sun study indicates that sunlight is already severely limited by the orientation of the 30 Park Square and its relationship with Park Square Car Park. The proposed study, however, demonstrates that the property and those in the row of terrace (including outdoor spaces), would not be significantly worsened by the proposal. It is therefore considered that these neighbouring properties would not result in any unreasonable loss of light as a result of the proposed development.
- 7.62 The proposed development would, to a degree, have an impact on the outlook from the side-facing windows of 30 Park Square. This is predominantly due to the 9-storey scale of the building and its alignment with the neighbouring property. However, due to the approximate distance of 24m between the two structures, with separation across Ivor Street and a rear access lane serving the rear of Commercial Street, the elevated position of No.30 to the application site and that the concerned habitable rooms of No.30 is served by other windows on alternative elevations, it is concluded that the level of existing amenity would not be unreasonably worsened by this proposal. As such, it is considered that the proposal satisfies Policies GP2 of the NLDP and general advice within SPG: ND.
- 7.63 **Ecology/Biodiversity**
The existing site contains no green spaces or landscaping of significant biodiversity value. The proposed development would introduce greater amount of soft landscaping which would enhance the biodiversity value of the site. The Landscaping Officer acknowledges this and has no objections to the proposal.
- 7.64 In terms of ecology, the proposal would involve the demolition of several buildings, some of which are vacant and in a derelict condition. A bat survey has been submitted which confirmed that there is a bat roost within 124 Commercial Street. The Council's Ecologist has considered the bat survey report and is satisfied with the mitigation measures that have been recommended. There is no objection to the proposal subject to a derogation licence being sought from Natural

Resources Wales and the implementation of the mitigation measures. Having regard to the above, the proposal development would not have a significant adverse on ecology and biodiversity, thereby satisfying Policies SP9 and GP5 of the NLDP.

7.65 Archaeology

The site is situated within an Archaeologically Sensitive Area, as defined by Policy CE6 of the NLDP. A desk-based archaeology assessment has been submitted with the application which has been forwarded to Glamorgan Gwent Archaeological Trust (GGAT) for their observations.

7.66 The report indicates the presence of nearby features representing settlement and development in the area from the medieval to the Modern period. Whilst the previous construction of buildings, including the current structures, and their requisite services will likely have had an adverse effect on any potential remains that may be present, the assessment indicates that there remains the potential for encountering archaeologically significant remains. It concludes that an archaeological watching brief should be maintained during any intrusive groundworks. GGAT consider that this approach is entirely appropriate and are satisfied with the suggested mitigation. Whilst the application will involve the demolition of several buildings, they consider the structures to be of limited archaeological significance and do not require any building surveys or photographic records. Having regard to the above, there is no objection to the proposal subject to a condition for mitigation and advisory notes. It is therefore considered that the proposal satisfies Policy CE6 of the NLDP and the Archaeology and Archaeologically Sensitive Areas Supplementary Planning Guidance (SPG: AASA).

7.67 Highways

According to the Supplementary Planning Guidance: Parking Standards (SPG: PS), the site is located within Parking Zone 1. Supplemented by the proposal being located in a highly sustainable area, namely the city centre, and being adjacent to Park Street multi-storey car park which holds approximately 395 spaces, the requirement for parking can be reduced to zero. In addition to the above, regard is also given to the fallback position, namely the parking demand generated by the existing retail, commercial and residential uses above.

7.68 Having regard to the above, the Authority is not seeking any provision for parking. However, in this particular instance, the applicant is proposing to develop a private car park which can accommodate 20 off-street spaces to serve the 38 apartments. In this respect, the proposed development exceeds the requirements of SPG: PS.

7.69 Due to the difference in level between Commercial Street and the rear access lane, the private car park would have an undercroft configuration. Access to the car park would be provided via Commercial Street which is a one-way street. The access would have a recessed and splayed entrance, thereby providing visibility for vehicles emerging from the car park of any pedestrians and vehicles travelling along the street.

7.70 The proposed development would also involve the retention and significant enhancement of the pedestrian access from Commercial Street to Park Street car park. This is considered to be an important component of the scheme especially since the car park is currently underutilised and places unnecessary pressure upon other parking provisions within the town centre.

7.71 The proposed development would include a refuse store serving the apartments. Direct access from the store onto Commercial Street would be provided which ensures that the site is suitably serviced by refuse vehicles. This aspect of the scheme satisfies Policy W3 of the NLDP.

7.72 The Head of Streetscene (Highways) has no objections to the proposal and a series of conditions to control the impact of the demolition and construction phases, including securing vision and means of openings serving the proposed building and fronting Commercial Street. It is, therefore considered that the proposal would not have a significant adverse effect on highway/pedestrian safety and subsequently satisfies Policies GP4 and T4 of the NLDP and advice within SPG: PS.

7.73 **Drainage and Utilities**

The site lies within Zone B flood risk area, as defined by Technical Advice Note 15: Development and Flood Risk (TAN15). This is an area which is known to have been flooded in the past evidenced by sedimentary deposits. Such areas may be subject to localised flooding. Whilst flooding can be a material consideration, TAN15 explains that new developments are appropriate in Zone B.

7.74 In this particular case, the current site is almost entirely surfaced in impermeable material. As such, the proposed development would not give rise to any significant increases in surface water. In contrast, the proposed development has the potential to reduce the amount of surface water as it would introduce greater amount of soft landscaping.

7.75 Limited drainage details have been provided with the application and this has been acknowledged by the Council's Drainage Officer. However, it is considered possible to control foul, surface and land drainage by the imposition of a planning condition. This is reinforced by the comments of Welsh Water who has no objections to the proposal subject to a drainage condition and advisory notes. It is also noted that Natural Resources Wales has no objections to the scheme. It is, therefore considered that the proposal would not increase the risks associated by flooding and appropriate drainage can be secured by a condition.

7.76 The site is located within the city centre and all other utilities necessary to support the development is within reasonable proximity. Wales and West Utilities has no objections to the proposal subject to advisory notes. Having regard to the above, it is considered that the proposal satisfies Policies SP3, SP4, GP1 and GP3 of the NLDP

7.77 **Planning Contributions**

Policy SP13 of the NLDP enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development. The site is located within the affordable housing submarket area, as defined by Policy H4 of the NLDP. This policy requires 30% of residential development of 10 units or more in this location to be affordable. In this particular case, the applicant is Pobl Housing Group which is a consortium of housing associations. The residential element of this scheme aims to be delivered as fully affordable but specifically catering for occupiers over 55 years of age. The Strategy and Development Manager (Housing) has emphasised that there is a significant need for affordable housing in this location and fully supports the proposal. Having regard to the above, it is considered that the proposed development satisfies the affordable housing requirement of Policy H4 of the NLDP.

7.78 In accordance with paragraph 15.4 of SPG: PO, the Planning Contributions Manager has confirmed that schemes providing 100% affordable housing are exempt from contributions towards leisure and education planning obligations. However, the applicant would be required to enter into a legal agreement with the Council to secure the provision of affordable housing required by Policy H4 of the NLDP and, in the event of any unit being sold on the open market, the legal requirement would require contributions towards leisure and education facilities.

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, particularly against the design of the proposed development and the pedestrian walkway into Park Street Car Park. 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 there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

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

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

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

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9.0 Conclusion

9.1 This application is recommended for approval because the development generally complies with Council policy and guidelines. This scheme provides a clear opportunity to act as a further catalyst for economic development in the city centre with wider social and environmental benefits to the locality. The scheme is considered to be a timely and complementary proposal to recent major developments in the centre, thereby reinforcing it as an attractive and vibrant destination for the local population and visitors.

9.2 The proposed development would provide significant and overriding public benefits, particularly to the vitality, viability, vibrancy and attractiveness of the city centre. The development would not harm the visual amenities of the area, the character and appearance of adjacent Conservation Areas or the setting of any listed buildings. Furthermore, the development would not adversely affect highway safety, ecology/biodiversity, drainage and flooding, nor would it unreasonably harm public amenity or the amenities of neighbouring properties.

10. RECOMMENDATION

GRANT SUBJECT TO A LEGAL AGREEMENT AND CONDITIONS

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

PL05 Rev.C – Front (East) Elevation
PL06 Rev.B – Rear (West) Elevation
PL07 Rev.B – Side (North) Elevation

PL19 Rev.C – Side (South) Elevation

PL09 Rev.B – Ground Floor Plan

PL10 Rev.B – 1st Floor Plan

PL11 Rev.A – 2nd Floor Plan

PL12 Rev.A – 3rd Floor Plan

PL13 Rev.A – 4th Floor Plan

PL14 Rev.A – 5th Floor Plan

PL15 Rev.A – 6th Floor Plan

PL16 Rev.A – 7th Floor Plan

PL17 Rev.A – 8th Floor Plan

PL18 Rev.A – Roof Plan

PL08 Rev.C – Scheme Section A-A

PL20 Rev.A – Scheme Section B-B

PL21 Rev.B – Scheme Section C-C

PL22 Rev.A – Scheme Section D-D

PL24 Rev.A – Front (East) Rendered Elevation

PL25 – Rear (West) Rendered Elevation

PL26 – Side (North) Rendered Elevation

PL27 – Side (South) Rendered Elevation

PL04 Rev.B – Proposed Site Plan

PL23 Rev.A – Site Location Plan Proposed

7776_161130.01 Roller Shutters

Section 6 and 7 of “Bat Survey – August 2016” (Conducted by Be Ecology)

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 Condition (Prior to Demolition Works)

- 02 Notwithstanding the requirements of Condition 1, no development shall commence (to include demolition) until a Construction Environmental Management Plan has been submitted to and agreed in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, air quality*, vibration, dust** and waste disposal resulting from demolition, the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Measures to minimise the impact on air quality shall include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The Plan shall also include details of transport and pedestrian management, including the location of a site compound, provision of contractor parking and means of enclosure to restrict public access to the site. The agreed Construction Environmental Management Plan shall be adhered to at all times.

* The Institute of Air Quality Management <http://iaqm.co.uk/guidance/>

** The applicant should have regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected, in the interests of general amenities and highway/pedestrian safety.

Pre-commencement Condition (Prior to Excavation Works)

- 03 No excavation works shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

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

Pre-commencement Conditions (Prior to Construction Works)

- 04 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until a scheme of noise mitigation measures for all residential habitable rooms has been submitted to and agreed in writing by the Local Planning Authority. The Noise mitigation shall include window glazing and mechanical ventilation provisions to the habitable rooms to meet the requirements provided in the Environmental Noise Report submitted by Acoustic Consultants Ltd (dated September 2016) reference 6472/BL/PW; or otherwise alternative mitigation measures to be submitted to and agreed in writing by the Local Planning Authority. The noise mitigation measures shall be implemented in accordance with the agreed scheme with a written certificate from an appropriately qualified acoustic consultant, certifying that all the habitable rooms have met the requirements of the Environmental Noise Report, has been deposited to the Local Planning Authority prior to the beneficial occupation of any of the residential units.

Reason: In the interests of residential amenities.

- 05 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until a scheme of sound insulation works between the ground floor and the first floor residential units of the building hereby approved has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the beneficial use of any of the residential units hereby approved and shall then be retained thereafter in perpetuity.

Reason: In the interests of residential amenities.

- 06 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until there has been submitted to and agreed in writing by the Local Planning Authority a landscaping scheme indicating the number, density, species, heights and position of planting, and a timetable for their implementation. The agreed scheme shall be carried out in accordance with the agreed scheme and timetable. Thereafter, the plants shall be maintained for a period of 5 years from the date of planting, in accordance with a management schedule to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. Any plants which die or are damaged shall be replaced and maintained until satisfactorily established.

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

- 07 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of building, pedestrian walkway serving Park

Square Car Park and hard landscaping hereby approved have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual amenity and to protect the general amenities of the area.

- 08 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until full details, including external finishes, of the shopfronts serving the ground floor retail unit hereby approved has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual amenity and to protect the general amenities of the area.

- 09 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until full details of the shopfront roller shutter doors serving the ground floor retail unit hereby approved has been submitted to and agreed in writing by the Local Planning Authority. The roller shutter doors shall be installed in accordance with the agreed details prior to the beneficial occupation of the retail unit.

Reason: In the interests of visual amenity and to protect the general amenities of the area.

- 10 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until full details of the proposed artwork within the ground floor pedestrian walkway serving Park Square Car Park has been submitted to and agreed in writing by the Local Planning Authority. The artwork shall be completed in accordance with the agreed details prior to the beneficial use of the development hereby approved.

Reason: In the interests of visual amenity and to protect the general amenities of the area.

- 11 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul drainage, road and roof/yard (surface) water will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented in full prior to the occupation of any part of the development hereby approved.

Reason: To ensure that effective drainage facility are provided for the proposed development and that flood risk is not increased

- 12 Notwithstanding the requirements of Condition 1, no development (excluding demolition) shall commence until full details of the proposed boundary treatments have been submitted to and agreed in writing by the Local Planning Authority. The boundary treatments shall be constructed in accordance with the agreed details and implemented prior to the beneficial occupation of any of the development hereby approved and retained thereafter in perpetuity.

Reason: To ensure the development is completed in a satisfactory manner, to preserve the character of the area and in the interests of residential amenities.

Prior to Beneficial Occupation

- 13 Notwithstanding the requirements of Conditions 1, the vision splays and apron serving the private car park access fronting Commercial Street, as shown on drawing number "PL09 Rev.A Ground Floor Plan", shall be completed in permanent materials prior to being brought into beneficial use.

Reason: In the interests of highway/pedestrian safety.

- 14 Notwithstanding the requirements of Condition 1 and 15 and prior to the beneficial use of the any part of the development, the access to the private car park fronting Commercial Street shall be fitted with a roller shutter door. The roller shutter door shall be retained thereafter in perpetuity.

Reason: In the interests of highway/pedestrian safety.

- 15 Notwithstanding the requirements of Condition 1 and 14 and prior to the beneficial use of the any part of the development, the external openings on the ground floor fronting Commercial Street shall be inward opening only and shall be retained as such in perpetuity.

Reason: In the interests of highway/pedestrian safety.

- 16 Notwithstanding the requirements of Conditions 1 and prior to the beneficial use of the any part of the development, full details, including the siting, layout, quantity, dimensions, design and appearance of the solar PV panels hereby approved has been submitted to and agreed in writing by the Local Planning Authority. The Panels shall be installed in accordance with the agreed details.

Reason: To ensure the development is completed in a satisfactory manner and in the interests of visual amenities

General Conditions

- 17 The rating level of the noise emitted from fixed plant and equipment located at the site shall not exceed the existing background level at any residential unit hereby approved when measured and corrected in accordance with BS 4142: 2014.

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

- 18 No structure, erection or planting exceeding 0.9 metres in height above adjacent carriageway level shall be placed within the vision splay areas serving the private car park access fronting Commercial Street at any time.

Reason: In the interests of highway/pedestrian safety

NOTES TO APPLICANT

01 This decision relates to plan Nos: PL05 Rev.C – Front (East) Elevation, PL06 Rev.B – Rear (West) Elevation, PL07 Rev.B – Side (North Elevation), PL19 Rev.C – Side (South) Elevation, PL09 Rev.B – Ground Floor Plan, PL10 Rev.B – 1st Floor Plan, PL11 Rev.A – 2nd Floor Plan, PL12 Rev.A – 3rd Floor Plan, PL13 Rev.A – 4th Floor Plan, PL14 Rev.A – 5th Floor Plan, PL15 Rev.A – 6th Floor Plan, PL16 Rev.A – 7th Floor Plan, PL17 Rev.A – 8th Floor Plan, PL18 Rev.A – Roof Plan, PL08 Rev.C – Scheme Section A-A, PL20 Rev.A – Scheme Section B-B, PL21 Rev.B – Scheme Section C-C, PL22 Rev.A – Scheme Section D-D, PL23 Rev.A– Site Location Plan Proposed, PL04 Rev.B – Proposed Site Plan, PL24 Rev.A– Front (East) Rendered Elevation,

PL25 – Rear (West) Rendered Elevation, PL26 – Side (North) Rendered Elevation, PL27 – Side (South) Rendered Elevation, 7776_161130.01 Roller Shutters and Section 6 and 7 of document titled “Bat Survey – August 2016” (Conducted by Be Ecology).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP3, SP4, SP9, SP10, SP13, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE6, CE7, H2, H3, H4, T4, R1, R3 AND W3 were relevant to the determination of this application. The following Supplementary Planning Guidance documents were also relevant: New Dwellings, Parking Standards, Archaeology and Archaeologically Sensitive Areas, Planning Obligations.

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.

04 The applicant/developer is advised that 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.

05 The applicant/developer is advised that there may be a need to apply to Dwr Cymru/Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com 06 The applicant/developer is advised that Under the Water Industry Act 1991 Dwr Cymru/Welsh Water has rights of access to its apparatus at all times.

07 The applicant/developer is advised that a water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to the address above.08 The applicant/developer is advised that part, or all of the development site, is at a height where mains water cannot be guaranteed at all times. Under the Water Industry Act 1991, Dwr Cymru/Welsh Water are not obliged to provide mains water to a height greater than that it will flow by gravity from the service reservoir or tank the supply is taken. To ensure an adequate mains water supply to service this development, a booster pump will need to be installed and associated watermains laid to the development site. Costs and the future maintenance will be the applicant/developer's responsibility.

09 The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member.

10 The applicant/developer is encouraged to install electric vehicle charging points within the private car park to encourage low emission/zero emission forms of transport and help improve local air quality.

11 The applicant/developer is advised to contact Wales & West Utilities prior to the commencement of any works since there are pipes present in the vicinity of the application site.

12 The applicant/developer is advised that to address Condition 5, the sound insulation between the ground floor and first floor residential units will need to be of a higher specification than Building Regulations Approved Document E.

13 The applicant/developer is advised that a Protected Species Licence from Natural Resources Wales must be obtained prior to the commencement of any demolition/development.

APPLICATION DETAILS

No: 16/0788 Ward: **STOW HILL**

Type: Full (Major)

Expiry Date: 13-JAN-2017

Applicant: **T HARRIS, DERWEN (C/O POBL GROUP) EXCHANGE HOUSE THE OLD POST OFFICE, HIGH STREET, NEWPORT, NP20 1AA**

Site: **LAND AND BUILDINGS ENCOMPASSING 123-129 COMMERCIAL STREET, NEWPORT**

Proposal: **DEMOLITION OF EXISTING BUILDINGS (123-129, COMMERCIAL STREET INCLUSIVE), CHANGE OF USE (IN PART) AND THE CONSTRUCTION OF A MIXED USE DEVELOPMENT COMPRISING OF A GROUND FLOOR RETAIL UNIT, RECONFIGURED PEDESTRIAN ACCESS TO EXISTING CAR PARK AND 38 NO. APARTMENTS FOR OVER 55-YEAR OLDS (COMPLETE WITH ASSOCIATED CAR PARKING, BIN STORAGE, HARD AND SOFT LANDSCAPING AND AMENITY AREAS)**

1. LATE REPRESENTATIONS

- 1.1 An objection has been received from a Mr. Tom Hill, however details of his address was not provided. The objection has been summarised as follows:
1. Detrimental to visual amenity
 2. Adverse impact on the character of the area, including adjacent Conservation Areas and St. Paul's Church.
 3. Loss of light and overshadowing to neighbouring properties.
 4. Insufficient detail on sound insulation and adverse impact on residents from commercial activities.
 5. Insufficient parking and detrimental to highway safety.
 6. Adverse impact on the public square granted planning permission at Emlyn Walk and as a result would attract anti-social behaviour.
 7. Height of proposed building would produce winds and gusts at street level.

2. OFFICER RESPONSE TO LATE REPRESENTATIONS

- 2.1 Items 1-5 have been addressed within the original Committee report
- 2.2 Item 6: The creation of a public square at Emlyn Walk was granted planning permission by the Planning Committee on 7 December 2016 (16/0781 refers). Each application is assessed on its own merits and there is no guarantee that any planning permission issued for a development would be implemented. Therefore it is considered unreasonable to attach any significant weight to the impact of the proposal on a development which has not yet been implemented. Notwithstanding the above, no evidence has been submitted by the objector to demonstrate the adverse impact that the proposed development would have on the public square at Emlyn Walk

whilst consideration has been given within the original report concerning the impact of the proposed development on matters relating to anti-social behaviour.

- 2.3 Item 7: The objector has not provided any evidence to demonstrate that the proposed development would result in a material increase in winds and gusts at street level. As such, it is considered that this matter does not hold any significant weight in the determination of the application.

3. OFFICER RECOMMENDATION

- 3.1 GRANT SUBJECT TO A LEGAL AGREEMENT AND CONDITIONS