

# Report

## Planning Committee

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### Part 1

Date: 7 June 2017

Item No: 5

**Subject** Planning Application Schedule

**Purpose** To take decisions on items presented on the attached schedule

**Author** Head of Regeneration, Investment and Housing

**Ward** As indicated on the schedule

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

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

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

**Proposal**

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

**Action by** Planning Committee

**Timetable** Immediate

This report was prepared after consultation with:

- Local Residents
- Members
- Statutory Consultees

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

## **Background**

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

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

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

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

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

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

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

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

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

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

## **Financial Summary**

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

## **Risks**

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

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

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

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

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

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

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determination, with costs awarded against the Council			unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee  Development Services Manager

\* Taking account of proposed mitigation measures

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

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

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

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

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

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

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

- Skills and Work
- Economic Opportunity
- Health and Wellbeing
- Safe and Cohesive Communities
- City Centre
- Alcohol and Substance Misuse

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

## **Options Available**

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

## **Preferred Option and Why**

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

## **Comments of Chief Financial Officer**

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

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

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

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

## **Comments of Monitoring Officer**

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

## **Staffing Implications: Comments of Head of People and Business Change**

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

## **Local issues**

Ward Members were notified of planning applications in accordance with the Council's adopted policy on planning consultation. Any comments made regarding a specific planning application are recorded in the report in the attached schedule

## **Equalities Impact Assessment 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)  
Development Management Manual 2016  
Minerals Planning Policy Wales (December 2000)

*PPW Technical Advice Notes (TAN):*

TAN 1: Joint Housing Land Availability Studies (2015)  
TAN 2: Planning and Affordable Housing (2006)  
TAN 3: Simplified Planning Zones (1996)  
TAN 4: Retailing and Commercial Development (2016)  
TAN 5: Nature Conservation and Planning (2009)  
TAN 6: Planning for Sustainable Rural Communities (2010)  
TAN 7: Outdoor Advertisement Control (1996)  
TAN 8: Renewable Energy (2005)  
TAN 10: Tree Preservation Orders (1997)  
TAN 11: Noise (1997)  
TAN 12: Design (2016)  
TAN 13: Tourism (1997)  
TAN 14: Coastal Planning (1998)  
TAN 15: Development and Flood Risk (2004)  
TAN 16: Sport, Recreation and Open Space (2009)  
TAN 18: Transport (2007)  
TAN 19: Telecommunications (2002)  
TAN 20: Planning and The Welsh Language (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) (updated January 2017)  
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)  
Mineral Safeguarding (adopted January 2017)  
Outdoor Play Space (adopted January 2017)  
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)

## **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 2017 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

## **APPLICATION DETAILS**

**No:1**                      **17/0297**                      **Ward:**                      **ALLT-YR-YN**

**Type:**                      **FULL**

**Expiry Date:**                      **24-MAY-2017**

**Applicant:**                      **B JEFFREYS**

**Site:**                      **161, RISCA ROAD, NEWPORT, NP20 3PQ**

**Proposal:**                      **DEMOLITION OF EXISTING BUNGALOW, ERECTION OF REPLACEMENT DWELLING AND DETACHED GARAGE AND WIDENING OF ACCESS, RESUBMISSION FOLLOWING PREVIOUS REFUSAL OF 16/1069**

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

### **1. INTRODUCTION**

- 1.1 This application seeks consent for the demolition of an existing bungalow and the erection of a two/three storey dwelling in its place. The application is a full application, it is proposed to erect a four bedroomed house with detached double garage sited within the front garden. Detached houses are sited either side of the proposed dwelling, Access is proposed off Risca Road. The site is within the settlement boundary outlined within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).
- 1.2 Councillor Ferris has requested that this application be considered by Planning Committee. The elevated position of the new build results in a commanding view of the neighbouring gardens causing them a loss of amenity and privacy in their gardens. I also understand that the usage of the parking area to the side of the new build had never been exercised by the previous occupants who had been there for the last 30 years and fresh usage of this area for parking vehicles would be very intrusive to the long established neighbouring residents.
- 1.3 The application is a re submission following a previous refusal, due to the impact of the double garage upon a protected tree; use of slate and brick as the external finishes; the shallow pitch design of the roof being out of character with roofs in the area and the proximity to the adjacent dwelling and its overbearing impact upon protected side windows.

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

16/1069	Demolition of existing bungalow and erection of replacement dwelling, detached double garage and widening of access	Refused
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### **3. POLICY CONTEXT**

- 3.1 The policy context is set out in the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policy SP13 refers to planning obligations and states that development will be required to help deliver more sustainable communities by providing or making contributions to local or regional infrastructure in proportion to its scale and the sustainability of the location.



-Policy GP1 which is for general Development principles for climate change and proposals should: be designed to withstand predicted changes in the local climate and reduce the risk of flooding on site and elsewhere by demonstrating where appropriate the risks and consequences of flooding can be acceptably managed.

-Policy GP2 highlights that “development will be permitted where, as applicable:

- i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- iii) the proposal seeks to design out the opportunity for crime and anti-social behaviour;
- iv) the proposal promotes inclusive design both for the built development and access within and around the development;
- i) adequate amenity for future occupiers.”

-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, proposals should enhance the site and wider context including green infrastructure and biodiversity and the proposal should include appropriate tree planting and does not result in the unacceptable loss of or harm to trees.

-Policy GP6 highlights that “good quality design will be sought in all forms of development. The aim is to create a safe, accessible, attractive and convenient environment. In considering development proposals the following fundamental design principles should be addressed:

- i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
- ii) access, permeability and layout: all development should maintain a high level of pedestrian access, connectivity and laid out so as to minimise noise pollution;
- iii) preservation and enhancement: where possible development should reflect the character of the locality but avoid the inappropriate replication of neighbouring architectural styles. The designer is encouraged to display creativity and innovation in design;
- iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. Care should be taken to avoid over-scaled development;
- v) materials and detailing: high quality, durable and preferably renewable materials should be used to complement the site context. Detailing should be incorporated as an integral part of the design at an early stage;
- vi) sustainability: new development should be inherently robust, energy and water efficient, flood resilient and adaptable, thereby facilitating the flexible re-use of the building. Where existing buildings are present, imaginative and sensitive solutions should be sought to achieve the re-use of the buildings.”

-Policy GP4 highlights that “development proposals should:

- i) provide appropriate access for pedestrians, cyclists and public transport in accordance with national guidance;
- ii) be accessible by a choice of means of transport;
- iii) be designed to avoid or reduce transport severance, noise and air pollution;
- iv) make adequate provision for car parking and cycle storage;
- v) provide suitable and safe access arrangements;
- vi) design and build new roads within private development in accordance with the highway authority’s design guide and relevant national guidance;
- vii) ensure that development would not be detrimental to highway or pedestrian safety or result in traffic generation exceeding the capacity of the highway network.

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

Policy H4 refers to Affordable Housing and states that on-site provision of affordable housing will be required on all new housing sites of 10 or more dwellings within the settlement boundary, or 3 or more dwellings within the defined village boundaries.

-Policy H6 of the Newport LDP notes that “the sub-division of residential curtilages, infill within existing residential areas, and the development of backland to existing residential properties will only be permitted where this does not represent an over-development of land.”

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

- 3.11 The New Dwellings Supplementary Planning Guidance is also relevant to the determination of this application. The guidance seeks to ensure that occupants of new dwellings have reasonable living conditions, the new dwellings do not deprive persons in existing dwellings of reasonable living conditions and to protect the character and appearance of the natural and built environment.

#### **4. CONSULTATIONS**

- 4.1 WELSH WATER DWR CYMRU: Request that the following conditions/advisory notes be attached to any consent:

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Some public sewers and lateral drains may not be recorded and request that the applicant contacts the Operations Contact Centre to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government has introduced new legislation to make it mandatory for all developers wishing to communicate with the public sewerage system to obtain an adoption agreement for their sewerage.

- 4.2 WESTERN POWER: Details of apparatus in the area.

- 4.3 WALES AND WEST UTILITIES: No response.

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

- 5.1 HEAD OF STREET SCENE AND CITY SERVICES (HIGHWAYS): Sufficient off street parking will be available at the site and I would therefore offer no objection to the application.

- 5.2 HEAD OF STREET SCENE AND CITY SERVICES (TREES) no objections subject to conditions relating to Tree and Root protection plans and Arboricultural Method Statement.

- 5.3 HEAD OF LAW AND REGULATION (NOISE): No objections

- 5.4 HEAD OF STREET SCENE AND CITY SERVICES (ECOLOGY) does not object to the following application but has the following comments:

1-No SEWBRc data search was undertaken. This is an essential element of the scoping and survey methodology;

2-The property did have limited potential bat features and these were investigated using an endoscope. It is good practice to provide photographs of the potential bat roosting opportunities as evidence;

3-No lights should be shone directly onto the Oak tree as bats appear to be using the tree. Despite lack of ivy growth bats will still use trees to roost;

4-In accordance with new legislation (Well Being Future Generations Act) the Council must ensure that ecological enhancements are incorporated in all its duties. I would recommend that a bat box be erected on the new property, details to be discussed and agreed between the applicants ecologist and the Council's Ecology Officer.

An emergent survey was undertaken and no bats were found to be exiting the building. The report is valid for a period of 12 months as stated in the report therefore if demolition is proposed after the 12 month period it is recommended that the applicant engage with an ecologist to determine whether the building has changed as whether the likelihood of presence of bats has increased. If this is the case an updated survey may be required.

- 5.5 PLANNING CONTRIBUTIONS MANAGER: This proposal does not result in a net gain of dwellings. As such, no planning obligations are requested.
- 5.6 HOUSING MANAGER: A replacement dwelling should not trigger the requirements for contributions.
- 5.7 HEAD OF STREET SCENE AND CITY SERVICES (LANDSCAPING OFFICER): No objection, confirmation of front boundary treatment should be provided.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All neighbours with a common boundary and opposite were consulted (7 in total) 1 letter of objection on the following grounds:

- not against the principle of building a new property at the site. Have reviewed the amended planning submission and whilst the siting of the replacement dwelling is now proposed substantially within the footprint width of the existing dwelling we do still have significant concerns in terms of the scale of the proposed dwelling and the impact this would have on the level of amenity we currently enjoy. We still therefore object to the proposal.
- the proposed dwelling has significantly greater floor space than the existing property primarily due to it being fully two storeys in height. The western side of the proposed dwelling is further off-set from the boundary than the current dormer bungalow but the eastern side (adjoining our boundary) is circa 2m closer. The depth of the proposed property is also circa 3m greater than the current principal rear elevation, It results in an overbearing impact and loss of light to our main sitting/living room window to our detriment.
- the proposals would be contrary to policy GP2 of the Newport Local Development Plan and the 'New Dwellings' Supplementary Planning Guidance (SPG).

-The window (Protected Window as defined in the SPG) serving the principal sitting/living area of the house is located on the western elevation of our property. This would look onto the proposed dwelling. The proposals have been amended as to now avoid any breach of Elevation-view 45 degree test as set out in para 5.8.4 of the SPG and the applicant has shown this by a single line on drawing 8283 SKPL04F. However, the applicant has failed to have total regard to the aforementioned SPG and the 25 degree test for natural light as set out in para 5.8.2 a new dwelling that projects beyond this line is likely to interfere with the diffuse daylight available to the existing building. In such circumstances, the Council is unlikely to grant planning permission". Para 5.8.3 of the SPG states "development that fails the 25 degree test for natural light in relation to a neighbour's protected window is unlikely to be acceptable". The proposal, for this reason, should be refused .

-Any argument that the proposals are acceptable due to our living area being a through room with our kitchen are not considered valid in this instance. The 'protected' side window is south west facing and is the principal window of the room. It is the primary source of light due to the other window being north facing (never gaining sunlight at any point of the day) and of a smaller size. The difference of light entering the room from the two windows is clearly evident on site. The impact of the proposed dwelling on the west facing window would totally fill the window and result in an overbearing, gloomy and depressing outlook to the detrimental impact of our current amenity levels.

- Whilst the siting of the proposed dwelling away from our boundary is an improvement we remain of the view that due to the scale of the property and its relationship with our 'protected' living room window that the impact will be unacceptable on our amenity by reason of creating a depressing and gloomy outlet evidenced by the failure of the 25 degree test for natural light. The matter is somewhat compounded by the fact that the replacement dwelling, of significantly greater scale than the current dormer bungalow, is positioned further back in the plot for its entire width (at three storey height rather than just a limited single storey central rear projection currently seen) than the current property and therefore further back on the whole than the rear building line witnessed along this stretch of Risca Road. This matter can be seen on drawing 8283 PL02E where the outline of the existing property is shown.

-The lack of privacy we will have in our garden with the first floor balcony.

-The tree planting they are proposing will have little impact on them but will have a far greater impact on us in terms of the orientation of our property and the light reaching our rear and side windows.

-The possibility of air conditioning units being installed. Whilst we are aware that these would require planning permission we reserve the right to comment if any are ever applied for.

- 6.2 COUNCILLORS: Councillor Ferris has requested that this application be considered by Planning Committee. Due to the elevated position of the new build results in a commanding view of the neighbouring gardens causing them a loss of amenity and privacy in their gardens. I also understand that the usage of the parking area to the side of the new build had never been exercised by the previous occupants who had been there for the last 30 years and fresh usage of this area for parking vehicles would be very intrusive to the long established neighbouring residents.

## 7. ASSESSMENT

- 7.1 The proposal entails the erection of a two storey dwelling at the front and three storey at the rear which takes into account the sloping topography of the site. The dwelling would have a footprint 12.3m in width, 8.7m in depth, 5.3m to the eaves at the front and 8.3 at the rear, the property would be 7.9m to the ridge. Balconies are proposed within the ground and first floor rear elevation. The sides of the balcony would be enclosed within the side elevation of the dwelling. The ground floor balcony/terrace extends 1m beyond the rear of the rear of the dwelling. A double detached garage is proposed within the site frontage. The scheme has been amended to take on board the previous reasons for refusal.
- 7.2 The width of the dwelling has been reduced by 1m and would be 12.3m in width, The ridge height has been reduced by 0.5m and eaves height reduced by 700 - 750 mm. The proposed dwelling has been positioned further south west, away from the boundary with number 159. The dwelling as previously submitted was 1.4m from the boundary at the front and 3.9m at the rear. It would now be 3.4m at the front and 5.9m at the rear. Therefore the plans show an increase in separation of the properties by 2m compared to the previously submitted scheme.
- 7.3 In terms of Policy GP2 which refers to general amenity and the New Dwellings Supplementary Planning Guidance Adopted August 2015 which considers  
i)the occupants of new dwellings shall have reasonable living conditions  
ii)new dwellings shall not deprive persons of existing dwellings of reasonable living conditions  
iii)to protect the character and appearance of the natural and built environment.  
The proposed dwelling would have a larger footprint than the existing bungalow and is clearly taller. It is considered that most impact is upon number 159 which is sited to the east. There is a door and windows in the side elevation of number 159, one which serves a kitchen/sitting room and the other serves a first floor bedroom. The previous application was refused because of its impact upon the ground floor side window of the neighbouring property. The applicant has attempted to address this concern and revised the footprint of the dwelling as described above.
- 7.4 Section 5.8 of the Supplementary Guidance refers to a test which seeks to achieve adequate levels of natural light to neighbours S5.8.4 refers to an elevational view 45 degree test, where a notional line is drawn from the horizontal centre of an original protected side window at 45 degrees to the vertical. A new dwelling should not project beyond the 45 degree line. When this test is applied to the ground floor side window of number 159 Risca Road, the proposed dwelling does not now bisect the 45 degree line. A 45 degree line drawn in plan view would not bisect the proposed dwelling. Due to the amended siting, this test is now met. The neighbours letter of objection refers to the 25 degree test for natural light as set out in para 5.8.2 . A new dwelling that projects beyond this line is likely to interfere with the diffuse daylight available to the existing building.

- 7.5 When the impact upon side windows is being considered, it is the 45 degree test that is to be applied and not the 25 degree test. The SPG is very clear on this point. Notwithstanding this, the 25 degree angle only marginally infringes the proposed roof line, the 45 degree angle would clear it completely. It is not appropriate to fail the proposal on this point. Therefore the proposed amended siting of the dwelling, overcomes the previous concern about the overbearing impact that the proposed dwelling would have and the tests within the SPG have been met.
- 7.6 The guidance also refers to distances between dwellings and states that where windows would face one another there should be a distance of 21m achieved (S 5.7), Where windows face onto a blank gable a distance of 14m should be achieved (S 5.9). Obscure glazed windows are proposed in the side elevation of the proposed dwelling, which face number 159. Ideally the distance from the side elevation should be 14m, it is acknowledged that the existing relationship does not achieve this, and the proposed dwelling is now sited slightly further away from the existing bungalow. For the reasons stated above, the relationship with number 159 is considered to be acceptable. In terms of the relationship with 163, there is a first floor window in the eastern elevation of this property which would face the proposed dwelling. However there is another window serving the room that faces the front garden. The proposed dwelling would be set slightly further away from this dwelling than the existing dwelling. It is proposed that a utility room window would face this dwelling which does not cause concern. A kitchen window would also look onto the blank elevation of this property. However the kitchen is also served by additional windows proposed at the rear of the dwelling. In conclusion it is considered that the relationship with the existing dwelling is much improved in comparison to the refused scheme and considered to be acceptable.
- 7.7 In terms of policy GP6 which refers to good quality design, there is a mixed character within the area. Concern was previously raised due to the mix of red brick, and dark slate roof. The applicant has revised the pallet of finishing materials. It is proposed to use clay red roof tiles, and predominately render at first floor levels and on the front and side of the dwelling. Brick is proposed on the lower section of front and side elevation. The rear elevation is largely glazed. The previous scheme had a very shallow roof pitch. The applicant has attempted to increase the pitch, and whilst it is considered that its pitch is still shallow, it has improved. It is considered that the revised application has addressed the previous reasons for refusal in relation to these points. The site is set down from Risca Road and it is less prominent in the street scene. The site abuts an allotment and the site can be clearly seen from footpaths within Coed Melyn Park. It's modern design is not considered to be at odds with the character of the area, particularly as the proposed materials have been revised.
- 7.8 Concern has been raised about lack of privacy due to overlooking from the first floor balcony. The first floor windows are recessed and the balcony sits within the side cheeks of the side elevation. This provides an effective screen which minimises oblique views over neighbouring gardens. It is proposed that part of the ground floor terrace would project beyond the rear wall of the proposed house. Due to the topography of the site, this terrace would cantilever over the lower ground floor by approximately 1m. The applicant has confirmed that a 1.8m high privacy screen would be erected on the side edges of this terrace which would protect against possible over looking of the adjacent properties. A condition requiring this is suggested. Clearly there would be views down the gardens, but due to the topography of the area with land steeply sloping to the south west, most properties along this section of Risca Road are afforded views over the neighbouring rear gardens. The proposed development would differ little to that which exists.
- 7.9 Concern has been raised about the proposed tree planting. The concerns are noted, however, landscaping is very much required to ensure that the final appearance of a scheme is of a good quality. The proposed trees are considered to be an appropriate species in this urban setting. The Head of Street Scene and City Services (Landscape officer) has raised no objection to the proposed scheme. Concern has also been raised about the possibility of parking cars within space to the eastern side of the proposed dwelling. In response to this the agent has stated " the area to the side of the existing bungalow (adjacent to no.159) is currently hard surfaced and could lawfully be used for the

parking of motor vehicles at any time. It is an entirely typical scenario to have vehicular parking adjacent to neighbouring dwellings/curtilages and this is something which is regularly approved all over the City.” Furthermore, planning permission is not required to create hardstanding for the parking of vehicles within the curtilage of a residential property and future occupiers could hard surface the area at any time to create additional space for parking area.

- 7.10 The proposal includes the erection of a detached double garage. The garage is proposed within the site frontage and would be sited on the western boundary of the site. The site rises towards the road, and the garage would be cut into the slope. It would measure approximately 6m by 6m with a ridge height of 4m. The eaves height would be 2.4m. It is proposed that the garage would be constructed of brick with a slate roof. Number 163 Risca Road is most affected by the garage. That property sits some 3m back from the garage which is sited 1m from the boundary. A window is sited within the front elevation of number 163 which would look out towards the proposed garage. If a 45 degree line is drawn from the centre of this window in plan view the garage impedes this line. A 45 degree line drawn to the vertical from this window does not bisect the garage. It is considered that the garage would not be unduly overbearing. The window facing the garage would face northwards and therefore currently receives little sunlight. In addition, the room that this window serves is a through room which has windows at both ends, and the rear facing window, faces southwards. The garage has a hipped roof which reduces its overall height on the boundary. For these reasons it is considered that the proposed garage would not be unduly over bearing.
- 7.11 In terms of policy GP5 The relevant criteria of Policy GP5 state that development will only be permitted where:
- the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including International, European, National, Welsh Section 42 and local protected habitats and species, and protecting features of importance for ecology.
- 7.12 The applicant has submitted an emergent survey which has shown that no bats have been seen exiting the bungalow. No objection is raised by the Head of Street Scene and City services, Ecology Office. The Ecology Officer recommends that if the existing bungalow is not demolished within a year then further survey work may well be required.
- 7.13 Following previous objections raised by the tree officer that the submitted tree report did not demonstrate that the impact of the garage upon the tree was acceptable, an Arboricultural method statement has been submitted which includes a tree protection plan. The report states that the proposed widening of the driveway would not conflict with the rooting zone of the tree and the driveway could be capably be constructed without causing damage to the tree or constrains its roots. There was also concern that the proposed garage would potentially result in conflict between the proposed hipped roof and the tree crown. The report establishes that due to the distance between the trunk of the tree and the garage and the topography of the site, with the garage being at a lower level then there would be no conflict between the garage and the tree. The tree officer now offers no objection to the proposal. In terms of landscaping, the applicant proposes to plant trees and shrubs within the front garden which is considered to be appropriate and in line with the landscapes consultants requirements. A large forecourt is proposed which provides three off street parking spaces and a turning area for the dwelling. The Head of Street Scene and City Services (Highways) has no objection to the proposal.
- 7.14 Policy SP13 refers to planning obligations and in this instance as there is no net gain in the number of properties, such contributions are not required.

## **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 In conclusion it is considered that the amended scheme over comes the reasons for refusing the previous application, particularly its impact upon the amenities of the neighbouring property. It is considered that it complies with policies of the LDP and guidance contained within the SPG, it is concluded that the design, appearance, amenity and highway matters are acceptable. It is 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 8283 PL02E,PLO5E,PLO6E, SKPLO4F, PLO3D 1636 001D

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

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

02 No development, to include demolition, shall commence until a Tree Protection Plan (in accordance with BS 5837:2012) has been implemented in accordance with Treecare Consulting's report July 2016.

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

Reason: To protect important landscape features within the site.

03 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Area. For the duration of construction all weather notices shall be posted on the fencing at a ratio of 1 per 10 panels stating 'CONSTRUCTION EXCLUSION ZONE NO ACCESS'. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site.

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

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

Reason: To protect important landscape features within the site.

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

- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition Activities';
- construction site compound;
- contractor parking and;
- wheel washing.

The development shall be implemented in accordance with the approved CMP.

Reason: In the interests of highway safety and to protect the amenities of nearby residents

### ***Pre – construction conditions***

06 No work shall be commenced (other than demolition) on the construction of the approved scheme 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.



### ***Pre – occupation conditions***

07 The parking spaces shown in drawing 8283 PI02E shall be provided prior to the occupation of the dwelling hereby approved and be kept available for the purposes of vehicle parking thereafter.

Reason: to ensure off street parking is provided at an adequate level.

08 Prior to the first occupation of the dwelling hereby approved, a 1.8m high privacy screen will be erected on either side of the ground floor terrace, details of which shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved details and the screen as approved retained as such thereafter.

Reason: To protect the privacy of adjoining residents.

09 Notwithstanding details shown on plan numbers 1636 001rev D, details of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority, the boundary treatment as approved shall be erected prior to the first occupation of the dwelling and retained as such thereafter.

Reason: To protect the privacy of adjoining residents and in the interest of visual amenities.

### ***General conditions***

10 No window or door openings, other than those shown on the approved plan, shall be formed in the side elevations of the dwelling hereby approved.

Reason: To protect the privacy of adjoining residents.

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

Reason: To secure the satisfactory implementation of the proposal.

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

01 This decision relates to plan Nos: Bat survey, Arboriculturalist report.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP3, GP2, GP4, GP5, GP6, CE6, H4, H6 and T4 were relevant to the determination of this application.

03 Supplementary Planning Guidance – New Dwellings (Adopted August 2015) was relevant to the determination of this application.

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.

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.

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## **APPLICATION DETAILS**

No: 17/0297 Ward: **ALLT-YR-YN**

Type: Full

Expiry Date: 24-MAY-2017

Applicant: **B JEFFREYS C/O AGENT**

Site: **161, RISCA ROAD, NEWPORT, NP20 3PQ**

Proposal: **DEMOLITION OF EXISTING BUNGALOW, ERECTION OF REPLACEMENT DWELLING AND DETACHED GARAGE AND WIDENING OF ACCESS, RESUBMISSION FOLLOWING PREVIOUS REFUSAL OF 16/1069**

### **1. LATE REPRESENTATIONS**

- 1.1 On page 21 of the report, section 6.1, the paragraph beginning –“the proposed dwelling and ending to our detriment” is hereby deleted and should not form part of consideration of the application.
- 1.2 An amended plan has been received which proposes a privacy screen at either end of the ground floor terrace. Whereas before the terrace would have partly been encapsulated within the building and partly projecting, it is proposed now that a fence would project from the rear face of the building. The sides of the upper floor balcony will still be encapsulated within the building as the officer report describes.
- 1.3 Proposed windows in the eastern side and the first floor western elevation, of the proposed dwelling are shown to be obscure glazed. A condition is necessary to ensure that this is controlled.

### **2.0 OFFICER COMMENTS**

- 2.1 The amended plan is considered acceptable as it provides the necessary privacy screen to protect against loss of amenity. It is not considered that the fencing would be overbearing. Condition 8 should be amended to require the retention of the privacy screen.
- 2.2 A condition requiring the provision and retention of obscure glazing is proposed.

### **3. OFFICER RECOMMENDATION**

- 3.1 That the application is granted with conditions.
- 3.2 Condition 8 is amended  
08 Prior to the first occupation of the dwelling hereby approved, the privacy screens as shown on approved plan numbers 8283 PL04G and PLO3E, shall be erected and retained as such in perpetuity.  
Reason: To protect the privacy of adjoining residents.
- 3.3 Additional condition 12  
12 Prior to the first occupation of the dwelling hereby approved, the side windows in the eastern elevation and first floor window in the western elevation shall be obscure glazed and retained as such in perpetuity.  
Reason: To protect the privacy of adjoining residents.

## APPLICATION DETAILS

**No:2**                      **16/0789**                      **Ward:**                      **PILLGWENLLY**

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

**Expiry Date:**                      **07-APR-2017**

**Applicant:**                      **MARTYN BURNETT AND PETER DAVIES**

**Site:**                      **CAR PARK ADJACENT ENDEAVOUR HOUSE, USK WAY, NEWPORT**

**Proposal:**                      **PROPOSED RESIDENTIAL DEVELOPMENT FOR 93NO. UNITS, COMPRISING OF 17NO. HOUSES AND 76NO. APARTMENTS, WITH ASSOCIATED CAR PARKING, ACCESS, LANDSCAPING, FLOOD AND DRAINAGE INFRASTRUCTURE WORKS**

**Recommendation:**                      **GRANTED WITH A 3-YEAR TIME PERIOD AND SUBJECT TO LEGAL AGREEMENT AND CONDITIONS WITH DELEGATED AUTHORITY TO REFUSE IF THE LEGAL AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THIS DECISION**

### 1. INTRODUCTION

1.1 This application seeks full planning permission for residential development, comprising the erection of 17No dwellinghouses and 76No apartments and associated works on land to the south of 'Endeavour House', Usk Way, Newport.

### 2. RELEVANT SITE HISTORY

00/0788	MIXED COMMERCIAL AND LEISURE DEVELOPMENT	Granted with Conditions
05/0316	PROGRAMME OF LAND REMEDIATION	Granted with Conditions
07/0539	PROPOSED DEVELOPMENT INCLUDING 228 RESIDENTIAL UNITS WITH ASSOCIATED PARKING, LANDSCAPING AND HIGHWAYS WORKS AND 3 RETAIL/B1 COMMERCIAL UNITS	Granted with Conditions
07/1547	DEMOLITION OF ALL EXISTING STRUCTURES AND REDEVELOPMENT BY THE CONSTRUCTION OF 254 RESIDENTIAL UNITS WITH ASSOCIATED PARKING, LANDSCAPING AND HIGHWAY WORKS TOGETHER WITH 6 COMMERCIAL UNITS FALLING WITHIN USE CLASSES ORDER B1,A1,A2 AND A3	Refused
09/0215	PARTIAL DISCHARGE OF CONDITION 02 (CONTAMINATION REMEDIATION) OF PLANNING PERMISSION 07/0539 FOR 227 RESIDENTIAL UNITS WITH ASSOCIATED PARKING, LANDSCAPING AND HIGHWAY WORKS AND 3NO. RETAIL / BI COMMERCIAL UNITS	Refused
10/0148	DEVELOPMENT OF SITE INTO A CAR PARK FOR UP TO 258 CARS FOR A TEMPORARY PERIOD OF UP TO 3 YEARS WITH ASSOCIATED ACCESS WORKS, LANDSCAPING AND BOUNDARY TREATMENT	Granted with Conditions
13/0068	VARIATION OF CONDITION 13 (TEMPORARY PERIOD OF USE) OF PLANNING PERMISSION 10/0148 FOR DEVELOPMENT OF SITE INTO A CAR PARK FOR UP TO 258 CARS WITH ASSOCIATED ACCESS WORKS, LANDSCAPING AND BOUNDARY TREATMENT TO ALLOW FOR A FURTHER TEMPORARY PERIOD OF UP TO 3	Granted with Conditions

	YEARS	
14/0858	PROPOSED RESIDENTIAL DEVELOPMENT TO CREATE 17NO. DWELLING HOUSES AND 76NO. APARTMENTS	Withdrawn

### 3. POLICY CONTEXT

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

Policy <b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
Policy <b>SP3 Flood Risk</b> ensures development is directed away from flood risk areas.
Policy <b>SP4 Water Resources</b> favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.
Policy <b>SP8 Special Landscape Area</b> restricts development that may impact on the characteristics of the six designated Special Landscape Areas.
Policy <b>SP9 Conservation of the Natural, Historic and Built Environment</b> 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 <b>SP10 Housing Building Requirements</b> 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 <b>SP13 Planning Obligations</b> enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.
Policy <b>SP18 Urban Regeneration</b> supports development which assists the regeneration of the urban area, particularly the city centre and the reuse of vacant, underused or derelict land.
Policy <b>GP1 General Development Principles – Climate Change</b> 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 <b>GP2 General Development Principles – General Amenity</b> 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 <b>GP3 General Development Principles – Service Infrastructure</b> 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 <b>GP4 General Development Principles – Highways and Accessibility</b> 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 <b>GP5 General Development Principles – Natural Environment</b> 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 <b>GP6 General Development Principles – Quality of Design</b> 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 <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.

Policy <b>CE2 Waterfront</b> states that development in a waterside location should integrate with the waterway and not turn its back on it.
Policy <b>CE6 Archaeology</b> 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 <b>H1 Housing Sites</b> lists sites allocated for residential development within the plan period. This site is listed as H1(47) Victoria Wharf
Policy <b>H2 Housing Standards</b> promotes high quality design taking into consideration the whole life of the dwelling.
Policy <b>H3 Housing Density</b> seeks a density of at least 30 dwellings per hectare on sites of 10 dwellings or more.
Policy <b>H4 Affordable Housing</b> 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 <b>T4 Parking</b> states that development will be expected to provide appropriate levels of parking.
Policy <b>CF4 Riverfront Access</b> promotes footpaths and cycle routes to and along the River Usk.
Policy <b>W3 Provision for Waste Management Facilities in Development</b> states that where appropriate, facilities for waste management will be sought on all new development.

#### 4. CONSULTATIONS

##### 4.1 NATURAL RESOURCES WALES:

##### 4.2 First response received 9 September 2016:

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

##### Summary of Conditions

*Condition 1 – Flood Risk: Finished Floor levels*

*Conditions 2-6 – Land Contamination*

Further details in relation to each condition are given below. Please also note our advice on the Conservation of Habitats and Species Regulations.

##### Flood Risk

The application site lies mostly within Zone C1, with a small proportion of the site alongside the river channel within Zone C2, 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 partially 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.

We have reviewed the Flood Consequences Assessment (FCA) produced by Clive Onions dated 28 July 2016, submitted in support of the application which states:

The external areas of the site are approximately 8.8-9.5m AOD.

The proposed minimum floor levels for the development will be set at 9.8m AOD and the general ground levels will vary between 9.2-9.65m AOD, with a minimum general site infrastructure level of 9.33m AOD.

NRW provided interpolated flood data for the 0.5% (1 in 200 year) plus climate change event (2116) is 9.65m AOD. For the 0.1% (1 in 1000 year) plus climate change event (2116) is 9.93m AOD.

We therefore advise the inclusion of the following condition on any planning permission your authority is minded to grant.

**Condition 1: Flood Risk**

*Finished floor levels are set no lower than 9.8 metres above Ordnance Datum (AOD) (Newlyn).*

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

**Advice on A1.14**

Based on the above flood levels and the proposed floor level, the development is designed to be compliant with A1.14 of TAN 15.

**Advice on A1.15**

We note that the site is predicted to experience flooding in the 0.1% plus climate change (2116) event, however this will be within the tolerable limits of A1.15 of TAN 15. This is because the minimum general site infrastructure levels will be set at 9.33 m AOD. The FCA also states that the property on site will have a finished floor levels of 9.65m AOD as set out above, and has stated that there is a preference of habitable floor levels to be set out 9.8m AOD. Therefore the site is designed to be in line with the maximum depth of flooding criteria in A1.15.

The other criteria within A1.15 has not be assessed as part of the FCA. We note the statement in the FCA that “for the Threshold Frequency, the site is therefore not exposed to floodwaters, so the rate of rise, speed of inundation and maximum velocity are all zero”. However the criteria in A1.15 should be assessed against the extreme flood event which in this case is the 0.1% plus climate change (2116). This statement is referring to the 0.5% plus climate change (2116) event. If your Authority is minded to request this additional information from the applicant, we would be happy to provide further advice.

*Advice on escape/evacuation routes*

We note the FCA has discussed means of escape and flood plans under section 18. The FCA states that beyond the site boundary there is a predicted flood free route up to the 0.5% plus climate change (2066) event via Usk Way footways. Post 2066 this the access route would experience up to 600mm of flooding up to 2116.

We refer you to the FCA (section 18) which provides 3 options for routes from the site. It has provided the consequences of flooding in table 11 for option 2. However the FCA then goes on to state that the flood plan will advise users to leave the site via Usk Way footways and on to George Street Bridge which appears to be option 3.

The FCA discusses the likelihood of advanced warning times for tidal flood events and concludes that occupiers will have the ability to evacuate the development prior to a flood event.

We are not the appropriate body to comment on the operational effectiveness of developer’s emergency plans and procedures or measures to address structural damage that may result from flooding. We do not normally comment on or approve the adequacy of such plans or procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

**Further Advice**

Please note that any works within 16 metres of a tidal river may require a Flood Risk Activity Permit, this is separate and standalone legislation to any planning permission granted by the Local Planning Authority. The permit must be applied for prior to the commencement of any works within this boundary, please contact Natural Resources Wales to discuss the requirement for a permit for any works associated with this development within 16 metres.

## Land Contamination

We have reviewed the following submitted reports:

- a) Phase 1 Contaminated Land Desk Study and Preliminary Risk Assessment' prepared by Intégrale Limited, dated July 2016
- b) IESIS Jacks Pill, Usk Way, Newport, Drainage Statement

We note that the site has a history of previous industrial use and earlier site investigations have identified land and groundwater contamination. Any groundwater beneath the site will be discharging into the River Usk so there is a clear source-pathway-receptor.

Due to the sites location adjacent to the River Usk Special Area of Conservation (SAC) and potential source-pathway-receptor discharge, we advise the inclusion of the following conditions on any Permission your Authority is minded to grant. These conditions would address significant concerns that we have identified. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment.

### Condition 2: Risk Assessment

*Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:*

1. *A preliminary risk assessment which has identified;*
  - i) *all previous uses;*
  - ii) *potential contaminants associated with those uses;*
  - iii) *a conceptual model of the site indicating sources, pathways and receptors;*
  - iv) *potentially unacceptable risks arising from contamination at the site.*
2. *A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.*
3. *The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.*
4. *A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

*Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. Please note that as regards risks to controlled waters and based on the information in the reports submitted with this application contain we have no objection to points 1 and 2 of this condition being discharged by the local authority.*

### Condition 3: Verification report

*Prior to [commencement of development]/ [occupation of any part of the permitted development], a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action,*

*as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.*

*Reason: To demonstrate that any remediation required at the site has been completed. The local authority may choose which control point they want for the report to be approved.*

**Condition 4: Long-term monitoring**

*Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.*

*Reason: Depending on the nature of the contamination and any remedial measures that may be required long term monitoring may be appropriate.*

**Condition 5: Unsuspected contamination**

*If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.*

**Condition 6: Piling**

*Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.*

**Conservation of Habitats and Species Regulations**

We note that the application site is located adjacent to the River Usk Special Area of Conservation (SAC) and River Usk Site of Special Scientific Interest (SSSI). We have reviewed the following documents:

- i) 'Ecological Appraisal of land at Jack's Pill, Uskway, Newport' prepared by Crossman Associated dated August 2014.
- ii) Jack's Pill Newport, River Usk Ecology Protection Strategy prepared by Engain dated 21 July 2016.

We note that the ecology strategy and other supporting documents address some issues surrounding the development and its proximity to the River Usk. However, the proposed development could have further implications for the above mentioned designated sites. We therefore advise that you, as the competent Authority, undertake a Habitats Regulation Assessment of the proposal in accordance with Regulation 61 of the Conservation of Habitats and Species Regulations 2010. We advise the following is considered as part of the assessment:

- i) Further details on the prevention of disturbance to fish and otter species of the River Usk SAC, (please note would expect no piling to be undertaken between 1 March and 30 June to prevent disturbance to migrating shad).
- ii) Details of any proposed bunds or fencing of the construction area, this should include details of a 10m offset from the existing river bank.



- iii) Details of construction hours, preventing working within 20m of the river bank between sunset and sunrise; and details of a lighting plan to prevent light spill onto the river and adjacent habitats.
- iv) Further details on any landscape and habitat management proposed along the river's edge including mitigation details.

#### Other Matters

Our comments above only relate specifically to matters that are included on our checklist Natural Resources Wales and Planning Consultations (March 2015) which is published on our website at this link (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

#### 4.3 Second response received 24 January 2017:

##### Ecology

In our letter on 9 September 2016 we advised you to undertake a Habitat Regulations Assessment prior to determining the application. We have reviewed the following documents:

- i) *Technical Note (Ecology): Assessing the Potential Effects of CFA Piling on Migratory Fish* by Engain (their ref: eg16759; dated 07 November 2016);
- ii) *Technical Note (Ecology): Wildlife Protection* by Engain (their ref: eg16759; dated 04 November 2016).

We do not have any adverse comments on the contents of these documents. We advise that they should inform your Habitat Regulations Assessment.

#### 4.4 Third response received 24 February 2017:

##### Ecology

Thank you for producing the Appropriate Assessment for the development at Jacks Pill, Newport. We agree with your conclusion that the development is unlikely to have a significant on the River Usk Special Area of Conservation provided that the planning conditions are adhered to.

#### 4.5 Fourth response received 5 April 2017:

##### Flooding

In line with our previous response, we recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

*Condition: Finished floor levels are set no lower than 9.8 metres above Ordnance Datum (AOD) (Newlyn).*

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

We note that due to an update in the Development Advice Maps (DAM) the application site now lies partially Zone C2 and partially Zone B 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, continues to confirm the site to be partially 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.

Whether a development is justified at this location is entirely a matter for your authority and we refer you to Section 6 of TAN15 for these considerations. Our role is to advise on the acceptability of flooding consequences in terms of risks to people and property.

In our previous response we did not object to the application provided a condition regarding Flood Risk (finished floor levels) and conditions regarding Land Contamination were included on any planning permission your Authority is minded to grant.

We note that although the development advice zone classification has changed, there has not been a change in our modelling or predicted flood levels at this location. Therefore the information contained within Flood Consequences Assessment (FCA) produced by Clive Onions dated 28 July 2016, submitted in support of the application is still applicable which states:

- i) The external areas of the site are approximately 8.8-9.5m AOD.
- ii) The proposed minimum floor levels for the development will be set at 9.8m AOD and the general ground levels will vary between 9.2-9.65m AOD, with a minimum general site infrastructure level of 9.33m AOD.
- iii) NRW provided interpolated flood data for the 0.5% (1 in 200 year) plus climate change event (2116) is 9.65m AOD. For the 0.1% (1 in 1000 year) plus climate change event (2116) is 9.93m AOD.

**Based on the above flood levels and the proposed floor level, the development is designed to be compliant with A1.14 of TAN 15.**

We also note that the site is predicted to experience flooding in the 0.1% plus climate change (2116) event, however this will be within the tolerable limits of A1.15 of TAN 15. This is because the minimum general site infrastructure levels will be set at 9.33 m AOD. The FCA also states that the property on site will have finished floor levels of 9.65m AOD as set out above, and has stated that there is a preference of habitable floor levels to be set out 9.8m AOD. **Therefore the site is designed to be in line with the maximum depth of flooding criteria in A1.15.**

#### *Advice on escape/evacuation routes*

We note the FCA has discussed means of escape and flood plans under section 18. The FCA states that beyond the site boundary there is a predicted flood free route up to the 0.5% plus climate change (2066) event via Usk Way footways. Post 2066 this the access route would experience up to 600mm of flooding up to 2116.

We are not the appropriate body to comment on the operational effectiveness of developer's emergency plans and procedures or measures to address structural damage that may result from flooding. We do not normally comment on or approve the adequacy of such plans or procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

#### Further Advice

We refer you to our previous response for our comments regarding Land Contamination and Conservation of Habitats and Species Regulations.

We recommend that the applicant consider the future insurability of this development now. Although we have no involvement in this matter we would advise you to review the Association of British Insurers published a paper, 'Climate Adaptation: Guidance on Insurance Issues for New Developments', to help you ensure any properties are as flood proof as possible and insurable. The paper can be found via:  
<http://www.abi.org.uk/content/contentfilemanager.aspx?contentid=24988>

Our comments above only relate specifically to matters that are included on our checklist Natural Resources Wales and Planning Consultations (March 2015) which is published on our website at this link: <https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>

We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

- 4.6 WELSH WATER:  
No objections to the proposal subject to a condition and advisory notes.
- 4.7 FIRE SERVICES:  
No objections to the proposal subject to advisory notes.
- 4.8 GWENT POLICE ARCHITECTURAL LIAISON OFFICER:  
No response received.
- 4.9 NEWPORT CIVIC SOCIETY:  
No response received.
- 4.10 AMBULANCE SERVICES:  
No response received.
- 4.11 NEWPORT ACCESS GROUP:  
No response received.
- 4.12 WESTERN POWER DISTRIBUTION:  
No response received.
- 4.13 WALES AND WEST UTILITIES  
No response received.

## **5. INTERNAL COUNCIL ADVICE**

### **5.1 PLANNING POLICY MANAGER:**

The application site was located within flood zone C1 when the application was submitted. During the application process the Development Advice Maps as set out in Technical Advice Note 15 were transferred to Natural Resources Wales who now host this information. This transfer of information has also resulted in an update to the maps and the application site altered from zone C1 to zone C2. This change from zone C1 to C2 requires a policy objection to be raised due to the proposal of highly vulnerable development within flood risk zone C2. National Planning Policy is clear that such uses should not be allocated within this high level of flood risk and this approach was further clarified by the Welsh Government in a Chief planning officer's letter and an additional clarification note on their website. The outcome of any flood consequence assessment is therefore not a consideration because the proposal is considered inappropriate at the policy stage.

The sites surrounding this application area have all been redeveloped as part of an overarching regeneration of the former Old Town Dock area and this development would result in the regeneration of the remaining plot; thereby satisfying Policy SP18 – Urban Regeneration. The application would also satisfy policy CE2- Waterfront Development because the scheme has integrated with the water and has not turned its back on the River Usk. This would also continue the pedestrian route way alongside the river edge as required by Policy T7- Public Rights of Way and New Development.

Overall the regeneration of this 'last piece of the jigsaw' at the former Old Town Dock area is welcomed. However a policy objection is raised over the proposed highly vulnerable development within flood zone C2 which is against National Policy.

## 5.2 PLANNING CONTRIBUTIONS MANAGER:

### 1. Introduction

S106 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.

An 'open book' viability appraisal was undertaken utilising the Council's Three Dragons Toolkit. It concluded that policy compliant contributions would jeopardise the proposal's economic viability and subsequent delivery. Whilst the level of 'Affordable Housing' and 'Education' provision are policy compliant, the level of 'Leisure' planning obligations represent a negotiated position that still enables the delivery of a sustainable development. The Applicant has agreed to these terms.

### 2. Affordable Housing

The affordable housing for Old Town Dock was delivered as part of the first phase of the regeneration of this area. Consequently, there is no requirement for an affordable housing element as part of this housing scheme

### 3. Education

'School Capacity' is calculated taking account of current school capacities, demand generated by extant permissions and/or Joint Housing Land Availability supply, as well as future pupil number projections over the lifetime of the related planning permission.

#### Primary

The development falls within the catchment of Pill Primary School. Taking into account the scale and type of development, as well as the deficit 'school capacity', a contribution of £153,737 is required for Pill Primary School

50% of the contribution will be paid upon occupation of the 20th dwelling (of two or more bedrooms) and 50% will be paid upon occupation of the 40th dwelling (of two or more bedrooms). Sums to be index linked to the Building Cost Information Service index

#### Secondary

The development falls within the catchment area of Duffryn High School. Taking into account the scale and type of development, as well as the surplus 'school capacity', no contribution is required

### 4. Leisure

There is a surplus of Informal play provision within the Pillgwenly Ward, but a deficit of Equipped and Formal play provision. A policy compliant leisure obligation would normally generate a requirement for a commuted sum of £313,711

Owing to the mainly flatted nature of the development, no on-site provision will be requested. Based upon the scale and type of dwellings proposed, as well as viability considerations, a negotiated leisure contribution of £114,182 is required for improvement and provision of equipped and formal facilities at Pill Playing Fields.

50% of the Leisure Sum will be paid upon occupation of the 30th dwelling and the remaining 50% of the Leisure Sum will be paid upon occupation of the 60th dwelling; sums to be index linked to the Retail Price Index

## 5.3 REGENERATION, INVESTMENT AND HOUSING (HOUSING):

The affordable housing for Old Town Dock was delivered as part of the first phase of the regeneration of this area and therefore there isn't a requirement for an affordable housing element as part of this housing scheme.

- 5.4 REGENERATION, INVESTMENT AND HOUSING (REGENERATION):  
The proposed development at Jack's Pill accords with the Council's previous aim to redevelop industrial land along the river front for housing use. This site represents one of the last undeveloped land parcels along the west bank of the Old Town Dock development area and therefore offers a good opportunity to add to the city's housing supply. Recent developments along Old Town Dock have been well received and demand for these properties can be supported from both within the city and across the wider region. There are no objections to this proposal from a strategic regeneration perspective, subject to the development achieving required consents and minimising impact upon the river.
- 5.5 HEAD OF STREETSCENE (HIGHWAYS):  
No objections to the proposal subject to conditions and advisory note.
- 5.6 HEAD OF STREETSCENE (DRAINAGE):  
No objections to the proposal subject to an advisory note.
- 5.7 HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION AND SCIENTIFIC OFFICER):  
No objections to the proposal subject to conditions and advisory notes.
- 5.8 HEAD OF STREETSCENE (ECOLOGY):  
No objections to the proposal subject to conditions and advisory notes.
- 5.9 HEAD OF STREETSCENE (LANDSCAPING):  
No objections to the proposal subject to conditions.
- 5.10 HEAD OF STREETSCENE (TREE OFFICER):  
No objections to the proposal subject to conditions.
- 5.11 HEAD OF STREETSCENE (PARKS):  
No objections to the proposal and confirmed that no contributions are required towards leisure facilities.
- 5.12 ACTIVE TRAVEL CO-ORDINATOR: No response received.
- 5.13 ECONOMIC DEVELOPMENT: No response received.
- 5.14 EDUCATION: No response received.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS:  
All properties within 50m of the application site were consulted (33No properties), a site notice was displayed and a press notice published in the South Wales Argus. The application has been advertised as a departure.
- 6.2 One response was received (no address given) objecting to the proposal on the following grounds:

This is East Dock Road and the parking is chaotic. Pavements, double yellow lines are ignored. The exit to Selskar Court is often blocked. Stage three of the Westmark Construction hasn't been completed. There appears to be two plots of waste land alongside the parking which is now being considered for building. Cars park in every available space...legal or otherwise! This "car park" does help to alleviate some of the congestion around the Magistrate Court, University building and people visiting the passport office. This "car park" is not well kept, is expensive but needed. It could do with a clear up. This rubbish has been there for a year now. But it is needed for car parking. This is the waste ground exposed to the river path.

Lack of adequate parking for the University, Magistrates Court, Newport City Homes and the passport office. Parking chaos already reigns on the roads surrounding these buildings. Residents have parking but no provision is made for visitors and another housing complex is about to open in old town dock. People need houses but they also need parking and this piece of waste land/ car park is needed for car parking needs of the area. I noticed that the original application was put in by Joseph Lewis. Is this the same gentleman from Westmark and UK and European company? He is the director of Newhaus/Selskar Court and the third stage of their project is not completed and there are considerable problems with Llanarth and Selskar Court. Surely he can't be planning to start something else?

## 7. ASSESSMENT

The application is referred to Committee as it is a major application and is a departure to the Newport Local Development Plan.

### 7.1 *The site*

The application site comprises a rectangular parcel of land on Usk Way which abuts the bank of the River Usk, measuring approximately 0.76 hectares in area. The site has a dual frontage on to the River Usk as its positioned on the corner of the River Usk with the Jacks Pill inlet. It lies to the south of Endeavour House (currently occupied as student accommodation but has also been granted planning permission by 16/0962 to be partly used as a hotel), which itself lies immediately south of George Street Bridge. The site is located near the City Centre, approximately 1/3 of a mile to the south of Friars Walk, and benefits from excellent connections to Usk Way, leading to the Southern Distributor Road and the M4 as well as good access to public transport and the Riverside Walk.

7.2 Being adjacent to the River Usk, the site has a number of relevant constraints; it is partly designated as a C2 and B1 flood zones and the River itself is designated as a Special Area of Conservation (SAC) which feeds into a RAMSAR and Special Protection Area (SPA) of the Severn Estuary. These are all International designations that result in the need for a Habitat Regulations Assessment having to be undertaken to ensure the proposal does not have a detrimental impact on any of the international conservation features. The river is also a Site of Special Scientific Interest (SSSI). This is a national designation which the proposal would need to ensure that it would not have an unacceptably adverse effect upon.

### 7.3 *Site history*

The area surrounding the application site has benefitted from major regeneration works since the turn of the millennium. As mentioned, a block of student accommodation/hotel has been erected on the parcel of land to the north of the application site, which was previously occupied as a scrap yard. Elsewhere, a number of housing developments have been erected on land to the south of the application site, with land to the west now housing offices (including Newport City Homes and Passport Office) and the Magistrates Court, with the former Cattle Market site developed as an Asda store further to the west.

7.4 The site itself was formerly industrial land, with industrial buildings remaining on site until approximately 2005. Since which time the land has been remediated as part of the 05/0316 permission.

7.5 In 2007, planning permission was granted for the proposed development of the site for up to 228 residential units with associated parking, and 3 retail / B1 commercial units (07/0539 refers). A further revised application was submitted in 2007 (07/1547) for the residential development of the land for up to 254 units, together with 6 commercial units falling within use classes order A1, A2, A3 and B1. This application had a resolution to grant planning permission subject to a S.106 agreement, however, since this was not completed, the application was subsequently refused.

7.6 Temporary planning permission was granted to enable the site to be used as a Pay and Display Car Park (10/0148 and 13/0068). Permission was renewed in 2016 but also on a temporary basis (3-years), to enable the Local Planning Authority to safeguard regeneration proposals. The site is currently use as a car-park.

7.7 Efforts have been made to bring the site forward for development, in order to fulfil the regeneration aspirations of the Council. A planning application was submitted in 2014 for residential development for 17no. dwellinghouses and 76no. apartments (14/0858 refers). The proposal was similar to that proposed in this submission, however, it was withdrawn at a late stage since further information was required to address a number of constraints.

7.8 *Proposed development*

This application proposes the re-development of the site to provide 17No dwellinghouses, 76No apartments and all associated infrastructure, such as highways, parking area, and drainage systems. The following dwellinghouses are proposed;

<i>Property</i>	<i>No of bedrooms</i>	<i>No of units</i>
House type A	3	3
House type B	3	3
House type C (C1 & C2)	3	8
House type D	2	3

7.9 The apartments are proposed in four blocks; A, B, C and D. These blocks contain a varying number of units, as follows;

<i>Property</i>	<i>No of bedrooms</i>	<i>No of units</i>
Block A	1	6
	2	7
	3	1
Block B	1	1
	2	7
Block C	1	20
	2	25
	3	1
Block D	1	4
	2	4

7.10 The site is allocated as a housing commitment in the Newport Local Development Plan (NLDP) for 130 units under policy H1. This is also defined by Policy SP10 which refers to the overall house-building requirement for Newport. Policy H3 of the NLDP seeks a minimum density of 30 dwellings per hectare. While the proposed 93 units is less than the NLDP allocation of 130 units, the resultant density would be 124 dwellings per hectare and therefore meets the requirements of Policy H3 and is considered appropriate for the location.

7.11 The proposed development, in terms of the general layout and the siting, scale, design and appearance of the dwellings and apartment blocks remains almost identical to that previously submitted under application 14/0858. Whilst that application was not formally determined by the Council, there were no objections to the design rationale of the development and it was concluded that the development would not have any significant adverse effect on the visual amenities of the area.

7.12 Notwithstanding the above, this resubmission has enabled further consideration to be given to the visual impact of the scheme and it has been possible to improve various design aspects of the development to produce a development which expressed a good standard of design quality and is a positive approach towards urban regeneration. In this respect, given the proportions and limits of the site, and its position on the banks of the River Usk, the scheme has been designed to include buildings primarily along the periphery of the site, creating a strong and active frontage on to the River Usk and Riverside Walk, as well as on to Usk Way. The site would be accessed off the existing site access point, which also serves the adjacent building, Endeavour House. An internal road would be added providing vehicular access to the proposed units. The intention is for the the road to be partly constructed to adoptable standards with additional private (non-adoptable) areas extending further into the site. The site is relatively flat and there would be central area of green public open space, which is shielded away from the busy

transport corridor of Usk Way, offering a focal point for the development and for local residents to enjoy.

- 7.13 Each unit would have at least 1No off-street parking space, with the dwellinghouses having one space per two bedroom dwelling, or two spaces per three bedroom dwelling. Several visitor spaces are also provided, whilst as part of the blocks of apartments, cycle storage space will also be proposed. The suggested adopted section of the internal road would have a 2m wide footpath on both side. The non-adopted roads would extend from the adoptable turning head and would incorporate changes in surfacing and width to demonstrate the transition between public and private spaces.
- 7.14 A modern, contemporary appearance is proposed in the design of the proposed units. The elevation plans indicate a mixture of materials along the elevations and street scene which would both complement and enhance the appearance of the site and the wider regenerated area. In this respect, the design of the units and a mixture of scale, is compatible with a existing and neighbouring waterfront developments. The additional inclusion of green roofs and elevated amenity spaces in some of the apartment blocks is an innovative method of making efficient use of space and is a highly attractive feature in creating character and a positive place to live.
- 7.15 The dwellinghouses would have a modern appearance with a vertical emphasis, including the incorporation of inverted dual-pitched roofs, various balcony areas and extensive glazing. House types A, B and C are all three storeys in height, with house type D two storeys in height. Their location within in the site would break-up the bulk, massing and scale of the larger apartment blocks, which adds visual interest when viewed from key public views and vistas such as the river walkway.
- 7.16 The apartment blocks would have a similarly modern appearance, with their materials and design based on the architectural themes and character of the dwelling houses, thereby unifying the development as a whole. Block A would vary in height of between 4 storeys and 6 storeys, stepping down from north to south along the River Usk elevation. This block has been designed with consideration of the adjacent residential block Endeavour House, which is 6-7 storeys in height. By reducing in scale as it departs Endeavour House, Block A has regard to the overall appearance of the wider elevation along the River Usk and sensitively reduces its scale along this elevation as it moves towards the Old Town Dock developments which are generally at a lower scale. This provides a successful transition to a group of four dwellings (House Type C2) which are three-storeys in scale which represents the middle section of the main riverfront.
- 7.17 Block B has been designed to 'turn the corner' around from the River Usk elevation into Jacks Pill and would be 3-4 storeys in scale. It has a four-storey central section which defines the immediate corner into Jack's Pill with 3-storey 'wings' either side. The layout, design and appearance of Block B would enhance important views of Jacks's Pill.
- 7.18 The riverfront elevation facing Jack's Pill would consist of a group of 7 dwellings. This would be a mixture of House Types C1, C2 and D and range between two and three storeys. When viewed from the riverfront, the group of dwellings would run parallel to the river and are highly symmetrical in their design and appearance.
- 7.19 Block C would be the largest of the blocks, containing 45 units. This would primarily front on to Usk Way, but its ends would also front onto Jacks Pill and Endeavour House. It would vary in height between 3 and 7 storeys and be set back from the edge of the footway on Usk Way. Given the importance of Usk Way as key transport route serving the city centre, this elevation demands a strong frontage. In this respect, the Block C would have the critical scale, bulk and mass that is needed for a development along this frontage. Furthermore, its design and appearance would complement the adjacent 7-storey block, Endeavour House and would be compatible with other parts of the proposed development. The cascading design of Block C sets the common theme that is present throughout the entire development, thereby generating its own character but in a manner that is not offensive to its context.



- 7.20 The central components of the development site would consist of a group of three Type A dwellings, a group of three Type B dwellings and Block D. The dwellings would be three-storeys in scale and fronting the access road into the site. Block D would be 5 storeys in scale and whilst it would be sited near to Endeavour House, it would be separated from this building by an internal road and parking area.
- 7.21 Soft landscaping would be introduced throughout the entire development. In this respect, the dwellings and apartment blocks would be set back from any public roads or paths which enables green spaces and landscaping to be included along the frontages. Soft landscaping would assist in 'breaking-up' the hard surfacing areas of the roads, paths and parking areas and would be a significant visual enhancement of the area which currently consists of a relatively barren and unkempt car park. Of note is a continuation of a line of trees along the roadside which is a distinct feature of this important transport corridor. The central area of green public open space offers a focal point for the development.
- 7.22 Having regard to the above, it is considered that the overall proposal achieves a good standard of design and positively supports the continued regeneration of Newport and sustainability by re-using previously developed land, thereby satisfying Policies SP1, GP2, GP6, H2 and SP18 of the NLDP, in addition to general advice contained within Supplementary Planning Guidance: New Dwellings (SPG: ND).
- 7.23 *Interaction with River Usk*  
The site has been laid out to have regard to the presence of the River Usk to the east. In this respect, the units have been located at the periphery of the site and face on to the river. This is an important design feature and accords with Policy CE2 of the NLDP, which seeks to ensure that development integrates with the River Usk. In addition, by having units fronting on to the river and riverside walk, it would also greatly improve natural surveillance in the area and the appearance and setting of the river which is designated as a Special Landscape Area, thereby satisfying Policy SP8 of the NLDP.
- 7.24 It is also noted that at present there are a number of sections which are adjacent to vacant or overgrown sites which can intimidate pedestrians and adversely affects the walking environment. With the number of openings along the river and Jacks Pill elevations and the scale of development adjacent to the riverside walk, it is considered that the increased natural surveillance would benefit the users of the riverside walk and promote its use further and aim to reduce the incidence and fear of crime and addressing Policy GP2 of the NLDP.
- 7.25 In addition, the development expresses high permeability and connectivity. In this respect, the development proposes public links on to the riverside walk, namely between Block A and Plot 15 and between Plot 33 and Block C. The proposal would also have direct access into Block C and 11 dwellings from the river walkway. Improvements would also be made to a section of the footway serving Usk Way. The development therefore would accord with the thrust of Policy CF4 of the LDP which seeks to provide and encourage access to the riverfront.
- 7.26 *Impact and amenity*  
In residential terms, Policy H2 and GP2 of the NLDP establishes the need to ensure that new development would have sufficient amenity for the proposed residents, without unreasonable detriment upon the amenity of others. Further advice is provided on this matter within Supplementary Planning Guidance: New Dwellings (SPG: ND).
- 7.27 Advice is provided within SPG:ND which sets out a desired amount of gross internal floor space for new flats. In this respect, the proposed flats are within reasonable proximity of the SPG. More importantly, consideration must be given to the overall standard of amenity that would be attributed to each apartment, particularly the habitable rooms. In this case, the units would achieve an acceptable standard of amenity, especially in terms of light, outlook and privacy. Regard is also given to the character and context of the development, namely that similar modern riverfront developments are high density where taller buildings are commonplace. In this respect, the proposed development would be consistent with the

standard of residential amenity associated recently granted along the riverfront. It is also acknowledged that the blocks would predominantly contain 1 and 2 bedroom apartments, in which the overall standard of residential amenity associated with the smaller types of accommodation are considered appropriate and acceptable. It is also noted that some blocks, such as Block C, would have communal and private amenity spaces on the roof with boundary treatments to safeguard privacy. Additionally, all blocks of apartments would also include a dedicated bin store for residents. As such, it is considered that this aspect of the proposal satisfies Policies GP2, GP6, H2 and W3 of the NLDP and advice contained within SPG: ND.

- 7.28 With regards to the dwelling-units, the internal floor area of the are also of adequate size to serve the two or three bedroom units that are proposed. Whilst the garden depths do not meet the desired 10m depth, as set out in SPG: ND, it is considered that the site is located in an area where higher density development is to be expected. In this respect, the site is within reasonable proximity of the site to the city centre where there is less expectation for the provision of more generous amenity spaces, especially on the waterfront. Furthermore, recent urban living and riverfront standards, set by developments at Old Town Dock, contain similar rear garden depths so it would not be considered to be out of keeping with the levels seen in the vicinity or detrimental to residential amenity. Notwithstanding the above, consideration must also be given to other types of amenity spaces available to the dwellings and apartment blocks. In this respect, the dwellings and apartment blocks would benefit from balconies or elevated communal outdoor spaces, some of which facing the river. Furthermore, since the previous submission, the green public open space at the centre of site has been increased in size and altered to a more usable shape. The combination of these types of outdoor amenity provides reasonable mitigation for smaller amenity spaces. Overall, and having considered the context of the site, it is considered that sufficient amenity space would be provided in this instance. The gardens for the dwellings would also be capable of storing household waste. Having regard to the above, it is considered that this aspect of the scheme satisfies Policies GP2, GP6, H2 and W3 of the NLDP and advice contained within SPG: ND.
- 7.29 A noise assessment has been submitted in which the Public Protection Department of the Council have concluded that the internal and external noise levels associated with the dwellings and apartment blocks are appropriate. Subject to conditions, it is considered that the proposed development would provide an adequate standard of residential amenity, thereby satisfying Policies GP2, GP6, GP7, H2 and W3 of the NLDP and advice contained within SPG: ND.
- 7.30 Given the location of the site, being bounded by the river on two sides and fronting Usk Way on another, there is only one immediate neighbouring property, namely the hotel/student accommodation at Endeavour House to the north. Blocks A and D are considered to be the buildings most likely to impact upon the amenities of the occupiers of Endeavour House, although it must be noted that this building is largely occupied by students during term time or short-term stays as part of the hotel.
- 7.31 Block A would be sited nearest to Endeavour House, although it would be sited at an oblique angle near the corner of the building. There would be limited openings proposed in Block A that would face Endeavour House, whilst the impact on any habitable rooms within the adjacent building would be indirect or upon secondary windows, thereby ensuring that the overall standard of amenity associated with the residential use of this type is acceptable. The windows facing Endeavour House would be secondary windows which would be fitted with obscured glazing. Block A would also contain balconies to the flats on the north-eastern corner of the building. These would be set forward of Endeavour House, so it is considered that this relationship would be acceptable. As a result, the impact of Block A is greatly reduced in terms of daylight and privacy levels. Windows located on the rear elevation of Block A would be at an acute angle which would not result in any unreasonable loss of privacy or amenity.

- 7.32 Block D would be sited further from Endeavour House than Block A, although it would have a more direct aspect. The spacing between Block D and Endeavour House measures approximately 14m. The elevation facing Endeavour House would have a similar relationship to the facing elevation of Block A, with only narrow secondary living room openings to be fitted with obscure glass and the side elevation of the balcony facing Endeavour House which would have full height privacy screens. As a result, it is considered that this relationship would be acceptable.
- 7.33 Whilst there would be a degree of impact upon the amenities of those residing in the vicinity of the development site during the construction phase, this is likely to be short-term only and is not a sufficient reason to withhold planning permission. However, in conjunction with the consideration of environmental matters, namely contamination and ecology, the proposal will require piling works which, depending on the methodology, can be a loud process and issues of dust and air quality and general noise and disturbance is likely to be encountered. As such, conditions would be imposed for the submission of a Construction Environmental Management Plan (CEMP) and limiting the piling operations to the Continuous Flight Auger type only. In this respect, the Public Protection Department have no objections to the proposal and it is considered that the proposal would not result in any unreasonable and long-term adverse effect on the amenities of neighbouring properties, thereby satisfying Policies GP2, GP6, GP7 and H2 of the NLDP and advice contained within SPG: ND.
- 7.34 The other properties in the vicinity are Nexus House (Newport City Homes and Passport Office), Lanyon House (Whitehead Building Services) and the Magistrates Court. These are separated from the application site by the wide transport corridor of Usk Way. Given the commercial nature of those uses and the separation distance, it is considered that the development, with Block C being the nearest, would have any significant adverse effect on these neighbouring properties.
- 7.35 The land to the south of Jacks Pill has been partially developed as apartments, although the northern section of the site has not yet been built. There is no indication if these remaining apartments will be built in future although there is an extant permission to enable their construction. Excluding these apartments from consideration, the nearest property to the south would be a block of apartments, approximately 100m away from the southern end of the application site. As such, it is considered that the proposal would not have a detrimental impact on residential amenity. Giving consideration to the apartments which could be erected, this block would be 6 storeys in height and be separated from the application site by the inlet of Jacks Pill; a distance of approximately 50m. Given this distance and the siting of the application site to the north of the flats on the adjacent site, it is considered that there would be an acceptable relationship between the developments and would not result in any significant adverse effect on visual or residential amenity thereby satisfying Policies GP2, GP6, GP7 and H2 of the NLDP and advice contained within SPG: ND.
- 7.36 The proposal has taken the opportunity to design out crime and anti-social behaviour by utilising an underutilised/vulnerable site by increasing natural surveillance in the area, particularly across roads, paths/walkways and public spaces. In this respect, the proposal is considered to satisfy Policies GP2 and GP6 of the NLDP.
- 7.37 *Landscaping and boundary treatments*  
Details of proposed boundary treatments have been provided for the various parts of the site. The boundaries between properties would comprise a 1.8m high timber fence (Type A), with the front boundaries of the site comprising 1.2m high stone walls with pillars (Type B). The rear boundary treatments, for example, to the rear of plots 15-18, 27-33 and 83-85 would comprise a brickwork wall with fencing panels in between piers, to a height of between 1.7-1.9m (Type C). Softer boundary treatments would also be used in the vicinity of the central green public open space and the space between Block D and Endeavour House. These details are considered acceptable, in principle, however key details are lacking such as external finishes and heights and type of soft boundary treatments. As such, subject to a planning condition to control all boundary treatments, it is considered that the proposed development would not have any significant adverse

effect on visual or residential amenities, thereby satisfying Policies GP2, GP6 and H2 of the NLDP.

- 7.38 Due to the peripheral nature of the development and the fact that the units face on to the Riverside Walk, the internal road would be lined with the rear elevations of buildings, car parking spaces and boundary treatments. The applicant has mitigated this visual impact by proposing extensive areas of landscaping both along the proposed property boundaries and between parking spaces. It is considered that this suitably softens the street scene, resulting in a more pleasant environment. Other areas of landscaping are proposed along Usk Way, along the Riverside Walk and the linking pedestrian walkways. A larger area than previously proposed of on-site green open space is also shown on the site layout plan, incorporating extensive landscaping. Furthermore, there are various flat roof sections to the proposed apartment blocks, some of which would have green roofs and even elevated amenity spaces, thereby enriching the site with quality and character and enhancing residential amenity.
- 7.39 There are a small number of trees currently present along the site boundary fronting Usk Way. Other than contributing to the tree-line which is characteristic of the road, the trees are not particularly good specimens nor have sufficient quality so as to warrant retention. Notwithstanding the above, there would be a need to secure replanting along this frontage to reinforce the tree-lined character of Usk Way. A landscaping scheme has been submitted in which the Council's Tree Officer and Landscaping Officer have no objections to the proposal. The details currently provided are considered adequate in demonstrating that it would contribute to achieving high quality development on the site. There will however be a requirement to substitute a variety of species to ensure that they are appropriate for the site. A Landscape and Management Plan has also been submitted, however, it lacks sufficient detail on how the landscaping would be maintained over a period of 5-years following its initial implementation. These matters can be appropriately secured via planning conditions, thereby satisfying Policies GP5, GP6 and SP4 of the NLDP.
- 7.40 *Highways and car parking*  
The site is located within Zone 1 (city centre), as defined by Supplementary Planning Guidance: Parking Standards (SPG: PS). As such, consideration must be given the sustainable location of the site. In this particular case, parking has been provided at an appropriate amount for each unit within the development with several visitor spaces included. In addition, cycle storage facilities would be provided to allow for a more sustainable mode of transport, in addition to the site being served by local buses, the riverside walk and being in close proximity to the city centre.
- 7.41 The site is highly permeable which encourages greater use of footways and the river walkway. A section of Usk Way, which was formerly an access point, would be upgraded as part of the development, to enable the continuation of the public footway. The adopted and non-adopted areas within the site are also clearly defined. The adopted roads are of adequate width for a variety of vehicles, including emergency appliances. Whilst it is acknowledged that comments have been received on the need to retain the car park, this has only been granted temporary consent due to the long-term aim of redeveloping the site for residential purposes, especially as it is an allocation within the NLDP. The Head of Streetscene (Highways) has no objections to the proposal subject to conditions and advisory notes. It is, therefore, considered that the proposal satisfies Policies GP4, , GP6 and T4 of the NLDP and SPG:PS.
- 7.42 *Archaeology*  
Glamorgan Gwent Archaeological Trust, the Council's Archaeological advisors, have not been consulted with regards to this application, however they had been consulted as part of the withdrawn submission, 14/0858. Since the circumstances of the site and the extent and nature of the proposal has not significantly changed since their previous comments, it is considered that their original comments remains adequate and material to the determination of this latest application. In this respect, it is considered that the proposal will require archaeological mitigation. The previous applications for this site included details of an archaeological watching brief undertaken during geotechnical investigations, which

identified a number of timbers, probably relating to the wharfage along the northern edge of Jacks Pill, at a depth of c.0.5m. Along the eastern edge of the development site, following the western bank of the Usk further timber wharfage remains were encountered however these were at a much greater depth below ground level (c.2.8m). These are likely to relate to the early 19th century dockside activity on the site. As such, they recommended a condition be attached to a permission which would require the submission and implementation of a written scheme of investigation outlining a programme of archaeological work, to be undertaken by a suitably qualified archaeologist. Subject to the imposition of this condition, it is considered that the proposal satisfies Policies SP9 and CE6 of the NLDP and Supplementary Planning Guidance: Archaeologically Sensitive Areas (SPG: AASA).

7.43 *Contamination and Ecology (Appropriate Assessment)*

Given the former industrial uses of the site, the land is identified as being contaminated and in need of remediation as part of any development. As shown in the site history, the land was subject to a degree of remediation works which were undertaken as part of the development of the student accommodation on the neighbouring parcel of land. A 2007 Site Investigation and Human Health Assessment was submitted as part of the application, although it relates to the previously proposed development.

7.44 Extensive information have been submitted regarding land contamination and this has been considered by the Public Protection Department of the Council and Natural Resources Wales. This information was also considered in conjunction with ecology matters, since the consequences of addressing contamination (particularly groundwater) and the method of developing and constructing the site, could have significant implications on key biodiversity and ecology interests. In this respect, the site is adjacent to the River Usk which is considered one of the best examples of a near natural river system in England and Wales. The range of plants and animals reflects a transition from nutrient poor to naturally rich. It was notified to protect a wide range of habitats and features. It also acts as an important wildlife corridor, an essential migration route and a key breeding area for nationally and internationally important species, including otter. The River Usk is also designated as a Site of Special Scientific Interest (SSSI).

7.45 In accordance with The Conservation of Habitats and Species Regulations 2010 the Local Planning Authority, prior to determining the application, need to carry out an Appropriate Assessment (AA), identifying any likely significant effects on the River Usk SAC, either alone or in combination with other projects or plans. The Authority subsequently need to establish under an AA whether it can be demonstrated that a permission, subject to any conditions or planning controls, would avoid any adverse effect to the integrity of the River Usk SAC. The river has been designated as a SAC because the following species are special features to the River Usk: -

- Allis Shad
- Twait Shad
- Bullhead
- River Lamprey
- Brook Lamprey
- Sea Lamprey
- Atlantic Salmon
- Otter
- Water Crowfoot.

The conservation objectives of the River Usk SAC are attached in [Appendix A](#).

7.46 The proposal has been accompanied by an Ecological Appraisal and a report titled: "River Usk Ecology Protection Strategy". The latter report identified several factors which could affect the integrity of the River Usk SAC and subsequently established the scope of the Appropriate Assessment. These factors were defined as: Surface water/Ground water

contamination and impact on migratory fish and otters. Once the scope was established, and following the initial responses of Natural Resources Wales and the Council's Ecologist, two technical notes were produced to assist the Authority in assessing the potential impact of the proposal upon the defined factors.

- 7.47 *Surface/Ground Water Contamination, Piling Operations and Impact on Migratory Fish*  
There is potential for the proposed development to cause contamination of the River Usk SAC from surface and ground water discharge. Specifically, concerns may relate to how surface water will be disposed of during construction and operation, how potential contamination of groundwater on the site will be addressed, what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction and operation phases of the proposals, and the location of any new discharge structures during construction and operation.
- 7.48 The application has been accompanied by a Phase 1 Contaminated Land Desk Study, a Preliminary Risk Assessment Report and a Drainage Statement. These have enabled the Authority to determine the extent of any existing contamination associated with the site and the impact of the proposed development on surface and ground water discharges which could have any impact on the River Usk SAC.
- 7.49 In this respect, it is noted that the site has a history of previous industrial use and earlier site investigations have identified land and groundwater contamination. Any groundwater beneath the site will be discharging into the River Usk and, as such, there is a clear source-pathway-receptor. The proposal is also seeking to formalise water discharge directly into the River Usk by constructing an outfall. This has the potential to have effects on the integrity of the River Usk SAC.
- 7.50 Notwithstanding the above, the impact of surface and ground water can be appropriately mitigated by the imposition of several planning conditions. This would ensure that contamination of the River Usk SAC is avoided and that there appropriate measures in place to reduce the likelihood of contaminated material entering the water system.
- 7.51 In addition to the above, the proposal must consider the impact of the development, particularly noise and vibration, on migratory fish within the River Usk SAC. A technical note titled "Assessing the Potential Effects of Piling on Migratory Fish" has been prepared by an Ecologist and submitted with the planning application for consideration.
- 7.52 Whilst it is intended to undertake piling operations on the site, this report demonstrates that the Continuous Flight Auger piling operation would be used and not the more percussive and aggressive type. The note demonstrates that the noise level would be below a level likely to have an effect on fish and that vibration at the levels that would be created from this type of piling would also have no effect on fish. As such, the note concludes that there would be no likely significant effect on migratory fish and, as such, there would no need to restrict piling during the migration period. The Council's Ecologist and Natural Resources Wales have reviewed this Technical Note and there are no objections to the proposal. It is however considered necessary to impose a condition to limit the type of piling operations.
- 7.53 Having regard to the above, matters of surface/ground water contamination and the impact of piling operations on migratory fish can be appropriately mitigated. Therefore, in the interests of protecting the integrity of the River Usk Special Area of Conservation with regard to these matters, the following conditions are recommended:
1. Prior to the commencement of the development hereby approved, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and agreed in writing by the Local Planning Authority:
    - a. A site investigation and risk assessment to all receptors that may be affected, including those off site, as identified by documents titled "Phase I Contaminated Land Desk Study and Preliminary Risk Assessment" (Report

- b. The results of the site investigation and detailed risk assessment referred to in (a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Development shall be carried out in accordance with the agreed details.

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. There is a potential risk to future site users (Human Health) and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

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

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. There is a potential risk to future site users (Human Health) and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

3. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan (as specified in Condition 2) shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme, a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

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

Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

5. Any piling operation on the site shall be of the Continuous Flight Auger type only and where it has been demonstrated in a report, to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the piling operation, that there is no resultant unacceptable risk to groundwater for that part of the site.

Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

6. Notwithstanding the submitted plans, no development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul and surface water drainage will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed scheme and implemented in full prior to the beneficial occupation of any part of the development hereby approved.

Reason: To ensure that effective drainage facilities are provided for the proposed development, to ensure that flood risk is not increased and in the interests of protecting the integrity of the River Usk Special Area of Conservation.

7. Prior to the commencement of development (including piling, excavation or construction works), a Construction Environmental Management Plan shall be 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 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 should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling. The agreed Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

\* 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: In the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

#### 7.54 *Otters*

A Technical Note titled "Prevention of Disturbance to Otters" has been prepared by an Ecologist and submitted with the planning application for consideration. The development site is currently being used as a car park and is located in an urban area, separated from the River Usk by the river walkway. The Technical Note consider the site itself is unsuitable habitat for otters and there are no known otter resting places along this section of the River Usk and no sites suitable for a holt. During two ecological surveys, no prints or spraints were recorded. However, otters are known to travel along the Usk and there is a possibility that they will occasionally visit this section of the river.

- 7.55 The Technical Note considers that the risk of disturbance to otters is very low. Whilst the proposal would involve the construction of a drainage outfall into the River Usk, the Council's Ecologist considers this to be a relatively small feature that would not result in loss of habitat to otters or unduly inhibit their movement along the bank. The Council's Ecologist and Natural Resources Wales have no objections to the proposal.

- 7.56 Notwithstanding the above, measures will be put in place to protect otters from the development of the site. In this respect the following conditions are recommended:

8. No development (including piling, excavation or construction works) shall commence on site until there has been submitted to and agreed in writing a scheme to prevent otters from entering the site. The scheme shall include details of boundary treatments to be erected in accordance with the buffer zone shown on plan titled: "Otter Protection Plan" (included within Technical Note: Prevention of Disturbance to Otters – Engain Ecology). The agreed scheme shall be implemented prior to the commencement of development and retained for the entire duration of the works.



Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation

9. No artificial lighting or illumination shall be installed on-site unless in accordance with a scheme to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation

#### 7.57 *Combination Effects*

Consideration must be given to the cumulative effects of the proposed development when considered alongside other developments in the area. In this respect, it is concluded that there are no other developments which would result in a cumulative effect and most recent projects within the River Usk has been subject to its own Appropriate Assessment in which similar conditions were imposed to protect the integrity of the river.

Having regard to the above, NRW and the Council's Ecologist have confirmed that they have no objections to this aspect of the proposal and to the Appropriate Assessment that has been undertaken in accordance with The Conservation of Habitats and Species Regulations 2010. It is therefore considered that, subject to the imposition of several conditions, the proposed development would not have a significant impact on this designated European. As such, the development is considered to satisfy Policies GP2, GP6, SP9 and GP5 and GP7 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) as well as Technical Advice Note 5 and Supplementary Planning Guidance: Wildlife and Development (SPG: WD).

#### 7.58 *Drainage*

The proposed surface water system consist of a series of oversized concrete box culverts designed to house and cater for a 1 in 200 year storm event. The use of geocellular attenuation will store surface water from all hardstanding areas. The water will then be released via an outfall into the River Usk. Given that the site is covered in hardstanding and being used as a carpark with no attenuation at present, the development drainage proposals, in principle, not only provides betterment in terms of uncontrolled discharge rates but also caters for the reduction of risk of migration of polluted waters. The Council's Drainage Officer has no objections to the proposal with regards to the means of discharging surface water.

- 7.59 Foul drainage would connect to the main sewer which, according to the submitted plans, is located within the footway of Usk Way. Welsh Water have commented that they have no objections, in principle to the proposal, however their records indicate that the sewer is not located in the immediate area shown on submitted plans. As such, they have recommended for all drainage details should be agreed, to ensure that the development is adequately served by an effective drainage system covering both surface and foul water. Subject to this condition, it is considered that the development is acceptable and satisfies Policy SP4, GP1 and GP3 of the NLDP.

#### 7.60 *Flooding*

This application was submitted in July 2016 and until March 2017, the site was considered to be within Zone C1 with a small area within Zone C2. Due to an update in the Development Advice Maps (DAM), the application site now lies partially within Zone C2 and partially within Zone B.

- 7.61 Despite this reclassification, NRW has advised that the flood Map information, which is updated on a quarterly basis, continues to confirm the site to be partially 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.

- 7.62 Furthermore, despite the classification change, there has not been a change in NRW's modelling or predicted flood levels at this location. Therefore, the information contained within the Flood Consequences Assessment (FCA) submitted to accompany the application is still applicable.

- 7.63 NRW's role is to advise on the acceptability of flooding consequences in terms of risks to people and property. In this respect, NRW has confirmed that subject to a condition for the finished floor levels of units to be a minimum of 9.8m above Ordnance Datum level, the development is designed to be compliant with A1.14 of Technical Advice Note 15: Flooding (TAN15). This includes the fact that the development would include a physical flood defence by virtue of a dwarf wall around the site to protect the whole site up to the level of 9.65m AOD which is the 1:200 flood event.
- 7.64 Consideration must also be given with the table of A1.15 of TAN15. In this respect, the site is predicted to experience flooding in the 0.1% plus climate change (2116) event. However, since the general site infrastructure levels and the floor levels of the residential properties will be raised, NRW has confirmed that the development during such a flood event will be within the tolerable limits of A1.15. Having regards to NRW's response and their remit, it is concluded that the risks associated with flooding can be mitigated and managed, therefore they have no objections to the proposal.
- 7.65 Notwithstanding the above and following consideration of the FCA and NRW's consultation response, the Local Planning Authority must consider the proposal in context of other requirements of TAN 15.
- 7.66 The application has been under consideration by the Local Planning Authority since the end of July 2016. During this time, but prior to the changes to the Development Advice Maps in March 2017, the applicant had submitted an addendum to the FCA which responds to the remaining justification tests set out in Section 6.2 of TAN 15 and reproduced below:
- i) Should be located only in an area of flood risk which is developed and served by significant infrastructure, including flood defences (Zone C1 of the DAM), and,
  - ii) 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
  - iii) 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,
  - iv) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
  - v) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.
- 7.67 For the purposes of this report, criterion (i) to (iv) are referred to as Test 1 as this relates to the site justification and criterion (v) which has a number of tests is referred to as Tests 2 to 12.
- 7.68 Test 1: Justified Development
- (i) *Should be located only in an area of flood risk which is developed and served by significant infrastructure, including flood defences (Zone C1 of the DAM)*

The application has been predominantly considered by the Local Planning Authority as being located within Zone C1 flood risk area. Prior to the very recent changes Development Advice Maps, the site was mainly within Zone C1 and as a result the development would have met the requirements of this criterion. However, following changes to the Development Advice Maps in March 2017, a larger proportion of the site has been reclassified as Zone C2. As such, the development fails to satisfy criterion (i) of Test 1.

- 7.69 *(ii) Its location in zone C is necessary to assist, or be part of, a Local Authority regeneration Initiative or a Local Authority strategy required to sustain an existing settlement*

The site is located within the settlement boundary and is an allocated housing site within the adopted NLDP. The proposal is also considered to complete the Waterfront Development which is a significant regeneration initiative of the Council and is recognised by Policies SP18 and CE2 of the NLDP. As such, the development is also deemed to be necessary as part of a Local Authority Strategy required to sustain an existing settlement. It is therefore considered that Criterion (ii) of Test 1 has been satisfied.

- 7.70 *(iii) 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.*

Criterion (iii) of Test 1 is not applicable since criterion (ii) has been met and that this proposal does not propose employment uses, although it is acknowledged that it would generate a degree of employment during the construction phase.

- 7.71 *(iv) It concurs with the aims of Planning Policy Wales 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"

Having regard to the planning history of the site, its physical characteristics and location within the settlement boundary, it is considered that the site accords with this definition. The proposal satisfies criterion (iii) of Test 1.

- 7.72 Test 2: Flood defences must be shown by the developed to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a probability of occurrence of 0.1% / 1 in 1000 event)

Figure 13 of the Flood Consequences Assessment (FCA) shows a typical detail of the flood defence, comprising a robust dwarf wall. This also performs as a retaining wall to the development which demonstrates its robustness defending water forces on the tidal side. Natural Resources Wales are satisfied with the structural soundness of the proposed flood defence. Section 6 of the FCA gives the key levels; the riverside walkway is 9.0m AOD, the flood defence is at 9.65m AOD and the 1 in 100 year event is 8.93m AOD. With climate change, in 2116, the flood level is 9.93m AOD and the wall overtopped. However, having considered the risk associated with the extreme flood event, as explained under Test 12 (paragraph 7.81 refers), it is considered that Test 2 has been satisfied.

- 7.73 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

Section 19 of the FCA confirms that the Developer will establish a Management Company which will be responsible for the mitigation measures including the defences, for the lifetime of the development. Test 3 has therefore been satisfied.

- 7.74 Test 4: The developer must ensure that future occupiers of development are aware of the flooding risks and consequences

The Developer will use the information in Section 18 of the FCA to produce a statement for occupiers which will describe the flood risk, the consequences and the warning procedures to be monitored and the stage at which to leave or stay within the development, and what measures are to be taken to ensure that all is safe afterwards. The statement will be part of the sales documents for each property and transferred with the property. The Management Company might update these from time to time to ensure

they are relevant as technology advances. It is considered that Test 4 has been satisfied.

7.75 Test 5: Effective flood warnings are provided at the site

The site is in an area which would receive warnings of significant events from NRW. A sign will also be located in a prominent location to describe the flood risk, when it could occur and the steps to be taken in such an event. It should be noted that even the current day 1 in 100 year event will not affect the site, and it is only the effect of sea level rise in the last few years of the lifetime which requires consideration, as discussed through the following Tests. The proposal has satisfied the requirements of Test 5.

7.76 Test 6: Escape/evacuation routes are shown by the developer to be operational under all conditions

When NRW is consulted for flood data, they also request an indication of the potential escape route – this is clearly at an early stage in the preparation of the FCA. Routes 1 and 2 described in Section 18 of the FCA were given to NRW, and NRW consequently discovered that route 2 was better, and details of this are given in the FCA.

The advice with regard to escape is to move out of the vulnerable zone as soon as possible (i.e. take the shortest distance) and move away from the source of the flooding if possible. As the project and the local terrain were considered, it became clear that there was a third route. This comprised walking northwards (i.e. away from the sea and the source of the flood) a short distance past the student housing, Endeavour House (i.e. sheltered from the river and source of flood) and up the steps onto the George Street Bridge (quickly rising above the flood level). Route 2 provides step free access and as above is identified as NRW's preferred route.

Overall route 3 is a shorter, quicker and safer route than routes 1 and 2. It is for this reason that the FCA includes the 3 routes, only two of which were considered by NRW. Route 3 is the very first short section of Route 1.

Having regard to the above, the developer has demonstrated that escape/evacuations routes are available and operational under all conditions. It is therefore considered that the proposal satisfies the requirements of Test 6.

7.77 Test 7: Flood emergency plans and procedures produced by the developer must be in place

Section 18 of the FCA will be used to inform a Flood Emergency Plan. This will incorporate the aspects covered in Tests 4, 5 and 6 above, and will be included in the sales documents. The developer carries the responsibility of producing such a plan and the Local Planning Authority does not have the in-house expertise to assess such plans. The Local Resilience Forum, the police, fire and ambulance service have confirmed that they are not willing to participate in the planning process and comment on the flood risk issues relating to the application. An informative note could be added to any planning permission advising that such a plan should be produced. The LPA is therefore not in a position to advise further.

7.78 Test 8: The development is designed by the developer to allow the occupier the facility for rapid movement of good/possessions to areas away from the floodwaters

This normally refers to precious belongings, and the importance of having a safe haven so that they are protected from flood damage. Most of the buildings have a first floor, so belongings can quickly be moved upstairs. It should be noted that even in the 1 in 1000 year event, at the end of the lifetime of the development (i.e. with climate change), the depth of water in the building is predicted to be only 130mm (FCA Section 6). It is therefore clear that provided belongings are not directly on the floor, they will be protected. They can be placed on a cupboard, table etc. and be safe. Larger items could be placed on a couple of bricks, and this can be explained in the Flood Emergency Plan given to occupiers.

- 7.79 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  
From Section 6 of the FCA it can be seen that the building floors will be above the 1 in 1000 year flood event, and therefore safe from flooding. After 90 years (ie in about 2106) the building floors become vulnerable to flooding in a 1 in 1000 year event due to sea level rise, and at the end of their lifetime (100 years) the maximum depth of water in a 1 in 1000 year event is only 130mm. The risk of damage is therefore very low, the duration of tidal flooding will be only 40 minutes and sand bags or technology of the time is likely to exclude water altogether. The buildings are therefore structurally resistant to potential flooding, unlikely to be flooded and if they are can be brought back into use very soon after flooding, and simple drying has taken place. It is considered that Test 9 has been satisfied.
- 7.80 Test 10: No flooding elsewhere  
There is no increased flooding elsewhere as a result of this development because the source is tidal floodwaters, and the level is defined by the tide level, not the extent of development. It is considered that Test 9 has been satisfied.
- 7.81 Test 11: Development to be flood-free in a 1 in 200 year tidal event including climate change allowance  
Section 6 of the FCA shows that the 1 in 200 year flood level, with climate change allowance (ie sea level rise) provided by NRW is 9.65m AOD. The development is completely surrounded by a wall or high ground to a level of 9.65m AOD. The development proposal therefore complies with this requirement and Test 10 has been satisfied.
- 7.82 Test 12: Residual risk in 1 in 1000 year event  
Section 6 of the FCA gives the relevant levels. The site levels and access roads will be 600mm below the 1 in 1000 year event at the end of the lifetime (9.33m AOD and 9.93m AOD respectively). There will be only 130mm (i.e. less than 600mm) of flood water in the properties in the 1 in 1000 year event at the end of the lifetime.
- The speed of inundation has been calculated as 20 minutes (less than the 4 hours criteria in TAN 15 Table A1.15). Based on this and the site being 100m across, the flow across the development would be less than 0.1m/s (i.e. less than the 0.3m/s criterion). The rate of rise of the floodwater only becomes relevant in 2106, when the development is 90 years old and sea level rise has occurred. At this stage in 2106, the rate of rise experienced in the site is 0.37 m/hr, which exceeds the 0.1m/hr threshold. However, this is a function of the tide curve in the Severn Estuary. It must be appreciated that the duration of this event is only 40 minutes from start to finish and only covers a 130mm change in depth of water.
- It is considered that this rate of rise over such a short time and shallow depth is not a hazard, and this criterion is considered critical when floodwaters of more significant in depth and duration in very different situations. Such an event would be an extreme event and it would be predictable due to the cause being tidal; if necessary, warnings could be put in place more than 2 days beforehand to evacuate.
- 7.83 Conclusion of the 12 Tests and Implications upon Planning Policy and Planning Decisions  
The potential consequences of the flood risk event have been carefully considered and having regard to the information provided within the Flood Consequences Assessment, the addendum to the FCA, NRW's consultation responses and the requirements of TAN15, it is considered that the proposal satisfies Tests 2-6 and 8-11. The Authority is not in a position to advise further on Test 7.
- 7.84 With regards to Test 12, the rate of rise of flood water at the site would exceed the maximum value stated within Table A.15 of TAN15. However, this event would only occur after 90 years of the development as a function of the very high Severn Estuary tide. Notwithstanding this, the technical evidence indicates that this event only applies for

the 40 minutes duration of the peak of the event, and only covers a 130mm change in depth of water. It must be emphasised that there will be only 130mm of flood water in the properties in the 1 in 1000 year event at the end of the lifetime. The risk therefore is very low.

- 7.85 All emergency services have been consulted with regards to the proposal and no comments have been received apart from the Fire Services who have no objections to the proposal.
- 7.86 In addition to the above, the supplementary *text within Paragraph A1.15 of TAN15 does indicate that the thresholds specified within the table 'should not be regarded as prescriptive' and that 'each site must be considered individually and a judgement taken in the context of the particular circumstances which could prevail at that site'.*
- 7.87 The potential consequences of this aspect of the flood risk have been carefully considered and it is concluded that the actual risk is low so as to not represent a significant hazard to the public or unacceptable harm to future residents. It is therefore considered that, on balance, the proposal satisfies the requirements of Test 12.
- 7.88 With regards to Test 1, it has been reasonably demonstrated that criterion two and three of this test have been met. Criterion 1 has not been met as a large proportion of the site has been recently reclassified as Zone C2. A letter dated 9 January 2014 from the Chief Planner of the Welsh Government advises that highly vulnerable development should not be permitted in Zone C2 flood risk areas.
- 7.89 The proposal, by virtue of simply proposing residential development in Zone C2, automatically raises an 'in principle' policy objection and is subsequently deemed to contrary to Planning Policy Wales, Technical Advice Note 15 and Newport's Local Development Plan.
- 7.90 Notwithstanding the above, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.91 The conflict generated by the policy position towards flooding must be balanced with wider planning policy objectives and the applicant has submitted a statement which demonstrates that there are several material considerations which, in this particular instance, outweighs the Development Plan.
- 7.92 Firstly, it must be emphasised that flooding is only one of several considerations in the determination of this application. Paragraph 6.1 of TAN15 acknowledges that: *Much urban development in Wales has taken place alongside rivers and in the coastal plain. It is therefore inevitable, despite the overall aim to avoid flood risk areas, that some existing development will be vulnerable to flooding and fall within zone C. Some flexibility is necessary to enable the risks of flooding to be addressed whilst recognising the negative economic and social consequences if policy were to preclude investment in existing urban areas, and the benefits of reusing previously developed land. Further development in such areas, whilst possibly benefiting from some protection, will not be free from risk and could in some cases exacerbate the consequences of a flood event for existing development and therefore a balanced judgement is required.*
- 7.93 Paragraph 13.4.1 of Planning Policy Wales is also considered relevant as it explains that:

Development proposals in areas defined as being of high flood hazard should only be considered where:

- i) new development can be justified in that location, even though it is likely to be at risk from flooding; and
- ii) the development proposal would not result in the intensification of existing development which may itself be at risk; and
- ii) new development would not increase the potential adverse impacts of a flood event

- 7.94 In the context of this paragraph, the development can be justified in this location in the interests of providing much needed housing on previously used land which has been allocated in the Development Plan for that purpose and is deemed to be of significant importance to the regeneration of a strategic waterfront site in relative close proximity to the city centre. It is also recognised that despite the fact that the site would be at risk from flooding, the risk and associated consequences is low and can be reasonably mitigated and managed so as to avoid unreasonable harm to the public. This includes the provision of a physical flood defence by virtue of a dwarf wall around the site to protect the whole site up to the level of 9.65m AOD which is the 1:200 flood event and a condition which requires the levels of the site and finished floor levels of the residential units to be raised and set so as to be within acceptable limits and for the flood defence works itemised within the Flood Consequences Assessment to be carried out prior to the occupation of any dwelling. The proposal does not involve the intensification of an existing development nor would the development increase the potential adverse impacts of a flood event.
- 7.95 Notwithstanding the flooding issue, this report has demonstrated that the scheme in all other respects is in accordance with the Development Plan and National Planning Policy. Of importance is that the site is allocated within the NLDP under Policy H1 for residential purposes and by virtue of bringing the site forward for development, the Council would be implementing the requirements of the Plan. Whilst it is acknowledged that in terms of dwelling-unit numbers, this proposal would not represent a significant proportion of the overall housing supply for Newport, the NLDP was only adopted in January 2015 and its lifetime extends to 2026. As such, the Council needs at the early stages of the Plan to encourage and facilitate allocated sites being brought forward for development, to ensure that there is continued momentum in the overall delivery of the Plan. This is especially the case when it has been demonstrated that the flood risk associated with the proposed development can be adequately managed and that the scheme in all other respects is in accordance with the Development Plan and National Planning Policy
- 7.96 At the time of adoption, the NLDP did not consider the site to be located within Zone C2. Paragraph 5.4 of the NLDP, which supports Policy H1, acknowledges that any allocated housing sites under Policy H1 which are within a C2 flood risk area does not signify favourable consideration of future residential applications on the site. Therefore, its allocation in the NLDP for residential purposes cannot be solely relied upon and must be considered in conjunction with other material considerations.
- 7.97 In this respect, whilst the policy position advises against granting residential development in Zone C2 flood risk areas, it must be emphasised the site is not wholly within Zone C2. It is estimated that approximately 1/3 of the development lies within Zone C1 and this aspect of the scheme satisfies National and Local Planning Policy. In addition, despite the reclassification of the site, NRW has confirmed that there has not been a change in their modelling or predicted flood levels at this location. From the technical evidence provided and regard to the comments of NRW, the Authority concludes that the potential risk and consequences of flooding is low and can be reasonably mitigated. It is also noted that despite the site now being in Zone C2, the granting of residential development at this particular site does not pose any greater risk to future occupants on the site or its neighbours in an otherwise policy-compliant scenario of the site being wholly in Zone C1.
- 7.98 Significant weight is also given to the regeneration benefits of the scheme. In this respect, the site is in a prominent and strategic location being located between the busy Usk Road and the waterfront. The waterfront has been subject to significant regeneration in recent years however the application site currently lacks cohesion with its surroundings and has a negative impact on the successful regeneration efforts which have taken place along waterfront. The importance of the waterfront, especially its role in the regeneration of Newport and its relationship with its surroundings is recognised in its own right within the NLDP by Policy CE2. This Policy states:



*Development in a waterside location should integrate with the waterway and not turn its back on it, and should take account of the interests of regeneration, leisure, navigation, water quality and flow, and nature conservation.*

7.99 The supporting text to Policy CE2 acknowledges that “(4.4) the River Usk is an important landscape feature within Newport. The Council is keen to regain the River’s prominence and sense of place in Newport’s environment, and has placed the Use at the heart of large scale regeneration proposals for Newport...(4.5) It is important that new development proposals that come forward throughout the Plan period fully incorporate the River and its important features....(4.6) Development proposals at a waterside location will be expected to be of a high quality design, incorporate footpaths/cycleways and towpaths, wherever possible, as part of the scheme and improve the overall amenity of the area.”

7.100 Policy CE2 of the NLDP is also complemented by Policy SP18 which applies to proposals which assist in the regeneration of the urban area:

*Proposals will be favoured which assist the regeneration of the urban area, particularly where they contribute to:*

- i) The vitality, viability and quality of the environment of the city centre;*
- ii) The provision of residential and business opportunities within the urban area;*
- iii) Reuse of vacant, underused or derelict land;*
- iv) Encourage the development of community uses where appropriate.*

7.101 The supporting text to Policy SP18 explains that “(2.76) the presence of a supply of sites from Newport’s industrial past presents both an opportunity and a need for action. In underused or vacant form, the sites do not contribute much to the local environment, and may detract from it, but in regeneration schemes, these sites can make a positive contribution”.

7.102 In addition to the above, the development achieves a high standard of design and the site, in the main, is considered to be in a sustainable location, being relatively close to the city centre with good transportation links and access to a range of services. These factors emphasise the overarching benefits of the development to Newport.

7.103 Having regard to above, it is considered that this proposal offers significant regeneration benefits to Newport and is therefore regarded as a substantial material consideration in the determination of this application. The benefits, in conjunction with its allocation for residential development and being almost in complete accordance with the Development Plan, presents a strong case to outweigh the sole conflict with National Planning Policy regarding flooding. This position is reinforced by the fact that the technical flood evidence demonstrates that the potential risk and consequences of flooding is low and can be reasonably mitigated. Having considered the merits of the application, it is apparent that the circumstances of this case is unique and would not set a precedent in the consideration of future applications within flood risk areas. As a result, it is concluded that in this instance there are material considerations to outweigh the Policy objections concerning flooding.

7.104 Notwithstanding the above, in the interest of ensuring that the regeneration benefits is secured, as it is one of the principal material considerations in the determination of this application, it is considered necessary to introduce a mechanism for the site to be brought forward for development sooner than under normal circumstances. As such, it is considered reasonable for any consent to be limited to three years instead of five years normally imposed on detailed planning schemes. Should there be any future attempt to extend the period of time for the implementation of the scheme, the Council can re-evaluate whether the material considerations indicate the need to outweigh National and Local Planning Policy at that time, bearing in mind that under such circumstances the regeneration benefits would not have been realised. Furthermore, the three-year limit would enable the Authority to re-consider the flooding issues associated with the site by examining whether there has been a material change in flood risk and planning policy to warrant an alternative conclusion to be met. As such, there is sufficient justification for the Council to impose a three-year limit on any consent issued.



## 7.105 Contributions

The Council's Planning Contributions Manager has set out the S106 contributions considered necessary to mitigate the direct impact of the development, these are set out in a draft heads of terms, as shown below;

### 1. Affordable Housing

The affordable housing for Old Town Dock was delivered as part of the first phase of the regeneration of this area. Consequently, there is no requirement for an affordable housing element as part of this housing scheme. The Housing Manager has also confirmed that this proposal does not require the provision of, or contributions towards, affordable housing, thereby satisfying Policy H4 of the NLDP.

### 2. Education

Primary - The development falls within the catchment of Pill Primary School. Taking into account the scale and type of development, as well as the deficit 'school capacity', a contribution of £153,737 is required for Pill Primary School

Secondary - The development falls within the catchment area of Duffryn High School. Taking into account the scale and type of development, as well as the surplus 'school capacity', no contribution is required

### 3. Leisure

There is a surplus of Informal play provision within the Pillgwenlly Ward, but a deficit of Equipped and Formal play provision. A policy compliant leisure obligation would normally generate a requirement for a commuted sum of £313,711

Owing to the mainly flatted nature of the development, no on-site provision will be requested. Based upon the scale and type of dwellings proposed, as well as viability considerations, a negotiated leisure contribution of £114,182 is required for improvement and provision of equipped and formal facilities at Pill Playing Fields.

7.105 The applicant has agreed, in principle, to the heads of terms, thereby enabling the contributions to mitigate the impact of the development and deliver a sustainable form of development. The proposal therefore is deemed to satisfy Policy SP13 of the NLDP.

## 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. Having regards to the merits of this application, especially to the conclusions of the technical advice concerning flooding, 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 considered all relevant evidence and material planning considerations, this application is recommended for approval since the development would offer significant and overriding benefits to the regeneration of Newport to the extent that, on balance, it represents a substantial material consideration to outweigh National and Local planning policy on flooding. This position is reinforced by the fact that the technical flood evidence demonstrates that the potential risk and consequences of flooding is low and can be reasonably mitigated.

## **10. RECOMMENDATION – GRANTED WITH A 3-YEAR TIME PERIOD AND SUBJECT TO A LEGAL AGREEMENT AND PLANNING CONDITIONS WITH DELEGATED AUTHORITY TO REFUSE IF THE LEGAL AGREEMENT IS NOT SIGNED.**

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

### Plans:

- P.100 – Location Plan
- P.102A – Proposed Site Plan / Block Plan
- P.103A – Proposed Site Plan – Roof Plan
- P.104A – Block A – Floor Plans
- P.105A – Block A – Elevations
- P.106A – Block B – Floor Plans
- P.107A – Block B – Elevations
- P.108 – Block C – Ground Floor Plan [Sheet 1 of 7]
- P.109A - Block C – First Floor Plan [Sheet 2 of 7]
- P.110A - Block C – Second Floor Plan [Sheet 3 of 7]
- P.111A - Block C – Third Floor Plan [Sheet 4 of 7]
- P.112A - Block C – Fourth Floor Plan [Sheet 5 of 7]
- P.113A - Block C – Fifth Floor Plan [Sheet 6 of 7]
- P.114A - Block C – Ground Floor Plan [Sheet 7 of 7]
- P.115A – Block C – Elevations [Sheet 1 of 2]
- P.116A – Block C – Elevations [Sheet 2 of 2]
- P.117B – Block D – Floor Plans & Elevations
- P.118 – House Type A – Floor Plans & Elevations
- P.119 – House Type B – Floor Plans & Elevations
- P.120A – House Type C – Floor Plans & Elevations
- P.121 – House Type D – Floor Plans & Elevations

P.122A – Proposed Site Elevations  
P.123A – Proposed Boundary Types [Sheet 1 of 2]  
P.124 – Proposed Boundary Types [Sheet 2 of 2]  
P.125 – Proposed Access to the Site  
P.126A – Proposed Access to the Site – Ramp  
TDA.2223.01A – Landscaping Plan

River Usk Ecology Protection Strategy [Ref: eg16759] (Conducted by Engain - 01 September 2016)

Technical Note (Ecology): Assessing the Potential Effect of CFA Piling on Migratory Fish (Conducted by Engain - 07 November 2016)

Technical Note (Ecology): Wildlife Protection (Conducted by Engain - 04 November 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

2. No development above ground flood slab level on each phase of development (as agreed by Condition 24) shall commence until a detailed specification for, or sample of, the materials to be used in the construction of the external surfaces of the dwellings, apartment blocks and associated parking spaces hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Works above ground level excludes demolition, site preparation and groundworks for foundations. Development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual amenities.

3. No development shall take place on each phase of development (as agreed by Condition 24) until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments (excluding the retaining/flood defence wall) to be erected. The boundary treatments shall be completed in accordance with the agreed details and in accordance with a timetable to be agreed in writing by the Local planning Authority.

Reason: In the interests of visual and residential amenities.

4. Notwithstanding the submitted plans and prior to the commencement of development, a landscaping and tree planting scheme indicating the number, species, heights on planting and positions of all trees and shrubs scheme shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

5. No development shall commence until full details of the means of construction and levels of all roads, footpaths and turning areas, as shown on drawing number "625.P.102A – Proposed Site Plan/Block Plan", has been submitted to and agreed in writing by the Local Planning Authority. With the exception of the final wearing course, the development shall be completed for each phase in accordance with the agreed details prior to the first occupation of any residential unit in that phase of development. The final wearing course shall be completed prior to the first occupation of the last residential unit.

Reason: In the interests of visual amenity, residential amenity and highway safety.

6. No residential unit shall be occupied until the parking spaces associated with that unit have been completed in permanent materials in accordance with drawing number "625.P.102A – Proposed Site Plan/Block Plan". The spaces shall be retained for parking purposes in perpetuity.

Reason: In the interests of highway safety, visual amenity and residential amenity.

7. Prior to the commencement of the development hereby approved, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and agreed in writing by the Local Planning Authority:
  - a. A site investigation and risk assessment to all receptors that may be affected, including those off site, as identified by documents titled "Phase I Contaminated Land Desk Study and Preliminary Risk Assessment" (Report No.9223 – July 2016, Conducted by Intégrale Limited) and "Drainage Statement (Issue 1 – 27<sup>th</sup> July 2016, Conducted by IESIS Ltd).
  - b. The results of the site investigation and detailed risk assessment referred to in (a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Development shall be carried out in accordance with the agreed details.

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. There is a potential risk to future site users (Human Health) and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

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

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. There is a potential risk to future site users (Human Health) and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

9. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan (as specified in Condition 8) shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme, a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. There is a potential risk to future site users (Human Health) and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

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

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination. There is a potential risk to future site users (Human Health) and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

11. Any piling operation on the site shall be of the Continuous Flight Auger type only. Prior to the commencement of any piling operation, a report to demonstrate that there would be no unacceptable risk to groundwater on the site as a result of piling operations shall be submitted to and agreed in writing by the Local Planning Authority. The piling works shall then be undertaken fully in accordance with the methodology agreed as part of this report.

Reason: The site has history of previous industrial use and earlier site investigations have identified land and groundwater contamination and in the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

12. Notwithstanding the submitted plans, no development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul and surface water drainage will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed scheme and implemented in full prior to the beneficial occupation of each phase of the development (as agreed by Condition 24) hereby approved.

Reason: To ensure that effective drainage facilities are provided for the proposed development, to ensure that flood risk is not increased and in the interests of protecting the integrity of the River Usk Special Area of Conservation.

13. No development (including piling, excavation or construction works) shall commence on site until there has been submitted to and agreed in writing a scheme to prevent otters from entering the site. The scheme shall include details of boundary treatments to be erected in accordance with the buffer zone shown on plan titled: "Otter Protection Plan" (included within Technical Note: Prevention of Disturbance to Otters – Engain Ecology). The agreed scheme shall be implemented prior to the commencement of development and retained for the entire duration of the works.

Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation

14. No artificial lighting or illumination shall be installed on-site unless in accordance with a scheme to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities.

15. Prior to the commencement of development (including piling, excavation or construction works), a Construction Environmental Management Plan shall be 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 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 should 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, unless otherwise first agreed in writing with the Local Planning Authority.

\* 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: In the interests of protecting the integrity of the River Usk Special Area of Conservation and in the interests of amenities, residential amenity and highway safety.

16. No dwelling shall be occupied until the sound insulation and ventilation measures specified in the document "Usk Way Residential Development – Newport, Environmental Noise Assessment 08 September 2016 prepared by MACH Acoustics" have been installed to that property in order to reduce the impact of the considerable road noise on future occupants. The approved measures shall be retained thereafter in perpetuity.

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

17. The scheme of noise mitigation specified in the document "Usk Way Residential Development – Newport, Environmental Noise Assessment 08 September 2016 prepared by MACH Acoustics" shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.

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

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development)(Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, C, D, or E shall be carried out to the dwellings on Plots 15, 16, 17, 18, 27, 28, 29, 30, 31, 32, 33, 80, 81, 82, 83, 84 and 85, as identified on drawing number: 625.P.102A – Proposed Site Plan/Block Plan.

19. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

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

20. The following windows shall be fitted with fixed pane obscure glazing to a minimum of level 5 on the Pilkington index of obscurity:

Block A:  
Lounge/Diner serving Flats 4, 7, 10 and 13 (facing Endeavour House)  
Lounge/Diner serving Flats 6, 9 and 12 (facing Plot 15)

Block C:  
Bathroom window serving Flats 42, 54 and 65  
3no. hallway windows opposite Flats 35 and 47 (facing Plot 80)

Block D:  
Lounge/Diner windows serving Flats 87, 89 and 91 and 93  
Hallway windows on the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floor facing Plot 85  
Full height privacy screen screens serving the balconies of Flats 87, 89 and 91 and 93

The obscure windows shall be fitted prior to the beneficial occupation of that unit and shall then be retained in perpetuity.

Reason: In the interests of privacy

21. The following areas shall not be used at any time as residential amenity spaces:

Block A:  
The flat roof on the 4<sup>th</sup> floor  
The green roof on the 5<sup>th</sup> floor

Block B:  
The green roof on the 3<sup>rd</sup> floor

Block C:  
The green roof adjacent to Flat 73  
The area labelled as "green roof" on the 3<sup>rd</sup>, 4<sup>th</sup> and 6<sup>th</sup> floor

House Types C1 and C2:  
The flat roof on the 2<sup>nd</sup> floor (with the exception of the area specified as "Balcony" on drawing number P.120A)

Reason: In the interests of residential amenity and to avoid doubt or confusion as to the extent of the permission hereby granted

22. No development shall commence on Block C above ground floor slab level until there has been submitted to and agreed in writing by the Local Planning Authority full details of a 1.8m high privacy screen enclosing:

- a) the private roof garden of Flat 58 on the third floor
- b) the communal roof gardens on the fifth floor
- c) the private roof garden of Flat 79 on the fifth floor

The privacy screens shall be erected in accordance with the agreed details prior to the beneficial occupation of the respective flat and communal roof garden. The screening shall then be retained in perpetuity. For the avoidance of doubt or confusion, works above ground excludes demolition, site preparation and groundworks for foundations.

Reason: In the interests of residential amenities.

23. Prior to the occupation of any dwelling hereby approved, the flood defence and alleviation works, including ground, site and finished floor levels, as specified within the document titled "Flood Consequences Assessment – v.3 – 30 May 2017" (conducted by Clive Onions) and details submitted in pursuance of Condition 25 shall be carried out in its entirety and shall then be retained in perpetuity.

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

24. No development shall commence (including piling, excavation or construction works) until a Development Phasing Plan has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed Phasing Plan.

Reason: To ensure effective control of the operations and development on the site.

25. No development shall commence until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design and external finishes of the flood defence wall. The wall shall be completed in accordance with the agreed details prior to the occupation of any dwelling.

Reason: In the interests of visual and residential amenities.

26. The development must begin not later than the expiration of THREE YEARS from the date of this permission.

Reason: In the interests of regeneration, to enable effective consideration to be given to flooding issues and to conform with the requirements of Section 91 of the Town and Country Planning Act 1990

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: P.100 – Location Plan, P.102A – Proposed Site Plan / Block Plan, P.103A – Proposed Site Plan – Roof Plan, P.104A – Block A – Floor Plans, P.105A – Block A – Elevations, P.106A – Block B – Floor Plans, P.107A – Block B – Elevations, P.108 – Block C – Ground Floor Plan [Sheet 1 of 7], P.109A - Block C – First Floor Plan [Sheet 2 of 7], P.110A - Block C – Second Floor Plan [Sheet 3 of 7], P.111A - Block C – Third Floor Plan [Sheet 4 of 7], P.112A - Block C – Fourth Floor Plan [Sheet 5 of 7], P.113A - Block C – Fifth Floor Plan [Sheet 6 of 7], P.114A - Block C – Ground Floor Plan [Sheet 7 of 7], P.115A – Block C – Elevations [Sheet 1 of 2], P.116A – Block C – Elevations [Sheet 2 of 2], P.117B – Block D – Floor Plans & Elevations, P.118 – House Type A – Floor Plans & Elevations, P.119 – House Type B – Floor Plans & Elevations, P.120A – House Type C – Floor Plans & Elevations, P.121 – House Type D – Floor Plans & Elevations, P.122A – Proposed Site Elevations, P.123A – Proposed Boundary Types [Sheet 1 of 2], P.124 – Proposed Boundary Types [Sheet 2 of 2], P.125 – Proposed Access to the Site, P.126A – Proposed Access to the Site – Ramp, TDA.2223.01A – Landscaping Plan; River Usk Ecology Protection Strategy [Ref: eg16759] (Conducted by Engain - 01 September 2016); Technical Note (Ecology): Assessing the Potential Effect of CFA Piling on Migratory Fish (Conducted by Engain - 07 November 2016); Technical Note (Ecology): Wildlife Protection (Conducted by Engain - 04 November 2016).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP4, SP8, SP9, SP10, SP13, SP18, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE2, CE6, H1, H2, H3, H4, T4, CF4, W2 were relevant to the determination of this application in addition to Supplementary Planning Guidance: New Dwellings, Parking Standards, Archaeology and Archaeologically Sensitive Areas, Planning Obligations, Wildlife and Development.

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. 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 proposed development is crossed by a decommissioned 5 inch watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. 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 developer's responsibility. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

05 The applicant/developer is advised to install electric vehicle charging points within the development to improve air quality in the locality.

06 The applicant/developer is advised to ensure that provision is made for access to water supply for firefighting purposes.

07 The applicant/developer is advised that this consent does not preclude the need for other consents and agreements, especially with regards to infrastructure works and any public adoption matters.

08 The applicant/developer is advised to produce a Flood Emergency Plan for all future occupiers of the site.

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## **APPENDIX A - CONSERVATION OBJECTIVES OF THE RIVER USK SAC**

### **Background to Conservation Objectives:**

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

#### (b) Format of the conservation objectives

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

Each conservation objective consists of the following two elements:

1 Vision for the feature

2 Performance indicators

As a result of the general practice developed and agreed within the UK Conservation Agencies, conservation objectives include performance indicators, the selection of which should be informed by JNCC guidance on Common Standards Monitoring<sup>1</sup>.

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

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

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

#### **4.1 Conservation Objective for the water course**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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#### **4.2 Conservation Objective for Features 1-5:**

- Sea lamprey *Petromyzon marinus* (EU Species Code: 1095);
- Brook lamprey *Lampetra planeri* (EU Species Code: 1096);
- River lamprey *Lampetra fluviatilis* (EU Species Code: 1099);
- Twaite shad *Alosa fallax* (EU Species Code: 1103);
- Allis shad *Alosa alosa* (EU Species Code: 1102);
- Atlantic salmon *Salmo salar* (EU Species Code: 1106);
- Bullhead *Cottus gobio* (EU Species Code: 1163)

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#### **Vision for features 1-5**

The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:

<b>FCS component</b>	<b>Supporting information/current knowledge</b>
The conservation objective for the water course as defined in 4.1 above must be met	
The population of the feature in the SAC is stable or increasing over the long term.	Refer to Sections 5.1 to 5.5 for current assessments of feature populations
	Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates.
	Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of

**FCS component****Supporting information/current knowledge**

The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms eg. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions eg. food supply (as described in Sections 2.2 and 5). Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4

disease.  
Some reaches of the Usk SAC are more suitable for some features than others eg the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in Section 3.2. Further details of feature habitat suitability are given in Section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.

The characteristic channel morphology provides the diversity of water depths, current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches eg through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features.

Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.

Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.

Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.

There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.

**Performance indicators for features 1-5**

The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.

Attribute	Specified Limits	Comments	Relevant Unit[s]
Sea lamprey <i>Petromyzon marinus</i> :			
<i>Performance indicators for feature condition</i>			
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain <i>Petromyzon ammocoetes</i> .	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered over time. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable.	1 - 5
(b) Ammocoete density	Ammocoetes should be present in at least	This standard CSM attribute establishes a minimum occupied spawning range, within	2 - 5

Attribute	Specified Limits	Comments	Relevant Unit[s]
	four sampling sites each not less than 5km apart. Overall catchment mean $>0.1\text{m}^{-2}$ (Harvey & Cowx 2003) <sup>1</sup>	any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute. Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes $\text{m}^{-2}$ in suitable habitat <sup>2</sup> , therefore $0.1\text{m}^{-2}$ is a conservative threshold value for unfavourable condition.	
<b>Brook lamprey <i>Lampetra planeri</i> and River lamprey <i>Lampetra fluviatilis</i> :</b>			
<i>Performance indicators for feature condition</i>			
(a) Age/size structure of ammocoete population	Samples $< 50$ ammocoetes ~ 2 size classes Samples $> 50$ ammocoetes ~ at least 3 size classes	This gives an indication of recruitment to the population over the several years preceding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment.	2 - 10
(b) Distribution of ammocoetes within catchment	Present at not less than 2/3 of sites surveyed within natural range  No reduction in distribution of ammocoetes	The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit ie all except unit 1.  Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment. Reduction in distribution will be defined as absence of ammocoetes from all samples within a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment.	2 -10
(c) Ammocoete density	Optimal habitat: $>10\text{m}^{-2}$ Overall catchment mean: $>5\text{m}^{-2}$	Optimal habitat comprises beds of stable fine sediment or sand $\geq 15\text{cm}$ deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2 - 10
<b>Twaiite shad <i>Alosa fallax</i> and Allis shad <i>Alosa alosa</i> :</b>			
<i>Performance indicators for feature condition</i>			
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1 - 5
<i>Performance indicators for factors affecting the feature</i>			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period.	1 - 5
<b>Atlantic salmon <i>Salmo salar</i>:</b>			
<i>Performance indicators for feature condition</i>			
(a) Adult run size	Conservation Limit complied with at least four years in five (see	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic	All

Attribute	Specified Limits	Comments	Relevant Unit[s]
	5.4)	of the river and maintenance of the multi-sea-winter component.	
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan. CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality.	6 – 10
Assessed using electro fishing data.			
<i>Performance indicators for factors affecting the feature</i>			
Water quality			
(a) Biological quality	Biological GQA class A	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6 - 10
(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3].	All
Hydromorphology			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
<hr/>			
<i>Bullhead Cottus gobio :</i>			
<i>Performance indicators for feature condition</i>			
(a) Adult densities	No less than 0.2 m <sup>-2</sup> in sampled reaches	CSM guidance states that densities should be no less than 0.2 m <sup>-2</sup> in upland rivers (source altitude >100m) and 0.5 m <sup>-2</sup> in lowland rivers (source altitude ≤100m). A significant reduction in densities may also lead to an unfavourable condition assessment.	2 – 10
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by on-going monitoring will result in an unfavourable condition assessment.	2 - 10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment.	2 - 10

#### 4.3 Conservation Objective for Feature 6:

- European otter *Lutra lutra* (EU Species Code: 1355)

#### Vision for feature 6

The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:

FCS component	Supporting information/current knowledge
The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour.	Refer to Section 5.9 for current assessment of feature population
The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole	Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is

FCS component	Supporting information/current knowledge
<p>area of the Usk SAC is considered to form potentially suitable breeding habitat for otters. The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.</p>	<p>capable of supporting given near-natural levels of prey abundance.</p> <p>The decline in eel populations may be having an adverse effect on the population of otters in the Usk.</p>
<p>The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc at road bridges and other artificial barriers.</p>	<p>Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.</p>

**Performance indicators for feature 6**

The performance indicators are part of the conservation objective, not a substitute for it. Assessment of plans and projects must be based on the entire conservation objective, not just the performance indicators.

	Specified Limits	Comments	Relevant Unit[s]
<i>Performance indicators for feature condition</i>			
(a) Distribution	Otter signs present at 90% of Otter Survey of Wales sites	Ref: CCW Environmental Monitoring Report No 19 (2005) <sup>3</sup>	All
(b) Breeding activity	2 reports of cub/family sightings at least 1 year in 6	Ref: CCW Environmental Monitoring Report No 19 (2005) <sup>3</sup>	All
(c) Actual and potential breeding sites	No decline in number and quality of mapped breeding sites in sub-catchments (see Ref)	Ref: CCW Environmental Monitoring Report No 19 (2005) <sup>3</sup> In the Usk catchment, 77 actual or potential breeding sites have been identified, distributed throughout the catchment on the main river and tributaries.	All

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## **APPLICATION DETAILS**

**No:** 16/0789      **Ward:** PILLGWENLLY

**Type:** FULL (MAJOR)

**Expiry Date:** 07-APR-2017

**Applicant:** MARTYN BURNETT AND PETER DAVIES

**Site:** CAR PARK ADJACENT ENDEAVOUR HOUSE, USK WAY, NEWPORT

**Proposal:** PROPOSED RESIDENTIAL DEVELOPMENT FOR 93NO. UNITS, COMPRISING OF 17NO. HOUSES AND 76NO. APARTMENTS, WITH ASSOCIATED CAR PARKING, ACCESS, LANDSCAPING, FLOOD AND DRAINAGE INFRASTRUCTURE WORKS

### **1. LATE REPRESENTATIONS**

1.1 On page 56 of the report, the second sentence of Paragraph 7.97 states:

*It is estimated that approximately 1/3 of the development lies within Zone C1 and this aspect of the scheme satisfies National and Local Planning Policy.*

1.2 Members are advised that this sentence should read:

*It is estimated that approximately 1/3 of the development lies within Zone B and this aspect of the scheme satisfies National and Local Planning Policy.*

1.3 The developer has referred to a statement from a local resident in para 6.2 regarding the developer. The developer wishes to clarify that it is not aware of the individual / company referred to. Indeed the developer for this project is not working on any other sites in Newport. There is a new applicant and developer for this project and they have invested a significant amount of money in reaching this officer recommendation and are committed to delivering the scheme.

### **2. OFFICER COMMENTS**

2.1 The alteration to paragraph 7.97 is a correction and has no bearing on the recommendation.

### **3. OFFICER RECOMMENDATION**

3.1 The recommendation remains to grant permission subject to conditions and the signing of a legal agreement.



## **APPLICATION DETAILS**

**No:3**                                **17/0110**            **Ward:**        **Caerleon**

**Type:**                                **FULL**

**Expiry Date:**                        **25-April-2017**

**Applicant:**                             **J. BURGESS-GOULD**

**Site:**                                    **CWTCHDOWN, 25 POLLARD CLOSE, CAERLEON, NEWPORT NP18 3SS**

**Proposal:**                            **CHANGE OF USE FROM DWELLINGHOUSE TO MIXED USE OF DWELLING HOUSE AND BED & BREAKFAST ACCOMMODATION.**

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

### **1. INTRODUCTION**

- 1.1 This application seeks planning permission for the change of use to bed and breakfast accommodation at Cwtchdown, 25 Pollard Close in the Caerleon Ward. This application is a resubmission following the refusal of planning permission 16/0349 for the change of use of part of the dwelling to a day spa and two bedrooms of bed and breakfast accommodation. The Inspectorate also dismissed the appeal on highway safety grounds and the living conditions of neighbours.
- 1.2 This amended application solely relates to the change of use to bed and breakfast and does not include the independent commercial use of the domestic spa as per the previous application 16/0349.

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

Ref. No.	Description	Decision & Date
09/0851	ERECTION OF 16NO. DETACHED DWELLINGS AND ASSOCIATED EXTERNAL WORKS	GRANTED WITH CONDITIONS
14/1064	ERECTION OF DETACHED DWELLING (AMENDMENT TO APPLICATION NO. 09/0851)	GRANTED WITH CONDITIONS
16/0349	CHANGE OF USE OF PART OF DWELLING TO DAY SPA AND TWO BEDROOMS OF BED AND BREAKFAST ACCOMMODATION WITH ASSOCIATED PARKING LAYOUT ALTERATIONS	REFUSED

### **3.0 POLICY CONTEXT**

- 3.1 The Newport Local Development Plan 2011-2026 (adopted January 2015) is relevant to the determination of this application.
- 3.2 Policy SP1 Sustainability favours proposals which make a positive contribution to sustainable development.
- 3.3 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.

- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 The adopted Parking Standards 2015 supplementary planning guidance is also relevant to the determination of the planning application.

#### 4. **CONSULTATIONS**

- 4.1 WELSH WATER DWR CYMRU: No objection.

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

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): The proposal generates a parking demand of 4 parking spaces in accordance with the Newport City Council Parking Standards. I'm satisfied that these spaces can be accommodated on the driveway and therefore would offer no objection to the application.
- 5.2 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.

#### 6. **REPRESENTATIONS**

- 6.1 NEIGHBOURS:  
All properties within 50 metres of the application site were consulted (12 properties) and no objections have been received.
- 6.2 COUNCILLORS: Councillor Giles has requested that the application is called to planning committee to consider the following;
- Character of the highly residential area;
  - Increased traffic generation;
  - Parking problems;
  - Impact on pollution in High Street.

#### 7. **ASSESSMENT**

- 7.1 The property is a modern detached domestic dwelling constructed within the last few years. It is set within a curtilage comprised of a front garden with large driveway and a private rear garden. The property has been constructed on a hill so the rear garden is a storey lower than the driveway. The property was constructed as part of a wider housing development of similarly designed detached domestic properties. It is located at the eastern end of Pollard Close accessed via a small shared driveway that serves the application property and two other neighbouring dwellings.
- 7.2 The application proposes to change the use of the property to use two of the four bedrooms at the property as bed and breakfast accommodation. The two bedrooms are located on the first floor and both provide en-suite facilities. At lower ground floor level the existing residential property features a domestic spa with a swim spa pool, hot tub, sauna and a shower, next to which is a lounge area with kitchen, utility room and laundry area that would be available for the users of the bed and breakfast. The property benefits from a parking area to the front that provides parking for a minimum of four vehicles.

- 7.3 The previous application was dismissed by the Inspector on the basis that "...the comings and goings associated with the spa use have the potential to be significantly greater than that normally associated with a dwelling, such that it would cause an unacceptable impact on the living conditions of neighbours through increased noise and disturbance. It would thus conflict with Policy GP2 of the adopted Newport Local Development Plan 2015 (LDP) which requires new development to have no significant adverse effect on local amenity. "
- 7.4 As the independent commercial use of the spa facility has been removed from this amended application and would only be available in conjunction with the domestic use of the property and for the bed and breakfast guests it is considered that the above concern raised by the Inspector regarding the living conditions of neighbours through noise and disturbance has been addressed as part of the amended scheme. The use of the two bedrooms for bed and breakfast purposes is not considered to cause any impact on the residential amenity of neighbouring properties within the area. The property would still be used as a residential dwelling and it is considered that there would be no noise or disturbance generated from the two bed and breakfast rooms over and above what is expected from the residential property and as such it is considered that the proposal is in accordance with policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).
- 7.5 The inspector also stated that "...when the spa use is operating with the maximum number of guests I find that adequate off-street parking arrangements could not be achieved at the property, which is likely to result in indiscriminate parking on the highway. It would therefore have an unacceptable impact on highway safety irrespective of the limited frequency of events. To this end, it would conflict with LDP Policy GP4 which requires development proposals to make adequate provision for car parking and ensure that development would not be detrimental to highway safety."
- 7.6 As stated above the independent commercial use of the spa facility has been removed from this amended application and as such there is no additional parking demand or vehicular movements incurred by this. The Head of Streetscene and City Services (Highways) has stated that this mixed use generates a parking demand of 4 parking spaces in accordance with the Newport City Council Parking Standards SPG (adopted August 2015) and is satisfied that these spaces can be accommodated on the driveway and subsequently offers no objection to the application.
- 7.7 Under the current domestic use there is no restriction (other than the physical constraints of the site) to the amount of cars that can be parked on the drive. The applicant has provided a photograph showing seven cars parked within the existing parking area and it is considered that there is sufficient space for vehicles to manoeuvre on site before accessing onto the public highway, as a result it is unreasonable to conclude that the proposed bed and breakfast use would result in harm to highway safety due to lack of parking or turning facilities. In terms of vehicular movements and traffic generation it is not considered that this would be increased to anything over and above what you would expect for a residential property. The property as existing consists of four bedrooms and it is reasonable to expect that there could be four adults residing, each with a vehicle. Whereas it is unlikely that the two proposed bed and breakfast rooms would be occupied at all times generating the potential for additional two vehicles movements to the site. It is considered appropriate to condition that the day spa can only be used in conjunction with the residential use of the property and by occupiers of the bed and breakfast in order to limit vehicular movements to and from the site and parking demand.

Subsequently, it is therefore considered that the proposal complies with policy GP4 (Highways and Accessibility) of the Newport Local Development Plan 2011-2026 (adopted January 2015).

7.8 Policy GP7 states that development will not be permitted which would cause or result in unacceptable harm to health. In this case the bed and breakfast is unlikely to result in any harm to health of neighbouring occupiers or users. The one potential impact may be through additional traffic generated as a result of the bed and breakfast use. An Air Quality Management Area (AQMA) is located within Caerleon village, additional traffic generated to and from the property is likely to have an impact on the AQMA. It is likely that traffic travelling to and from the property may travel through the Caerleon village AQMA, but due to the location of the property at the western side of Caerleon guests may also use Pillmawr Lane, especially if travelling east bound on the M4. In any case (as discussed above) any additional traffic generated is unlikely to be at a level exceeding that reasonably expected to be linked to a large 4 bedroom domestic property. Journeys to and from the existing property (by friends and family) cannot be limited in any case. The impact on the AQMA in this respect is considered to be de minimis and would be acceptable.

## 8. OTHER CONSIDERATIONS

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

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

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

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

8.3 Having due regard to advancing equality involves:

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

8.4 The above duty has been given due consideration in the determination of this application.

It is considered that 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 The proposed change of use to two bedroom bed and breakfast accommodation by reasons of the scale and location would preserve residential amenities to neighbouring occupiers, would preserve highway safety and would not impact on the health of residents of the wider area.

9.2 The proposal is therefore in accordance with policies GP2, GP4 and GP7 of the Newport Local Development Plan (NLDP) 2011-2026 (adopted January 2015) and the adopted Parking Standards 2015 supplementary planning guidance.

9.3 Planning Permission is recommended to be granted subject to the following conditions.

## 10.0 RECOMMENDATION

### GRANTED WITH CONDITIONS

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

- Proposed Plan - Basement and Foundation Layout,
- Proposed Layout- Ground and First Floor.

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 spa facilities shall only be used in conjunction with the retained domestic use of the property and by the paying residents of the bed and breakfast accommodation.

Reason: To protect the residential amenity of the neighbouring properties.

### NOTE TO APPLICANT

01 This decision relates to plan Nos:

02 The development plan for Newport is the Newport Local Development Plan 2011 - 2026 (Adopted January 2015). Policies GP2, GP4 and GP7 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.

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## **APPLICATION DETAILS**

**No:4**                      **17/0198**                      **Ward:**                      **MALPAS**

**Type:**                      **FULL**

**Expiry Date:**                      **9-JUNE-2017**

**Applicant:**                      **A SMITH**

**Site:**                      **2, MAGNOLIA CLOSE, NEWPORT, NP20 6JS**

**Proposal:**                      **ERECTION OF 1NO. DETACHED TWO BEDROOM DWELLING WITH GARAGE AND ASSOCIATED PARKING**

**Recommendation:**                      **GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THE DECISION**

### **1. INTRODUCTION**

- 1.1 This application seeks permission for the erection of a two-bedroom detached dwelling on land which has been enclosed within the curtilage of No. 2 Magnolia Close. The curtilage was recently extended, without planning permission, into a former landscaped area which the owner of 2 Magnolia Close purchased from the Council in September 2016. The land has been cleared of vegetation and enclosed by a 1.8m high close-boarded fence, denoting the intended curtilage of the proposal.
- 1.2 The application site is located at the junction of Magnolia Close and Rowan Way, a predominantly residential area which exhibits a distinctly suburban character. Properties are generally two-storey and semi-detached with a small number of detached dwellings and constructed of red or buff brick with render or tile cladding. Landscaped and grass verges feature strongly in the immediate area, particularly along the western side of Rowan Way.
- 1.3 The proposed dwelling is to be positioned approximately 0.9m away from the side of no. 2 and is proposed to measure 9.83m in depth with a maximum width of 9.5m at ground floor and 6.4m at first floor with a maximum height of 8.2m (4.9 to the eaves) underneath a pitched roof. Four windows and a door are proposed in the front elevation, one window serving a landing in the side elevation facing 2 Magnolia Close and three windows and a set of French doors in the rear elevation. The property will contain an integral garage, utility, kitchen/dining room and living room at ground floor, with two bedrooms (one with an en-suite), a bathroom and a wardrobe room at first floor. The building is to be constructed from facing brick with a concrete tile roof and white render with grey aluminium windows. The rear garden depth will range between 6.5 and 8.1 metres. At ground floor the garage will appear as a single storey side extension which will project 1.6m forward of the front elevation of the building with a canopy roof extending across the front of the property. Two further parking spaces are proposed within the front curtilage with access onto Magnolia Close.
- 1.4 The main issues for consideration in this application are the impact of the proposed dwelling on the appearance and character of the area, particularly given its projection into an area previously forming open landscaping, whether it offers a suitable level of amenity for its future occupants and impact on the residential amenity of neighbouring residents.

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

- 2.1 None relevant.

### **3. POLICY CONTEXT**

- 3.1 **Policy GP2 General Development Principles – General Amenity** states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
- 3.2 **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.
- 3.3 **Policy CE3 Environmental Spaces and Corridors** safeguards environmental space and corridors as identified on the Proposals Map. Development of environment space will only be permitted where the existing space will be improved or complemented; there is no adverse impact on nature conservation interest; there is an appropriate replacement; or it can be demonstrated that there is an excess of environmental space.
- 3.4 **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.
- 3.5 **Policy H6 Sub-division of Curtilages, Infill and Backland Development** permits such development only where it does not represent an over development of the land.
- 3.6 **Policy T4 Parking** states that development will be expected to provide appropriate levels of parking.

### **4. CONSULTATIONS**

- 4.1 DWR CYMRU WELSH WATER: No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network 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

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

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (TREE OFFICER): The applicant appears to be extending their curtilage to include trees on and land that the Council has maintained for the last 50 years – The principal of development on land with previous agreement as use of public open space is not acceptable. Policy CE3 says that where possible the environmental spaces are shown on the plan but that this is not definitive and there are other green spaces which are important to the community and these should be considered too, so the EOS at Magnolia Close does have some status within the LDP and objects on the basis of the loss of public open space.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection
- 5.3 HEAD OF STREETSCENE AND CITY SERVICES (LANDSCAPE): Part of the site was a planted amenity area. The planting has been removed and fenced off up to the tarmac footpath, creating a harsh physical and visual boundary to the frontage onto Rowan Way with no space for mitigation planting. The planted amenity area is one of several dotted through the estate, and with planting to the opposite side of Magnolia Close formed a green gateway into the Close, and a pleasant walk along Rowan Way.

The proposals will permanently remove the previous soft landscape amenity area from public benefit. The proposals will introduce a new building line which extends beyond building lines to the north and the south which will be visible from north and south approaches along Rowan Way.

There are no proposals for soft landscaping to soften the proposed elevations or fence line and limited room for mitigation planting.

The proposals will see loss of a soft landscaped garden which is visually open to Magnolia Close, and replacement with house, garage, and hard surfacing resulting in a visual hardening of the landscape and likely increase in surface water run-off. A semi-mature magnolia tree will be lost to development (there may be other garden trees not visible from the highway). If permission is granted, a condition for a planting plan should be added and include small tree planting to visually soften views from south, north, east. However, concern that if permission is granted that other amenity areas could be vulnerable to development, resulting in gradual erosion of planted amenity space and visual hardening of the streetscape. Concerned that the proposals will introduce a new building line, extending beyond existing building lines which will be visible from north and south approaches along Rowan Way.

- 5.4 HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY): No objection
- 5.5 HEAD OF LAW AND REGULATION (ENVIRONMENTAL PROTECTION): No objections to the proposals; however recommend a condition requiring the submission of a Construction Environmental Management Plan (CEMP) and a further condition to limit hours of construction to protect residential amenity.
- 5.6 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING CONTRIBUTIONS MANAGER): Commuted sum payments for affordable housing will be sought on sites of fewer than 10 dwellings within the Housing Target Area of Malpas and Bettws, based upon a 10% target. The methodology for establishing the housing target areas and calculating the associated payments is set out within the adopted Affordable Housing SPG (August 2015). Based upon 1 x 2 bed house, and subject to economic viability, a commuted contribution of £483 would be requested for affordable housing provision.

## **6. REPRESENTATIONS**

- 6.1 NEIGHBOURS: 12 neighbours with a common a boundary and located opposite the site were consulted. 7 neighbours have objected. Their comments are summarised below:
- The removal of the trees spoils the environmental beauty and character of the area;
  - The extension of the curtilage of 2 Magnolia Close has resulted in the loss of public open space;
  - Approval would encourage further erosion of other greenspace in the estate to the detriment of its character;
  - The proposal represents overdevelopment of land eroding the character of the area and affecting visual amenity;
  - The fence which has been erected is dangerous in terms of visibility and is an eyesore;
  - The dwelling will result in overlooking;
  - The manoeuvring of vehicles into the drive will cause a hazard;
  - The proposed driveway will restrict parking on Magnolia Close where parking problems are already experienced;
  - Any increase in on-street parking would be detrimental to residential amenity and parking would be more appropriately located to rear;
  - The proposal would eradicate the opportunity for parking at the existing property;
  - No construction management plan has been submitted, and
  - Neighbours were not consulted about the application or sale of the land.
- 6.2 COUNCILLORS: Councillor Mayer is of the opinion that the planning application contravenes Policy H6 (subdivision of curtilages and backland development) and erodes the character of the area and has requested that the application is heard at planning committee if officers are minded to recommend approval. However, is satisfied that the application can be determined under delegated powers if the application is refused. The ward councillors have been informed of the recommendation to grant the application.



## **7. ASSESSMENT**

- 7.1 The proposed dwelling will occupy much of the existing side-curtilage of 2 Magnolia Close, as well as a large proportion of the former landscaped area which has been enclosed by the close-boarded fence, and will front Magnolia Close itself.
- 7.2 Owing to its position, the upper windows to the rear of the proposed dwelling will overlook the front curtilage of no. 81 Rowan Way and the front elevation windows will look southwards along Rowan Way. The side elevation window serves a landing and is approximately 4m away from 2 Magnolia Close which appears to have protected windows in this elevation, although these rooms do appear to have primary windows in other elevations. Furthermore, although the rear of the proposed dwelling extends beyond the rear of no. 2 Magnolia Close, it will not impede the light splay to the rear windows of its neighbour. It is therefore considered that the proposed dwelling will not have an adverse impact on amenity through overlooking or loss of light. The proposal will result in a reduction in the size of the curtilage of no. 2 Magnolia Close, however, the area of both the remaining front and rear gardens will equal approximately 52 square metres which is deemed to be sufficient external amenity space.
- 7.3 The rear garden of the proposed dwelling is of a limited depth and smaller than the depth recommended within the SPG for New Dwellings, the curtilage to the side of the property also increases the size of the external amenity area to approximately 88 square metres and only 2 square metres below the size requirement within the SPG and beyond it if including the front curtilage. The proposal is therefore considered to offer an acceptable level of amenity for its future occupation.
- 7.4 A number of the properties in Magnolia Close have been altered or extended and some have attached garages although none project forward of the front elevation. However, no. 1 Magnolia close does have a canopy to its front elevation similar to that proposed in this application and 81 Rowan Way is of a similar design to the proposed property albeit without a single storey element. The design of the proposed two storey dwelling would therefore not appear out of character when viewed within this context. The Head of Streetscene and City Services (Landscaping) states that the proposal will introduce a new building line. The proposed dwelling would in effect project forward of the building line established by 81 to 87 Rowan Way, however, other properties do exist at a comparable distance from the highway to the proposal for example at 89 to 103 Rowan Way. Furthermore, the combination of public footway and turfed highway verge retain a generous separation from the vehicular highway similar or greater than those seen at other junctions off the western side of Rowan Way. The erection of a dwelling in this location would not therefore have an adverse impact upon the character or appearance of the locality.
- 7.5 Many of the neighbour objections received raise highways matters as a concern stating that there is an existing parking problem in the locality which will be worsened by the proposal through the loss of on-street parking when the driveway access is created or through additional in-street parking generated by the property. The existing property does not have any off-street parking and a vehicular access could be created onto its front curtilage without the need for planning permission. Photographs submitted by an objector show that residents park on pavements and within Magnolia Close, however, it is not considered that the proposal will exacerbate existing problems. There is sufficient on-street parking along Rowan Way and the proposed dwelling intends to provide 3no. parking spaces which is in excess of the adopted parking standards which require 2no. parking spaces for a 2 bedroomed property in this location. The Head of Streetscene and City Services does not object to the proposal for parking reasons and has not exhibited any concerns with regard the visibility.
- 7.6 The Head of Streetscene and City Services (Trees) objects to the proposal owing to the loss of public open space. The Head of Streetscene and City Services (Landscaping) has also expressed concern with regards to the loss of the previously landscaped area from public benefit. It is claimed that the erected fence creates a harsh physical and visual

boundary to the frontage onto Rowan Way with no space for mitigation planting and the proposal will result in a visual hardening of the landscape. The Head of Streetscene and City Services (Landscape) states that if permission is granted, a condition for a planting plan should be added and include small tree planting to visually soften views from south, north, east. However, concern has been expressed that if permission is granted other amenity areas could be vulnerable to development, resulting in gradual erosion of planted amenity space and visual hardening of the streetscape.

7.7 A number of neighbours have also expressed concern. One neighbour is concerned about the lack of consultation prior to the submission of the application and sale of the land, however, consultation is not a statutory requirement in such instances for either minor planning applications or sales of land. The area was planted and was one of several similar areas evident through the estate although notably larger in size. Owing to the density of vegetation the area could not be utilised for informal play. Its purpose was purely aesthetic. It was not allocated within the Local Development Plan 2011 – 2026 (Adopted January 2016) as an environmental space but had value in terms of visual amenity and as part of the green infrastructure of the area.

7.8 It has been proposed to reduce the height of the fence to a maximum height of 1 metre with a landscaped screen behind inside the garden of the proposed dwelling. A condition will be attached to any planning permission granted to require the submission of a landscaping plan to ensure a sufficient screen is planted to mitigate for the vegetation loss. A further condition will also remove permitted development rights to prevent the erection of any new fencing or extensions that would reduce the size of the usable external curtilage. Each application is assessed on its own merits and despite the concerns of neighbours and The Head of Streetscene and City Services (Trees) and (Landscaping), the approval of this proposed dwelling will not set a precedent for the erosion of landscaped areas in the vicinity.

7.7 In line with Policy H4 (Affordable Housing) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) Commuted sum payments for affordable housing are sought on sites of fewer than 10 dwellings within the Housing Target Area of Malpas and Bettws, based upon a 10% target. A commuted contribution of £483 has been requested for affordable housing provision in respect of this property and the applicant has agreed to pay this sum.

## **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 proposed dwelling is considered acceptable subject to the following conditions.

**10. RECOMMENDATION**

**GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 LEGAL AGREEMENT WITH DELEGATED POWERS TO REFUSE THE APPLICATION IN THE EVENT THAT THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF THE DECISION**

01 The development shall be implemented in accordance with the following plans and documents: Site location Plan, As 01/01A, As 01/03A.

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 Before the development, other than demolition, is commenced a scheme of landscaping to provide a screen along the boundary with Rowan Way shall be submitted to and approved in writing by the Local Planning Authority. All planting comprised in the approved details of landscaping shall be carried out within the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Thereafter, the screen planting shall not, except with prior written approval of the Local Planning Authority, be removed nor reduced in height below 3 metres.

Reason: To protect the privacy of occupiers and in the interest of visual amenity.

03 Prior to the commencement of development, to include any demolition, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The Construction Environmental Management Plan (CEMP) shall identify the steps and procedures that will be implemented during development resulting from the site preparation, groundwork and construction phases of the development regarding:

- noise mitigation measures, to minimise the creation and impact of noise;
- dust suppression measures, having regard to BRE guide 'Control of Dust from Construction and Demolition, February 2003;

- details of enclosure of working areas;
  - details of contractor parking areas and construction site accesses;
- Development works shall be implemented in accordance with the approved CEMP.  
Reason: To protect the amenities of nearby residents

***Pre –occupation conditions***

04 No use shall be made of the dwelling hereby approved until the parking and access areas have been provided in accordance with the approved plan. Thereafter, these areas shall be kept available for those purposes at all times.

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

General conditions

***General Conditions***

05 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) order 1995 (as amended) (or any order revoking or re-enacting that order), Schedule 2, Part 1, no development within classes A, B, C, D, or E shall be carried out without the prior written permission of the local planning authority.

Reason: to ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties.

06 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order), Schedule 2, Part 2, Class A, no wall, fence, gate or other means of enclosure other than as shown in the approved drawings cited in condition 01 shall be erected without the prior written permission of the Local Planning Authority.

Reason: In the interests of protecting the visual amenities of the area.

***NOTE TO APPLICANT***

01 This decision relates to plan Nos: Site location Plan, As 01/01A, 01/03A, AS 01/02A

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6, CE3, H4, H6 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.

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**APPLICATION DETAILS**

**No:5**                      **17/0229**                      **Ward:**                      **MARSHFIELD**

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

**Expiry Date:**                      **09-JUN-2017**

**Applicant:**                      **QUINN RADIATORS LTD**

**Site:**                      **QUINN RADIATORS, CELTIC WAY, CELTIC LAKES, NEWPORT, NP10 8FS**

**Proposal:**                      **RETENTION OF SIX STORAGE BUILDINGS ON EXISTING INDUSTRIAL COMPLEX**

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

**1. INTRODUCTION**

1.1 The application seeks consent to retain six storage buildings located within the grounds of a large industrial unit off Celtic Way, Newport.

Buildings A and B each measure 20m x 35m with an eaves height of 4.4m and ridge height of 7.5m. Both buildings are joined to one another by narrow linking extension measuring 0.5m x 35m and a maximum height of 4.4m.

Building C measures 22.5m x 10m with an eaves height of 4.4m and ridge height of 6m.

Building D measures 22.5m x 10m with an eaves height of 4.4m and ridge height of 6m.

Building E measures 20m x 15m with an eaves height of 4.4m and ridge height of 6.8m.

Building F measures 20m x 35m with an eaves height of 4.4m and ridge height of 7.5m.

**2. RELEVANT SITE HISTORY**

None.

**3. POLICY CONTEXT**

3.1 The following policies within the Newport Local Development Plan (NLDP) are considered to be relevant to the determination of this planning application:

Policy <b>SP1 Sustainability</b> favours proposals which make a positive contribution to sustainable development.
Policy <b>SP3 Flood Risk</b> ensures development is directed away from flood risk areas.
Policy <b>SP4 Water Resources</b> favours developments that minimises water consumption, incorporates SUDs and generally manages water resources and drainage effectively.
Policy <b>SP9 Conservation of the Natural, Historic and Built Environment</b> 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 <b>SP17 Employment Land</b> allocates 172 hectares of employment land for the plan period.
Policy <b>GP1 General Development Principles – Climate Change</b> 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 <b>GP2 General Development Principles – General Amenity</b> states that

<p>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.</p>
<p>Policy <b>GP3 General Development Principles – Service Infrastructure</b> 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.</p>
<p>Policy <b>GP4 General Development Principles – Highways and Accessibility</b> 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.</p>
<p>Policy <b>GP5 General Development Principles – Natural Environment</b> 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.</p>
<p>Policy <b>GP6 General Development Principles – Quality of Design</b> 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.</p>
<p>Policy <b>GP7 General Development Principles – Environmental Protection and Public Health</b> states that development will not be permitted which would cause or result in unacceptable harm to health.</p>
<p>Policy <b>CE4 Historic Landscapes, Parks, Gardens and Battlefields</b> protects such sites against the impacts of inappropriate development. They are conserved and the policy promotes enhancement where possible.</p>
<p>Policy <b>CE6 Archaeology</b> states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.</p>
<p>Policy <b>CE8 Locally Designated Nature Conservation and Geological Sites</b> includes the protection of Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNRs) and Regionally Important Geological/Geomorphological Sites (RIGS). The policy limits development affecting these sites unless there would be no significant impact or appropriate mitigation/compensation can be agreed.</p>
<p>Policy <b>EM1 Employment Land Allocations</b> allocates sites as employment land.</p>
<p>Policy <b>T2 Heavy Commercial Vehicle Movements</b> states that developments which generate heavy commercial vehicle movements will be favoured in locations which have access to a railway line, wharf or dock. Where this is not appropriate, locations accessible to strategic and principal routes will be favoured. Elsewhere, such development will be resisted.</p>
<p>Policy <b>T4 Parking</b> states that development will be expected to provide appropriate levels of parking.</p>

#### 4. CONSULTATIONS

##### 4.1 NATURAL RESOURCES WALES

No objections to the proposal

- 4.2 **GLAMORGAN GWENT ARCHAEOLOGICAL TRUST (GGAT)**  
The application area sits within a site that has been the subject of extensive archaeological enquiry in the past. The area has been both assessed and evaluated in the recent past and therefore the archaeological resource is well understood.
- The nature of the application is such that the buildings are on existing hard landscaped areas and therefore it is unlikely that their construction and operation will have impacted on any buried archaeological resource. Therefore, as advisors to your members, we have no objection to the positive determination of this application.
- 5. INTERNAL COUNCIL ADVICE**
- 5.1 **HEAD OF LAW AND REGULATORY SERVICES (PUBLIC PROTECTION)**  
No objections to the proposal
- 5.2 **HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS)**  
No objections to the proposal
- 5.3 **HEAD OF STREETSCENE AND CITY SERVICES (ECOLOGY)**  
No objections to the proposal
- 6. REPRESENTATIONS**
- 6.1 **NEIGHBOURS:**  
All properties within 50m of the application site were consulted (1 property), a site notice displayed and a press notice published in South Wales Argus. No representations received.
- 6.2 **COUNCILLORS:**  
All ward members were notified of the proposal. No representations were received.
- 6.3 **COEDKERNEW COMMUNITY COUNCIL:**  
No representations were received.
- 7. ASSESSMENT**
- 7.1 The application is referred to Committee since the proposal would involve development exceeding 1000 sq.m. and, therefore, represents a major development.
- 7.2 The site is located within the settlement boundary of Newport and on brownfield land which is currently in employment use. The site is currently occupied by a company which manufactures radiators. It is a large site which consists of multiple large buildings. The operational requirements of the company have led to the need for further indoor storage space which has resulted in the erection of 6 buildings within the site.
- 7.3 In land-use terms, the proposal is deemed to be an extension to an existing employment unit. The site is also immediately adjacent to other existing employment units and land which is allocated for employment purposes by Policy EM1 of the adopted Newport Local Development Plan (NLDP). The development is therefore considered acceptable, in principle, to sustaining and enhancing the employment facilities within Newport.
- 7.4 The context of the site is characterised by a number of large, industrial-type buildings with ad-hoc extensions, reflecting the evolving nature of an industrial estate. Despite the massing and large scale nature of the buildings which are the subject of this application, they are dwarfed by the existing buildings within the site. In this respect, the six buildings are positioned alongside the tall, central core building, supplemented by other buildings within the complex and in the backdrop. As such, the six buildings are deemed to be subordinate to the main buildings within the site.
- 7.5 The six buildings have a very similar design and appearance, namely grey metal clad elevations and a white PVC fabric roof covering. Each building is characterised with a simple shape, a pitched roof and an unassuming appearance. The buildings reasonably integrate with its surroundings with the external finishes and colours being compatible with other buildings within the site and the wider industrial estate.

- 7.6 The nearest public position is the road and footway of Celtic Way. From this position, the nearest buildings (A, B, F) are over 90m away. Furthermore, the periphery of the site consists of an elevated grass embankment and mesh fencing which significantly limits their public visibility. Supplemented with very tall buildings in the backdrop, the six buildings are not deemed to be prominent or incoungrous. Having regard to the above, it is considered that the development does not have any significant adverse effect on the visual amenities of the area, thereby satisfying Policy GP6 of the NLDP.
- 7.7 To the south of the site is a Landscape of Historic Interest. Building E is the nearest to this designated landscape at an approximate distance of 120m. In this respect, Glamorgan Gwent Archeological Trust has no objections to the scheme. The six buildings are relevately contained within the site and given the scale, height and massing of the existing buildings within the complex, the development is not deemed to worsen the existing views to and from the designated landscape, thereby ensuring that the landscape is protected and conserved. It is therefore considered that the proposal satisfies Policies SP9 and CE4 of the NLDP.
- 7.8 The buildings have been erected on existing hardstanding areas where the ground has already been disturbed. Since the site is outside the Landscape of Historic Interest and is not within the Archaeological Sensitive Area which is approximately 115m away from the nearest building (F), it is considered unlikely that the development has materially affected any significant features of archaeological interest. Glamorgan Gwent Archaeological Trust has no objections to the proposal thereby satisfying Policy CE6 of the NLDP.
- 7.9 Given the industrial nature of the area, there are no residential properties located in the immediate vicinity of the application site. As such, it is considered that the proposal would not generate any overriding residential amenity concerns, with particuar regard to noise/disturbance, light, outlook, dominance and privacy. The Public Protection Department of the Council have no objections to the proposal and it is considered that the proposal satisfies Policies GP2 and GP7 of the NLDP.
- 7.10 Parts of the site is located within Zone B flood risk area however none of the buildings are located within the flood zone. The application forms and supporting statement explains that there is no requirement for foul drainage as buildings are for storage purposes only. The structures have been erected on existing impermeable hardstanding and, as such, it is considered that the buildings would not result in any significant increases in surface-water or materially increase the risk of flooding. Natural Resources Wales have no objections to the proposal and, as such, it is considered that the development satisfies Policies SP3, SP4, GP1 and GP3 of the NLDP.
- 7.11 To the south of the site is a Site of Special Scientific Interest (SSSI). However, this is approximately 290m to Building E which of the six proposed buildings is the nearest to the SSSI. Furthermore, there is a Site of Importance to Nature Conservation (SINC) located approximately east of Building F. Both designations are separated from the site by access roads. NRW and the Council's Ecologist have no objections to the proposal. It is therefore considered that the proposal would not have any unreasonable harm on the key features of the SSSI or the SINC, thereby satisfying Policies SP9 and CE8 and GP5 of the NLDP.
- 7.12 The development is in connection with an existing manufacturing facility and within an area suitable for employment. Whilst the development has occurred on operational land, there is sufficient operational space left for vehicles. The development does not result in the loss of staff parking and it is also reasonably served by transportation links. The Head of Streetscene (Highways) has considered the scheme and has no objections to the proposal. It is therefore considered that the development would not have any significant adverse effect on highway/pedestrian safety and the proposal satisfies Policies GP4, T2 and T4 of the NLDP.



## 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 application is recommended for approval because the development complies with Council policy and guidelines. The proposed development would complement the existing employment use of the site and in a manner that would not have an unreasonable adverse effect on visual amenity, highway safety, archaeology, ecology/biodiversity, drainage or the amenities of neighbouring properties.

## 10. RECOMMENDATION – GRANTED WITH CONDITIONS

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

17-03-02	Buildings A & B – Floor Plan
17-03-03	Buildings A & B – Elevations
17-03-03	Building C – Floor Plan and Elevations
17-03-04	Building D – Floor Plan and Elevations
17-03-05	Building E – Floor Plan and Elevations

17-03-06 Building F – Floor Plan and Elevations  
17-03-07 Site Layout  
17-03-08 Site Location Map

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

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: 17-03-02 Buildings A & B – Floor Plan; 17-03-03 Buildings A & B – Elevations; 17-03-03 Building C – Floor Plan and Elevations; 17-03-04 Building D – Floor Plan and Elevations; 17-03-05 Building E – Floor Plan and Elevations; 17-03-06 Building F – Floor Plan and Elevations; 17-03-07 Site Layout; 17-03-08 Site Location Map.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP4, SP9, SP17, GP1, GP2, GP3, GP4, FP5, GP6, GP7, CE4, CE6, CE8, EM1, T2 and T4 were relevant to the determination of this application.

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

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**APPLICATION DETAILS**

**No:6**                      **17/0273**                      **Ward:**                      **LLISWERRY**

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

**Expiry Date:**                      **15-JUN-2017**

**Applicant:**                      **STARBURST LTD**

**Site:**                      **SITE OF CARCRAFT AT EMPRESS, LANGLAND WAY, NEWPORT, NP19 4PT**

**Proposal:**                      **RETENTION OF BUILDING FOR B1/B2/B8 USE TO PROVIDE 4443 METRES SQUARED OF FLOORSPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREA (RESUBMISSION)**

**Recommendation: GRANTED WITH CONDITIONS**

**1. INTRODUCTION**

- 1.1 This application seeks retrospective planning permission for a Class B1/B2/B8 unit at the former Carcraft site in Lliswerry.
- 1.2 Planning consent was granted in 2016 for the erection of 2no. buildings for B1/B2/B8 use to provide 5,498 square metres of floor space and associated infrastructure including parking and circulation areas. However, one of the buildings (sited to the south-west of the site) was constructed nearer to the southern boundary and closer to Langland Way to the west, than was consented. The building as built is also larger than the previously approved building.
- 1.3 An application to retain the building as built was refused by Planning Committee earlier this year for the following reason:  
  
*By reason of scale and location, the development is unduly prominent within the street scene of Langland Way to the detriment of visual amenity and has an overbearing impact upon the front of the neighbouring commercial property. This is contrary to Policies GP2 and GP6 of the Local Development Plan for Newport, 2011-2026 (Adopted January 2015).*
- 1.4 This application seeks retrospective planning permission for the building as built. In order to address the Committee Members concerns the side elevation has been set back from Langland Way so that it would be marginally behind the neighbouring building.

**2. RELEVANT SITE HISTORY**

95/0163	CHANGE OF USE TO VEHICLE SALES AND ANCILLARY USES TO INCLUDE OFFICES CAR STORAGE AND REPAIR WORKSHOPS AND DEMOLITION OF OUTBUILDINGS	Granted with Conditions
92/0758	ERECTION OF PREFABRICATED MODULAR OFFICE COMPLEX	Granted with Conditions Granted with Conditions
16/0438	ERECTION OF 2NO. BUILDINGS FOR B1/B2/B8 USE TO PROVIDE 5,498 SQUARE METRES OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING AND CIRCULATION AREAS	Refused
16/1218	RETENTION OF BUILDING FOR B1/B2/B8 USE TO PROVIDE 4998 SQUARE METRES OF FLOOR SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING	

### 3. POLICY CONTEXT

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

SP1 – Sustainability favours proposals which make a positive contribution to sustainable development.

SP3 – Flood Risk ensures development is directed away from flood risk areas.

SP17 – Employment allocates 172 hectares of employment land for the plan period.

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.

GP1 – 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.

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

GP3 – 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.

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

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

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.

T4 – Parking states that development will be expected to provide appropriate levels of parking.

#### 3.2 **Adopted Supplementary Planning Guidance**

Parking SPG – August 2015

Archaeology & Archaeologically Sensitive Areas SPG – August 2015

### 4. CONSULTATIONS

4.1 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The development has commenced prior to the granting of any planning permission. As such any potentially adverse effect on the archaeological resource has already occurred. As a result, we have no further comment to make at this time.

4.2 NATURAL RESOURCES WALES: The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under 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, which is a designated main river. We recommend that you should only grant planning permission if a condition requiring a finished floor level of 8.16 metres AOD is imposed. This condition will address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

- 4.3 WALES AND WEST UTILITIES: Provide details of apparatus in the area.
- 4.4 NETWORK RAIL: We note in the Flood Consequences Assessment that the applicant has indicated that *“The assumed designated evacuation route to be followed upon receipt of a relevant flood warning will be northwards and onto Spytty Road/Queensway through in an emergency pedestrian access onto the railway embankment may be an option”*. This will not be allowed by Network Rail and we would object to the above proposal should this be agreed by the LPA on the grounds of safety as this is an operational railway with trains running 24/7. Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land:
- Should the applicant require access to Network Rail land then they must seek approval from Network Rail Asset Protection Team.
  - All surface water drainage should be directed away from Network Rail's land to the public mains system.
  - Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.
  - Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.
  - Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.
  - Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with Network Rail's Asset Protection Engineers is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.
- 4.5 DWR CYMRU - WELSH WATER: Conditions relating to drainage are requested.

## 5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objections are offered subject to the submission of a travel plan and a Construction Management Plan.
- 5.2 HEAD OF STREETSCENE AND CITY SERVICES (DRAINAGE): I am satisfied that the surface water from the roofs shall be dealt with by Building Control processes. I also assume that no additional paved/hard areas are to be provided that would require drainage, i.e. parking, etc. Providing that is the case, I have no further objection/comment.
- 5.3 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection.
- 5.4 HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH) (AIR QUALITY): The site is located adjacent to a main A road and there are no air quality management areas (AQMA) in the near vicinity. Therefore it is unlikely that air quality could be considered of material concern for this application given the current planning policy. I therefore have no reason to object.

## 6. REPRESENTATIONS

- 6.1 NEIGHBOURS: All properties within 50m were consulted (3 property), a site notice displayed, and a press notice published in South Wales Argus. One response received on behalf of Euro Foods. The objections are summarised below:
- There has been no attempt to reduce the building's width and height from that approved in 2016;
  - The fact that the building has already been constructed should not be an issue in favour of the applicant;
  - The owner/developer has ignored their obligations under the terms of the planning permission;

- The permission consented a floor area of 2140 sqm. The current application is for more than double that;
- Whilst the building has been set back it remains higher, wider and closer to the boundary;
- By granting the application the Council would be giving a green light to those who build without planning permission and such retrospective applications bring the planning system into disrepute;
- The building is overbearing and its mass interferes with the neighbouring occupants enjoyment of their property.

**7. ASSESSMENT**

7.1 The site is located within Leeway Industrial Estate and comprises 1.15 hectares and forms part of the former Carcraft unit. Vehicle access to the buildings would be from the existing access to the site off Langland Way. The site is surrounded by a mixture of established commercial and industrial uses to the east, south and west and to the north it is bordered by the Southern Distributor Road.

**7.2 Design**

The table below sets out the dimensions of the building that were originally granted compared with the refused scheme and the current proposals:

<b>16/0438 (Granted)</b>	<b>16/1218 (Refused)</b>	<b>This application</b>
W24m x L89m x H8.6m	W26m x L185m x H9.7m	W26m x L170m x H9.7m

- 7.3 As can be seen from the table, the building as built is wider, longer and higher than that consented under the original application. The application submitted for its retention (16/1218) was refused by the Site Inspection Sub-Committee as by reason of the scale and location of the development, it was considered to be unduly prominent within the street scene of Langland Way and has an overbearing impact upon (specifically the) side of the neighbouring commercial property. The amended scheme proposes to set back the building the same as the scheme which was originally approved (16/0438) so that it would be marginally behind the building line of the neighbouring building. However, as reflected in the above table, the building remains closer to the intervening boundary than the previously consented scheme as it is two metres wider and it is just over 1m greater in height.
- 7.4 The building is sub-divided to provide smaller units in order to provide flexibility for future occupiers. Parking is to be provided to the front and sides of the buildings. The design of the building is utilitarian and it is considered to be in keeping with the surrounding commercial/industrial uses. The building is clad in metallic silver micro-rib whilst the roof is clad in Kingspan Goosewing Grey, with skylights within the roofs.
- 7.5 Whilst the scale of the proposed buildings is considerable, it is not considered to be out of keeping in this predominantly industrial/commercial area. The overall massing of the building is considerably less than that of the existing Carcraft building. The increase in size of the building above that consented under application 16/0438 is considered to be acceptable within the context of the area which is predominantly industrial.
- 7.6 Whilst the building projects further to the rear of the site than the building approved, this was considered by Site Inspection Sub-Committee and Members did not express concerns about this element and it was not a reason for refusal. However, Committee Members did express concerns about the building being closer to Langland Way and hence the application was refused. In setting the building back from Langland Way, it is considered that the concerns of the Committee Members have been addressed. It is not considered that the building would be unduly prominent within the street scene and the overbearing impact is removed.

7.7 In term of impact of the development on the neighbouring unit, the application unit is sited to the north of the neighbouring Eurofoods building and consequently the shadow cast by the development falls in the direction of former Carcraft building and the hardstanding area between the former Carcraft building and the application building and not towards the Eurofoods building. Consequently, the new building does not cause a significant degree of overshadowing. Furthermore, there are windows in the eastern and southern elevations of the neighbouring building (as well as the northern elevation facing the application property) and subsequently whilst some offices on the northern elevation of the neighbouring building may experience some loss of light as a result of the development, this will be nominal and not significant. The neighbouring occupier has objected to the application as the building is closer to the intervening boundary than approved but this in itself does not demonstrably affect the commercial use of the neighbouring property.

7.8 The nearest residential properties are situated on the opposite side of the dual carriageway approximately 180m away. As such it is considered that there would be no impact on residential amenity as a result of the proposals.

#### 7.9 ***Economic Benefits***

The building would provide 4998 square metres of B1/B2/B8 floor space. This would contribute to the Council's employment land supply. The proposals represent a sustainable use of brownfield land and are located within an existing industrial area with associated infrastructure. The proposals are considered to be an appropriate use at the site and will facilitate bringing back into use a large, prominent commercial site that had been vacant or underused for several years.

#### 7.10 ***Highways***

The application is accompanied by a Transport Assessment. The Head of Streetscene and City Services (Highways) confirms the level and layout of the parking provision to be acceptable and it is not considered that the proposals would result in a detrimental impact to highway safety.

#### 7.11 ***Flood Risk***

The application site lies entirely within Zone C1, as defined by the Development Advice Map (DAM) referred to under 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, which is a designated main river.

7.12 Policy SP3 flood risk states: Newport's coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.

#### 7.13 ***Overview of Technical Advice Note 15: Development and Flood Risk***

TAN 15 sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas. The Council is expected to consult Natural Resources Wales (NRW) when considering development in Zone C1. Where a planning authority is minded to go against the advice of NRW it should inform NRW prior to granting consent allowing sufficient time for representations to be made.

#### 7.14 **Summary of NRW consultation response**

NRW previously advised that subject to the proposed finished flood levels for the building being no lower than 8.16m AOD, the building would be A1.14 compliant and NRW would offer no objection to the proposals. The applicant confirms the building has been constructed with the finished floor level according with this.

- 7.15 The Local Planning Authority should be satisfied that the consequences of flooding can be acceptably managed. If the Authority is minded to approve the application, NRW advise that the developer is made aware of the potential flood risks on site and a condition relating to finished floor levels is secured to the permission ensuring suitable finished floor levels for the units.
- 7.16 It is the role of the Local Planning Authority to consider access/egress in a flood event. It was previously noted under application 16/0438 that the proposals have been shown to satisfy all but one of the tests in part A1.15 of TAN 15. Test 6 – “*Escape/evacuation routes are shown by the developer to be operational under all conditions*” cannot be complied with. However, it was noted that the source of potential flooding is from the tidal river Usk or Severn Estuary. The applicant advises that the tidal predictions including for surge conditions are undertaken on a 24hr/7days a week basis by NRW. The current flood forecasting models underpinning NRW’s Flood Warning Service should be able to provide up to 12 hours advance notice of a significant tidal event. Whilst advance flood notice should not be relied upon in isolation, it is considered that due to the tidal nature of the flood risk in this instance, some weight should be attributed to this in conjunction with all other considerations.
- 7.17 The proposed use is ‘low vulnerability’ and TAN15 acknowledges the differences in terms of different types of development and associated vulnerability.
- 7.18 Furthermore, the proposals have significant merit and include the regeneration of this prominent brownfield site and it has welcomed economic benefits.
- 7.19 On balance, when considering the associated flood risk together with the fact that the proposed use is low vulnerability in its nature, along with the regeneration benefits of the proposals, the development is considered to be acceptable in terms of flood risk. The comments of Network Rail relating to the unacceptability of the adjacent railway embankment as an access/egress route are duly noted and this is not encouraged by the Council. Notwithstanding this, as noted above, it is concluded that given the low vulnerability of the nature of the use, the tidal nature of the flood risk, the reasonable prospect of advance flood warning and the significant merit of the development, it is acceptable in terms of flood risk and the use of the railway embankment does not form part of this conclusion.

#### 7.20 **Archaeology**

The site is within an Archaeological Sensitive Area. The Glamorgan Gwent Archaeological Trust notes that the building has already been constructed. The intrusive groundworks required for the piling has already occurred, and the levels raised to create a level building platform. Furthermore, the drainage works are sufficiently shallow to be contained within the raised levels. As a result the only construction works of sufficient depth to possibly impact on any archaeological material is the piling itself. As such work has already taken place, any potentially adverse effect on the archaeological resource has already occurred. As a result, GGAT advise that they have no further comment.

#### 7.21 **Drainage**

The development includes the installation of foul and surface water drainage. Dwr Cymru – Welsh Water have requested drainage conditions in order to preserve the public drainage systems. However, Dwr Cymru – Welsh Water have the power to protect their interests under legislation that is separate from planning and such conditions are not considered to be required.



The Council's Drainage Manager confirms no objection on the basis that there are no additional paved/hard areas to be provided.

#### 7.22 ***Air Quality***

The Head of Public Protection (Environmental Health) has been consulted with regard to the proposals and advises that there are no air quality management areas (AQMAs) in the near vicinity. Therefore it is unlikely that air quality could be considered of material concern for this application given the current planning policy. The Head of Public Protection (Environmental Health) offers no objections to the development.

#### 7.23 ***Other Matters***

As previously noted under 16/1218, it is unfortunate that planning permission for the building as amended was not sought prior to its construction. However, this itself is not a reason to refuse planning permission and the Council is statutorily obliged to accept retrospective planning applications. The applicant has duly submitted an application seeking retrospective planning permission and following the refusal of 16/1218 the applicant has reduced the length of the building and set the building back marginally behind the neighbouring property. The applicant has not reduced the width or height of the building, or amended the building to the rear as Committee Members did not express concerns about this and the building was considered to be acceptable in these regards.

7.24 The Council must consider each application on its own merit. Notwithstanding this, in both isolation and with consideration of the cumulative impact of the development and other development in the vicinity (whether granted or currently being considered) it is considered the proposal is acceptable.

### 8. **OTHER CONSIDERATIONS**

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

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

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

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

8.3 Having due regard to advancing equality involves:

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

8.4 The above duty has been given due consideration in the determination of this application. It is considered that 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 In reducing the scale of the building and setting back the side elevation so that it is in line with the neighbouring building, it is considered that the harm previously identified by Committee Members has been addressed when viewed from Llangland Way and the adverse impact upon the neighbouring unit has been mitigated.

9.2 It is therefore recommended that the application is granted subject to the following conditions.

**10. RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: 610181/6B, 610181/2B.

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 –occupation conditions***

02 Prior to the first beneficial use of the buildings hereby approved, the vehicle parking spaces shall be demarcated as per the approved plans and shall remain available for parking in perpetuity.

Reason: To ensure the development is served by adequate parking provision in the interests of highway safety.

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

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

***General conditions***

04 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 and the Town & Country Planning Use Classes Order 1987, as amended (or any order revoking and re-enacting those Orders with or without modification) the premises the subject of this permission shall not be used other than for purposes falling within Class B1/B2/B8 of the Use Classes Order without the prior grant of planning permission from the Local Planning Authority.

Reason: To ensure that the use remains compatible with surrounding land uses in the area.

05 The finished floor levels for building hereby approved shall be set no lower than 8.16 metres above Ordnance Datum (AOD) (Newlyn).

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

06 No plant or machinery shall be installed on the southern or eastern elevations of the building hereby approved.

Reason: In the interests of visual amenity and to protect the working environment of neighbouring commercial buildings.

#### *NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP17, SP18, GP1, GP2, GP3, GP4, GP6, CE6 and T4 were relevant to the determination of the application.

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

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

04 The applicant is advised on behalf on Network Rail that:

- Should access to Network Rail land be required approval from Network Rail Asset Protection Team must be sought.

- All surface water drainage should be directed away from Network Rail's land to the public mains system.

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

- Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

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

- Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with Network Rail's Asset Protection Engineers is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.

05 On behalf of Natural Resources Wales, the applicant is advised that the site is located within a flood risk area and consideration should be given to the creation of an emergency evacuation plan.

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## **APPLICATION DETAILS**

**No:7**                      **17/0292**                      **Ward:**                      **LLANWERN**

**Type:**                      **FULL**

**Expiry Date:**                      **04-JUN-2017**

**Applicant:**                      **O. LEE**

**Site:**                      **UNDERWOOD COMMUNITY FACILITY, THE ACORNS, LLANMARTIN, NEWPORT, NP18 2EQ**

**Proposal:**                      **CHANGE OF USE FROM LEISURE CENTRE TO MIXED USE COMMUNITY AND CONFERENCE FACILITY TO INCLUDE ANCILLARY RESIDENTIAL SUITES AND CARETAKER ACCOMMODATION TOGETHER WITH MINOR EXTERNAL ALTERATIONS**

**Recommendation:**    **REFUSED**

### **1. INTRODUCTION**

1.1 This application seeks consent for the change of use from leisure centre to mixed use community and conference facility to include ancillary residential suites and caretaker accommodation together with minor external alterations.

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

None.

### **3. POLICY CONTEXT**

#### **3.1 *Newport Local Development Plan –***

SP1 Sustainability seeks to ensure the development takes into account sustainable development principles. The proposal is supported due to its re-use of previously developed land.

SP3 Flood Risk ensures development is directed away from flood risk areas.

SP5 limits development outside of the settlement boundary.

SP12 promotes development of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas, concert halls, allotments, leisure use etc. Development that affects existing community facilities should be designed to retain or enhance essential facilities.

SP13 Planning Obligations enables contributions to be sought from developers that will help deliver infrastructure which is necessary to support development.

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.

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.

GP6 General Development Principles – Quality of Design: All new development must ensure that they are to achieve good quality design. This is ensuring that the proposal creates a safe, accessible and attractive environment taking into account the context, scale and materials of the design.

CE3 safeguards environmental space and corridors as identified on the Proposals Map. Development of environment space will only be permitted where the existing space will be improved or complemented; there is no adverse impact on nature conservation interest; there is an appropriate replacement; or it can be demonstrated that there is an excess of environmental space.

H2 promotes high quality design taking into consideration the whole life of the dwelling.  
H4 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.

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

CF1 Protection of Playing Fields, Land & Buildings Used for Leisure, Sport, Recreation and Play notes that such sites will be protected unless it can be demonstrated that they are surplus to requirements or adequate alternative provision will be provided.

CF12 Protection of Existing Community Facilities resists the loss of existing community buildings unless alternative provision is made or it is demonstrated that the building is surplus to the needs of the community.

M1 Safeguarding of Mineral Resources states the Proposals Maps identifies areas safeguarded for minerals. The areas will be safeguarded unless the developer can demonstrate that working the resource is impractical; the minerals will be extracted prior to development; the development is temporary; there is an overriding need for the developments; or the development is limited householder development or would constitute limited infilling.

### 3.2 **Supplementary Planning Guidance**

Parking Standards Adopted August 2015

Affordable Housing Adopted August 2015

## 4. **CONSULTATIONS**

- 4.1 NATURAL RESOURCES WALES: The application site lies partially within Zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). NRW Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability flood outlines of the Monks Ditch, which is a designated main river. Recognising the particular nature of this application, NRW have no objection to the proposals.

## 5. **INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREETSCENE AND CITY SERVICES (HIGHWAYS): No objection.
- 5.2 PLANNING CONTRIBUTIONS MANAGER: Part of the proposal includes a residential suite for the caretaker. This is deemed a 'rural enterprise' (associated with the development) and, as such, is exempt from planning obligations towards affordable housing. In addition, the proposal also includes 4 residential suites. These represent temporary accommodation ancillary to the principal community use. As such, they are also exempt from planning obligations towards affordable housing.
- 5.3 HEAD OF LAW AND REGULATION (NOISE): No objection subject to conditions relating to noise insulation and a construction management plan.

## 6. **REPRESENTATIONS**

- 6.1 NEIGHBOURS: All properties within 100m of the application site were consulted (56no properties) and a site notice was displayed. 2No responses received. Comments received are summarised as follows:
- The description of the proposals is vague and the application contains inadequate information;
  - Concerns are raised about noise, disruption and impact on neighbouring privacy;
  - Concerns are raised about the intended occupants;
  - From the condition of the building the external works may be major;
  - The building was intended to be predominantly for the use of the Underwood community. Ancillary residential suites and caretaker accommodation leaves doubts about the use of the facility being beneficial overall to the community;
  - Drainage for sewerage at the front carpark to the Leisure Centre is an ongoing concern which Welsh Water are constantly dealing with. When there is heavy rain it overflows from the demand into the carpark and frequently in the building also. It also used to flood regularly in the toilets /

changing rooms downstairs. With so many new toilets on the plans this will put further strain upon the drainage/sewerage. This is due to the pumping station originally built many years ago for Underwood Estate, then Waltwood Park Drive was built and all the new surrounding houses in Langstone being built the pumping station can no longer keep up with the heavy demand;

- Disabled access is not shown on any of the plans. Neither is another emergency exit door;
- The plans have the main hall with a café and soft play area taking up a third of the room but the main hall had always been used for five a side football and the room will not be large enough to be able to play five a side football.

6.2 COUNCILLOR KELLAWAY: Requests the application be considered by Planning Committee to ensure issues regarding flooding, access and impact are considered and comments as follows: Although supportive of any proposals that are said to be for the benefit of the community I am unconvinced at present in terms of the need for accommodation as part of these particular proposals, and am at present unconvinced this is the right plan for Underwood or the applicant. The building itself benefits already for use a community leisure centre so the main obstacle being any need for accommodation and the risks and impact associated with it. The area referred to is at risk of flooding and I don't see any mitigation in terms of this risk in the application.

Noise generated by the events proposal would be a disturbance for the local residents and I see no information to control the noise which will have a negative impact on those homes in close proximity.

The increase in traffic generated by additional "big" events may put pressure on the local road network and with only an hourly bus service is not particularly sustainable, this needs to be addressed within the proposals.

It is unclear as to how any improvements would be staged, e.g. at what point will residents see a "community benefit" (at the beginning of the project or at the latter stage). Part of the plan suggests the community Hub will be established first but given the term options I am uneasy as to the plans.

The questionnaire sent out to 800 homes, which I facilitated had returned some 50 completed documents, that said I am struggling to understand how the business case reflects the survey and further work needs to be undertaken to better understand this.

The plan suggests "options" which make the decision to support or not difficult as we don't know what we are being asked to consider.

The plan refers to help from Newport City Council I don't see how this would support the plan at this stage.

The plan itself maybe overoptimistic with a daily room hire of £50 this is high for an area such as Underwood and so the 1200 per month may not be achievable. In particular with the competing venues in Underwood.

6.3 BISHTON COMMUNITY COUNCIL: The Community Council would like to see a positive use of the former Leisure Centre site, provided this is sustainable and provides genuine, additional benefits to the local community.

These are unusual proposals. They envisage a religious centre to be led by a Korean church which would also host "big events" and act as a community hub on the Underwood housing estate which has

- (i) no current connections to Korea,
- (ii) limited transport/access infrastructure, and
- (iii) existing, viable and well-established community facilities.

We request that the application should be referred to the full Planning Committee so that the wide-ranging implications of the proposals can be thoroughly examined.

We have a number of specific questions which we believe should be answered satisfactorily when this application is considered. Our questions are grouped as follows:

Q1. Is it in local people's' interest to create a third major community centre in Underwood which has a population of just 2000, and is relatively self-contained?

Q2. Why did the application fail even to mention the range of facilities already provided to the Underwood Community through the Underwood Community Centre and the local Baptist Church?

Q3. Why did the applicants fail to consult the local Community Council who provide the main existing community centre in Underwood?

Q4. Why does the covering letter for the agent who lives in Alway untruthfully claim that a community hub “is currently lacking in Underwood”? Bishton Community Council is particularly concerned because we run the primary existing, modern community hub in Underwood which is subsidized from the Council taxes paid by Underwood people - the Underwood Community Centre (UCC). UCC provides a wide range of well-used facilities e.g. meeting rooms, Mums and Tots, senior citizens, youth training and a gym installed after the Leisure Centre was closed. We also provide playing fields for the Underwood football teams and the Cycle Speedway. Plans for a gym extension to UCC to be funded by the Vale of Usk project are well advanced - a planning application is already with the Council. A second provider, the local Baptist Church (including the Oasis centre) also provides facilities e.g. Slimming World, Brownies, computer suite and meeting room. There is also a recently opened pub (the Iscoed Tafern) converted from the former social club with extensive support from Underwood residents, which offers facilities for social functions. It is clear from the application Business Plan that a third “community hub” would try to provide a number of services which would duplicate or compete with those already provided in Underwood. Although the new “hub” is alleged to be non-profit, there is finite demand for community or social facilities. It is likely that excess provision would reduce the income of UCC, the Baptist Church centre, and the new pub (which provides an important social function), to the detriment of the long term interest of Underwood.

Q5. Are the budget projections on Page 22 of the Business Plan realistic or stabs in the dark? In particular we note that Page 22 expects to raise £3600 a month (or £43,200) from meeting room and hall rents. This is a very large sum in relation to the size of Underwood. Annual Room hire Income from the current Underwood Community Centre is £8000 - less than 20% of the funds which the application expects to generate. We do not understand the reference to Newport City Council “co-operation” on page 23 which seems to hint that NCC would help to provide financial support for the centre; this seems unrealistic following NCC’s decision to close the previous Leisure Centre because of its financial losses, and the potential competition with other NCC-sponsored leisure facilities.

Q6. Is it realistic to draw conclusions from a self-selecting survey of 51 Underwood residents?

Q7. Is the survey professionally valid? 51 respondents is equivalent to only 2.5% of the Underwood population. Only 5 respondents were under the age of 30. Giving people a yes/no list of facilities and “entertainment” options which is un-costed, and makes no reference to existing provision of several of the listed activities in Underwood, seems unlikely to answer the crucial question of whether there is an UNMET need for each activity. The overarching statement on the questionnaire actually asks whether the new “Centre” could meet the current needs, irrespective of whether they are already being provided elsewhere. Such a survey seems a very weak basis for the agent’s claim in his letter that “the proposed scheme has strong local support”.

Representations made to the Community Council about the proposals have been very mixed, with several claiming that they lack rational justification. The fact that the applicants claim to speak for the community but failed to consult the elected body which represents the Underwood Community speaks for itself.

Q8. Who are the rather mysterious “GLY Organization”, the company established for religious purposes with no known assets beyond the apparent ownership of the former Leisure Centre, which has submitted the application?

Q9. Is this primarily an application to convert the former Leisure Centre into a religious hub i.e. in the words of the Business Case “to become a model of a pure evangelical charity group” and that its role as a community hub would actually be subordinate to this purpose?

Q10. Is it true that the main focus of the religious hub would be to act as a mission centre for the Korean Church and for Korean religious activists who would stay at the Underwood Centre and undertake training and missionary work in the UK, although there is no existing link between the Korean Christian Church and Underwood despite some unconvincing attempts to claim such on page 7 of the Business Case?

Q11. Is it true that apart from those owning the former Leisure centre site, the GLY Directors and “charity trustees” have no previous connection with Underwood?

Q12. Is support for the local community and other options such as holding “big events” e.g. “stage shows” and “commercial and trade shows” intended to distract attention from the primary

religious and “missionary” purpose of the Centre? It is hard to find out what the GLY organisation really is. See <http://www.bizstats.co.uk/ltd/gly-organisation-10362118/>. Its main actors appear to be a single family of Korean origin living in Kent.

Finally we would point out two apparent inaccuracies in the Application Form:

-The agent’s cover letter refers to a residential suite for a caretaker and family, and also four additional residential suites for visitors e.g. from Korea. However only one residential unit for “key workers” (presumably the caretaker’s suite) is mentioned in Section 18 of the Form.

-Under Section 25 of the form, the agent states that no hazardous substances/waste are involved in the proposal. This seems inconsistent with the “Demolition Asbestos Survey” enclosed with the application which reveals that asbestos products were found in a number of different parts of the site, which would need to be disposed of under the Hazardous Waste Regulations.

## **7. ASSESSMENT**

7.1 The site is designated as countryside and adjoins the Underwood village boundary, on land meeting the definition of previously developed land. The proposal involves the change of use of the existing building and no additional development is proposed. The proposal would bring into use a vacant building, which is in a poor state of repair and has a history of attracting anti-social behaviour. In this respect the re-use of the building is welcomed in principle subject to all other relevant considerations.

7.2 The building is a former leisure centre and was previously a community facility in the locality. Policy SP12 (Community Facilities) of the Council’s Local Development Plan is supportive of new community facilities such as places of worship, cemeteries, health centres, nurseries, museums, public halls, cinemas, concert halls, allotments, leisure use etc. Given the former use of the property as a leisure centre, the proposed re-use of the building for religious purposes excluding the residential element complies with aims of policy SP12.

7.3 Whilst minimal external changes are proposed, due to the poor condition of the building extensive refurbishment is required. In terms of room configuration the existing main hall would be retained albeit with a café and children’s soft play area within it. The smaller hall would be utilised as a conference room and the existing squash courts would be used as meeting rooms. Toilet facilities, storage areas, offices, a reception area and prayer rooms are also proposed at ground floor level. At first floor level four residential suites are proposed. Each of the suites would comprise a bedroom, living room, shower room and two of the suites would also have a kitchenette. The applicant advises that the suites would be ancillary to the proposed use of the building and would provide accommodation on an occasional basis for people who have travelled to the facility. The caretaker’s accommodation would comprise a living area, kitchen, shower room, two bedrooms and a study. The proposed external alterations include additional first floor windows within the western elevation of the building.

7.4 The applicant advises that the aims of the development are to:

- Develop, accommodate and support a broader range of community activities by providing a variety of new and flexible work areas within existing buildings.
- Provide rent, employment costs and significant additional revenue generation opportunities from the project to support the long-term sustainability of the building.
- Provide a visual and warm reception area for visitors.
- Improve the building’s facilities and become a comfortable community hub.
- Improve access to buildings to provide a "community meeting" environment that promotes collaboration between users.
- Provide café and children’s play areas.
- Provide a facility to accommodate large-scale community activities and commercial activities.
- Provide a retreat space for community families visiting the centre.



7.5 In terms of activities at the centre and the day-to-day running, the applicant has provided several 'options' within the Business Report accompanying the application as follows:

Option 1 - Big events - stage shows, drama, movie and music presentations, facilities for weddings, parties, dances, conferences, commercial and trade shows, food and craft markets & festival etc.

Option 2 – A sports and leisure Centre - child and youth activities, health improvement for adults, martial arts classes for kids and adults, indoor sports, sport training courses,

Option 3 – As a “Community Hub” - adopt and develop a long-term social enterprise development approach to sustainability of the centre, receive funding to start the community development program and repair the centre.

Option 4 – Working with the Christian community - develop the Underwood Centre as a multipurpose community facility to conduct social activities and various community activities, adopt and develop a vision of the centre's long-term activities, accommodation is required for participants in various Conferences, training & Seminar programs, use the centre in close cooperation with options 1, 2, and 3.

#### 7.6 ***Proposed Religious Retreat Use***

It is stated within the Business Plan accompanying the application that the applicant plans to operate the Centre as a charitable and community hub, providing support for families and cultural activities for local residents, as well as providing a meeting place for community groups of all ages and opportunities for diverse educational programs, social activities, and leisure activities.

7.7 The proposed use of the building for a community hub/Christian Centre and the uses described above are not considered to give rise to any concerns. As previously noted, the building is a former leisure centre and would have once been the focus of community activity in the locality. Its re-use for a continued community focused activity, albeit a more focussed community use is considered to be acceptable.

#### 7.8 ***Residential Accommodation***

The proposals include residential accommodation for the caretaker and family and 4 further residential suites. Limited information has been provided on the nature and function of the caretaker accommodation although it is stated that *the location of the building is fairly isolated, thus with its post-leisure centre history, justifies the installation of a full time caretaker being housed on site*. However, given the site's location within the countryside, the provision of a permanent form of residence is contrary to policy. No details of exceptional justification for residential accommodation in this rural area have been provided. It is acknowledged that the building has been subject to break-ins and vandalism in the past. However, this alone is not considered to be sufficient justification for permanent residential accommodation within the building and it is considered that if additional security measures to the building are not adequate to secure it, there are more suitable alternatives which have not been explored by the applicant. The unit functioned as a leisure centre facility for many years in the absence of on site residential accommodation. The proposals conflict with Policy SP5 of the LDP.

7.9 The proposal also includes 4 residential suites. Limited information has been provided on this element of the proposals, but it is stated that: *the applicant wishes, on limited special occasions, to hold Christian gatherings. The speakers and/or special guests would be invited to stay in the rooms on the first floor. There are 4 suites, they are not self-contained; this is in addition to the caretakers living quarters. These guests may have travelled from Korea to visit the Centre and Wales*. This element of the proposals relates to temporary accommodation and subject to it being considered ancillary to the principal community use, it could be concluded that it is acceptable in principle and consistent with the requirements of Policy SP5. However, as noted above, four residential suites are proposed. Despite their intended occasional use, the number of suites is considered to be excessive and is beyond what could reasonably be regarded as ancillary to the primary leisure/ community use of the building. In terms of floor space alone, the residential

suites account for most of the first floor area of the building. Officers have concerns about the nature and scale of the residential suites and do not consider this aspect to be ancillary to the main use of the building.

7.10 There is a good degree of separation between the building and neighbouring residential properties and given the fall-back use of the building as a community facility which could include ancillary events including concerts and conferences with unrestricted hours of use, it is not considered that the proposed mixed use including the residential element would result in a greater degree of noise or disturbance to neighbouring occupants or in a detrimental impact to the character of the area.

#### 7.11 ***Flooding***

The application site lies partially within Zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). NRW Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability flood outlines of the Monks Ditch, which is a designated main river. Although not all of the site is within C2, a large proportion of it is including the site access.

7.12 In response to the proposals NRW advise that recognising the particular nature of this application, they have no objection to the proposals. However, they advise that it is considered good practice for a Flood Consequences Assessment (FCA) to be undertaken in support of the application. This is to ensure all parties are aware of the risks to and from the proposed development and ensure that the risks and consequences of flooding are minimised as far as possible. The FCA should establish what the predicted flood risk is to the building and its access/ egress routes, this will provide a better understanding of the risks and consequences of flooding.

7.13 Despite there being no objection from NRW it is the role of the Local Planning Authority to assess the proposals having due regard to local and national planning policy which is clear that highly vulnerable development, which includes all forms of residential premises, is not acceptable in flood zone C2.

7.14 Notwithstanding the policy objection to the permanent and occasional residential accommodation, the applicant has not provided an FCA although they do acknowledge the building being within a flood risk area. For new residential accommodation within flood zone C1 the LPA would expect for an FCA to be provided to ensure that the risks and consequences of flooding are minimised as far as possible and to assess whether the development would comply with the tolerable limits as set out in part A1.15 of TAN15. However, as noted above, local and national planning policy is clear that new residential development is not acceptable in flood zone C2 irrespective of whether or not a FCA is provided to inform the LPA in the decision making process.

7.15 Given the fall-back use of the building as a community centre, there is no objection to the use of the building as a mixed use community and conference facility. However, the residential element of the proposals including both the caretaker's accommodation and the residential suites is unacceptable in flood risk terms. It is at risk and no information has been provided to mitigate this risk

#### 7.16 ***Environmental Space***

The northern part of the application is allocated as Environmental Space in the LDP. However, the proposal is contained within the existing building and does not involve development on the Environmental Space. As such there are no concerns about the impact of the proposals on the Environmental Space.

### 7.17 **Minerals Safeguarding Area**

The northern part of the site includes land designated as a Sand and Gravel Minerals Safeguarding Area under Policy M1 of the LDP. However, the proposal is restricted to the re-use of the existing building and does not include any form of development on the designated minerals safeguarding area. On this basis, there are no concerns relating to impact on minerals.

### 7.18 **Other Matters**

The Community Council has raised multiple concerns and objections to the proposals. The concerns of the Council relate largely to the viability of the proposals. This is a concept frequently raised as part of planning applications. However, in this case the concern relates to the business viability of the community use in particular. This is not a planning matter and in any event the leisure/ community use of the building is well established in planning terms. The Community Council also question the need for a further community facility in the area, however, as noted above the LDP is supportive of community facilities and need is not required to be established. Notwithstanding this, the fall-back use of the building is a leisure centre use and as there is a reasonable prospect of a community/leisure use re-occupying the building this is a material consideration to be given weight. The Community Council also question the applicant's connections to the area which is not a planning consideration.

7.19 Whilst failure of any future mixed use may lead to pressure for additional residential accommodation in the building, this would require planning permission and would therefore fall within the LPA's control.

## 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 re-use of the vacant community building has merit. However, the proposals for permanent residential accommodation outside of the settlement boundary are contrary to policy. It has not been established that there is functional need for residential accommodation to support the enterprise and there is no exceptional justification for it in this rural area. Similarly, the proposed residential suites are considered to go beyond what can reasonably be considered ancillary to the main use of the building as a leisure/ community facility and are unacceptable.
- 9.2 Furthermore, highly vulnerable development, such as residential accommodation within C2 is not acceptable in principle and no information is provided to mitigate this objection.
- 9.3 It is recommended that the application is refused.

**10. RECOMMENDATION**

REFUSED

01 The site is located within the open countryside and it has not been established that there is a need for residential accommodation to support the enterprise and there is no exceptional justification for it in this rural location. The proposed residential accommodation is contrary to Policy SP5 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015).

02 The development has a significant adverse effect on interests of acknowledged importance, namely safety and residential amenity, by reason of the site's location in Flood Zone C2. The proposal is contrary to Policy SP3 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015) and TAN15 and no information has been provided to mitigate this objection.

*NOTE TO APPLICANT*

01 This decision relates to plan Nos: KD1605/1, KD1605/2, KD1605/3 and site location plan.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP12, GP2, GP4, GP6, CE3, H2, H4, T4, CF1, CF12 and M1 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.

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