

Agenda

Planning Committee

Date: Wednesday, 4 March 2020

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors J Richards (Chair), J Guy (Deputy Chair), G Berry, J Clarke, T Holyoake, V Dudley, D Fouweather, J Jordan, C Townsend, R White and T Watkins

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Part 1

Item	Wards Affected
1. <u>Apologies for Absence</u>	
2. <u>Declarations of Interest</u>	
3. <u>Minutes of the meeting held on 05 February 2020 (Pages 3 - 6)</u>	
4. <u>Development Management: Planning Application Schedule (Pages 7 - 110)</u>	
5. <u>Appeal Decisions (Pages 111 - 116)</u>	

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Date of Issue: Wednesday, 26 February 2020

Mae'r dudalen hon yn wag yn

Minutes



Planning Committee

Date: 5 February 2020

Time: 10.00 am

Present: Councillors J Richards (Chair), J Guy (Deputy Chair), G Berry, J Clarke, T Holyoake, T Watkins, D Fouweather, C Townsend and R White

Joanne Evans (Senior Solicitor), Tracey Brooks (Development and Regeneration Manager), Stephen John Williams (West Area Planning Manager), Joanne Davidson (East Area Development Manager), Lisa Davies (Governance Officer), Neil Barnett (Governance Officer) and Geraint Roberts (Principal Planning Officer)

Apologies: Councillors V Dudley and J Jordan

1. **Declarations of Interest**

Councillor Carmel Townsend - Prejudicial interest on application 19/1149, left the Chambers

2. **Minutes of the meeting held on**

The minutes of the meeting held on 08 January 2020 were submitted.

Resolved

That the minutes of the meeting held on 08 January 2020 be taken as read and confirmed, subject to the above.

3. **Development Management: Planning Application Schedule**

Resolved

(1) That decisions be recorded as shown on the Planning Applications Schedule attached as an Appendix A

(2) That the Development Services Manager be authorised to draft any amendments to/additional conditions or reasons for refusal in respect of the Planning Applications Schedule, attached

(3) Application 19/1149 was deferred until a later date.

4. **Appeal Decisions**

Members' attention was drawn to the Appeals Report, for information.

The meeting terminated at Time Not Specified

Mae'r dudalen hon yn wag yn

Appendix A
 PLANNING COMMITTEE – 05 02 2020
 DECISION SCHEDULE

No	Site/Proposal	Ward	Additional Comments	Decision
19/0111	<p>Site: R J Mason Transport Ltd, Albany Street, Newport</p> <p>Proposal: Demolition of buildings and erection of Class A1 foodstore with associated access, car parking and landscaping</p> <p>Recommendation: Refused This item is being presented to Committee as it is a major application</p>	Shaftesbury	<p>Mr Rob Jones - Applicant, spoke in support of the application. Ward Members, Councillors Paul Cockeram and Herbie Thomas spoke in support of the application</p>	<p>Application Approved</p> <p>Members of the committee felt that the approval of the application would benefit the regeneration of Shaftesbury ward; It would increase and improve employment. Adequate provision in place to prevent flooding and transportation issues could be overcome.</p>
19/1149 Tudalen 5	<p>Site: 30 Annesley Road</p> <p>Proposal: change of use residential property (c3) 6no. bedroom house in multiple occupation (c4) and external alterations to provide 3no. parking spaces</p> <p>Recommendation: Granted with conditions Called to Committee by Councillor H Townsend to assess parking, character of community and waste.</p>	St Julians	<p>Councillor Carmel Townsend declared an interest and left the Chamber at 11.01am, returned at 11.22am</p> <p>Councillor Holly Townsend spoke in objection to the application</p>	<p>Application deferred - Highways representation required on the application</p>
19/0703	<p>Site: The Newport Business Centre, Corporation Road</p> <p>Proposal: Demolition of existing industrial units and construction of new industrial units</p> <p>Recommendation: Granted with conditions Presented to Committee as is major development</p>	Lliswerry		<p>Granted with conditions</p>

19/1011	<p>Site: Tredegar Park, Cardiff Road, Newport</p> <p>Proposal: Siting of shipping container for storage of disability bikes</p> <p>Recommendation: Granted with conditions This item is being presented to Committee as Councils owned land</p>	Gaer		Granted with Conditions
19/1210	<p>Site: Ysgol Bryn Derw, Melfort Road, Newport,</p> <p>Proposal: Relocating tall fence with low fence</p> <p>Recommendation: Granted with conditions This item is being presented to Committee as Councils owned land</p>	Gaer		Granted with Conditions

Report

Planning Committee

Part 1

Date: 4th March 2020

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, well-being of future generations, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

Financial Summary

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

Risks

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

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

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

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

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

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

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

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

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

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

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

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

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

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

Options Available and considered

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

Preferred Option and Why

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

Comments of Chief Financial Officer

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

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

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

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

Comments of Monitoring Officer

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

Comments of Head of People and Business Change

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

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

Comments of Cabinet Member

The Cabinet Member for Regeneration and Housing has been made aware of the report.

Local issues

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

Scrutiny Committees

None

Equalities Impact Assessment and the Equalities Act 2010

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

Children and Families (Wales) Measure

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

Wellbeing of Future Generations (Wales) Act 2015

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

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

Prevention: Sound planning decisions remove the opportunity for anti-social behaviour and encourages a greater sense of pride in the local area, thereby giving the City potential to grow and become more sustainable.

Integration: Through consultation with residents and statutory consultees, there is an opportunity to contribute views and opinions on how communities grow and develop, thereby promoting greater community involvement and integration. Planning decisions aim to build integrated and cohesive communities.

Collaboration: Consultation with statutory consultees encourages decisions to be made which align with other relevant well-being objectives.

Involvement: Planning applications are subject to consultation and is regulated by legislation. Consultation is targeted at residents and businesses directly affected by a development, ward members and technical consultees. Engagement with the planning process is encouraged in order to ensure that the views of key stakeholders are taken into consideration.

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

Crime and Disorder Act 1998

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

Consultation

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

Background Papers

NATIONAL POLICY

Planning Policy Wales (PPW) Edition 10 (December 2018)

Development Management Manual 2016

Welsh National Marine Plan November 2019

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 (2017)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)
- TAN 24: The Historic Environment (2017)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

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) (updated January 2020)
House Extensions and Domestic Outbuildings (adopted August 2015) (updated January 2020)
Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)
New dwellings (adopted August 2015) (updated January 2020)
Parking Standards (adopted August 2015)
Planning Obligations (adopted August 2015) (updated January 2020)
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)
Wildlife and Development (adopted August 2015)
Mineral Safeguarding (adopted January 2017)
Outdoor Play Space (adopted January 2017)
Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)
Air Quality (adopted February 2018)
Waste Storage and Collection (adopted January 2020)

OTHER

“Newport City Council Retail Study by Nexus Planning (September 2019) “ is not adopted policy but is a material consideration in making planning decisions.

The Economic 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: 19/1155 **Ward:** LLANWERN

Type: FULL+ENV STATEMENT

Expiry Date: 11-MAR-2020

Applicant: JOHN WILLIAMS

Site: LAND ADJACENT TO AND SOUTH OF, RUSH WALL, REDWICK

Proposal: INCREASE MAXIMUM TIP HEIGHT OF TURBINE APPROVED BY PLANNING PERMISSION 18/0408 UPTO 150M (AN INCREASE OF UPTO 20M)

Recommendation: Granted with Conditions

1. INTRODUCTION

- 1.1 The applicant is seeking planning permission for the following development: a single wind turbine of maximum 150m to blade tip, along with associated infrastructure including a crane pad, access track and electrical housing. The scheme has a fixed lifetime of 30 years.
- 1.2 The turbine would have a 3-bladed rotor design, and associated infrastructure including a crane pad, access track and electrical housing. Supplementary elements include: two permanent switchgear housing units (both approx. 5m x 4m x 3m), underground cabling, a short stretch of access track and a temporary crane hard standing area (approx. 45m x 25m). The total site area will be approximately 0.87 hectares.
- 1.3 The site location is on the north eastern Gwent Levels off Rush Wall Lane approximately 2Km north of the historic centre of Redwick village and approximately 550m east south east of the Tesco Distribution Centre complex on Gwent Europark. The site is typical of the levels landscape being flat however the field for the proposed turbine is atypically large and lacks the usual pattern of grips and small reens having been amalgamated from smaller fields in the past and improved for agricultural purposes. This larger field is however bordered by larger reens and elements of hedging / trees. There are other turbines in the vicinity with two at the Tesco Distribution Centre and one at Little Longlands. Two HT lines are visible to the south of the site and Gwent Europark and the Eastern Distributor Road (EDR / Queensway) are visible to the north. The energy generation would be 8,931,998 kW hours per year which would typically power 2,390 houses. The power output is 3.5MW. The proposed lifetime of the development is thirty years.

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
17/1085	EIA SCREENING OPINION FOR PROPOSED INSTALLATION OF SINGLE WIND TURBINE OF MAXIMUM TIP HEIGHT 130M WITH A THREE BLADE ROTOR DESIGN AND ASSOCIATED SWITCH GEAR HOUSING UNITS, TEMPORARY ACCESS TRACK, UNDERGROUND CABLING AND TEMPORARY CRANE HARD STANDING	ES Required 13 December 2017
18/0408	INSTALLATION OF SINGLE WIND TURBINE OF MAXIMUM TIP HEIGHT 130M AND ASSOCIATED SWITCH GEAR HOUSING UNITS, TEMPORARY ACCESS TRACK,	GC

3. POLICY CONTEXT

3.1 Planning Policy Wales 10, December 2018 (PPW 10)

Placemaking in Rural Areas

Paragraph 3.34 - the countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources. The need to conserve these attributes should be balanced against the economic, social and recreational needs of local communities and visitors. Fostering adaptability and resilience will be a key aim for rural places in the face of the considerable challenge of maintaining the vibrancy of communities and availability of services as well as contributing to the Cohesive Communities well-being goal. This is coupled with ensuring the countryside is resilient to the impacts of climate change and plays a role in reducing the causes of climate change through the protection of carbon sinks and as a sustainable energy source in line with the Resilient Wales well-being goal.

Paragraph 3.7 - Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution.

Chapter 5 - Above all, a Globally Responsible Wales is promoted by reducing our carbon footprint through integrated public transportation infrastructure, encouraging globally responsible business and the promotion of renewable energy over carbon-emitting sources and resource choices through which multiple benefits can be realised. Development proposals should look to the long term to consider how they can be flexible to adapt to future employment needs and practices, including responding to relevant future trends, the decarbonisation of our energy system, how people will move around or communicate in the future and safeguard the resources which may be needed by future generations. Development should prevent problems from occurring or getting worse such as the generation of carbon emissions, poor air quality and waste and the depletion of our natural resources which will need to be managed for many years to come.

The key issues in this theme include: embracing the challenge of decarbonising our energy and transport sectors including phasing out of fossil fuels and moving towards local, decentralised renewable energy systems, the increased use of energy storage to balance supply and demand and the challenge this creates on our distribution networks;

Paragraph 5.6.11 - (Rural business) diversification can also include renewable energy proposals such as anaerobic digestion facilities or solar and wind installations, which will help to increase the viability of rural enterprises by reducing their operating costs. These schemes should be supported where there is no detrimental impact on the environment and local amenity.

Paragraph 5.7.1 - The planning system plays a key role in delivering clean growth and the decarbonisation of energy, as well as being crucial in building resilience to the impacts of climate change.

Paragraph 5.7.3 - Development allowed today will be around for decades to come. The most important decision the planning system makes is to ensure the right developments are built in the right places.

Paragraph 5.7.4 - The Welsh Government is committed to delivering the outcomes set out in Energy Wales: A Low Carbon Transition. Our priorities are:

- reducing the amount of energy we use in Wales;
- reducing our reliance on energy generated from fossil fuels; and
- actively managing the transition to a low carbon economy.

Paragraph 5.7.5 - These priorities contribute to reducing carbon emissions, as part of our approach to decarbonisation, whilst enhancing the economic, social, environmental and cultural well-being of the people and communities of Wales, in order to achieve a better quality of life for our own and future generations. This means taking precautionary action to prevent Wales being 'locked in' to further fossil fuel extraction and high carbon development. The planning system should facilitate delivery of both this and Welsh, UK and European targets on renewable energy.

Paragraph 5.7.7 - The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development.

Paragraph 5.7.8 - The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance. The continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. The planning system should:

- integrate development with the provision of additional electricity grid network infrastructure;
- optimise energy storage;
- facilitate the integration of sustainable building design principles in new development;
- optimise the location of new developments to allow for efficient use of resources;
- maximise renewable and low carbon energy generation;
- maximise the use of local energy sources, such as district heating networks;
- minimise the carbon impact of other energy generation; and
- move away from the extraction of energy minerals, the burning of which is carbon intensive.

Renewable Energy Targets

Paragraph 5.7.16 The Welsh Government has set targets for the generation of renewable energy:

- for Wales to generate 70% of its electricity consumption from renewable energy by 2030;
- for one Gigawatt of renewable electricity capacity in Wales to be locally owned by 2030; and
- for new renewable energy projects to have at least an element of local ownership by 2020.

Paragraph 5.9.1 - Planning authorities should facilitate all forms of renewable and low carbon energy development. In doing so, planning authorities should seek to ensure their area's full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved.

Paragraph 5.9.9 - Outside identified areas, applications for renewable and low carbon energy developments should be determined based on the merits of the individual

proposal. The local need for a particular scheme is not a material consideration, as energy generation is of national significance and there is a recognised need to optimise renewable and low carbon energy generation. Planning authorities should seek to ensure their area's renewable and low carbon energy potential is achieved and have policies with the criteria against which planning applications outside of identified areas will be determined.

Paragraph 5.9.10 - Wales has an abundant wind resource and, as a result, wind energy forms a key part of meeting the Welsh Government's vision for future renewable energy production.

Paragraph 5.9.12 - The Welsh Government accepts the introduction of new, often very large structures for on-shore wind needs careful consideration to avoid and, where possible, minimise their impact.

Development Management and Renewable and Low Carbon Energy

Paragraph 5.9.16 - In determining applications for the range of renewable and low carbon energy technologies, planning authorities should take into account:

- the contribution a proposal will make to meeting identified Welsh, UK and European targets;
- the contribution to cutting greenhouse gas emissions;
- and the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development.

Paragraph 5.9.17 - Planning authorities should give significant weight to the Welsh Government's targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling climate change and increasing energy security. In circumstances where protected landscape, biodiversity and historical designations and buildings are considered in the decision making process, only the direct irreversible impacts on statutorily protected sites and buildings and their settings (where appropriate) should be considered. In all cases, considerable weight should be attached to the need to produce more energy from renewable and low carbon sources, in order for Wales to meet its carbon and renewable targets.

Paragraph 5.9.18 - Planning authorities should also identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development. The construction, operation, decommissioning, remediation and aftercare of proposals should take into account:

- the need to minimise impacts on local communities, such as from noise and air pollution, to safeguard quality of life for existing and future generations;
- the impact on the natural and historic environment;
- cumulative impact;
- the capacity of, and effects on the transportation network;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so, consider whether measures to adapt to climate change impacts give rise to additional impacts.

Paragraph 5.9.24 - Energy-related developments should be decommissioned and sites remediated as soon as their use ceases. Planning authorities should use planning conditions or legal agreements to secure the decommissioning of developments and associated infrastructure, and remediation of the site.

Paragraph 6.3.3 - All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. Considering landscape at the outset of formulating strategies and policies in development plans and when proposing development is key to sustaining and enhancing their special qualities, and delivering the maximum well-being benefits for present and future generations as well as helping to deliver an effective and integrated approach to natural resource management over the long term.

Paragraph 6.3.4 - Where adverse effects on landscape character cannot be avoided, it will be necessary to refuse planning permission.

Paragraph 6.3.11 - Planning authorities should provide for the conservation and, where appropriate, enhancement of local landscapes. This may include policies for landscape features, characteristics and qualities of local significance, and the designation of Special Landscape Areas (SLAs). Planning authorities should state which features, characteristics or qualities require extra protection, and explain how the policy or designation will achieve this protection.

3.3 The adopted Newport Local Development Plan 2011-2026

Relevant Policies are:

Policy	Text
SP1 Sustainability	Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to: ii) the reuse of previously developed land and empty properties in preference to greenfield sites; iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources;
SP5 Countryside	Development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.
SP8 Special Landscape Areas	Special Landscape Areas are designated as follows within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features: v) Caldicot levels vi) Wentwood
SP9 Conservation of the Natural, Historic and Built Environment	The conservation, enhancement and management of recognised sites within the natural, historic and built environment will be sought in all proposals.
GP1 General Development Principles – Climate Change	Development proposals should: ii) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on-site energy provision where practicable;
GP2 General Development Principles – General Amenity	Development will be permitted where, as applicable: i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;

	ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
GP3 General Development Principles – Service Infrastructure	Development will be permitted where, as applicable: i) necessary and appropriate service infrastructure either exists or can be provided;
GP5 General Development Principles – Natural Environment	Development will be permitted where, as applicable: ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national, Welsh Section 4233 and local protected habitats and species, and protecting features of importance for ecology; v) there would be no unacceptable impact on landscape quality;
GP6 General Development Principles – Quality of Design	Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed: i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area; iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. care should be taken to avoid over-scaled development;
GP7 General Development Principles – Environmental Protection and Public Health	Development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.
CE5 Historic Landscapes, Parks, Gardens and Battlefields	Sites included in the Register of Landscapes, Parks and Gardens of Special Historic Interest and identified historic battlefields should be protected, conserved, enhanced and where appropriate, restored. attention will also be given to their setting.
CE10 Renewable Energy	Small scale micro-generation will be encouraged within the settlement boundary. Large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist.

3.4 Other Local Documents

LDP Background Paper (Deposit Plan, April 2012) - Renewable and Low Carbon Energy Assessment (May 2013)

- 3.4.1 This document identifies opportunities for renewable and low carbon energy in Torfaen and Newport. In Newport a mapping exercise was undertaken to identify the constraints upon the implementation of electricity generation using wind. The application of the constraints identified areas where wind power was possible and adverse impacts would be minimised. One applied constraint was a 7Km separation distance from any existing wind turbines. Given the small scale of the LPA's area this excluded much of the land within Newport. However the Report acknowledged that this level of separation was overly pessimistic. The report noted most wind development in Newport had been of dispersed turbines feeding into consumer services by 'private wire'. It envisaged future development would be of a similar type and accepted that the currently installed capacity could be increased by a factor of five. The constraint modelling did not identify the site of this proposal as a wind power opportunity area

LDP Background Paper (Deposit Plan, April 2012) - A Technical Capacity Study for Wind Turbines within Newport County Borough

- 3.4.2 This identified that Newport had no capacity for a major wind farm but did identify areas where individual turbines could be sited. The mechanism involved identifying appropriate separation distances from other landuses for particular turbine types. This exercise identified industrial sites, parts of the Gwent Levels and a site near Bishton as appropriate for turbines.

LDP Background Paper (Deposit Plan, April 2012) - Special Landscape Areas

- 3.4.3 The Background paper identifies areas of local landscape significance within the Local Authority Area. The areas identified include:

- The Wentlooge and Caldicot Levels;

- 3.4.4 The relevant Local Development Plan policy is SP8 (Special Landscape Areas) which reads as follows:

Special Landscape Areas are designated within which proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features:

The Policy amplification states at Paragraph 2.32 of the adopted Newport Local Development Plan:

Developers will be required to ensure that proposals do not impact or affect the intrinsic character, quality, features or conservation value of the SLA. Designs will be required to be of a high standard, appropriate in scale and massing, integrated sympathetically into the landscape as well as ensuring long term management. Supplementary Planning Guidance will provide detail concerning the value, management and maintenance of the areas.

4. CONSULTATIONS

- 4.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW):

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following conditions to the permission. Otherwise, we would object to this planning application. The required conditions are:

Bio-diversity

- 4.1.1 Condition 1 - Inclusion of the following documents within the condition identifying approved plans and documents on the decision notice:
- Environmental Statement and Appendices: Rush Wall Lane Wind Turbine Tip Extension, prepared by Clean Energy and dated November 2019

Condition 2 – Submission and implementation of a Construction Environment Management Plan

Flood Risk

- 4.1.2 The planning application proposes less vulnerable development (wind turbine). Our Flood Risk Map, which is updated on a quarterly basis, confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in TAN15 and the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines.
- 4.1.3 Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, if the Local Planning Authority consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for you to demonstrate through the submission of a Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

4.1.4 We have reviewed your FCA prepared by RMA Environmental, dated 27 March 2018 contained at appendix J. This appears to be the same FCA submitted for the initial proposed wind turbine under application reference 18/0408.

4.1.5 The FCA shows that the risks and consequences of flooding are manageable to an acceptable level for the reasons below. Therefore, we have no objection on flood risk grounds, to the application as submitted.

Advice on flooding consequences

4.1.6 The FCA states that the lifetime of development for the proposed wind turbine is 30 years. The FCA has therefore used a 30 year lifetime of development (LOD) when assessing effects of climate change. It will be for the planning authority to be satisfied with this approach.

4.1.7 The FCA has assessed the breach scenario at the relevant defences. A breach in defences during the 0.5% (over a 30 year LOD) event has a predicted flood level on site as 5.93m AOD.

4.1.8 In order to mitigate for this, it is proposed to set the equipment including substation, transformer and electrics to a finished level of 6.03m AOD. This would therefore remain flood free during the 0.5% event with a 30 year LOD. The other components are stated to be water compatible.

4.1.9 The FCA also states that due to the flood defences, during the 0.1% (1 in 1000 year) event the site will be flood free using a 30-year lifetime of development. However, as advised under permission 18/0408, this does not include an assessment of the breach scenario in this event.

4.1.10 Access to and from the site will be along an existing track which ranges in elevation from 4.1m AOD – 4.8m AOD and will therefore be at risk of flooding during the 0.5% over a 30 year LOD event. The FCA states that due to the nature of the development personnel will only be on-site during the construction phase and for occasional maintenance visits.

4.1.11 It is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15. Therefore we recommend you consult other professional advisors on the acceptability of the proposals on matters that we cannot advise you on such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/us

4.2 DEFENCE INFRASTRUCTURE ORGANISATION:

I am writing to tell you that the MOD has no objection to the proposal.

4.2.1 The application is for 1 turbine at 150.00 metres to blade tip. This has been assessed using the grid references below as submitted in the planning application or in the developers' or your pro-forma.

Turbine	Easting	Northing
1	341283	186111

4.2.2 In the interests of air safety, the MOD will request that the development should be fitted with MOD accredited aviation safety lighting in accordance with the Civil Aviation Authority, Air Navigation Order 2016.

4.2.3 The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

- 4.2.4 Defence Infrastructure Organisation Safeguarding wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.
- 4.2.5 If planning permission is granted, we would like to be advised of the following prior to commencement of construction;
- the date construction starts and ends;
 - the maximum height of construction equipment;
 - the latitude and longitude of every turbine.
- 4.2.6 This information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.
- 4.2.7 If the application is altered in any way we must be consulted again as even the slightest change could unacceptably affect us.
- 4.3 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT):
- 4.3.1 You will recall from our response of June 2018 to the application 18/0408, that the supporting information with this application includes a Historic Environment Desk-Based Assessment Heritage Assessment (Ecus, dated April 2018 reference 11030. As noted in our response to the screening for this development, the area of the proposal is located in the Newport Archaeologically Sensitive Area and in the Gwent Levels Registered Historic Landscape (HLW (Gt) 2), specifically the Northern Redwick Character Area (HLCA008), as defined within the *Register of Landscapes of Outstanding Historic Interest in Wales*.
- 4.3.2 The assessment considers the potential for visual impact of the proposal relating to the Registered Landscape and character area, and the physical impact on buried archaeological resource. The visual impact on the landscape and designated assets is deemed slight, as there are pylons, wires and other single turbine visible. Due to recurrent phases of inundation, the Levels has the potential for buried, waterlogged deposits belonging to earlier landscapes, recorded to occur within peat levels. The assessment notes the potential for these layers and archaeological deposits, likely to be of significance due to their survival, and recommends mitigation for this impact.
- 4.3.3 The proposed increase of the tip height of the turbine will not alter the nature of the impact on the historic environment and therefore will not alter our response, recommending the attachment of a condition, which will ensure that a suitable mitigation strategy is prepared and implemented. This will reduce the impact of the development on the archaeological resource and heritage assets: we recommend that the applicant employ an archaeological contractor to submit a written scheme of investigation prior to the commencement of the development, for the implementation of a programme of archaeological work. It is envisaged that this scheme would take the form of a watching brief during all ground disturbance works, which will include all foundations, works to create tracks, works to connect the turbine with the grid and any other ground disturbing work.
- 4.3.4 The written scheme should also include detailed contingency arrangements to ensure sufficient time and resources to allow that any archaeological features and finds that are revealed during the work are fully investigated and recorded, including any requirement for sampling, and post-excavations work, and a report containing the results of the work produced.

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

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

- 4.4 CADW: Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monuments or registered historic parks and gardens.
- 4.5 WELSH GOVERNMENT (Department for Economy and Infrastructure):
 - 4.5.1 I refer to your consultation of 25/11/2019 regarding the above planning application and advise that the Welsh Government as highway authority for the M4 motorway does not issue a direction in respect of this application.
- 4.6 BRISTOL AIRPORT: Based on the information provided, I can confirm that Bristol Airport has no technical or operational safeguarding objections to this planning application.
- 4.7 NATS SAFEGUARDING: The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.
- 4.8 WALES & WEST UTILITIES: Confirm it holds no assets in the area.
- 4.9 WESTERN POWER DISTRIBUTION: Advise of equipment in the area and safe working practices.
- 4.10 HEALTH & SAFETY EXECUTIVE (HSE): No interest.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY):
 - 5.1.1 Updated ecological reports have been provided with the above application; the reports have not detailed any further survey but the impact assessment has been updated to consider the increased turbine height and consequent blade sweep. Given the age of the surveys (late 2017 to early 2019) and type of application I consider that this is acceptable in this case.
 - 5.1.2 **Bats** – Bats use linear features to forage and commute, and a 50m buffer between linear features and the blade tip is recommended by Natural England. The turbine location is 78m from the nearest linear feature (southern hedge), which make the sweep of the blade will be just over the 50m buffer required. It will be important the turbine is accurately micro-sited to ensure that the turbine is not positioned so that the blade sweep does not encroach within 50m of the hedge. If you are minded to grant this permission, I recommend that a condition is used to microsite the turbine no closer to 78m of any linear feature.
 - 5.1.3 **Birds** – The collision risk modelling that was undertaken for the 18/0408 were based on the current specification of the turbine (64m blade length referenced in the calculations of the rotor area). The principle of the development based on the estimated number of collisions has therefore already been set, and there are no ecological grounds for objection to the current application.
 - 5.1.4 **Bio-diversity Enhancement** - The proposed scheme of biodiversity net gain is not appropriate, primarily because it is not located in the Newport County Council boundary and therefore would not to be included in net loss and net benefit statistics for Newport. Also, the proposed management of the ditches is required as mitigation for impacts on ditches in Monmouthshire, and therefore does not provide biodiversity net benefit. I recommend that a revised scheme is submitted.
- 5.2 PUBLIC PROTECTION MANAGER (ENVIRONMENTAL HEALTH): No objection subject to the application of conditions relating to a CEMP, Noise and Lighting.
- 5.3 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS): Where the proposed access route utilises the existing road network the route falls outside of the boundary of Newport City Council. Monmouthshire County Council and the Welsh Government must therefore be consulted for comment on the proposed route and access arrangements to the site.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

No properties were consulted since none fall within 100m of the application site, a site notice was displayed and a press notice was published in the South Wales Argus. Two comments were received raising the following points:

- The turbine will have an adverse impact on wildlife,
- Existing turbines are noisy and this will make things worse,
- The turbine should be on brown field land,
- Roof mounted solar would be preferable,
- The site is a SSSI and should be protected.

6.2 REDWICK COMMUNITY COUNCIL: No comment.

7. ASSESSMENT

7.1 The Site

7.1.1 The site is a large field in the Gwent Levels which has been improved for agriculture. It is bounded by reens with some elements of hedging and trees particularly on the western and southern boundaries. The field lies just off the Rush Wall which is private lane / track with no public right of way along it. The site is accessed off the Rush Wall via a culverted access. The EDR lies approximately 400m to the north of the site with the nearest development being the Gwent Europark. HT lines traverse the site to the south and the Longlands Lane turbine is visible to the south west as are the turbines at the Tesco Distribution Centre. The protected buffer zone for the M4 CaN lies just to the north of the site, this remains protected despite the recent Welsh Government decision not to proceed with the new motorway.

7.1.2 The following designations apply to the site:

- Redwick & Llandevenny SSSI (National Designation)
- Landscape of Outstanding Historic Interest in Wales (National Designation)
- Flood Zone C1 (defended floodplain, National Designation)
- Archaeologically Sensitive Area (Local Designation)
- Gwent Levels Special Landscape Area (Local Designation)

7.2 The Proposal

7.2.1 The proposal is to construct a wind turbine up to 150m tall (to blade tip) which will have three blades on a rotor of 130m in diameter. Additionally there will need to be a crane pad (45m by 25m), approximately 60m of access track (across the field to the Rush Wall) and 2no. switchgear housing units measuring 5m by 3m and 3m high). Underground cabling will also be required both inside and outside the application site. Component delivery is proposed via the EDR and then via a new access track from the EDR to the Rush Wall. That section of track is in Monmouthshire and has been granted permission by that Authority (DM/2019/00951).

Assessment

7.3 The applicant is seeking planning permission for a wind turbine of up to 150m in height. Permission is already in place for a turbine of 130m which was granted under application 18/0408. This permission represents a viable 'fallback' position for the applicant and so any assessment should consider the enhanced impact of the increased height and whether this is sufficient to make the scheme unacceptable. The height increase will come from an increase in the length of the turbine blades with the nacelle not being any higher than the approved scheme. The change is required to increase the generation potential of the scheme which will serve the Magor brewery on a 'private wire' arrangement.

7.4 Key issues:

- Landscape & Visual Impact
- Historic Landscape
- Noise
- Shadow Flicker
- National Policy Support

Minor Issues:

- Ecology
- Archaeology
- Flooding
- ALC
- M4CAN
- Grid Connection
- Wales Marine Plan

7.5 Landscape & Visual Impact

- 7.5.1 The theoretical visibility of the turbine is increased by the greater blade length. The visibility from the hub stays the same since that has not increased in height and is no different from the approved scheme.
- 7.5.2 The applicant has provided a comparative drawing for the two schemes showing the differences in blade tip visibility. In effect the closer views, within 5Km, are mostly unaltered as would be expected given the flat nature of the Levels and the gently rising ground to the immediate north of the site. Visibility of the turbine is increased in the higher distances at 5-10Km and 10-15Km but not markedly so and the impact on the Landscape and visual amenity is moderated by the increased distance the turbine is seen from. Which is to say the turbine will be seen from more places but the impact will not be great due to the greater separation between the viewer and the turbine.
- 7.5.3 The applicant has prepared a Landscape & Visual Impact Assessment (LVIA) for the new application. The LVIA notes the high visual sensitivity the Levels which are a designated Special Landscape Area within the adopted Local Development Plan. The LVIA acknowledges:

the proposed development, due to its scale, will affect both landscape character and visual amenity receptors and their views during construction, operation and de-commissioning.

But goes on to conclude impacts will be mostly neutral (no change) due to the screening effects of vegetation and the rising land to the north. Officers consider this to be a very optimistic conclusion for the following reasons:

Sensitivity of Landscape / Visual Receptors

Medium-high	Medium to highly valued landscape elements and/or character with low tolerance to change. May be designated with few/no detractors present. Broadly comparable to the LANDMAP defined 'high' category.	Users of public rights of way/open access land in regionally/locally designated areas (SLAs). Users of outdoor recreational facilities with high interest in surrounding environment, such as Country Parks. Users of national cycle routes and recreational routes.
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Descriptors of Magnitude of Impact of a Scheme

Medium	Partial levels of change to landscape elements/landscape character. The proposed development will be noticeable but not necessarily a determining factor of the landscape character. The proposed development would lead to a change to the landscape character. The proposed development, when perceived with other wind energy schemes, would be apparent and contribute to a 'landscape with wind farms.'	Receptors would experience a readily apparent change to their view, arising from partial alteration to the key characteristics of the existing view or the introduction of elements that may be prominent but will not dominate the field of view. The proposed development, when perceived with other wind energy schemes, would be apparent and contribute to a view influenced by wind farms.
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Under the LVIA methodology a 'medium' impact on an area of 'medium-high' sensitivity will be of 'moderate' significance overall. This is described as being:

Moderate	Where the proposed development would be at variance with the character and/or landscape elements.	Where the proposed development would be readily apparent.
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- 7.5.4 This is considered to be a much more likely assessment of the Landscape and Visual impact of the proposed scheme which will certainly be greater than 'no change'. However impacts will reduce markedly with distance from the scheme.
- 7.5.5 The LVIA also considers the cumulative visual impact of the scheme noting its addition will add to the perception of wind energy schemes in the area but noting the presence of existing turbines and the HT pylons. Sequential views are not judged to significantly alter. Officers generally agree with this assessment whilst having concerns over the on-going spread of turbines in the Levels and the growing sense that the landscape is being altered from one that contains occasional turbines to one that is increasingly turbine dominated.
- 7.5.6 In terms of landscape the key policy considerations are Policy SP8 (Special Landscape Areas), Policy GP2ii (character or appearance of the surrounding area) and GP5v (impact on landscape quality).

In terms of local policy, Policy GP2ii states; *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;*

Policy GP5v states; *there would be no unacceptable impact on landscape quality*

National policy is highly supportive of low carbon electricity generation. Planning Policy Wales Edition 10 (PPW10) notes at paragraph 5.7.8 that *'the benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance.*

- 7.5.7 Paragraph 5.9.17 gives very strong policy support to renewable generation stating; *Planning authorities should give significant weight to the Welsh Government's targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling climate change and increasing energy security. In circumstances where protected landscape, biodiversity and historical designations and buildings are considered in the decision making process, only the direct irreversible impacts on statutorily protected sites and buildings and their settings (where appropriate) should be considered. In all cases, considerable weight should be attached to the need to produce more energy from renewable and low carbon sources, in order for Wales to meet its carbon and renewable targets.*
- 7.5.8 In landscape and visual terms the proposal is contrary to Policies SP8, GP2ii and GP5v due to the harm caused to the landscape of the Special Landscape Area and to wider visual amenity. The harm is inherent in the scale of the proposed structure and in the spread of turbine development on the Levels although it is in part mitigated by the presence of other turbines and the HT lines within the vicinity of the site. Officers judge the visual and landscape harm attracts moderate weight due to the presence of these detractors but notes the increasing cumulative harm in a designated landscape which tends to amplify concerns and lead to the conclusion that in landscape and visual terms the proposal is unacceptably harmful and not compliant with local policy. However national policy is very strongly supportive of low carbon generation. It is clear that in landscape terms only statutorily protected landscapes enjoy significant policy protection and only then in relation to direct and irreversible impacts. In this case the Levels are not a statutorily protected landscape (AONB or National Park) and the impacts are reversible since the turbine has a fixed lifetime and can be removed. This up to date national policy significantly moderates any harm identified under local policy in terms of landscape and visual impact.
- 7.6 Historic Landscape
- 7.6.1 The applicant has undertaken an Assessment of the Impact of Development on Historic landscapes (ASIDOHL2) in relation to this development since it lies within the Gwent Levels Historic landscape.
- 7.6.2 That assessment concludes that:
- the overall significance of impact of the proposed development on the Gwent Levels is slight. The addition of one turbine would slightly add to the culmination of modern intrusive elements including wirescape of high voltage pylons and other turbines in the area. There would be an immediate visual impact on the areas adjacent to the site. However, this would be reduced with distance from the site.*
- 7.6.3 The applicant has also considered the impact of the proposal on other historic assets including Listed Buildings, the Redwick Conservation Area and Registered Parks and Gardens.
- 7.6.4 CADW have commented on the application and conclude that any impacts over and above the consented scheme on the historic environment would not be significant.
- 7.6.5 In terms of Policy CE4 (Historic Landscapes), they should be protected, conserved, enhanced and where appropriate restored. Given the policy is not qualified then any harm would breach the policy as such although the identified harm is slight it weighs against the proposal. Policy SP9 (Conservation of the Natural, Historic & Built Environment) also seeks conservation and enhancement of the protected features and as such any harm even slight would weigh against the proposal.
- 7.7 Noise
- 7.7.1 The applicant has completed a noise assessment (September 2019) for the proposal. The assessment sets out acceptable noise limits for the proposal at various dwellings around the site in accordance with national guidance (ETSU-R-97). This shows that noise levels

would be below the acceptable thresholds at these dwellings during the day and at night when background noise levels are lower.

7.7.2 The Public Protection Manager has not objected to the proposal but has requested that the conditions applied to permission 18/0408 in relation to noise and lighting are reapplied to this application should permission be granted. Policy GP7 (Environmental Protection) is complied with.

7.8 Shadow Flicker

7.8.1 Shadow flicker occurs when a rotating turbine blade casts a shadow over a receiving window. As such it is dependent on the direction of the sun and the location of the receptor and will not occur / is reduced on cloudy days. Additionally the extent of shadow flicker is accepted as being within a distance of 10 times the rotor diameter and no further; 1270m from the turbine in this case (10 times 127m).

7.8.2 The applicant has prepared a Shadow Flicker Assessment for the enlarged turbine which relies upon a modelling exercise to predict shadow effects. The model judges flicker to be potentially significant when it occurs more than 30 hours per year and / or more than 30 minutes per day.

7.8.3 The modelling identified two properties at risk of significant shadow flicker effects, these being the Tesco Distribution Centre and a further property close to Petty Reen. However the second property does not exceed the 30 hours per year threshold and is more than 500m from the turbine which is considered to mitigate the effect of shadow flicker in the case of the 30 minutes per day threshold.

7.8.4 The assessment notes that the distribution centre is a workplace and that vehicle bays are installed on the southern elevation facing the turbine. However it is not clear that there are no offices or more 'lived in' spaces on this elevation so there is risk of shadow flicker having an adverse impact on occupants within offices. However as a workspace where lower standards of amenity would apply concerns in relation to any adverse impact are reduced.

7.8.5 As a predictable event shadow flicker can be managed through the conditional regime. In the event any significantly adverse impact is identified then conditions can control the operation of the turbine effectively turning it off when the risk of shadow flicker exists i.e. the days of the year, times of the day and when the sun is bright can be identified and the turbine turned off. Given the limited times this is likely to be necessary this is a reasonable condition that would not unduly curtail the turbine's operation whilst protecting amenity. Subject to a condition policy GP2 (General Amenity) is complied with.

7.9 National Policy Support

7.9.1 Planning Policy Wales Edition 10 (PPW10) is highly supportive of renewable generation, see the Policy section of this report. This is a significant matter in the overall planning balance and has significant weight in any planning decision.

Minor Issues:

7.10 Ecology

7.10.1 The applicant has completed an Ecological Impact Assessment (October 2019) which is an update version of earlier reports prepared for this site. The ecological impacts of a turbine have already been considered on this site and have been found to be acceptable so the increased risk would arise from the greater sweep of the turbine blades. The EclA does not identify any significant increase in adverse impacts from the proposed turbine over that which has been approved.

7.10.2 Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) have commented on the application and do not object subject to the application of a condition to secure a Construction Environment Management Plan in order to protect ree habitat and local species.

- 7.10.3 The Ecology Officer recommends that the turbine is sited so that no part of it will fall within 50m of any hedgerow feature in order to protect foraging / commuting bats and suggests a condition is applied to achieve this. However to provide such a buffer would necessitate moving the proposed turbine location so far that the blade sweep would be outside of the application site i.e. the suggested buffer cannot be achieved within this application. The applicant has provided an assessment of the impact of the turbine on bats and concludes there would be no significant impact on bat interests and no mitigation is required. Given this assessment and the lack of objection from the Ecology Officer in combination with the limited application site that allows for limited micro-siting of the turbine securing the 50m buffer is not considered necessary.
- 7.10.4 The ecology Officer advises that additional net benefit over and above that offered should be secured. The applicant is proposing to clear (cast) reens that are currently dry and to plant additional hedging. Given the very limited ecological impact of the turbine and the associated track the ecological net benefit offered is considered appropriate by officers and it can be secured under condition.
- 7.10.5 Given the limited additional impact of the proposed turbine and the lack of objection from consultees (subject to conditions) no significant harm to ecological interests can be identified. Policy GP5 (Natural Environment) is complied with.
- 7.11 Archaeology
- 7.11.1 The proposal will require ground disturbance to provide the turbine foundation and the associated crane pad (permission for the access track is already granted under permission 18/0408 and the recent planning application made to Monmouthshire County Council).
- 7.11.2 The Glamorgan & Gwent Archaeological Trust have been consulted and do not object to the development subject to the application of a planning condition requiring a written scheme of archaeological investigation is agreed and then carried out. Archaeological interests can be protected.
- 7.12 Flooding
- 7.12.1 The site lies within a protected floodplain. The applicant has submitted a Flood Consequences Assessment (FCA). That assessment was based on a 30 year scheme lifetime from a base year of 2018, that is until 2048. Clearly that is outdated since the end date for the proposal would be 2050. Initially the applicant proposed a finished floor level for flood sensitive equipment at 6.03m Above Ordnance Datum. However to accommodate the two additional years this will now need to be 6.05m AOD which would be 1.45m above the existing ground level. This can be conditioned. None flood sensitive elements will be retained at existing ground level to minimise landscape and visual impact.
- 7.12.2 The applicant has not justified the turbine in this location as required under national policy. It is not necessary for the turbine to be in this location. The scheme would be protected from flooding by the seawall for its proposed lifetime of 30 years and in the event of a breach raising the flood vulnerable components of the scheme would protect them during the 1 in 200 year event. Access routes would flood in the breach scenario but the site is not manned and this risk is considered to be low and therefore manageable. CNC/NRW do not object to the proposal on flood grounds.
- 7.12.3 Policies SP3 (Flood Risk), GP1 (Climate Change) & GP7 (Environmental Protection) are complied with since the effects of flood event are manageable and flood risk would not be increased off-site.
- 7.13 Agricultural Land Classification (ALC)
- 7.13.1 The application will require the construction of a new track across the field and crane hardstanding. The crane hardstanding could be removed following completion of the turbine if considered necessary. However if these features are retained for the life of the development then approximately 0.18Ha of agricultural land would be lost for that period. Higher grades of land (Grade 3a and above) are protected under national policy. In this

case it is very likely that the land is at Grade 3b or lower, although it has been improved, since most land on the Levels is of lower grades. The Welsh Government's Predicative Agricultural Land Classification Map also identifies the site as being at Grade 3b. As such the loss of this small area of agricultural land for a period of 30 years is not considered harmful to overall sustainability objectives. In the event the land is within a protected grade, appeal decisions have concluded the temporary loss of better land is acceptable subject to a demonstration of reversibility and the application of appropriate restoration conditions. Subject to an appropriate CEMP and restoration conditions it is considered that the site can be restored to its previous agricultural potential.

7.14 M4CAN

7.14.1 The Welsh Government recently confirmed that the M4 Corridor Around Newport (M4CAN) remains protected despite the decision not to proceed with the proposed new motorway. The proposed turbine is outside the protected corridor and would not prejudice the delivery of the motorway in the future.

7.15 Grid Connection

7.15.1 The applicant is not seeking permission for these works since they lie outside the application site. Nor has this land been blue lined meaning it is not clear that it is under the applicant's control. As such it is not possible to conditionally control this element of the development.

7.15.2 However it is possible that these works can be achieved under permitted development rights. Schedule 2 Part 17 Class G of the General Permitted Development Order 1995 (as amended) gives statutory undertakers rights to install electrical cables in, on, over or under the land. As such if the statutory undertaker or their agent is contracted to complete these works then they do not need planning permission from the Council.

7.15.3 It is not clear how the grid connection will be achieved but in the event the works are not carried out by the statutory undertaker then permission will be required from this Council and from Monmouthshire County Council. In that event the impact on the SSSI can be fully considered. There is no reason to think that subject to an appropriate conditional regime that the cabling works cannot be completed in such a way to protect the SSSI and wider ecological interests as they were at Little Longlands when that turbine was installed. As such the current lack of detail on how the grid connection will be achieved is not seen as a reason to withhold permission since it will either be achieved under permitted development or under an application to this Local Planning Authority (and Monmouthshire). There is no / low risk that the turbine cannot be connected to the grid and if it transpired the connection could not be made then the turbine would not be constructed.

7.16 Wales Marine Plan

7.16.1 The proposed turbine would be readily visible from the All Wales Coastal Path and is capable of having an impact on seascapes within the Severn Estuary. Marine Plan Policy SOC_07: Seascapes. That Policy reads as follows:

Proposals should demonstrate how potential impacts on seascapes have been taken into consideration and should, in order of preference: a. avoid adverse impacts on seascapes; and/or b. minimise impacts where they cannot be avoided; and/or c. mitigate impacts where they cannot be minimised. If significant adverse impacts cannot be avoided, minimised or mitigated, proposals must present a clear and convincing case for proceeding. Opportunities to enhance seascapes are encouraged.

7.16.2 In this case the turbine would be approximately 2.5Km from the seawall at its closest. The submitted LVIA suggests views from the seawall towards the turbine will be of neutral significance, that is there will be no appreciable change. Officers do not accept this, the turbine would clearly be visible from the seawall and would have an impact on views and landscape that would in fact be minor. However this level of harm is not considered to be significant and would weigh against the proposal somewhat (as it did in terms of Landscape

and Visual amenity) but only slightly. Policy SOC_07 is complied with since significant harm is avoided and there is a clear case for proceeding with the development (renewable electrical generation). However there would be some harm to the seascape of the Severn estuary.

8.0 Planning Balance

8.1 Planning Policy Wales (Edition 10) (PPW10) advises that sustainable development will bring social, economic, environmental and cultural benefits by adhering to the 'Key Planning Principles', these being:

- Growing our Economy in a Sustainable Manner
- Making Best Use of Resources
- Facilitating Accessible and Healthy Environments
- Creating & Sustaining Communities
- Maximising Environmental Protection and limiting Environmental Impact

8.2 PPW10 acknowledges that competing objectives must still be balanced:

Planning authorities should ensure that social, economic, environmental and cultural benefits are considered in the decision-making process and assessed in accordance with the five ways of working to ensure a balanced assessment is carried out to implement the Well-being of Future Generations Act and the Sustainable Development Principle. There may be occasions when one benefit of a development proposal or site allocation outweighs others, and in such cases robust evidence should be presented to support these decisions, whilst seeking to maximise contributions against all the well-being goals.

8.3 Which is to say situations will arise when a scheme will not achieve all of the wellbeing goals and compromises must be made. However the advice is that such decisions must be robustly justified and based in evidence with the implication that any harms must be minimised to an acceptable extent. In short an evidenced, well-reasoned and justified planning decision must be made. ¹

8.4 The key benefit of the scheme is the delivery of 8,564,648 kW hours per year of low carbon electricity which would typically power 2,292 houses. This is a very significant benefit.

8.5 In terms of other aspects of the scheme the applicant assesses that the turbine will have a moderate adverse impact on landscape character areas and on landscape designations and a moderate adverse impact upon some visual amenity receptors (people who can see the development). As noted in the assessment above Officers have some concerns that the LVIA may have underestimated the scale of the effect of the development in relation to some key views and its landscape impact and relies heavily on the existence of pylons and other turbines as mitigation for this harm. Nevertheless the landscape and visual impact of the proposal is indisputably negative within a protected and valued landscape. It should be noted at the time the NLDP was adopted (January 2015) the pylons and all the other turbines were in place. As such the existence of these features in or near the Caldicot Levels was not considered a sufficient reason for the Caldicot Levels to not be designated as a Special Landscape Area. The Inspector reported as follows on the SLA Policy:

Paragraph 9.7 - Policy SP8 Special Landscape Areas (SLAs) identifies areas of special local landscape value, where particular design considerations will apply to development proposals. The SLAs have been designated on the basis of the LANDMAP assessment process and a further study by consultants TACP, followed by final boundary determination by the Council. In the main, the designations are based on sound methodology and reliable evidence.

8.6 The Inspector was entirely satisfied that the SLA Policy and the boundaries of the identified areas were robustly justified. This is to say that the presence of the existing turbines and

¹ Set out in the Well-Being of Future Generations (Wales) Act 2015 [Prosperous, Resilient, Healthier, More Equal, Cohesive, Culturally Vibrant with a strong Welsh Language & Globally Responsible]

pylons was not considered to detract so much from this part of the Gwent Levels that it should be excluded from the Special Landscape Area. The proposal does not contribute positively to the Special Landscape Area and is therefore contrary to Policy and harmful to the interests of the SLA. However it is agreed that this harm is mitigated to some extent by existing tall structures within the vicinity of the site. Nevertheless the adverse impact on landscape and visual amenity weighs against the development.

- 8.7 In terms of Historic Landscape CADW have confirmed they agree with the applicant's assessment that the turbine will have a slight impact on the registered historic landscape. Policy CE4 requires that the historic landscape should be protected, conserved or enhanced. The turbine does not achieve this and is contrary to Policy but given the slight harm this should only attract slight weight in the balancing exercise. Other heritage assets would not be adversely affected in a meaningful way and are not relevant to the determination.
- 8.8 In terms of bio-diversity the key interest lies within the reens. In so far as the identified site area is concerned there would be no impact on the reen network given an existing bridging point would be used and then a length of new track and the crane pad all at significant distance from any reens. Cyfoeth Naturiol Cymru / Natural Resources Wales (CNC/NRW) do not object subject to a CEMP condition and the Council's Ecologist seeks a condition to achieve suitable separation from hedge lines but otherwise does not object.
- 8.9 In the event it becomes clear to the applicant that further works requiring planning permission are required to deliver the access track or the grid connection then he will need to seek that permission and all relevant considerations can be taken into account at that time. It should also be noted that all non-planning protections for the Redwick & Llandevenny SSSI will remain in place. Additionally it seems very probable that in the event works that require further planning permission should be proposed there is no reason to think suitable access cannot be achieved as it was for the Longlands Lane turbine which lies in the same SSSI and which faced the same issues in terms of damage to reens and wider ecological issues. As such there seems little risk the developer would be left with a permission he cannot implement and if that were to happen it would be a consequence of his own failure to properly consider his access requirements. There is no reason to think the wider road network is incapable of achieving the delivery of the turbine. In any event the delivery route can be conditioned.
- 8.10 In terms of flooding the site would be dry over its 30 year lifetime assuming no failure of the flood defences but in the event of a breach of those defences the site will flood beyond tolerable levels. Likewise the access and egress routes will be unavailable. The applicant notes that vulnerable elements of the scheme can be raised without unacceptable landscape impact and that it is very unlikely personnel would ever be on site or need to get there in the event of a flood. Overall the applicant has not robustly justified the location of the proposal on the flood plain and nor have they shown that the advisory standards of TAN15 can be met, that is that the site would not flood beyond tolerable levels in an extreme event. However the harm to Policy is slight given the low vulnerability of the scheme and the lack of personnel on the site. As such this failure weighs slightly against the proposal.
- 8.11 Clearly the key consideration is whether the identified benefits of the scheme (low carbon electricity) are outweighed by the identified harms. PPW10 offers the following advice: The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance.
- 8.12 It additionally requires the planning system to 'maximise renewable and low carbon energy generation' and to 'facilitate delivery... of Welsh, U.K. and European targets on renewable energy'. For Wales the relevant target is 70% of its electricity requirements to be renewably generated by 2030. PPW10 also identifies that local need is not a material consideration issue since energy generation is of national importance. Planning Authorities are advised that they 'should give significant weight to the Welsh Government's targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling

climate change and increasing energy security. In circumstances where protected landscape, biodiversity and historical designations and buildings are considered in the decision making process, only the direct irreversible impacts on statutorily protected sites and buildings and their settings (where appropriate) should be considered. In all cases, considerable weight should be attached to the need to produce more energy from renewable and low carbon sources, in order for Wales to meet its carbon and renewable targets’.

- 8.13 It should be noted that no part of the Levels landscape enjoys any statutory protection and it has been demonstrated that the statutorily protected elements (SSSI, Listed Building, Conservation Areas & Scheduled Ancient Monuments) would not suffer any unacceptable levels of harm.
- 8.14 The Llandegley appeal decision confirms the very significant weight the Welsh Ministers will give to renewable generation. In this instance harm to landscape and heritage assets led an Inspector to conclude permission should be refused for a wind farm only for the Minister to recover the appeal and grant permission. There can be little doubt that very significant weight should be given to the benefits of renewable generation and in the Llandegley case they were deemed capable of outweighing the identified harms to landscape and heritage assets.
- 8.15 In this case harm to the Special Landscape Area is identified and considered capable of bearing substantial weight. However this is not a statutory designation and the effects are not irreversible and under the advice of PPW10 this can only attract limited weight in the decision making process. There are clear concerns relating to the spread of turbine development on the Levels and a move towards producing a view influenced or even potentially dominated by wind turbines within this part of what is a locally protected landscape. Nevertheless the thrust of national policy is towards renewable energy developments even in areas such as this.
- 8.16 Overall it is concluded that the benefits of the scheme narrowly outweigh the identified harms primarily because the enhanced emphasis within national policy on the overall acceptability of renewable energy schemes.
- 8.17 Additionally there is already a permission in place for a turbine in this location. Overall the increases in harm that primarily accrue are in landscape and visual terms. These harms are slight and are not considered sufficient to warrant a refusal of permission. However even on a ‘de novo’ consideration without having regard to the existing permission the current proposal is considered narrowly acceptable on its own terms. Consequently, Officers recommend that on narrow balance, permission should be granted subject to planning conditions.

9. OTHER CONSIDERATIONS

9.1 *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.

9.2 *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.

9.3 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.

9.4 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.

9.5 ***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.

9.6 ***Newport's Well-Being Plan 2018-23***

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

10. CONCLUSION

10.1 On balance planning permission should be granted subject to conditions.

11. RECOMMENDATION

GRANTED WITH CONDITIONS

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

- Drawing PR3522-PA-SH-01 – Control Cabinet & Transformer Housing (other than as amended by information submitted to discharge condition 04)
- Drawing E-126 EP3-ST86-FB-C-01 – View of Steel Tower (other than as amended by information submitted to discharge condition 04)
- Drawing CE6500-BP-01 – Block Plan
- Drawing CE6500-LP-01 – Location Plan

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

Pre- commencement conditions

02 MOD Safeguarding: Prior to the commencement of development, the Ministry of Defence shall be notified of the following in writing:

- the date construction is scheduled to start and end;
- the maximum height of construction equipment; and
- the precise location of the turbine

Should any of this information change during the construction phase, the applicant shall provide the MOD with the updated information within 1 week of it becoming available.

Reason: A formal request by the Defence Estates, Safeguarding of the MOD.

03 Construction Environment Management Plan (CEMP): Development shall not be begun until a CEMP has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out details of all on-site construction works; post-construction reinstatement; drainage; Mitigation; and other restoration, together with details of their timetabling. It shall include details of, and measures to secure:-

- a. the phasing of construction works;
- b. the formation of the temporary construction compound;
- c. dust management and suppression;
- d. cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- e. pollution control, including the protection of water courses and ground water; subsoil surface water drainage;
- f. bunding of fuel storage areas; sewage and foul water drainage and disposal; and emergency procedures and pollution response plans;
- g. temporary site illumination during the construction period;
- h. the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- i. storage of materials and disposal of surplus materials;
- j. access tracks and other areas of hardstanding;
- k. the construction of the crane pad;
- l. the carrying out of foundation works;
- m. method of working cable trenches;
- n. watercourse crossings;
- o. soils storage and handling;
- p. post-construction restoration/reinstatement of the working areas;
- q. the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway;
- r. details of the route to be used to access the site;
- s. Details of temporary road mats to be used.

The works shall proceed in full accordance with the agreed construction method statement.

Reason: to protect the interests of the Redwick & Llandevenny SSSI, highway safety and residential amenity. Policies SP9, GP2 & GP5.

04 Appearance: The turbine shall have a semi matt finish and be a pale grey colour the same or similar to RAL 7035 (light grey). Prior to the erection of the turbine, its exact specification including its finish and colour along with details of its dimensions and the dimensions and finish and colour of any Electrical kiosks shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbine or any Electrical Kiosks other than those required to meet statutory requirements. The details provided shall include information as to how the kiosks and any other sensitive electrical equipment will be raised to have a finished floor level of 6.05m Above Ordnance Datum.

Reason: to confirm the details of the approved development and to protect the character and appearance of the area. Policy GP2.

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

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource. Policy CE6.

06 Pre-commencement works to the highway: no work shall commence on the construction of the scheme hereby approved until the access route to the site has been confirmed in writing to the Council. A survey of the access route to the site shall be provided and a

written programme of necessary works; including any works to culverts, works of road widening, works to overhead lines, telegraph poles & street furniture and any tree / hedge removal or trimming, use of road mats or re-enforcing plates and any other necessary works (including a timetable for any works of restitution) to allow the agreed route to be used for deliveries to the site has been submitted to and agreed in writing by the Council. Thereafter the agreed scheme of access works shall be completed fully as agreed prior to any other works commencing on the site (other than in relation to works of restitution that cannot be completed until a later stage).

Reason: to ensure the delivery route is fit for purpose and to protect ecological interests. Policies GP4 and GP5.

Pre –operation conditions

07 Decommissioning and restoration: Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbine and the associated equipment and foundations. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats;
- identification of access routes;
- location of material laydown areas;
- a programme of implementation.

The approved scheme shall be fully implemented within 24 months of the expiry of this permission.

Reason: to ensure the character and appearance of the site is restored and to restore the agricultural potential of the land. Policies SP5 and GP5.

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

Reason: to ensure the turbine beneficially generates electricity or is otherwise removed to the benefit of the character and appearance of the area. Policies SP5 & GP5.

General conditions

09 Lifetime of the Proposal: the permission hereby granted shall expire 30 years from the date when electrical power is first exported ('First Export Date') from the wind turbine to the electricity grid network or to a private consumer, excluding electricity exported during initial testing and commissioning. Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: the proposed scheme has a 30 year lifespan.

10 Turbine dimensions: the overall height of the wind turbine shall not exceed 150 metres to the tip of the blades when the turbine blade is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

Reason: to ensure the turbine is within the parameters approved under this application.

11 Permanent lighting: There shall be no permanent illumination on the site other than a passive infra-red-operated external door light for the substation/transformer kiosk doors to allow safe access or any lighting as required for the purposes of aviation safety.

Reason: to protect the rural character of the site. Policies SP5 & GP5.

12 Cabling: All cabling between the turbine and the Electrical Kiosks and on the wider site shall be laid underground.

Reason: to protect the character and appearance of the area. Policy SP5 & GP6.

13 Buffer Strip: A buffer strip of at least 7m width shall be maintained around any ree in or adjacent to the site. No vehicles shall be trafficked, materials stored or any operations of any sort carried out within the buffer strip unless they relate specifically to works approved as part of this scheme that fall within 7m of any ree.

Reason: to protect the interests of the Redwick and Llandeenny SSSI. Policy GP5.

14 Aviation Lighting: Prior to the 'First Export Date' aviation lighting shall be fitted to the turbine and shall be retained in a working condition so long as the turbine is on site.

Reason: to reduce the risk of collision. Policy GP7.

15 Noise: Within 28 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at the wind turbine operator's expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbines at the complainant's property. The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint and any mitigation required, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority. Following the Council's written agreement any proposed mitigation shall be enacted within the timescales proposed as part of the noise assessment. If no mitigation scheme has been agreed within 6 months of the receipt of any complaint assessed to be valid by the Council the turbine shall cease to operate until such a time as a scheme has been agreed and implemented.

Reason: To safeguard residential amenities. Policies GP2 & GP7.

16 Shadow Flicker: Within 28 days from the receipt of a written request from the Local Planning Authority and following a complaint to the Local Planning Authority about shadow flicker from any occupant of the Tesco Distribution Centre or the property located at 342217E 186587N the wind turbine operator shall, at the wind turbine operator's expense, employ an independent consultant approved by the Local Planning Authority to assess the level of shadow flicker from the wind turbine at the complainant's property. The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said shadow flicker complaint, including all calculations, video recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority. In the event the complaint is held to be valid a scheme to mitigate the impacts of the shadow flicker shall be provided including a timescale for implementation and following the Council's written agreement the scheme shall be implemented as agreed. In the event no scheme had been agreed within 6 months of the initial complaint the turbine shall cease to operate during the hours and times of the year identified as the times when shadow flicker might affect the complainant's property.

Reason: to protect residential amenity. Policies GP2 & GP7.

17 Bio-diversity Gain: The scheme of bio-diversity enhancement described in the Scheme for Bio-diversity Gain (17 December 2019) shall be implemented within 12 months of the first export date and shall be retained / maintained for the lifetime of the development.

Reason: to secure bio-diversity net benefit on the site in accordance with Planning Policy Wales Edition 10. Policy GP5.

NOTE TO APPLICANT

01 This decision relates to the following non-conditioned plans and documents:

- Drawing PR3522-PA-SH-01 – Control Cabinet & Transformer Housing (other than as amended by information submitted to discharge condition 04)
- Drawing E-126 EP3-ST86-FB-C-01 – View of Steel Tower (other than as amended by information submitted to discharge condition 04)
- Drawing CE6500-BP-01 – Block Plan
- Drawing CE6500-LP-01 – Location Plan
- Environmental Statement & Appendices (November 2019)
- Non-Technical Summary (November 2019)
- Scheme for Bio-diversity Gain (17 December 2019)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP5, SP8, SP9, GP1, GP2, GP3, GP5, GP6, GP7, CE5 & CE10 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 This application was accompanied by an Environmental Statement.

05 National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals. Policy SOC_07: Seascapes was relevant to the determination of this application.

APPLICATION DETAILS

No: 18/0657 **Ward:** STOW HILL

Type: FULL

Expiry Date: 12-FEB-2020

Applicant: MARTIN COOMBES, NEWPORT CITY COUNCIL

Site: SITE OF NEWPORT STATION FOOTBRIDGE, DEVON PLACE, NEWPORT

Proposal: PROPOSED FOOTBRIDGE CONNECTING QUEENSWAY AND DEVON PLACE WITH CURVED RAMP, STAIRS, FOOTWAYS AND ASSOCIATED WORKS INCLUDING THE CLOSURE OF EXISTING SUBWAY (AMENDED DESIGN)

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks full planning permission for the construction of a footbridge which would connect Queensway and Devon Place. The footbridge would span parts of the Newport Railway Station, it would include ramps and stairs onto both Queensway and Devon Place. The works also involve the closure of the existing subway.
- 1.2 The purpose of the footbridge is to provide a convenient, safe and attractive crossing point for pedestrian and cyclists, which are compliant with DDA standards. The bridge has also been designed to meet Active Travel objectives. The proposals would also provide a new public space and public realm improvements, predominantly on the Queensway side of the bridge.

2. RELEVANT SITE HISTORY

12/0514	PRIOR APPROVAL FOR CONSTRUCTION OF 2 METRE WIDE FOOTBRIDGE OVER RAILWAY	Granted
12/0545	PRIOR APPROVAL FOR CONSTRUCTION OF 4 METRE WIDE FOOTBRIDGE OVER RAILWAY	Granted

3. POLICY CONTEXT**3.1 Newport Local Development Plan 2011-2026 (adopted January 2015)**

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

Policy **SP2 Health** promotes development which has a positive contribution to health and well-being by being in a sustainable location, close to walking/cycling routes and green infrastructure.

Policy **SP9 Conservation of the Natural, Historic and Built Environment** protects habitats and species as well as Newport's listed buildings, conservation areas, historic parks and gardens, scheduled ancient monuments, archaeologically sensitive areas and landscape designated as being of outstanding historic interest.

Policy **SP14 Transport Proposals** supports transport proposals that bring benefits to the economy, health and well-being of the community.

Policy **SP15 Integrated Transport** supports transport schemes that will be integrated with national and regional schemes.

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

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

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

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

Policy **CE1 Routeways, Corridors and Gateways** lists routes/corridors (M4, London to South Wales Railway, A449, A4042, A455, A4042, A48, A48(M), Monmouthshire and Brecon Canals) (plus other principal transport routes in the area) which are important main routes in the area. Any proposals that are located on or highly visible from these routes must seek to improve the general environment and help to create attractive gateways into the City.

Policy **CE6 Archaeology** states that proposals in areas known to have archaeological interest or potentially have archaeological interest will be required to undertake an archaeological impact assessment.

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

Policy **T5 Walking and Cycling** promotes the creation of a network for walking and cycling, including National Cycle Networks 47, 4 and 88.

4. CONSULTATIONS

- 4.1 NEWPORT ACCESS GROUP: No response.
- 4.2 NETWORK RAIL: No objection.
- 4.3 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: No objection. We note from the application's supporting plans that the proposed groundworks are relatively limited in scale. Furthermore, a review of the First to Fourth Edition Ordnance Survey maps (1883 to 1937) shows the application area occupied by railway buildings and tracks. Therefore, the ground has already been disturbed by the 19th Century construction of the Railway and it is unlikely that any significant archaeological remains will be encountered during the proposed development and its impact upon the archaeological resource is considered to be low.
- 4.4 CADW – ANCIENT MONUMENT: Any comments to be reported via a late representation or verbally reported at the committee meeting.
- 4.5 SUSTRANS CYMRU: Any comments to be reported via a late representation or verbally reported at the committee meeting.
- 4.6 HEDDLU – GWENT POLICE (ARCHITECTURAL LIAISON): No response.

5. INTERNAL COUNCIL ADVICE

- 5.1 HISTORIC BUILDINGS AND CONSERVATION OFFICER: No response.
- 5.2 HEAD OF CITY SERVICES (HIGHWAYS): No response.
- 5.3 REGENERATION MANAGER: The proposed addition of a footbridge at Devon place is a welcome improvement on the existing subway system connecting both Queensway and Devon Place. One of the regeneration objectives identified for the area in the forthcoming Masterplan is improved connectivity from and around the train station. It is anticipated such infrastructure improvements will underpin further development in the area, further enhancing

the role of the train station in realising the potential of the Northern Gateway. Therefore, improvement of this key transport node can be viewed as critical to the establishment of an office core and activation of sites such as the nearby Mill Street conversion into office space, which in turn will bring additional much-needed footfall and spend into the city centre.

- 5.4 **HEAD OF CITY SERVICES (PUBLIC RIGHTS OF WAY):** The Active Travel Act (2013) places a duty on Local Authorities to both improve existing, and secure new active travel routes and facilities. The implementation of this bridge will deliver a traffic free DDA compliant route to and from the City Centre, the main station and connect into a network of City Centre routes that connect key employment, retail and service destinations including the main bus station off Usk Way. It is a route that will meet the Active Travel standards benefitting, in particular, residents within the northern wards of Allt-yr-yn and Barrack Hill. The bridge will provide connections to and from existing significant off road cycle routes such as the whole Northern corridor network, encompassing National Cycle Network routes and the City Centre circular. These routes have seen improvements as a result of projects taking place in previous years. This area of Newport contains some of the key employment sites adjacent to the mainline station and within the city centre in addition to retail areas. There is a real opportunity here to provide a viable alternative for commuters to gain access to the city centre of Newport and via the Metro, the Mainline and the Marches cities and towns all over Britain but particularly, the city centres of Cardiff, Bristol and Swansea, avoiding the already overloaded traffic network. The current available route is via the subway running under the Great Western Railway. It has been audited as suitable for active travel journeys on foot, however, the condition of the route is not suitable for all user groups and not considered by some, as a safe, viable commuter option. Alternative routes suitable for all users are significantly longer, increasing journey time, and pass areas known for antisocial behaviour. These constraints can both be considered significant barriers to members of public taking active journeys, which would be alleviated by the implementation of the bridge.

6. REPRESENTATIONS

- 6.1 **NEIGHBOURS:** All properties sharing a common boundary with the application site were consulted (1 property), two site notices were displayed and a press notice published in South Wales Argus. No responses.
- 6.2 **COUNCILLORS AL NUAIMI AND THOMAS:** No response.

7. ASSESSMENT

7.1 The context of the site

- 7.1.1 The application site comprises a hard paved area adjacent to Queensway which lies in between the former railway building, now occupied by the Councils Information Station and Cardiff University, and the taxi waiting area. To the rear of the hardstanding is an office occupied by Dragon Taxis. There is also a gap in between the former railway building and the single storey office building/railway buildings which provides an emergency egress from the railway. A flight of steps leads up from the Queenway pedestrian crossing and the entrance to subway, which passes under the railway, is also accessed from this hardstanding area. This part of the application site is opposite the Town Centre Conservation Area and the city centre shopping area. There is an existing sculpture within the hard paved area, the sculpture is known as the "Archform".
- 7.1.2 The bridge would span over all four platforms with a ramp and steps which would both involve new access points and demolition of the existing wall on Devon Place. The entrances would be opposite a dental practice and residential properties. The ramp and steps would involve a build out of the pavements into the road which would involve the loss of one on-street disabled parking space and two other on-street spaces.

7.2 The proposal

- 7.2.1 The proposed bridge can be described in three sections:
- 7.2.2 Devon Place ramp and steps: The proposed ramp and steps connect with Devon Place at road level. A ramp is proposed north east of the bridge deck and steps are proposed just south west of the deck. At the points where the ramp and steps connect with Devon Place it is proposed to build out the pavements by around 2m. This involves the loss of some on-street parking spaces as set out in paragraph 7.1.2. The ramp would be 3m wide and would

be 40m long. It would have galvanised rails and hand rails which would be 1.5m high. There would be lighting recessed within the handrail. It would have a non-slip floor, finished in orange. The ramp structure would be a mix of light and dark grey steel, with a reflective finish. The steps would have the same finish as the ramp but would be narrower at 2m wide.

7.2.3 The ramp and steps would involve the demolition of two small sections of the existing wall in order to provide access point onto and off the ramp and steps. It is proposed to close the existing access onto the subway ramp with a secure gate. This would be managed and controlled by Transport for Wales and Network Rail for emergency egress from the station.

7.2.4 Bridge deck: The bridge deck would be split into two clear sections over the railway. It would have two “wave” shaped sides, defining each section. The sides would be splayed at 60 degrees and would be constructed of steel, with a dark grey, matt finish. The bridge deck would be 4m wide. The wave structures would extend over the railway tracks with galvanised railing sides over the platform buildings. For safety purposes the sides would be solid up to 1.5m high, with perforation above for 300mm. Lighting would be recessed within the structure of the bridge sides, at around 1.5m high. Handrails are not provided over the bridge deck due to the risks of climbing. The deck floor would continue the non-slip orange surface.

7.2.5 Queensway ramp and steps: The bridge would span out over the existing hard paved area adjacent to Queensway. It would turn 90 degrees and begin to slope as it runs parallel to Queensway, it then turns back towards the station and then turning to run parallel with the station, descending at a continuous gradient of 1:20.5. The ramp would almost be at ground level as it turns again to exit on to the hard paved area. The steps would descend from the bridge deck level and would exit adjacent to the ramp exit. The ramp would be 3m wide and the steps 2m wide. As with the Devon Place ramp and steps they would have galvanised rails and hand rails which would be 1.5m high. There would be lighting recessed within the handrail. It would have a non-slip floor, finished in orange. The ramp structure would be a mix of light and dark grey steel, with a reflective finish.

7.2.6 It is also proposed to provide improvements to the public realm around the ramp and steps on the Queensway side. Beneath the ramp and steps a space would be created, which is proposed to be treated with new surfacing, landscaping and lighting. Within the central space the surface would be finished with light and dark grey granite tile banding, with continuous light grey tiling to the south and continuous dark grey tiling to the north. An “L” shaped planter with integrated seating is proposed beneath the lower arm of the ramp, which faces towards the central space. Low level recessed lighting is proposed at the base of the integrated seating. Recessed uplighters are also proposed at the base of the ramp support columns. Further low level planters with trees are proposed adjacent to Queensway. The planters would block off the existing steps to the subway. It is proposed to extend railings across the gap between the steps and ramp at ground floor to ensure no access can be gained to the void between the two structures.

7.2.7 The provision of the ramp and steps would result in the displacement of the existing “Archform” sculpture. It is intended to relocate this elsewhere in the city, but it is not intended to position it within the new public realm area due to space constraints.

7.3 **Active Travel**

7.3.1 Planning Policy Wales (Edition 10) states that it is Welsh Government policy to require the use of a sustainable transport hierarchy in relation to new development, which prioritises walking, cycling and public transport ahead of the private motor vehicles. The proposed bridge would replace the existing subway which currently links the Devon Place area and beyond with the city centre. The existing subway does not provide access for all users as there are steps at either end. It is also an unwelcoming environment where the fear of anti-social behaviour and crime is prevalent. It is considered that a safer and more attractive route across the railway would help promote more sustainable travel into the city centre, in favour of the use of the private motor vehicle.

7.3.2 The proposal is supported by the Councils Public Rights of Way Officer and as set out in paragraph 5.4 the route would meet Active Travel standards and the bridge would provide connections to and from existing cycle routes and key employment sites, north of the station.

The proposal is considered to be in accordance with Planning Policy Wales and policies SP1, SP2, SP14, SP15, GP4 and T5 of the Newport Local Development Plan.

7.4 **Design**

- 7.4.1 The proposed bridge has undergone a detailed design analysis with input from Planning Officers leading up to the latest proposals. The design aim of the bridge is to provide a lightweight structure which provides both functionality and enhancement to the public realm, particularly at the Queensway end. The ramp structures would have a slim deck with fine steel railings, in a light grey finish to deliver that lightweight result. The Queensway ramp has been designed to provide a convenient and attractive route across the railway which would also provide a new and usable public space, which is considered to provide both a visual enhancement and public realm improvement to the benefit of the surrounding area and the wider City Centre.
- 7.4.2 In terms of the bridge structure over the railway, this would have a contrasting dark colour in order to minimise cleaning requirements. A double wave design has been selected so that taller sides span over the railway lines, in order to prevent climbing or the throwing of objects onto the railway lines. The sides of the bridge reduce down where they span the existing railway buildings and it is considered that this not only provides some architectural interest but also provides opportunities for views out from the bridge. Where the sides of the bridge are highest it is proposed to provide perforation above 1.5m height, again to provide light and to reduce any sense of enclosure by users.
- 7.4.3 The ramps, steps and bridge deck would all be finished with an orange non-slip surface which is considered to provide a vibrant and legible route across the bridge. As it is considered that the proposed materials would be important in delivering the key lightweight qualities of the bridge, a condition is recommended requiring the precise details and/or samples of the final materials before development can commence.
- 7.4.4 Overall it is considered that the bridge as a whole would result in a positive impact on the visual character of the area and would provide an attractive gateway, and a link to the city centre. The proposal is considered to be in accordance with policies SP18, GP2, GP6 and CE1 of the Newport Local Development Plan.

7.5 **Impact on neighbouring uses**

- 7.5.1 The ramp and steps on Devon Place would be located opposite existing residential properties. It is proposed to introduce a raised ramp section, opposite these properties. There would be around 17.5m between the raised ramp section and the front elevation of the residential properties opposite. It is considered that users of the ramp would be passing footfall and would not spend any prolonged time on the bridge. As such, it is considered that this relationship with the neighbouring properties would not be unduly harmful upon their privacy or enjoyment of their homes.

7.6 **Highways**

- 7.6.1 The Devon Place ramp and steps involve a build out of the pavements into the road which would involve the loss of one on-street disabled parking space and two other on-street spaces. The parking spaces are for general use but the non-disabled spaces are restricted to two hours parking only between 8am and 6pm. The Head of City Services (Highways) has not commented on the application however, as the proposal aims to meet the objectives of Planning Policy Wales by providing an alternative to the reliance on the private motor car and supporting a modal shift towards walking and cycling, it is considered that the loss of these parking spaces would be in accordance with national policy and the national sustainable transport hierarchy.

7.7 **Impact on Conservation Area**

- 7.7.1 The Queensway ramp and steps would be situated opposite the Town Centre Conservation Area. It is considered that the bridge as a whole would provide an enhancement to the surrounding area, both visually and in terms of public realm improvements. On this basis it is considered that the adjacent Conservation Area would be protected and preserved.

7.8 **Archaeology**

- 7.8.1 The application site is located partially within an Archaeologically Sensitive Area. The Glamorgan Gwent Archaeological Trust note that the application area is already occupied by railway building and tracks. As such the ground has already been disturbed by the construction of the railway and it is unlikely that any significant archaeological remains would be encountered during the proposed development and its impact upon the archaeological resource is considered to be low. The Trust has no objection to the proposal.

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

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be a positive impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

- 9.1 The proposed development is considered to be acceptable. It would be DDA compliant and would meet Active Travel standards. The proposal would meet with the national sustainable transport hierarchy, as promoted by Planning Policy Wales. It would provide a sustainable alternative to the reliance on the private motor car and support a modal shift towards walking and cycling. It would provide connection to and from existing cycle routes, key employment sites north of the station and further afield. It is considered to result in a positive impact on the visual amenities of the surrounding area and would provide an opportunity to enhance the public realm, in this gateway position along a principle transport route through the City

Centre. The proposed development is considered to be in accordance with policies SP1, SP2, SP9, SP14, SP15, SP18, GP2, GP4, GP6, CE1, CE6, CE7 and T5 of the Newport Local Development Plan and Planning Policy Wales (Edition 10). 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: NPFB-GRM-SGN-XXXX-DR-A-0001, NPFB-GRM-SGN-XXXX-DR-A-0002, NPFB-GRM-SGN-XXXX-DR-A-0003, NPFB-GRM-SGN-XXXX-DR-A-0004, NPFB-GRM-SGN-XXXX-DR-A-0005 and NPFB-GRM-SGN-XXXX-DR-A-0006.

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 work shall be commenced 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, in accordance with policies GP2, GP6 and CE1.

03 Before the development, other than demolition, is commenced, written approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (indicating the number, species, heights on planting and positions of all trees and shrubs). The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner, in accordance with policies GP2, GP6 and CE1.

NOTE TO APPLICANT

01 This decision also relates to plan: Design and Access Statement (Grimshaw/Arup, December 2019).

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP2, SP9, SP14, SP15, SP18, GP2, GP4, GP6, CE1, CE6, CE7 and T5 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.

APPLICATION DETAILS

No: 19/0652 **Ward:** *PILGWENLLY*

Type: FULL

Expiry Date: 17-FEB-2020 EXTENDED 19 MAR 2020

Applicant: *J CONIBEER*

Site: *LAND TO EAST OF 24, CAPEL CRESCENT, NEWPORT, NP20 2FT*

Proposal: *SINGLE STOREY EXTENSION WITH CANOPY AND EXTERNAL ALTERATIONS*

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 Planning permission is sought for the erection of a single storey extension to the Flying Start facility located on Capel Crescent. The applicant has confirmed that the extension would provide additional Child Care accommodation.
- 1.2 The application is brought before Planning Committee as it relates to a Council owned site.

2. RELEVANT SITE HISTORY

08/1112	ERECTION OF NEW BUILD 'FLYING START' CHILD CARE AND FAMILY SUPPORT CENTRE	GRANTED CONDITIONS	WITH
12/0397	ERECTION OF NEW BUILD 'FLYING START' CHILD CARE AND FAMILY SUPPORT CENTRE	GRANTED CONDITIONS	WITH
14/0051	EXTENSION OF EXISTING BOUNDARY FENCE TO CAR PARK AREA	GRANTED CONDITIONS	WITH

3. POLICY CONTEXT

- 3.1 Newport Local Development Plan 2011-2026 (Adopted January 2015):
 Policy SP12 Community Facilities states that the development of new community facilities in sustainable locations shall be encouraged, development that affects existing community facilities should be designed to retain or enhance essential facilities.
 Policy GP2 (General Development Principles – General Amenity) states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.
 Policy 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:

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.

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF CITY SERVICES (HIGHWAYS): The application form states that the number of full time equivalent members of staff will reduce at the site which decreases the parking demand in accordance with the Newport City Council Parking Standards. I would therefore offer no objection to the application.

5.2 PUBLIC PROTECTION MANAGER (NOISE): No objection to the proposals however; a condition requiring a construction management plan to be submitted for a approval should be attached to any permission granted.

5.3 PUBLIC PROTECTION MANAGER (POLLUTION): no objection subject to conditions requiring a risk assessment of the site further sampling and remediation should be attached to any permission granted.

5.4 HEAD OF CITY SERVICES (TREES): No objections subject to standard tree conditions. There were 3 maple trees shown where the extension is proposed and it was agreed that these could be felled – this has been carried out. The proviso was that there were to be 7 replacement trees planted onsite together with naturalised bulbs (and additional land was trying to be secured to extend the curtilage of the site) The boundary change has not happened and therefore the 7 trees are to be planted off site as mitigation for the loss of the three maples . The applicant is to suggest sites. The retained maple to the rear of the proposed extension requires revised annotation on the proposed layout plan – pavers and tarmac are unacceptable in close proximity to the tree. A flexible permeable surfacing material is required.

6. REPRESENTATIONS

6.1 NEIGHBOURS: All properties within a common boundary with the application site were consulted (3 properties) and a site notice was displayed., No representations have been received.

7. ASSESSMENT

7.1 An extension is proposed to be erected on the eastern section of the Flying Start Facility. The extension would measure 8.5m in depth, 10.2m in width and 3.9m in height, it would be linked to the existing building by a flat roofed structure which would measure 2.8m in depth, 7.2m in width and 2.9m in height. A canopy extension is proposed on the south elevation of the proposed extension which would measure 9.5m in width, project 3.8m and a height of 2.6m. A play area is proposed under and beyond the proposed canopy. Flying Start is a Welsh Government programme available in certain areas to support families with children aged 0-3 years. Currently there are two child care rooms, the extensions would provide an additional child care room.

7.2 The applicant has confirmed that the existing facility is extensively used and does not have capacity to provide much needed additional, therefore an extension is required. The building sits within its own site and benefits from having its own dedicated staff parking and external play area. The site is accessed directly off Capel Crescent. The location of the proposed extension would result in a reduction in existing play space and three trees have been removed. An existing play shed and container would be relocated adjacent to the parking area, in order to maximise the resulting play area .

7.3 In terms of policy GP2 the proposed extension is some distance away from existing residential properties. Also the centre is a Monday to Friday operation with daytime opening hours. In terms of policy GP4, the site is accessed off Capel Crescent and proposes to provide additional parking space. The applicant has also confirmed that 8 Health Office Staff who are currently accommodated at the facility are to be transferred which would release their dedicated parking provision and serve the three extra staff that would be employed in the new facility. The room which is currently occupied by the Health Officers would be used as a crèche, The Head of City services has raised no objection to the proposal.

7.4 The public protection manager has requested a condition requiring approval of a construction management plan. In terms of contamination the application has been accompanied by a contaminated land report by Integral Geotechnique (Wales) Ltd (ref 10643/VA/10) has identified the need for further sampling, risk assessment and remediation. The remediation includes

- Vegetable patch soil is removed to a depth of 600mm and replaced by clean validated material suitable for use. The CDM file for the property should give guidance that only the vegetable patch area is suitable for growing vegetables.
- Further sampling around the area of TP3 and risk assessment or capped with a further 300mm of topsoil. The recommendations of the report are to be adhered to and a condition requiring site investigations is also suggested.

7.5 In terms of policy GP6, the extension would be constructed in materials to match the existing building and of a design similar to that which exists. It is considered that the proposal complies with policy GP6.

7.6 In terms of GP5 three trees have been felled to accommodate the extension and it is proposed to plant additional trees in a location on the site to be agreed with the Tree Officer. A maple tree would be close to the proposed extension and play area. As per the tree officer's recommendation, the surfacing material has been amended and would comprise a flexible permeable surfacing material. Although, the Councils Tree Officer offers no objections, conditions which require approval of a construction method statement and the appointment of an Arboriculturist have been applied.

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

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

9. **CONCLUSION**

9.1 The proposed extension is considered to be visually acceptable and it would not result in an unacceptable impact of residential amenity, on trees or parking provision. It is considered to be in accordance with policies SP12, GP2, GP4, GP5 and GP6 of the Newport Local Development Plan. 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 101282 (90) 001 PO8, (99)001, P10 (04)003 P5, 005 P1, Integral Geotechnique (Wales) Ltd (ref 10643/va/10)

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) An appropriate Desk-Study of the site has been carried out, to include a conceptual model and a preliminary risk assessment, and the results of that study have been submitted to and approved in writing by the Local Planning Authority.
- b) If potential contamination is identified then an appropriate intrusive site investigation shall be undertaken and a Site Investigation Report to (BS10175/2001), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.
- c) A Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

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

- d) Following remediation a Completion/Validation Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.
- e) Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing. Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed in accordance with policy GP7.

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. Erect all weather notices on Heras fencing, 1 per 10 panels, stating **CONSTRUCTION EXCUSION 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 - Policy GP5 of the Newport Local Development Plan.

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

- (a) The root protection areas to be identified on plan for retained trees and hedges;
- (b) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
- (c) The precise location of the barrier fencing, to be shown on plan.

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

Reason: To protect important landscape features within the site. Policy GP5 of the Newport Local Development Plan.

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

- (a) Construction exclusion zones;
- (b) Protective barrier fencing;
- (c) Ground protection;
- (d) Special engineering requirements including 'no dig construction'; arround the existsing maple tree.

The development shall be carried out in full compliance with the Arboricultural Method Statement.

Reason: To protect important landscape features within the site. Policy GP5 of the Newport Local Development Plan.

06 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 - Policy GP5 of the Newport Local Development Plan.

07 Prior to the commencement of any development (including demolition works, piling, excavation or construction works), a Demolition and 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. Details shall include the provision of wheel washing facilities. 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. A traffic management plan shall restrict any construction deliveries to prevent conflict with the start and finish times associated with the local school. 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 residential amenity and highway safety – Policies GP2 and GP7 of the Newport Local Development Plan.

General conditions

08 The development hereby approved shall be carried out in accordance with the remediation proposed within the Integral Geotechnique (Wales) Ltd (ref 10643/va/10) report.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed - Policy GP7 of the Newport Local Development Plan.

09 The external surfaces of the extension hereby approved shall be of materials to match those of the existing building.

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

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP12, GP2, GP4, GP5 and GP6 were relevant to the determination of this 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 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

APPLICATION DETAILS

No: 19/1149 **Ward:** ST JULIANS

Type: FULL

Expiry Date: 21-FEB-2020

Applicant: MICHAL ZVALA

Site: 30, ANNESLEY ROAD, NEWPORT, NP19 7EX

Proposal: CHANGE OF USE OF RESIDENTIAL PROPERTY (C3) TO 6NO. BEDROOM HOUSE IN MULTIPLE OCCUPATION (C4) AND EXTERNAL ALTERATIONS TO PROVIDE 3NO. PARKING SPACES

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the change of use of a 3no. bedroom residential property (C3) to a 6no. bedroom House in Multiple Occupation (HMO) at 30 Annesley Road in the St Julians ward.
- 1.2 A HMO is a house occupied by people who are usually unrelated and have private bedrooms but shared facilities such as kitchens, living areas and bathrooms. The proposed 6no. bedroom HMO falls into the C4 Use Class which allows between 3 and 6no. unrelated occupants to reside and share amenities.
- 1.3 The application is reported to Planning Committee at the request of Councillor Holly Townsend who shares the concerns of the local residents in relation to the impact on the existing parking situation, character of the existing established community of family homes and waste generated by the proposal.

2. RELEVANT SITE HISTORY

- 2.1 None.

3. POLICY CONTEXT

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

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

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

Policy GP4 ‘General Development principles – highways and accessibility’ states that development proposals should make adequate provision for car parking and ensure that development would not be detrimental to highway or pedestrian safety.

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

Policy H8 Self Contained Accommodation and Houses in Multiple Occupation sets out the criteria for subdividing a property into self-contained flats. The scheme must be of appropriate scale and intensity not to unacceptably impact on the amenity of neighbouring

occupiers and create parking problems; proposals must not create an over concentration in any one area of the city; and adequate noise insulation is provided and adequate amenity for future occupiers.

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

Policy W3 Provision for Waste Management Facilities in Development states that where appropriate, facilities for waste management will be sought on all new development.

Relevant Supplementary Planning Guidance

Parking Standards SPG (Adopted August 2015)

Houses in Multiple Occupation (HMO) SPG (Updated January 2017)

4. CONSULTATIONS

4.1 None.

5. INTERNAL COUNCIL ADVICE

5.1 THE HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH HOUSING): No objection.

5.2 THE HEAD OF LAW AND REGULATION (ENVIRONMENTAL HEALTH): No objection subject to the following;

Advisory - Sound insulation

In relation to sound insulation of the proposed residential dwelling of the HMO, I have not commented. I assume that Building Control will ensure that the Building Regulations, Approved Document E is applied.

Construction Working Hours - Specified

Where applicable, no machinery shall be operated, no process shall be carried out and no deliveries accepted or despatched from the site outside the following times, 0800 and 1800 Monday to Friday, 0800 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays during the construction work for the change of use.

Reason: In the interest of other residential amenities.

5.3 THE HEAD OF CITY SERVICES (HIGHWAYS):

In accordance with the Newport City Council Parking Standards the existing property generates a parking demand of 3 spaces. The proposed 6bed HMO generates a parking demand of 7 spaces at a ratio of 1 space per bedroom plus 1 visitor space. No off street parking provision is available at the property resulting in an existing shortfall of 3 spaces which must be taken into consideration.

The proposal increases the parking demand by 4 spaces and the applicant proposes to provide 3 of these spaces to the rear of the property by forming a new access onto Ronald Road. The applicant must demonstrate that 2.4 x 43m visibility splays are achievable in accordance with Manual for Streets. Any reduction in the visibility requirements will only be considered following submission of a seven day automated speed survey. In addition 2 x 2m pedestrian visibility splays are also required which appears unachievable to the east of the access due to the proximity of the neighbouring properties boundary. The applicant must demonstrate that the required visibility is achievable or I must object to the formation of the access due to the detrimental impact on highway safety.

Depending on the achievable visibility splays the application will result in between 1 and 4 parking spaces having to be provided on street. A parking survey has been submitted to demonstrate the existing parking stress and whether the additional demand can be accommodated. When taking into consideration the findings of the survey, and following a number of site visits, I'm satisfied that the additional demand can be accommodated on street.

I would offer no objection to the change of use however further information will be required in regard to the proposed parking area and access as detailed above.

Response in Clarification to Committee in Relation to the Lambeth Methodology

In terms of times that the surveys were carried out, the Lambeth methodology states that “A snapshot survey between the hours of 0030-0530 should be undertaken on two separate weekday nights”. The applicant carried out two separate surveys at 00:30 and 00:45 and therefore this requirement is met. Also the Lambeth methodology works on the basis of a 2min walking distance which equates to 200m, which has been utilised by the applicant.

I must point out that whilst officers consider the Lambeth Methodology to be an acceptable method for carrying out parking surveys, it is not policy or even adopted SPG. Therefore, whilst an applicant can submit a parking survey based on this format, we cannot insist on it and therefore must consider any parking survey on their own merits.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 50m of the application site were consulted (89 properties) and a site notice displayed. 21no. objections have been received from 19no. residential properties along with a petition opposing the application that has 82no. signatures. A summary of the objections is listed below;

Parking & Highways

- Existing parking within the area is inadequate;
- The increased need for parking and traffic generation from HMO residents and visitors is of great concern to residents, especially as the property is on the junction of Ronald Road and Annesley Road;
- The dropped kerb required would offset the proposed off street parking proposed;
- The risk to pedestrians and other road users from vehicles;
- Visibility is restricted by cars parking on Ronald Road and dangerously on junctions/corners;
- Despite the fact that the site is located within a sustainable location and in close proximity to shops and services, this does not reduce car ownership levels;
- Many residents in the area work shifts and public transport does not meet the requirements of the shift workers;
- The proposal is in breach of Policy T4 of the NLDP;
- The route is also used frequently by local school children who are at present faced with difficulties crossing the junctions safely.

Residential Amenity & Character of the Neighbourhood

- Concerns are raised that the existing area, where residents take pride in where they live, and maintain the upkeep of the properties would be negatively affected, with generation of increase noise and disturbance. There are concerns that a HMO would not share the same high standards and have a detrimental affect on the character of this family area;
- A 6no. bedroom HMO within an existing 3no. bedroom terraced house would result in overcrowding and would have a detrimental effect on the health and wellbeing of the tenants;
- The number of other HMOs within the area and their impact on the character of the area;
- Six individuals will cause a large impact on no.29 (adjoining) due to the increased number of televisions and other electronic devices that would increase noise generation from within the property;
- Concerns in relation to the transient nature of the residents who would live in the HMO;
- The noise from the vehicles using the proposed parking area would impact the residential amenity of 2 Ronald Road and other neighbouring properties;
- Police have been called out to incidents at other HMOs within the area.

Waste

- Concerns that there would be increased rubbish generated. Residents have noticed increased rubbish in surrounding areas of Leicester Road, Ronald Road, Duckpool Road and Caerleon Road from other HMOs;
- On refuse collection day the additional bins and bags generated by a 6no. bedroom HMO put on the street will cause problems for pedestrians.

Other

- The property is being turned into a business in a residential area, as it will be rented out for profit;
- The HMO would be visually overbearing and is an inappropriate design for this part of the area. Such a large building would be totally out of keeping with the neighbouring properties, which are mainly smaller terraced style houses;
- Concerns raised that work has already commenced within the property to undertake the renovation and the issues faced by residents as skips have been left on the street.

- 6.2 COUNCILLORS HOURAHINE/TOWNSEND/TOWNSEND: Councillor Holly Townsend has raised the following objection to the application;

The residents are opposing this HMO development on the grounds of a severe lack of parking, despite the provision of three spaces; with six people moving in, there are likely to be more cars added to the already very overcrowded residential road- it is also used as a car park for those using shops on Caerleon Road. This road is an established community of family homes, and there is already some concern with the neighbours about an existing HMO on Leicester Road. The residents have also raised concerns about rubbish collection and recycling provision for potentially 6 single people, given the drive to reduce waste per household.

7. ASSESSMENT

- 7.1 The area is characterised by predominantly residential properties of a dense terrace nature in a linear form. The application property is located within a corner plot location on the junction of Annesley Road and Ronald Road and comprises of small front garden with low boundary wall and a good size rear garden. The property appears to have been extended at ground and first floor historically, however there is no planning history available in relation to this. The proposed layout of the HMO would comprise of 2no. bedrooms, shower/WC and open plan kitchen/living room at ground floor with 4no. bedrooms and bathroom at first floor. The scheme proposes to partially remove the boundary wall adjacent to Ronald Road at the rear of the property to provide 1no. parking space and 2no. motorcycle spaces. A HMO that falls within the C4 Use Class, as applied for within this application, would allow a maximum of 6no. unrelated occupants to reside within the property.
- 7.2 The main considerations of this application are the potential impacts of the change of use on parking provision and highway safety as well as the impact on the character and amenity of the surrounding area and neighbouring properties.
- 7.3 Policies GP2 (General Amenity), GP4 (Highways and Accessibility), GP6 (Quality of Design), T4 (Parking) and H8 (Self Contained Accommodation and Houses in Multiple Occupation) of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) are relevant to the determination of this application as are the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (Updated January 2017) and the Parking Standards Supplementary Planning Guidance (Adopted August 2015).
- 7.4 The Newport City Council Supplementary Planning Guidance on Houses in Multiple Occupation (adopted August 2015, updated January 2017) and Policy H8 (Self Contained Accommodation and Houses in Multiple Occupation) seek to avoid clusters of HMOs as they can alter the composition of a community and detract from local visual amenity. The SPG also states that the Council will not support a planning application that would take the number of HMOs above 15% within defined areas, measured within a 50 metre radius of the

application property. As of 22nd January 2020 the 50m radius captures 37no properties and of these there are no existing HMOs captured. Including the provision of the proposed HMO the concentration would equate to 2.7% Therefore, the proposed conversion does not conflict with the Council adopted SPG insofar as this threshold is concerned. It is noted that a recent HMO conversion approved close by at Morden Road is not within the 50m radius required to be considered within the SPG.

- 7.5 Notwithstanding the above, whilst the proposed change of use would not result in the number of HMO's in the 50m area exceeding 15% it is necessary to consider whether the proposal is acceptable in respect of other material considerations. The impact of HMOs on social cohesion and community wellbeing is a material consideration. Evidence of problems associated with HMO's can include inadequate refuse storage arrangements or poorly maintained frontages, or quantified evidence of impacts on community cohesion. Properties in the vicinity have a well-kept appearance and there were no obvious signs of problems associated with a high concentration of HMO's. A number of objections have raised concerns in relation to waste and the storage of refuse, as there is considered to be adequate space to the rear of the property to accommodate refuse storage, a condition could be attached to any such permission requesting details of bin storage to be submitted to the LPA for approval prior to the first use of the building as a HMO. An objection received from the neighbouring property at 29 Annesley Road has raised concerns in relation to the intensification of the use of the property and the increase this would have on noise generation. The existing residential property contained 4no. bedrooms at first floor with other facilities at ground floor and the proposal would retain the first floor layout, including an additional 2no. bedrooms to the front of the property at ground floor. The proposed ground floor layout includes the living room and open plan kitchen, where you would anticipate residents to congregate and socialise within the rear extension of the property that is detached from the neighbouring property. Whilst it is acknowledged that there is an additional 2no. bedrooms at ground floor, these would replace the existing sitting room and living room which are considered to be comparable in terms of potential for noise generation. It is further noted that the stairway is located on the outer wall of the property so any potential for increase in footfall would be located away from the party wall. The Head of Law and Regulation (Environmental Health) has stated that Building Regulations would cover sound insulation, however this is not correct and the Building Control Department would have no involvement in this. Notwithstanding this, given the reasons explained above it is not considered that the proposal would result in an intensification of the use of the property that would require mitigation.
- 7.6 An internal research paper (unpublished) was prepared by Newport Council's planning team as a background report to the SPG to evaluate any evidence of harm caused by concentrations of HMO's within the city (see copy of report attached as Appendix A). The number of HMO's was compared to the actual number of households within a defined geographical area, namely lower layer super output areas (LSOA), which are used for the Census. Information was pulled together relating to complaints linked to licenced HMO's and crime rates within these areas.
- 7.7 The application site falls within Lower Super Output Area St Julians W01001675 which ranks 6th in terms of concentrations of HMOs in Newport as a whole. In terms of complaints it ranks 3rd, but only 33rd in terms of statistics on reported crime. As previously mentioned there is no licenced HMO within 50 metres of the existing property and the introduction of the proposed HMO would take it to 2.7%. This would fall well below the adopted SPG threshold and in this instance given that the change of use would not result in an exceedance of the 15% threshold identified in the council's adopted SPG it is considered that the Council cannot identify harm resulting from the presence this HMO in the area. It is not considered that the addition of a HMO in the area would be detrimental to the character of the area and the amenity of neighbouring residents contrary to policies H8 and G2 of the Council's LDP. In short, whilst

concerns relating to social cohesion and amenity issues arising from a concentration of HMOs are noted, this is not a reason to refuse planning permission in this case.

- 7.8 A number of objections have also raised concerns that the number of bedrooms and their sizes would not provide an adequate level of residential amenity for the future occupiers. The Environmental Health Licensing section of the Council has been consulted on the application and considers the proposal to achieve the standards expected for a HMO and has offered no objection to the proposal. The property also benefits from an enclosed rear garden that would allow outdoor amenity space for residents and would provide recreation space and area to dry clothes etc. Previous attempts to refuse permission for lack of amenity for future residents have failed at appeal.
- 7.9 In accordance with the Newport City Council Parking Standards, the existing property generates a parking demand of 3no. spaces. The proposed 6no. bedroom HMO would generate a parking demand of 7no. spaces at a ratio of 1no. space per bedroom and 1no. visitor space. The property currently benefits from no off street parking and as such there is an existing shortfall of 3no. spaces. The applicant has acknowledged that the area is within a sustainable location and has undertaken a sustainability appraisal that scores at least 10 points, resulting in a reduction of 2 spaces. This can be applied to the existing parking generation and previous appeal cases have confirmed that a 30% reduction in HMO parking expectation should also reasonably be applied, which results in the parking demand for the existing house of 1no. space and the proposed HMO 4no. spaces and 1no. visitor space. The proposal originally submitted included 3no. off street parking spaces within the rear garden of the property however it was apparent that only 2no. spaces could achieve the pedestrian and vehicular visibility splays and one of these spaces would be impeded by a telegraph pole. As such revised plans showing 1no. vehicular off street parking space that can achieve the necessary visibility splays was submitted, which also included 2no. motorcycle spaces. Whilst these do not count towards formal parking provision, the applicant is keen to offer future residents the opportunity of secure motorcycle storage as there is a demand for this. As such, when taking into account the off street parking provision and sustainability appraisal, the final demand for on street parking as a result of the proposal is 4no. spaces. The existing shortfall of the single residential property was 1no. space after applying the sustainability criteria and as such there is a net increase of 3no. spaces as a result of the development.
- 7.10 A parking survey has been submitted in accordance with best practice which was undertaken on a Wednesday and Friday evening at 00:30am and 00:45 and covered the streets within 200m/2 minutes walk of the application site, as set out below. The Head of City Services (Highways) has confirmed that the parking survey has been undertaken in accordance with the Lambeth Methodology. However, they have also clarified that whilst officers consider the Lambeth Methodology to be an acceptable method for carrying out surveys, it is not policy or adopted Supplementary Planning Guidance. Therefore, whilst an applicant can submit a parking survey based on this format, it cannot be insisted and therefore any parking survey must be considered on their own merits.

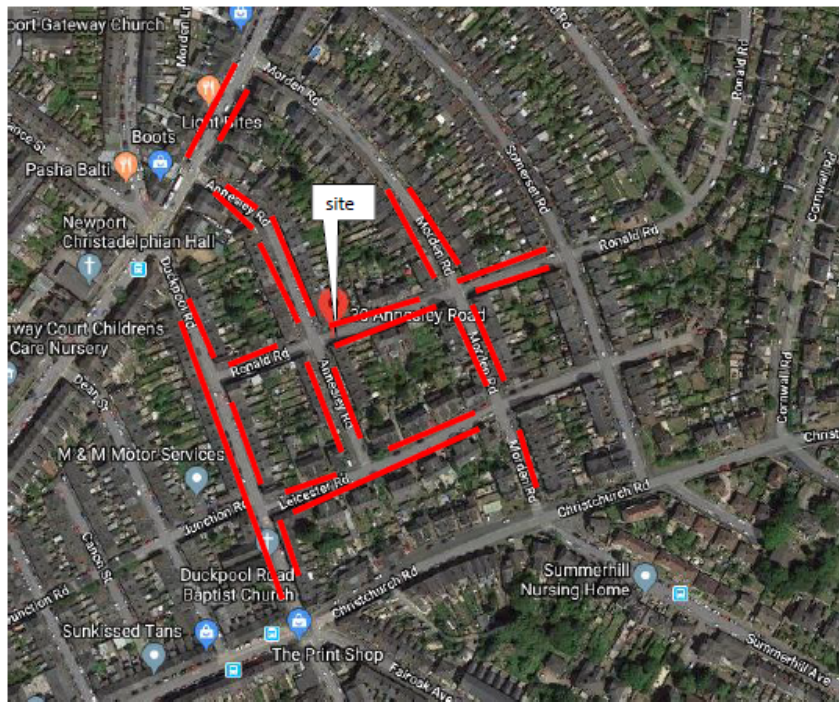


Figure 1 – Parking Area Survey

7.11 The on-street parking capacity of the survey area was calculated by measuring the length of kerbside parking available and dividing this by the length of a parking space (6m). Lengths of kerb with parking restrictions or across driveway entrances, access to garages were not included within the calculation. The results of the survey are shown in the table below.

Street	Available kerbside parking - Length (m)	Available kerbside parking - Parking Spaces Number	Wednesday 23 rd October 2019 at 00:30 No of cars (% occupied)	Friday 25 th October 2019 at 00:45 No of cars (% occupied)
Annesley Road (East side)	155	25	16(64%)	15(60%)
Annesley Road (West side)	143	23	17 (73%)	17 (73%)
Morden Road (east side)	120	20	16 (80%)	17 (85%)
Morden Road (West side)	69	11	9 (81%)	9 (81%)
Leicester Road (North side)	123	20	14(70%)	13(65%)
Leicester Road (South side)	118	19	14 (74%)	15 (79%)
Ronald Road (North side)	133	22	16(73%)	16 (73%)
Ronald Road (South side)	115	19	11 (57%)	13 (68%)
Caerleon Road (North side)	60	10	3 (30%)	4 (40%)
Caerleon Road (South side)	56	9	3(33%)	3 (33%)
Duckpool Road (east side)	182	30	25 (83%)	25 (83%)
Duckpool Road (west side)	170	28	24 (86%)	23 (82%)
TOTAL	1444	236	168 (71%)	170 (72%)

- 7.12 A large number of objections have been received from local residents and a Local Councillor with almost all of the correspondence raising highway safety and parking as issues of serious concern. A petition has also been submitted that has been signed by over 80 residents and whilst the reasons of concern are not referenced within the petition, a large number of photographs were submitted alongside that show the parking situation, presumably within the area however no locations, dates and times have been included. Further photos from a local resident have since been submitted with street names, dates and times included. These photos predominantly focus on Annesley Road and Ronald Road, which are the two closest streets in relation to the application site. It is quite clear from the photographs and the objections received that residents clearly have concerns in relation to parking within Annesley Road, Ronald Road and the surrounding areas and this is a concern of the Local Planning Authority. Out of the streets included within the parking survey Morden Road and Duckpool Road were of the highest parking stress ranging from 80-86%, however the application site is on the junction of Annesley Road and Ronald Road with its front door to Ronald Road and significant boundary/elevation to this highway where residents can reasonably be expected to park. The parking stress levels range from 66-69% on Annesley during the two surveys and 66-71% on Ronald Road. When including the additional 4no. spaces generated by the HMO the maximum parking stress ranges from 75-77% on Annesley Road and 76% to 80% on Ronald Road during the survey times. The parking survey did not take into account the introduction of the dropped kerb required on Ronald Road to access the proposed parking space, which would likely take away 1no. on street parking space, altering the parking stress to 80% to 82.5% on the survey dates. Whilst it is acknowledged that the surveys are a snapshot in time and there will be fluctuations in parking demand the above stress levels are considered to allow for this and capacity remains for visitors also. There are no parking restrictions along the side of the property. The case officer has undertaken various site visits during afternoon, evenings and on the weekend and whilst it is acknowledged that parking immediately outside the front elevations of residential properties is in high demand, there was more freely available parking elsewhere within Annesley Road, Ronald Road and surrounding streets that were surveyed. Morden Road appeared to be in the highest demand and the survey submitted is reflective of this. The Head of City Services (Highways) has also stated that during their site visits parking availability was observed.
- 7.13 Whilst the LPA understands the resident's frustrations in relation to parking availability, the fact on street space is not plentiful has proven to not be a robust reason to refuse planning permission. Inspectors assume that car ownership in HMO properties will be lower and most notably in sustainable locations such as this. When taking account of the recent appeal decisions, the generally positive attitude of the Welsh Inspectorate to HMOs in sustainable locations irrespective of whether they have off street parking, the parking survey undertaken by the applicant and the lack of objection from the Council's Highway officer, it is considered that there is sufficient on-street capacity in the area to accommodate the additional demand that the proposed HMO would result in without significant and demonstrable adverse effect on neighbouring amenity. Given the highly sustainable nature of the site officers recommend that there is no demonstrable harm resulting from the proposals in terms of either highway safety or neighbouring amenity.
- 7.14 An objection from 2 Ronald Road has raised concerns that the proposed parking area would result in an impact on residential amenity in relation to noise. The proposed parking area includes 1no. parking space and 2no. motorcycle spaces, which is generally considered to be typical of the vehicles associated with a residential property. It is not considered that the use of this area for the parking of these vehicles would cause an impact over and above that expected within a residential area of this nature.
- 7.15 The proposal also includes the removal of the existing wall to facilitate the parking area and the construction of a new 1.8 metre high brickwork wall which would run along the site boundary with Ronald Road and return into the site to separate the parking area from the outdoor amenity area. The wall is considered to be an acceptable boundary treatment in this location as there is a mix of brick and render finishes within the street scape.

8. OTHER CONSIDERATIONS

- 8.1 ***Crime and Disorder Act 1998*** Tudalen 61

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

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

9. CONCLUSION

9.1 The proposed change of use would not result in an exceedance of the threshold set out in the Council's Guidance and it is not considered that the proposals would result in a demonstrable impact to the character of the area.

9.2 Whilst the proposals would result in an increased demand for parking, the site is located within a sustainable location within close proximity to shops and services with good transport links. Furthermore, the applicant has provided information to demonstrate that the parking associated with the development can be accommodated on street and no objection is raised by the Council's highways officers to parking or other highway safety matters. As such, it is not considered that the proposals would result in an adverse impact to highway safety or neighbouring amenity.

10. RECOMMENDATION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Drawing No. 284/1/2 – Plans and Elevations as Proposed REV B (22/01/2020); Drawing No. 284/1/3 – Pedestrian and Visibility Plans REV B (22/01/2020); Proposed Floor Plans

Pre –occupation conditions

02 Prior to first occupation of the development hereby approved, a scheme for the provision of waste storage and recycling shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter in perpetuity.

Reason: In the interests of amenities in accordance with Policy GP2 of the NLDP 2011-2026 (adopted January 2015).

03 Prior to the first use of the parking area hereby approved the visibility splays and sight line areas shown on the approved drawing “Drawing No. 284/1/3 – Pedestrian and Visibility Plans REV B (22/01/2020)” shall be provided. All these areas shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres.

Reason: In the interests of highway safety in accordance with Policy GP4 of the NLDP 2011-2026 (adopted January 2015).

General conditions

04 The property shall have a maximum of six bedrooms and six persons.

Reason: To protect the amenity of adjoining occupiers and highway safety in accordance with Policy GP2 and GP4 of the NLDP 2011-2026 (adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan; Existing Site Layout Plan; Existing Floor Plans; Block Plan; Drawing No. 284/1/2 – Plans and Elevations as Proposed REV B (22/01/2020); Drawing No. 284/1/3 – Pedestrian and Visibility Plans REV B (22/01/2020); Proposed Floor Plans.

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

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

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

APPLICATION DETAILS

No: 19/1164 **Ward:** *LLISWERRY, PILLGWENLLY*

Type: FULL

Expiry Date: 14-JAN-2020

Applicant: *MIKE LEWIS, NEWPORT CITY COUNCIL*

Site: *TRANSPORTER BRIDGE, BRUNEL STREET, NEWPORT*

Proposal: *REPAIR AND RESTORATION OF NEWPORT TRANSPORTER BRIDGE, DEMOLITION OF EXISTING VISITOR CENTRE, PROVISION OF NEW EXPANDED VISITOR FACILITIES, NEW LIGHTING SCHEME AND ASSOCIATED LANDSCAPING WORKS. CONSERVATION OF THE ENGINEERING STRUCTURE OF THE BRIDGE, PLUS THE RESTORATION OF ANCILLARY ELEMENTS INCLUDING THE GONDOLA, MOTOR HOUSE, ANCHOR HOUSES AND ANCHOR CABLES. DESIGN WORK INCLUDING THE ANALYSIS OF THE STRUCTURE AND THE SPECIFIC ACTION OF REPAIRS TO THE STRUCTURE AND ANCILLARY COMPONENTS. AFFECTING PUBLIC RIGHT OF WAY NEWPORT COASTAL PATH 403/2/1*

Recommendation: **SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES CONFIRMS THAT FLOODING CONSEQUENCES CAN BE ACCEPTABLY MANAGED.**

1. INTRODUCTION

- 1.1 This is a full planning application to demolish the existing visitor centre and replace it with a new larger visitor facility, new lighting scheme and associated landscaping scheme. The application is being considered at Planning Committee as the site is owned by Newport City Council.
- 1.2 This application has been made in combination with planning application reference 19/1165 for the restoration works to the Listed Transporter Bridge, which is being considered and determined by Welsh Government and CADW . The new visitor centre is proposed to be in the same position as the existing building but has been extended in scale and height. The following designations apply to the application site: -
- Urban settlement boundary,
 - Public right of way and coastal path
 - Developed Coastal Zone
 - River Usk- Special Landscape Area (SLA)
 - Majority of site is within flood zone C2
 - Grade 1 Listed Building (including Anchor Chambers)- Transporter Bridge
 - Adjacent to Waterloo Conservation Area
 - Historic Environment Records (Archaeologically sensitive)
 - Site of Special Scientific Interest (SSSI)
 - Special Area of Conservation (SAC)
 - Parking Zone 6 for the Visitors Centre
 - Parking Zone 4 for the existing car park
- 1.2 The main issues to consider in this application is the intensification of the use of the site for an expanded visitor centre, visual impact of the proposed changes on the site and the setting

of the Listed Structure (Transporter Bridge) as well as the visual amenities of the Special Landscape area, increase in traffic as well as access and parking, impact upon protected sites, species and habitats, impact on flooding and impacts upon the amenities of neighbouring areas and properties.

- 1.3 In addition to the plans/drawings the application has been supported by a Design and Access Statement, Flood Consequences Assessment, a Transport Statement, A Preliminary Ecology Appraisal, Ecological Impact Assessment, Landscape and Visual Appraisal, Soft Landscape Maintenance and Management Plan, technical tree note Heritage Impact Assessment and a Site investigation Report.
- 1.4 No representations have been received from members of the public. The application is seeking delegated powers for the Head of Service to approve the application in the event that Natural Resources Wales confirms that flooding consequences can be acceptably managed.

2. RELEVANT SITE HISTORY

- 2.1 **98/1155-** Demolition of Existing Flat roof office and replacement single storey building- *Granted with conditions*

99/0071- Partial Discharge of condition 3 (Details of hard Paving) relating to planning permission 98/1155/DC- *Approved*

19/1165- Listed Building consent for Repair and Restoration of Newport Transporter Bridge- *Undetermined- under consideration by Welsh Government*

3. POLICY CONTEXT

- 3.1 Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Newport Local Development Plan 2011-2026 (Adopted January 2015) and within which the following policies are of relevance

3.1.1 Strategic Policies

SP1 Sustainability
SP2 Health
SP3 Flood Risk
SP8 Special Landscape Areas
SP9 Conservation of the Natural, Historic and Built Environment
SP18 Urban Regeneration

3.1.2 General Policies

GP1– Climate Change
GP2– General Amenity
GP3– Service Infrastructure
GP4– Highways and Accessibility
GP5– Natural Environment
GP6– Quality of Design
GP7– Environmental Protection and Public Health

3.1.3 Environment/ Countryside Protection

CE1 Routeways, Corridors and Gateways
CE2 Waterfront Development
CE3- Environmental Spaces and Corridors

3.1.4 The Historic Environment

CE6 Archaeology
CE7 Conservation Areas

3.1.5 The Natural Environment

CE9 Coastal Zone

3.1.6 Transport

T4 Parking

T7 Public Rights of Way and New Development

T8 All Wales Coast Path

3.1.8 Community Facilities and Other Infrastructure

CF4- Riverfront Access

CF8- Tourism

3.1.9 Waste

W3- Provision for Waste Facilities in Development

3.2 **Planning Policy Wales:**

3.2.1 National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application. The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

3.2.2 The following chapters and sections are of particular relevance in the assessment of this planning application :

Chapter 5 - Productive and Enterprising Places

- Economic Infrastructure (electronic communications, transportation Infrastructure, economic development, tourism and the Rural Economy)
- Energy (reduce energy demand and use of energy efficiency, renewable and low carbon energy, energy minerals)
- Making Best Use of Material Resources and Promoting the Circular Economy (design choices to prevent waste, sustainable waste Management Facilities and Minerals)

Economic Development

5.4.1 For planning purposes the Welsh Government defines economic development as the development of land and buildings for activities that generate sustainable long term prosperity, jobs and incomes. The planning system should ensure that the growth of output and employment in Wales as a whole is not constrained by a shortage of land for economic uses.

5.4.2 Economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services. The construction, energy, minerals, waste and telecommunications sectors are also essential to the economy and are sensitive to planning policy.

5.4.4 Wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration. Sites identified for employment use in a development plan should be protected from inappropriate development.

Tourism

5.5.1 Tourism involves a wide range of activities, facilities and types of development and is vital to economic prosperity and regeneration in many parts of Wales. Tourism can be a

catalyst for regeneration, improvement of the built environment and environmental protection.

5.5.2 The planning system encourages tourism where it contributes to economic development, conservation, rural diversification, urban regeneration and social inclusion, while recognising the needs of visitors and those of local communities. The planning system can also assist in enhancing the sense of place of an area which has intrinsic value and interest for tourism. In addition to supporting the continued success of existing tourist areas, appropriate tourism-related development in new destinations is encouraged. In some places however there may be a need to limit new development to avoid damage to the environment or the amenity of residents and visitors.

5.5.4 Much of the existing provision of facilities and accommodation for tourism occurs in urban locations, including historic and coastal towns and cities. There will be scope to develop well-designed tourist facilities in urban areas, particularly if they help bring about regeneration of former industrial areas. The sensitive refurbishment and re-use of historic buildings also presents particular opportunities for tourism facilities in all areas.

5.5.5 Long-distance routes, rights of way, disused railways, waterways and other green infrastructure are important tourism and recreation facilities, both in their own right and as a means of linking attractions.

5.5.6 Planning authorities should provide a framework for maintaining and developing well-located, well designed, good quality tourism facilities. They should consider the scale and broad distribution of existing and proposed tourist attractions and enable complementary developments such as accommodation and access to be provided in ways which limit negative environmental impacts as well as consider the opportunities to enhance biodiversity

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a derisking approach)

Listed Buildings

• 6.1.10 There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses

Special Protection Areas, Special Areas of Conservation and Ramsar Sites

6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations. The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers. Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of

International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs, but are not subject to the Habitats Regulations. However, Ramsar sites should be treated within the planning system in the same way as SACs and SPAs.

6.5 Coastal Areas

6.5.1 The interface between land and sea gives rise to the unique characteristics associated with coastal areas. As well as opportunities, these characteristics present their own set of challenges which demand particular considerations and responses.

6.5.2 Identifying and understanding these unique characteristics and their interaction with each other, will help to ensure planning approaches in coastal areas are environmentally and economically sustainable, socially equitable and recognise the threat posed by climate change. The Welsh National Marine Plan identifies opportunities for the sustainable development of Wales's seas by guiding new development and related decisions both inshore and offshore. Development plans and the Marine Plan should work together and support integrated decision making and collaboration across marine and terrestrial interfaces and boundaries.

6.5.3 The main planning principles for coastal places, which reflect the principles of Integrated Coastal Zone Management, are to support urban and rural development whilst at the same time being aware of, and appropriately responsive to, the challenges resulting development pressures in coastal areas. This requires development plan strategies to be ecologically and physically resilient and socially and economically adaptable to change. Taking on board these considerations will ensure development plans and the Marine Plan are complementary.

Development on the Coast

6.5.9 Development should not normally be proposed in coastal locations unless it needs to be on the coast. In particular, undeveloped coastal areas will rarely be the most appropriate location for development. Where new development requires a coastal location, developed coastal areas will normally provide the best option, provided that issues associated with coastal change have been taken into account. Such issues include the risks of erosion, flooding, land instability, and the preferred approaches to address such risks, and impacts on biodiversity and ecological resilience.

6.5.10 Before permanent and long term developments, including those of regional or national importance, can be granted permission it will be essential to demonstrate that a coastal location is required based on the characteristics of the coastline in question. Where development is considered to be justified it should be designed so as to be resilient to the effects of climate change over its lifetime and not result in unacceptable incremental increases in risk. Where appropriate planning authorities should identify key sites for proposed developments of national or regional importance requiring a coastal location in development plans, particularly where the need for such developments has already been identified. The implications of such allocations are likely to be wide-ranging and may require collaboration beyond administrative boundaries.

3.3 Other relevant evidence or policy guidance:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

3.4 Welsh National Marine Plan:

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

- Achieving a sustainable marine economy –

- Contribute to a thriving Welsh economy by encouraging economically productive activities and profitable and sustainable businesses that create long term employment at all skill levels.
- Provide space to support existing and future economic activity through managing multiple uses, encouraging the coexistence of compatible activities, the mitigation of conflicts between users and, where possible, by reducing the displacement of existing activities.
- Recognise the significant value of coastal tourism and recreation to the Welsh economy and well-being and ensure such activity and potential for future growth are appropriately safeguarded.
- Ensuring a strong, healthy and just society
 - Contribute to supporting the development of vibrant, more equitable, culturally and linguistically distinct, cohesive and resilient coastal communities.
 - Support enjoyment and stewardship of our coasts and seas and their resources by encouraging equitable and safe access to a resilient marine environment, whilst protecting and promoting valuable landscapes, seascapes and historic assets.
 - Improve understanding and enable action supporting climate change adaptation and mitigation.
- Living within environmental limits
 - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
 - Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
- Promoting Good Governance
 - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led, precautionary, risk-based and adaptive approach to managing Welsh seas.
- Using Sound Science Responsibly
 - Develop a shared, accessible marine evidence base to support use of sound evidence and provide a mechanism for the unique characteristics and opportunities of the Welsh Marine Area to be better understood.

3.5 Technical Advice Notes:

3.5.1 The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 5 – Nature Conservation and Planning
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 13 – Tourism
- Technical Advice Note 14 – Coastal Planning
- Technical Advice Note 15 – Development and Flood Risk
- Technical Advice Note 18 – Transport
- Technical Advice Note 23 – Economic Development
- Technical Advice Note 24 – The Historic Environment

3.6 Supplementary Planning Guidance:

3.6.1 In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Parking Standards
- Air Quality
- Wildlife and Development
- Trees and Hedgerows
- [Archaeology and Archaeologically Sensitive Areas SPG](#)

4. CONSULTATIONS

- 4.1 WELSH WATER/DWR CYMRU- On the basis that the applicant is now proposing to utilise an existing private connection and not a new connection to the large diameter brick egg sewer located adjacent to the site, Welsh Water have confirmed they have no objections to this application.
- 4.2 SENIOR FIRE PREVENTION OFFICER- No comments have been received to date.
- 4.3 ARCHITECTURAL LIAISON OFFICER (POLICE)- No comments have been received to date.
- 4.4 NEWPORT HARBOUR COMMISSIONERS- Newport Harbour Commissioners (NHC) are the Statutory Harbour Authority for the River Usk. Any waterborne activities will require the publication of a Notice to Mariners (N2M). Details of the work scope should be sent to the NHC Harbour Master at least 14 days before the work commences.
- 4.5 NEWPORT ACCESS GROUP (ROGER VAUGHAN)- No comments have been received to date.
- 4.6 NATURAL RESOURCES WALES- Flooding- Objection- Further information to be submitted for review, to demonstrate the risks and consequences of flooding can be managed to an acceptable level. (NRW comments can be viewed in full in Appendix A)

Ecology- No objection subject to the Habitat Regulation Assessment (HRA) being agreed and conditions requiring a Construction Environmental Management Plan, Lighting, Land Contamination and Protection of Groundwater: Unsuspected Contamination and compliance with the Ecological Impact Assessment.
- 4.7 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST- No objection subject to a written scheme of historic environment mitigation condition being included with any consent.
- 4.8 AMBULANCE - REGIONAL AMBULANCE OFFICER- No comments have been received to date.

5. INTERNAL COUNCIL ADVICE

- 5.1 HEAD OF PEOPLE & TRANSFORMATION (TOURISM)- No comments have been received to date.
- 5.2 TEAM MANAGER REGENERATION - No objections to the proposed scheme and it is the view of the regeneration section that the economic benefit conferred by this proposed development is considerable. The Council's Economic Growth Strategy places a focus on leveraging Newport's heritage and cultural assets to greater effect in order to raise the profile of the city and create an excellent economic environment. The value of tourism to Newport has risen significantly since 2015: the city now receives an extra 1.7 million visits per annum, with a resultant increase of circa £79m in the value of tourism to the local economy. The total value of this sector to Newport was estimated at £412m in 2018.

Paradoxically, perception of the city as a place to live, work and invest remains a challenge and promoting Newport as a city of unique heritage and attractions is an important opportunity to address this, particularly in the context of a growing tourist economy. From an economic development perspective, the proposed development will make a clear contribution to perception of the city and its visitor economy alike.
- 5.3 HEAD OF CITY SERVICES (PUBLIC RIGHTS OF WAY)- No comments have been received to date.
- 5.4 HEAD OF REGEN & REGULATORY SERVICES (PUBLIC PROTECTION OFFICER)- No objection subject to conditions on floodlighting, Plant and Equipment Noise, fume extraction and maintenance, Construction and Environmental Management Plan (CEMP), Construction hours and Piling.

- 5.5 HEAD OF REGEN & REGULATORY SERVICES (CONTAMINATION)- The Council's Environmental Health Officer agrees with the assessment and the recommendations proposed in the site investigation and risk assessment for the site, undertaken by Integral Geotechnique. To ensure this work is completed it is recommended that conditions requiring a contaminated land completion/verification report is submitted and if any additional or unforeseen contamination is encountered during the development the Council shall be notified as soon as is practicable and a suitable revision of the remediation strategy is submitted to be approved.
- 5.6 HEAD OF REGEN & REGULATORY SERVICES (PLANNING POLICY)- The proposal is supported in principle and shall bring about very positive outcomes in terms of heritage and tourism matters. The proposal will need to ensure its compliance with national and local planning policy including the Welsh Marine Plan. The impact on ecological designations, traffic, flood risk and landscape matters will need to be satisfied before the proposal could be considered appropriate.
- 5.7 HEAD OF CITY SERVICES (HIGHWAYS - ACTIVE TRAVEL CO-ORDINATOR)- No comments have been received to date.
- 5.8 HEAD OF CITY SERVICES (HIGHWAY DEVELOPMENT)- No objections subject to conditions requiring a Construction Environmental Management Plan, a parking and deliveries management plan, signage to the parking areas and full details of the coach/bus stop facility,
- 5.9 HEAD OF CITY SERVICES (ECOLOGY OFFICER)- No Objection and If you are minded to grant this permission, the officer recommends that conditions are used to secure the following:
- A Construction Environmental Management Plan (biodiversity) to reduce potential impacts on protected sites, and protected and priority species.
 - A light monitoring scheme, to control post-development light levels and safeguard the interest features of the river
 - An ecological enhancements scheme, to meet our Section 6 duty to provide biodiversity net benefit
- 5.10 HEAD OF REGEN & REGULATORY SERVICES (CONSERVATION)- No comments have been received to date.
- 5.11 HEAD OF CITY SERVICES (LANDSCAPE OFFICER)- No objections subject to conditions requiring details of hard landscape surfaces with levels, boundary treatment. Following detailing of the hard landscaping an update to the planting plan might be required along with the Maintenance/Management plan. Densities for planting mixes, ideally location of species, tree pit details, mulching are also required and should be conditioned.

6. REPRESENTATIONS

6.1 NEIGHBOURS:

All properties within 50m were consulted, a site notice was displayed and a press notice published in South Wales Argus.

No letters of representation have been received to date.

6.2 COUNCILLORS: Councillor R. Jeavons has indicated that he is fully supportive of this long awaited refurbishment. A long overdue update for this iconic Newport landmark.

6.3 NASH COMMUNITY COUNCIL: No comments have been received to date.

7. ASSESSMENT

7.1 Site Description

7.7.1 The site is within the urban settlement and is considered to be brownfield or previously developed land. The area is an industrial area in context, especially on the western side of

Usk Way, with Alexandra Docks to the south. The Southern Distributor Road is a busy dual carriageway to the east that serves as a major artery serving Newport from the M4. On the opposite side of the A48 is a mixed commercial and residential area of Pillgwelly and Waterloo Conservation Area.

- 7.7.2 There are acoustic barriers restricting vehicular connection between Pill and the A48 to Alexandra road. The main vehicular route to the site would be via Coomassie Street or Mill Street to the Mill Street car park (directly opposite the site) and then on foot via one of two traffic light controlled pedestrian crossings. There are also cycle route connections to the site, the Newport Coast Path and Riverside Circular both traverse the site via the transporter bridge and the Heritage trail.
- 7.7.3 The site directly adjoins the River Usk to the East and is positioned north of the Newport Transporter Bridge. The Transporter Bridge is a Grade I Listed structure and the River Usk itself is designated as a Special Area of Conservation (SAC) which feeds into a RAMSAR and Special Protection Area (SPA) of the Severn Estuary. The river is also a Site of Special Scientific Interest (SSSI) and a Special Landscape Area. The close proximity of the site to the river also means that the site is mostly within a C2 flood zone.
- 7.7.4 Currently, the Bridge is open to vehicular traffic for six months of the year :- April until the end of September, five days a week. A voluntary group, Friends of Newport Transporter Bridge, staff the small visitor centre at the Bridge.

7.2 Description of Development

- 7.2.1 The application proposes demolition of a single storey visitor centre building and the erection of a three storey flat roofed building. The visitor centre would be increased in width, length and height to provide increased accommodation and facilities to the existing site. The visitor centre would include the following accommodation: -
- Ground floor- reception/gift shop area, toilets, staff office, a multiuse function room
 - First Floor- Exhibition room and Multiuse group room, a changing rooms facility and WC
 - Second Floor-, Café and Kitchen, outside terrace viewing points, staff changing rooms and access to a direct walkway to the Transporter Bridge.
 - Roof Plan- Gravel finish and the installation of 11 rows of photovoltaic solar panels and plant equipment from the kitchen
- 7.2.2 The proposed building has a linear shape 90 degrees to the road and would result in 805 square metres of floorspace. The building has a footprint of approximately 25.2m length (without external roof terrace to the south) by 10.7m (not including external seating area to the east) and be 13.2m height. The building has a contemporary design approach and uses red brick plinth at low level, dark grey metal cladding, metal mesh panels and metal louvres, painted steel columns and stand seam materials. A second floor walkway access will provide direct access to the Transporter Bridge steps.
- 7.2.3 The visitor centre would have opening hours of 10:00 until 17:00 and proposes 10 employees (6 full time/3 part time) would be employed at the site, a net increase of 7 employees from the existing situation. There is parking provision for three disabled parking spaces to the south of the proposed visitor centre, cycle provision and outside activity area and soft landscaping within the curtilage of the building.
- 7.2.4 An existing crossing exists between the site and the car park on the opposite side of Usk Way. There is parking provision for 29 car parking spaces within the car park, which is accessed by car via Coomassie Street or Mill Street. A proposed bus/coach stop and pull in area is proposed adjacent to the mini roundabout directly outside the car park.
- 7.2.5 Committee Members should be made aware that this application was submitted in parallel with the works and restoration to the Listed Transporter Bridge. Although there is detail of these works in the documents and plans submitted, this application deals with the visitor centre and lighting strategy **Appendix 72** proposal. The maintenance and restoration

programme for the bridge are being considered by Welsh Government and CADW under a separate application ref 19/1965 and will not be detailed in the description of the development.

7.3 Principle of Development

7.3.1 Strategic policies SP1- Sustainability, SP9- Conservation of the Natural, Historic and Built Environment and SP18- Urban Regeneration along with policies CE9 Coastal Zone, CE2 Waterfront as well as Policy CF8- Tourism of the Adopted LDP are the most relevant to the proposed development. These policies promote sustainable commercial tourism development within the developed coastal zone, the waterfront and Newport's Urban area.

7.3.2 Chapter 5 of Planning Policy Wales recognises the importance of economic and tourism development within Wales and encourages development that contributes to the tourism economy of an area well as having a positive effect to regeneration of the immediate site and surrounding area as well as the re use of historical buildings. In particular, paragraph 5.5.4 of PPW 10 states that

'Much of the existing provision of facilities and accommodation for tourism occurs in urban locations, including historic and coastal towns and cities. There will be scope to develop well-designed tourist facilities in urban areas, particularly if they help bring about regeneration of former industrial areas. The sensitive refurbishment and re-use of historic buildings also presents particular opportunities for tourism facilities in all areas.'

7.3.3 Sustainable 'Blue Growth' Opportunities for tourism and recreation development are also supported by policies ECON_01- Sustainable Economic Growth and ECON_02- Coexistence of the new Adopted Wales Marine Plan (2019). The Marine Plan echoes the sentiments set out in local policy and PPW by encouraging sustainable forms of development within the marine area that coexist with existing activities and optimise the value of the area.

7.7.4 With regard to the policy context set out above, it is considered that the scheme to update and enhance the visitor centre would result in a multi-purpose tourist facility in association with the works to restore and enhance the Listed Transporter Bridge. The site is a brownfield site within the urban settlement and to enhance the bridge, which is an internationally iconic structure, along with the economic growth opportunities associated with the tourist use would be strongly supported by National and Local Planning Policies identified above.

7.7.5 As such, it is considered that the replacement visitor centre would be acceptable in principle subject to the proposal complying with the general criteria set out within policies of the Adopted LDP 2011-2026. These issues will be considered under the following headings of visual impact, parking and highways safety, ecology, Flooding, Drainage, Neighbouring impacts and Archaeology.

7.4 Visual Impact

7.4.1 Policies SP8- Special Landscape Areas, SP9- Conservation of the Natural, Historic and Built Environment, CE2- Waterfront Development GP1- Climate Change, GP2- General Amenity, GP6- Quality of Design, CE3- Environmental Spaces and Corridors of the Adopted LDP 2011-2026, seek to ensure that the development proposals are of a good quality of design and reflect the scale and context of the locality. Schemes should also be sensitively designed to mitigate any adverse impact upon the protected built environment (listed buildings and conservation areas) and wider landscape features.

7.4.2 The above mentioned policies are supported by the advice and guidance set out within TAN12- Design and TAN24- Historic Environment as well as policies SOC_05- Historic Assets and SOC_07 – Seascapes of the Adopted Wales Marine Plan (November 2019)

7.4.3 The context of the site is dominated by the A48 (Usk Way) to the west of the application site and the River Usk (designated as a SSSI, SAC and SIA) and the Grade I Listed Transporter Bridge to the east. Beyond Usk Way to the west is the urban form of Pillgwenlly, comprising

terraced streets (element of Waterloo Conservation Area) and industrial estate infill. Large-scale industry, commercial development and docks are situated adjacent to the river corridor to the south and east.

- 7.4.4 The proposal is notably larger than the existing structure, but the scale and height is comparable with the larger buildings in the locality and more characteristic of the surrounding built form than the existing small scale building. In this context, the building would still remain subservient to the scale of the bridge and would be comparable with the larger scale buildings industrial and public house buildings within close proximity of the site. The external finishes of the building takes into account the surrounding built form and uses red brick plinth at low level, dark grey metal cladding, metal mesh panels and metal louvres, painted steel columns and stand seam materials. The design also takes a considered approach to the linear shape of the application site and predominately faces towards the river, complying with the specific requirements of Policy CE2 of the Adopted LDP.
- 7.4.5 Accordingly, while the building would be notably larger, the scale, design and finishes of building have taken into account the context in an appropriate manner to produce a good quality design that reflects the scale and character of the built form locally. The link walkway also borrows its aesthetic from the surrounding industrial structures such as the Transporter bridge itself as well as the adjacent traveller crane on the former Neptune Works site. The mesh/metal grate infills borrow from the existing transporter bridge walkway (at high level), respecting the historical and cultural significance of the site.
- 7.4.6 A Landscape and Visual Appraisal document has been submitted with the scheme, which considers the landscape context of the site and the wider visual impact of the proposal from around the site. It states that the introduction of a larger scale building, replacing that which currently exists onsite, would be notable but this is mitigated by the introduction of a good quality designed building that is sensitive and looks to respect the adjacent bridge and its landscape setting in the Special Landscape Area (SLA)
- 7.4.7 The LVIA concludes that the main visual impact would be primarily local views where the proposed visitor centre building and associated boundary treatments will be a notable in the context of the Listed Bridge. To an extent the new development will be seen as providing a point of interest and reference for visitors to the bridge and for the wider area and would respond well to the setting of the bridge and the Waterloo Conservation Area rather than detract from it. In wider views the proposals would be seen but within the context of the wider varied urban and industrial landscape on either side of the River Usk and would have a limited effect on the visual amenities of the SLA.
- 7.4.8 A soft landscaping maintenance and management scheme has also been submitted accompanied by a technical tree note to outline the accompanying landscaping strategy. The scheme would result in the loss of 6 trees on site but the technical note indicates that none of the specimens were considered to be of a high standard. All of the trees removed will be replaced (specimens set out within the tree technical note) along with 'eye catching' features of Sorbus, Cornus, Hedera and Carex at entrance points to the site and a native coastal meadow mix with high biodiversity value against the setting of the River Usk. A management strategy is also included with the scheme.
- 7.4.9 The Council's landscape officer was consulted in respect to the landscape strategy and management scheme and has set out that the low key native landscape scheme is welcomed but the proposed fencing run may appear oppressive and could be improved by altering the enclosure or by providing a more robust landscape scheme along the road frontage. Notwithstanding this, the landscape officer has no objection subject to conditions requiring details of hard landscape surfaces to be detailed with levels, boundary treatment as well as further details of maintenance and management plan and densities of planting mixes, location of species and tree pit details.
- 7.4.10 As such, the proposal is considered acceptable in respect of its scale, design and finish and its impact upon the site, the immediate locality as well as the setting of the Listed Bridge and the SLA, complying with the relevant policies of the Adopted LDP, TAN12 and the Adopted Marine Plan.

7.5 Parking Provision and Highway Safety

- 7.5.1 The application included a Transport Statement (TS), annex drawings and an additional highways note from the consultant ARUP. The document sets out the trip data for the existing and proposed visitor centre and the predicted trip rates of the proposed scheme. It also includes the car and cycle parking proposals, a framework for a travel plan as well as swept path analysis for larger vehicles entering and exiting the site.
- 7.5.2 The TS has considered the existing and proposed traffic generation associated with the development (based on the TRICS Database), which has identified 179 daily on visitors a typical day and would attract in the region of 492 daily visitors on the busiest days.
- 7.5.3 The TS sets out that the busiest period of the day would be around 13:00 to 14:00, generating 77 two way trips to the site. Of the two way trips, 38 of those two way trips would be by car whereas the remaining 39 trips would be accessing the site by alternative modes of transport, e.g on foot, cycle or by public transport. With the average vehicle occupancy being two per vehicle it is indicated that the use would generate 16 vehicle movements in the busiest hour. Based on the level of trip generation that Usk Way accommodates in its peak hour (3,832) it is concluded that the additional traffic volume on Usk Way would be minimal and the impact upon congestion along the highway would be insignificant.
- 7.5.4 The development does include a public footpath and Newport Coastal path within the site edged red, but the proposed scheme would not impact upon its route or require any deviation from the current route shown on the plans when operational.
- 7.5.4 The site is located within Parking Zone 4 of the Council's Adopted Parking Standards and it is suggested that the development would be classed as 'Community Establishment' under the same document. Based on the type of development, its public floor space and staff it is considered that the parking provision should be 17 standard spaces and 1 commercial space (non-operational spaces are calculated by 45m² per space). The parking provision proposed for the site indicates 29 spaces (Mill Street Car Park) and 3 disabled parking spaces on the building side of the application site. The application also proposes 21 cycle stands on the site to accommodate for the cycle provision set out in the Council's Parking standards
- 7.5.5 An indicative bus/coach stop facility is proposed on Council land to the side of the mini roundabout that accesses the proposed car park off Coomassie Street or Mill Street. Swept path analysis has been carried out on the roundabout for the bus/coach as well as at the access to the bridge to demonstrate that there is sufficient space for turning the bus/coach and for larger refuse vehicles entering the site.
- 7.5.6 The TS sets out a framework for a travel plan, which sets out commitments and initiatives that encourage staff and visitors to access the site by other modes of transport. The framework indicates that the applicant would consider encouraging these matters by providing awareness of facilities available and promotion of initiatives such as Bike2work days as well as providing new facilities for staff and visitors so the visitor centre is more accessible by different modes of travel.
- 7.5.7 The Highways Officer has been consulted and has not raised any objection to the proposals subject to further details of the bus stop facility being provided, a parking and delivery management plan, additional highway signage and a Construction Management Plan. These matters can be conditioned as part of any planning consent (Conditions 16 to 23 refer).
- 7.5.8 Accordingly, it is considered that subject to conditions requiring details requested by the Highways Officer, it is considered that the pedestrian and highway safety implications of the scheme are considered acceptable in compliance with policies GP2- Quality of design, GP4- Highways and Accessibility of the Adopted LDP and the Adopted Parking Standards SPG.

7.6 Ecology and site Contamination (Appropriate Assessment)

- 7.6.1 Policies SP9, GP5 and GP7 of the Newport Local Development Plan 2011-2026 (adopted January 2015) as well as supplementary planning guidance: wildlife and development (SPG:

WD) indicates the development will be permitted where the proposals are designed to encourage biodiversity and ecological connectivity and demonstrate how they avoid, mitigate or compensate any negative impacts to biodiversity, ensuring that there are no significant adverse effects on areas of nature conservation interest including international, European, national and local protected habitats and species, and protecting features of importance for ecology and water quality.

- 7.6.2 The policies requirements set out above are also repeated and supported by the advice and guidance set out within Section 6 of Planning Policy Wales (10th Edition) Technical Advice Note 5 and policies SOC_03- Marine Pollution Incidents, ENV_01- Resilient Marine Ecosystems, ENV_02- Marine Protected Areas and ENV_05- Underwater Noise, ENV_06 Air and Water Quality and ENV_07- Fish Species and Habitats and GOV_01- Cumulative effects of the Adopted Wales Marine Plan (November 2019)
- 7.6.3 The application was supported by a Preliminary Ecology Appraisal (PEA), an Ecological Impact Assessment, an Illumination Profile document (amended) and a drainage strategy. The Preliminary Ecological Appraisal was updated following the initial submission to include assessment of features that will be impacted by the project but had not been identified in the initial report, including the anchor houses either side of the river and the area under the deck on the western approach. The updated PEA found no evidence of bat roosts in the anchorage houses and the report recommends suitable timings and methods to avoid potential impacts. Sightings of Peregrine on or near the bridge have been noted but no evidence of breeding has been recorded.
- 7.6.4 National Resource Wales and the Council's Ecologist were consulted and are satisfied with the information provided within the preliminary ecology appraisal information. The proposal, however, is within such close proximity to the River Usk, which is a Special Area of Conservation (SAC) and the River Usk (Lower Usk) Site of Special Scientific Interest (SSSI), therefore the authority is required to prepare a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations (2017) prior to the determination of the planning application. The appropriate assessment HRA has been prepared in line with the submitted Ecological Impact Assessment and agreed with National Resource Wales and is detailed below in full.

Appropriate Assessment

- 7.6.5 The visitor centre is on the West side of the Transporter Bridge adjoining the River Usk SAC (also SSSI and SLA) and next to the Southern Distributor Road. The site is approximately 1.3km from the River Ebbw and approximately 2.5km from the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar.
- 7.6.6 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 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.
- 7.6.7 Information has been submitted regarding land contamination, the ecological impact of the project on protected sites and species as well as illumination impact profile document (lighting) as well as a Flood Consequence Assessment and Drainage Strategy. The submitted information has been considered by the Public Protection Department of the Council, the Council's Ecologist and Natural Resources Wales. The contamination information and drainage information was considered in association 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.
- 7.6.8 The River Usk is designated as an SAC based primarily on the presence of a number of migratory and non migratory fish species and otter. Certain fish species known to use the River Usk contribute to the selection of the river as an SAC site. The fish species listed as a primary reason for the selection of the River Usk as a SAC are:

- Sea Lamprey
- Brook Lamprey
- River Lamprey
- Twaite Shad
- Atlantic Salmon
- Bullhead
- Allis shad are also an annex 2 species present within the river as a qualifying feature.

7.6.9 The presence of watercourses of plain to montane levels with Ranunculion fluitantis and Callitriche-Batrachion vegetation is also a qualifying feature for this sites designation. The SSSI is designated based on the aquatic habitats and condition of the river and its plant and animal communities that use the feature across its range. The conservation objectives of the River Usk SAC are attached in *Appendix B of the report*.

7.6.10 The application was accompanied by a Preliminary Ecological Appraisal and an Ecological Impact Assessment. (ECIA) The latter report identifies several factors which could affect the integrity of the River Usk SAC and subsequently established the scope of the Appropriate Assessment. The ECIA is considered sufficient to inform an Appropriate Assessment. The potential impacts raised in 3.1-3.5 of the ECIA include:

- Disturbance to otter from noise and lighting, including from a larger visitor centre.
- Pollution /surface water run-off during construction and operation (potential for disturbance of contaminated land in construction of the Visitor centre should be addressed)
- Long term discharge from the new visitor centre into the river
- Piling vibrations affecting to fish. The rare fish species Allis and Twaite Shad, features of the river Usk SAC, are especially sensitive to vibration. It is essential that any construction works in the river or on, or adjacent to, the riverbank that result in vibration e.g. drilling, boring, piling or demolition works, or demolition works are timed to avoid the migration period between 1 March – 30 June.

7.6.11 These matters are addressed below: -

Disturbance/noise and light to Otters

7.6.12 The PEA found that Otter footprints were recorded under the deck, but as a key species for this section of the river this is not unexpected. No habitat suitable for a holt or laying up site was recorded. The Ecological Impact assessment judged that the potential effects of the proposal (construction and operations) would include the following matters: -

- Temporary noise and lighting from construction and bridge repair works restricting movement along river,
- Otter to become trapped in excavations or machinery used to create new visitor centre
- External lighting from the bridge illuminating the river and restricting movement along it
- External lighting from the visitor centre illuminating the river and restricting movement along it.

Lighting and noise (construction)

7.6.13 The Ecology Impact Assessment has indicated that a number of measures will be implemented in order to reduce the impact of the development during construction. These include

- Restriction to working hours to avoid night time working which may affect the use of the river by nocturnal animals such as otter- No night time working between the hours of 6pm and 6am. (to mitigate noise and light)
- Any lighting of construction compounds erected as part of the development works will only be lit during night time for safety reasons.
- Any lighting will be directional and shielded to ensure no light spill onto the river.

- All site machinery and materials will be kept securely in a fenced site compound. The fencing will be designed and used to prevent otter gaining access into the machinery or stored materials.
- Any excavations across the working site that are left open over night will have a means of escape left for any mammals that may fall into them. A wooden board or equivalent will be left from the bottom to the top of the hole. This will allow any mammal to escape and avoid increased stress from being trapped.

7.6.14 The matters raised in the ecological report and the measures set out can be controlled by conditions restricting certain matters during construction as well as a CEMP with specific regard to biodiversity. The matters indicated above within the ecological report would have to be addressed in the CEMP before commencement of development.

7.6.15 Conditions No. 5, 8 and 9 refer to the Biodiversity CEMP and specific conditions on works to the banks and fencing. The relevant consultees, including National Resource Wales, will be consulted on the CEMP and any other ecology related conditions as requested.

Lighting and noise (operational)

7.6.16 The current lighting used on the Transporter Bridge will be removed and replaced. The HIA, sections 5.5.2 to 5.5.9, provides details of suitable lighting that could be used within the project. The exact design of the new lighting is not currently known as it depends on stock availability during construction but it will more efficient and directional.

7.6.17 To inform the lighting strategy, readings were taken around the river bank have been used to extrapolate the light levels at the mud bank level of the river. This shows lux levels between 2 and 4 on the horizontal plane and 7 to 9 on the vertical plan; these are higher than lux levels usually recommended for wildlife corridors (less than 1 lux). However, it is understood that species using this part of the river are likely to be used to the existing light levels, and therefore as long as there is no increase in light there should be no negative impacts on the interest features of the river. Decrease in light levels would be welcomed as a positive impact; it would increase the quality of the river corridor for existing species and potentially make it more attractive to species not currently found in this location, thus increasing ecosystem resilience.

It is considered that light levels could be reduced by methods, such as,

- External lighting being placed along the river bank of the eastern elevation of the visitor centre being controlled with a movement sensor
- A light reducing film on the windows on the eastern elevation of the new visitor centre and
- The use of directional and recessed lighting.
- The Visitor centre would only be open in the evenings on rare occasions and the opening hours of the visitor centre can be restricted to daytime hours. As such, the noise implications of the site in operation would be minimal

7.6.18 As there are difficulties in providing the finished lighting scheme at this stage of the scheme, the Council Ecologist has agreed that conditions to have a lighting scheme submitted for approval in line with the lighting strategy and to monitor light levels post-development and take remedial action should the levels have increased from the pre-development levels. Conditions 4, 6 and 7 refer.

Pollution/ Surface/Ground Water Contamination issues during construction to River Usk

7.6.19 While the river is outside of the development boundary, works will be undertaken directly adjacent and above. The aquatic river habitat itself is sensitive to pollution which may lower water quality affecting a wide range of species and habitat that use it. The potential impacts during construction include: -

- Pollution incident during construction of visitor centre
- Material falling into river during bridge works

- Paint spills into river during bridge works
- Contamination during construction due to previous industrial uses (land contamination)

7.6.20 In order to avoid any avoidable pollution of the river during the construction period it is proposed that all site contractors will be educated on the protection afforded to the river and the potential impact any works could have on the river and the protected species it holds. A Construction Environmental Management Plan will be completed and agreed with all site contractors. The management plan will set out a strict set of measures which include but not be limited to: -

- Safe storage of materials and machinery away from the river and ensuring soil particles from excavation don't blow into the river.
- Any works to the bridge which have the potential for parts to fall into the river such as metal removal and replacement, will have a deck created underneath the works area to catch any parts which may fall.
- The works to remove paint from the bridge and repaint the bridge which must be carried out in situ will be completed in a secure capsule or tent. This will reduce and remove the potential for any particles to enter the river and negatively affect the water quality.
- Engineers undertaking the repair works will design a full logistics plan for the project which will include: - Weight limits on the shot from any blasted material, All shot grit (paint particles) will be hoovered up into 1 tonne bags. A wind load limit for the secure capsule (Once the wind limit is reached work must cease and the curtains of the tent will be opened. It is anticipated the wind speed limit will be 15m/s)
- The provision of bins around the visitor centre will be included within the site design. The land owner will be required to ensure the bins are collected frequently to ensure litter does not escape into the surrounding landscape and river.

7.6.21 The application has also been accompanied by a Site Investigation Report. Intégral Géotechnique (Wales) Limited, Document Reference: 12496/JJ/19/SI, October 2019. The document enables the Local Planning Authority to determine the extent of any existing contamination associated with the site and the impact of the proposed development on could have on the River Usk SAC.

7.6.22 Even though the site is in an area of previous industrial use, the site investigation indicates that there are low level of soil contamination but no ground water was sampled. The low levels of contamination have been considered to have a low risk to the controlled waters, i.e the River Usk and the Groundwater.

7.6.23 National Resource Wales and the Council's Public Protection Environmental Health officer have considered the submitted document. Both NRW and the Councils Senior Scientific Officer are satisfied with the findings and have proposed precautionary conditions to unforeseen contamination that could be encountered during the demolition stage of the application and during the development. The Council's Senior Scientific Officer has also requested a completion/verification report to confirm the remediation of the land. Conditions no. 5 (CEMP) as well as 25 and 26 refer.

Long term discharge from Visitor Centre

7.6.24 Separate foul and surface water drainage networks are to be provided. The proposed foul and surface water drainage scheme is indicated in Section 12 of the Flood Consequences Assessment document by Cambria CC1991-CAM-ZZ-XX-RP-C-00-0001. The proposed drainage strategy proposes to connect the foul drainage to the existing combined foul sewer connection and discharge the surface water drainage to the River Usk, which is the nearest surface water body.

7.6.25 In October 2018, Welsh Government published the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining Surface Water Drainage Systems'. This standard is now mandatory for new developments with either a construction area greater than 100m² or more than 1 dwelling. Consequently, this scheme would be subject to SAB approval and the principles which underpin the design of surface water management schemes to meet the Standards are as follows; SuDS schemes should aim to;

- Manage water on or close to the surface and as close to the source of the runoff as possible;
- Treat rainfall as a valuable natural resource
- Ensure pollution is prevented at source, rather than relying on the drainage system to treat or intercept it;
- Manage rainfall to help protect people from increased flood risk, and the environment from morphological and associated ecological damage resulting from changes in flow rates, patterns and sediment movement caused by the development;
- Take account of likely future pressures on flood risk, the environment and water resources such as climate change and urban creep;
- Use the SuDS Management Train, using drainage components in series across a site to achieve a robust surface water management system (rather than using a single "end of pipe" feature, such as a pond, to serve the whole development);
- Maximise the delivery of benefits for amenity and biodiversity;
- Seek to make the best use of available land through multifunctional usage of public spaces and the public realm;
- Perform safely, reliably and effectively over the design life of the development taking into account the need for reasonable levels of maintenance; Avoid the need for pumping where possible; and
- Be affordable, taking into account both construction and long term maintenance costs and the additional environmental and social benefits afforded by the system.

7.6.26 The river is tidally influenced and therefore an unrestricted discharge rate is proposed into the River. It indicates that roof and car park surface water will be treated prior to discharge in line with SuDs treatment train solution. The surface water drainage scheme and its maintenance would be controlled by both NRW and the SuD Approval Body (SAB) and therefore it is not necessary to 'double up' on matters that are controlled by other public bodies. Accordingly, a compliance condition to require the applicant to comply with the drainage scheme as submitted can be included with any consent. Conditions 13 and 14 refer.

Piling operations affecting fish

7.6.27 The proposal must consider the impact of the development, particularly noise and vibration, on migratory fish within the River Usk SAC. The rare fish species Allis and Twaite Shad, features of the river Usk SAC, are especially sensitive to vibration. It is essential that any construction works in the river or on, or adjacent to, the riverbank that result in vibration are mitigated to reduce the impact upon the protected fish.

7.6.28 Vibrations from the works to the Newport Transporter Bridge itself are considered to be minimal. No works will take place within the river channel and the works will be completed well above water level along the boom section for the bridge. Any vibrations will naturally dissipate as they travel through the bridge. No vibrations should be felt within the river.

7.6.29 Vibrations from the construction of the new visitor centre are thought likely given the proximity to the river. Any repair works to the eastern deck and masonry walls around the bridge could also cause disturbance to migratory fish.

7.6.30 As such, any construction works adjacent to the river likely to resulting vibration will not be allowed between the 1st March and 30th June. This can be ensured via a specific condition on piling works not being carried out during the migration period. Condition 10 refers.

Combination Effects

- 7.6.31 Consideration must be given to the cumulative effects of the proposed development when considered alongside other developments in the area. There have been schemes within close proximity that remain extant, such as
- 19/0599- Variation of conditions 1 (approved plans) of planning permission 17/1185 for the variation of conditions for bulk drying and pelleting facility with onsite energy centre
 - 18/0360- Erection of an asphalt plant and associated ancillary development
 - 16/0789-Proposed residential development for 93no. Units, comprising of 17no. Houses and 76no. Apartments, with associated car parking, access, landscaping, flood and drainage infrastructure works
 - 16/0798- Proposed extension to existing production/processing facility
- 7.6.32 Although the proposals could result in a cumulative impact, these have been subject to the same HRA assessments and similar conditions/controls. 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 docks area of the River Usk have been subject to its own Appropriate Assessment in which similar conditions were imposed to protect the integrity of the river.
- 7.6.33 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 protected European site. 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).
- ## 7.7 Flooding
- 7.7.1 Policies SP3- Flood Risk, GP1- Climate Change and GP7- Environmental protection and Public Health of the Council's Adopted Local Development Plan 2011-2026 are of relevance insofar as it relates to ensuring vulnerable development is directed away from flood zones and development will only be permitted in flood zones where the flooding risk is mitigated to an acceptable level.
- 7.7.2 Policy GP1 indicates that proposals should be designed to withstand the predicted changes in local climate and to reduce the risk of flooding on a site and elsewhere by demonstrating, where appropriate, that the risks and consequences of flooding can be managed. GP7 states that development will not be permitted, which would cause unacceptable harm to human health because of flooding.
- 7.7.2 Policies SOC_08- Resilience to Coastal Change and Flooding and SOC_09- Effects on Coastal Change and Flooding of The Adopted Wales Marine Plan (2019) and Chapter 6 of PPW echoes the sentiments set out within the local policies.
- 7.7.2 TAN 15 was adopted in July 2004 and provides advice on matters relating to development and flooding. The overarching aim of the precautionary framework outlined in TAN 15 is to direct new development away from those areas which are at risk of flooding. However, where development has to be considered in high risk areas (Zone C), only those developments which can be justified on the basis of the tests outlined in Section 6 and 7 can be located in such areas.
- 7.7.3 The proposal is located within a C2 flood zone but the commercial tourist scheme would be considered a 'less vulnerable development. The category of 'less vulnerable development' is used to describe development where the ability of occupants to decide on whether they wish to accept such risks is greater than that in the highly vulnerable category (e.g residential development, public buildings such as schools or hospitals)

7.7.4 In zone C the tests outlined in sections 6 and 7 of TAN15 will be applied. All new development (other than highly vulnerable) should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development, including transport infrastructure, will only be justified if it can be demonstrated that:-

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement¹; **or**,
- ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and,

iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,

iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 of TAN15 found to be acceptable.

7.7.5 The proposed visitors centre development is considered to meet the tests i to iii, as the proposal does amount to a LPA regeneration initiative and it is considered to be previously development land.

7.7.6 Section 7 states that whether a development should proceed or not will then depend upon whether the consequences of flooding of that development can be managed down to a level which is acceptable for the nature/type of development being proposed, including its effects on existing development. This will require an assessment examining the likely mechanisms that cause the flooding in the locality, and the consequences on the development of those floods.

7.7.7 The application was submitted with a Flood Consequences Assessment (FCA) by JBA Consulting (Updated 15th January 2020). The FCA indicates that the risk of flooding is from its proximity to the River Usk and the chance of tidal floods. There is a risk of pluvial flooding as there is from any drainage network given a susceptibility to surcharge as a result of overloading / insufficient capacity which could be exacerbated during extreme rainfall events, infrastructure failure or blockage and also Reservoir Flooding. There is a very low risk of flooding from groundwater flooding.

7.7.8 The FCA also indicates that vehicular and pedestrian access to the site will be provided via the A48 Southern Distributor. The site is to be served by one access point off the A48 via Stephenson Street. The entrance level to the site is approximately 8.7mA OD. The JBA flood modelling technical note included confirms that flood depths in the 1 in 1000 year event do not exceed 1m. Should flooding occur as a result of local infrastructure failure / blockage, any resultant overland flows would be channelled along the access road and then directed towards the River Usk away from the Visitor Centre, replicating predevelopment conditions. Means of escape and emergency access should also consider the wider highway network and the potential impact of zones of higher flood risk to disrupt infrastructure connectivity. Flood maps show the A48 Southern Distributor unaffected west of the site. Preferred routes will therefore be accessible during extreme events

7.7.9 Ultimately, the FCA submitted with the application concludes the following results: -

- The baseline modelling results show that the site currently floods during both the modelled 0.5% (2094) AEP* and 0.1% (2010) AEP tidal events.
- The baseline maximum flood depths at the site for the 0.5% (2094) AEP and 0.1% (2010) AEP tidal events are 0.7m and 0.5m respectively. The maximum flood level at the site during the 0.5% (2094) AEP event is 8.95m AOD*.
- The proposed finished floor level of the new visitors centre is 9.1mAOD. Based on the modelling information available the proposed building will then be flood-free for the 0.5% AEP (2094) event as well as the 0.1% AEP (2019) event.
- There is no modelled increase in third-party flood depths as a result of the proposed development during either the 0.5% AEP (2094) or the 0.1% AEP (2019) tidal eve

- A proposed finished floor level of 9.1mAOD has been selected in the hydraulic modelling to ensure that the development is flood free. This level does not include a freeboard allowance and should not be taken as prescriptive FFL.

(* AEP= annual exceedance probability, *AOD= above ordnance datum)

- 7.7.10 Overall, the report concludes that due to the nature of the development and the mitigation measures proposed by the FCA, the proposals do not aggravate or increase the risk of flooding to the existing site or to the area. The development therefore meets the acceptability criteria when assessed against published guidelines and TAN 15.
- 7.7.11 Notwithstanding the above advice from JBA consulting, Committee members must be made aware that National Resource Wales have raised significant concerns over the proposed development and indicate that further information needs to be submitted for review to demonstrate that the risks and consequences of flooding can be managed to an acceptable level.
- 7.9.12 Although the information requested was provided on 15th January 2020, the objection from NRW remains, as there has been limited time to review the hydraulic model for the site. NRW are still in the progress of reviewing the modelling information and require a further 2 to 3 weeks (from 14th February 2020) before a conclusion can be made. The review of the model could result, or not, in anomalies/discrepancies that would need to be addressed and updated in the FCA. As such, until the acceptability of the submitted modelling information is agreed, NRW maintain significant concerns.
- 7.7.11 In view of the above, Officers must advise Committee members that, at present, the proposed scheme would fail to comply with the requirements of part iv of section 6 of TAN15 as well as policies SP3- Flood Risk, GP1- Climate Change and GP7- Environmental protection and Public Health of Newport Adopted Local Development Plan 2011-2026, Planning Policy Wales and policies SOC_09 and SOC_08 of the Adopted Welsh National Marine Plan (November 2019) as the applicant has not adequately demonstrated that the potential consequences of flooding can be managed to an acceptable level.
- 7.7.12 However, it is the Officers recommendation that, if Committee are satisfied that they could approve the development in principle, they should defer authority to officers to grant the application consent following agreement from National Resource Wales that the submitted FCA adequately demonstrates that the risks and consequences of flooding can be managed to an acceptable level. In the instance that the FCA is not adequate and NRW maintain objections, which could result in changes to the scheme, the application would be brought back to the next available committee for determination.

7.8 Impact upon residential Amenity

- 7.8.1 The site lies within the riverside area, where the nearest residential dwellings are located approximately 65m west of the application site on Watch House Parade. The nearest industrial buildings are 40m south of the site.
- 7.8.2 The building is substantially larger than the existing building, however, the isolated position on the opposite side of Usk Way means it would not be overbearing or result in any unacceptable overlooking to nearest residential amenity. Similarly, the use is a significant distance away from residential properties and its operation through the day is not likely to result in a significant increase in traffic movements or odour issues that would harmfully impact upon these nearest residential properties at unsociable hours of the day.
- 7.8.3 The main concern from the proposed changes would be the updated lighting to the bridge and the building and whether this would result in any amenity impacts upon sensitive residential receptors. The illumination profile report concludes that while it is not possible to record baseline readings on the windows of residential properties, the calculated results are within the guidelines for an installation in this type of environmental zone. The greatest impact from the change to the lighting would be on the river banks and the change to lighting would not be harmful to the neighbouring residential properties.

- 7.8.4 Notwithstanding the above, a detailed lighting scheme is required as part of the ecological measures before the development becomes operational. This detailed lighting scheme can be considered by Environmental Health to ensure the lighting does not unacceptably impact upon the nearest residential properties. Environmental Health officer has indicated that no objection would be raised in respect of the proposal, subject to the developer submitting a details of the plant and noise equipment, floodlighting, fume extraction and a Construction management plan. Conditions can also be included to limit the operating hours.
- 7.8.5 Accordingly, subject to conditions, the impact of the proposal on the nearest residential amenity and commercial activity is considered acceptable, complying with the requirements of policies GP2- General amenity and GP7- Environmental Protection and Public Health of the Adopted Local Development Plan 2011-2026.
- 7.9 Drainage
- 7.9.2 This matter has already been outlined within the Ecology and Appropriate Assessment section above but it is worth highlighting that the scheme proposes separate foul and surface water drainage networks. The proposed foul and surface water drainage scheme is indicated in Section 12 of the Flood Consequences Assessment document by Cambria CC1991-CAM-ZZ-XX-RP-C-00-0001. The proposed drainage strategy proposes to connect the foul drainage to the existing combined foul sewer connection and discharge the surface water drainage to the River Usk, which is the nearest surface water body.
- 7.9.3 There are no objections to this scheme from Welsh Water so the drainage can be agreed via a compliance condition. (Condition 14 refers). The drainage of the site would also be caught by SAB approval and the principles which underpin the design of surface water management schemes. This would be formally agreed by the Council's drainage section under separate powers.
- 7.10 Archeology
- 7.10.2 The area is associated with historic maritime activity, and a number of wharves extending into the Usk are shown on the maps. On consultation with Glamorgan Gwent Archaeological Trust (GGAT), it has been indicated that there is potential for archaeological deposits to be encountered during the work and therefore a condition requiring a written scheme of historic environment mitigation to be submitted and agreed has been requested. This can be conditioned in accordance with GGAT request. (Condition 24 refers)

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

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

9. CONCLUSION

9.1.1 Having regard to policies SP1 Sustainability, SP2 Health, SP3 Flood Risk, SP8 Special Landscape Areas, SP9 Conservation of the Natural, Historic and Built Environment, SP18 Urban Regeneration, GP1– Climate Change, GP2– General Amenity, GP3– Service Infrastructure, GP4– Highways and Accessibility, GP5– Natural Environment, GP6– Quality of Design, GP7– Environmental Protection and Public Health, CE1 Routeways, Corridors and Gateways, CE2 Waterfront Development, CE3- Environmental Spaces and Corridors, CE6 Archaeology, CE7 Conservation Areas CE9 Coastal Zone, T4 Parking, T7 Public Rights of Way and New Development T8 All Wales Coast Path, CF4- Riverfront Access and CF8- Tourism and W3- Provision for Waste Facilities in Development of the Adopted Newport Local Development Plan 2011-2026 and the Adopted SPGS, Planning Policy Wales (10th Edition), The Wales Marine Plan (November 2019) and Technical Advice Notes 5 – Nature Conservation and Planning, 11 – Noise (1997), 12 – Design (2016), 13 – Tourism, 14 – Coastal Planning, 18 – Transport, 23 – Economic Development, Technical Advice Note 24 – The Historic Environment, it is considered that the proposed scheme would represent a viable commercial tourism development, which could result in economic prosperity and regeneration of the site without having any harmful impact upon the visual amenities of the site, wider street scene, the setting of the Listed Transporter Bridge and the special features of the Special Landscape Area, the private amenities of the neighbouring properties, parking and highway safety, the special qualities of the River Usk (SAC) or protected species and archaeology.

10. RECOMMENDATION

SEEK DELEGATED POWERS FOR THE HEAD OF SERVICE TO APPROVE THE APPLICATION IN THE EVENT THAT NATURAL RESOURCES WALES CONFIRMS THAT FLOODING CONSEQUENCES CAN BE ACCEPTABLY MANAGED.

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

- 3896-0102_P3- Site Location Plan
- 3896-0104_P8- Proposed Site Plan
- 3896-0200_P7- Proposed ground floor Plan
- 3896-0201_P7- Proposed first floor Plan
- 3896-0202_P7- Proposed second floor Plan
- 3896-0203_P7- Proposed roof Plan
- 3896-0300_P5_Proposed Elevations - North and East.
- 3896-0301_P5_Proposed Elevations - South and West.
- 3896-0305_P3_Proposed Sections.

3896-0307_P3_Long Section - View South.
 3896-0308_P3_Long Section - View East.
 3896-0309_P3_Long Section - View North.
 Amended Drainage Strategy- CC1991-CAM-ZZ-00-DR-C-52-1101-P03
 DWG-1616523-20191008-SMK-LUX-01.
 CH-SPA-004 Swept path 10m refuse vehicle
 CH-SPA-003 Swept path large vehicle
 NPA11119 500 Softworks Plan and Schedules P02.(Soft landscaping purposes only)
 Proposed Swept Path Concept C02 Standard 12m Rigid Bus
 Amended 2020-02 Preliminary Ecology Appraisal Rev 3
 Amended 2020-02 Ecology Impact Assessment Rev 3
 Tree Technical Note
 1_2019-10-10_Newport Transporter Bridge_Transport Statement_ISSUE_v2
 Transport File Note (6th Feb 2020)
 12496 Newport Transporter Bridge Visitor Centre. Site Investigation Report
 191011 ASL Newport Transporter Bridge HIA Rev 3
 DOC-16-16523-20190927-SMK-Newport Transporter Bridge IIP-02 (illumination Impact Profile)
 Flood Consequences Assessment document by Cambria CC1991-CAM-ZZ-XX-RP-C-00-0001 (15th January 2020)
 NPA11119 501 Soft Landscape Maintenance and Management Plan_2019_11_08.
 NPA11119 LVA with Figures_2019_11_08.

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 work shall be commenced on the construction of the approved scheme until samples of materials and finishes set out in the application and 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, complying with policies GP2 and GP6 of the Adopted LDP 2011-2026

- 3) Prior to the commencement of the use hereby approved full details of the bin storage, to include elevations and finish detail, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the beneficial use of the scheme, as approved, and then maintained thereafter in that manner.

Reason: To ensure adequate bin storage is provided for the site in the interest of visual and residential amenity and appropriate provision of waste complying with policies GP3, GP6 and W3 of the Adopted LDP 2011-2026

- 4) The hours of operation of the visitor centre shall be restricted to 10:00 to 17:00 Monday to Sundays, Bank or Public Holidays. Outside of these hours the premises shall be vacated and closed to the public.

Reason: In the interests of the amenities of occupiers of adjoining properties and to mitigate any impact upon others in respect of noise and light and compliance with GP2 and GP6 of the Adopted LDP 2011-2026

- 5) No development shall take place (including demolition, ground works, and vegetation clearance) until a Contractor's Construction Environmental Management plan (CEMP-BIODIVERSITY) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following as a minimum:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "protection zones";
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;

- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs;
- i) General site management: details of the construction programme including site clearance, method statements, surface water management and measures, site waste management and disposal, sustainable drainage (pre- and post-construction), maintenance and monitoring programmes;
- j) Pollution prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and an incident response plan;
- k) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details;
- l) Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

Reason: To safeguard habitats and species protected under the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), and Environment (Wales) Act 2016, GP5 of the Adopted LDP and the Wales Marine Plan

- 6) Prior to the commencement of the development, full details of internal and external illumination as well as floodlighting shall be submitted to the Local Planning Authority. The detailed lighting design shall be in accordance with the requirements specified in Section 7 Summary of the submitted Illumination Impact Profile (produced by Hoare Lea, version 02) and safeguard against lightspill that would impact upon protected species (otters) and into neighbouring residential properties. The scheme shall include:

- Fixture type, location, position and specification of the lighting as well as an isolux diagram showing the predicted illuminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent properties.
- Details of lighting to be used both during construction and operation, including: details of timing and duration of operation
- Ensure that light into neighbouring residential windows generated from the floodlights shall not exceed 10 Ev (lux) (vertical illuminance in lux)
- Each floodlight must be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical and
- The floodlighting shall be designed and operated to have full horizontal cut-off and such that the Upward Waste Light Ratio does not exceed 5%.

The approved lighting shall then be installed fully in accordance with the details as approved and maintained in this way thereafter.

Reason: To safeguard species and sites protected by the Wildlife and Countryside Act 1981 and The Conservation of Habitats and Species Regulations 2010 and the Integrity of the River Usk SAC and neighbouring residential amenity, complying with policies GP5 of the Adopted LDP and the Wales Marine Plan

- 7) Light level monitoring surveys shall be carried out submitted to the Local Planning Authority for approval following installation, but prior to the site becoming operational, and two years after their installation. Surveys shall be carried out in strict accordance with criteria detailed in Section 7 Summary of the submitted Illumination Impact Profile (produced by Hoare Lea, version 02). If the results of the light monitoring surveys indicate that the light levels exceed pre-development levels (identified on Figure 9 of the approved Illumination Impact Profile report) then external illumination of the site shall cease until such time as a scheme of remedial action has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with any remedial measures approved as part of this scheme and maintained in this way thereafter.

Reason: To safeguard species and sites protected by the Wildlife and Countryside Act 1981 and The Conservation of Habitats and Species Regulations 2010 and the Integrity of the River Usk SAC, GP5 of the Adopted LDP and the Wales Marine Plan

- 8) Notwithstanding the restricted hours of construction (to be agreed under the CEMP condition 23), no work of excavation, land raising or construction shall take place within 20 metres of the top of the riverbank between one hour prior to sunset and one hour after sunrise respectively unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure no disturbance is caused to otters migrating up or down the river, GP5 of the Adopted LDP and the Wales Marine Plan

- 9) No development, to include demolition, shall commence until specification of otter fencing has been submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected prior to the development commencing and retained throughout the duration of development works.

Reason: To safeguard otters using the river bank and comply with policy GP5 of the Adopted LDP and the Wales Marine Plan

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

Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC, complying with policies GP5 of the Adopted LDP and the Wales Marine Plan

- 11) The approved scheme shall be carried out in accordance with the proposed measures set out in the submitted Ecological Impact Assessment, dated 18th February 2020, Version 3.0

Reason: To safeguard species and sites protected by the Wildlife and Countryside Act 1981 and The Conservation of Habitats and Species Regulations 2010 and the Integrity of the River Usk SAC, GP5 of the Adopted LDP and the Wales Marine Plan

- 12) Prior to the site becoming operational, a scheme of Ecological Enhancement will be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include measures to promote increased biodiversity on the site and providing for the future management of any such measures as necessary. The development shall be carried out in accordance with the approved Ecological Enhancement scheme and maintained in this manner thereafter.

Reason: to ensure the development provides ecological net benefit on the site as required in Planning Policy Wales Edition 10.

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

Reason: to ensure the public sewer capacity is not overloaded and to comply with policy GP3 of the Adopted LDP 2011-2026

- 14) Prior to the occupation of the visitor centre, the foul and surface drainage scheme shall be carried out in accordance with the approved drainage scheme set out within Section 12 of the FCA document Flood Consequences Assessment document by Cambria CC1991-CAM-ZZ-XX-RP-C-00-0001 and the drainage plan CC1991 CAM ZZ 00 DR C 52 1101.

Reason: To ensure adequate drainage is provided and to protect the Ecological features of the River Usk (SAC) and complying with policy GP3 of the Adopted LDP 2011-2026

- 15) The finished floor levels at ground floor level of the development hereby approved shall be set no lower than 9.1 AOD.

Reason: To reduce the risk of flooding and to comply with policies GP1 and GP6 of the Adopted LDP 2011-2026

- 16) No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas have been laid out in accordance with the details shown on the 3896-0104_P8- Proposed Site Plan. The parking provision shall thereafter be so retained at all times to serve the development hereby approved.
Reason
To ensure the provision on site of parking to serve the development in the interests of highway safety and complying with the requirements of policy GP4 of the Adopted LDP2011-2026
- 17) A new coach/bus stop facility and footway link shall be constructed on the Mill Parade (as indicatively set out on the plans SPA-RB-CH-001 and SPA-RB-CH-002) . The coach/bus stop facility and footway shall be constructed in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority to provide a suitable bus/coach drop off facility and safe footway link from the proposed site to the existing footway. The agreed details shall be constructed prior to the first beneficial occupation of the visitor centre hereby approved.
Reason
In the interests of highway safety and complying with the requirements of policy GP4 of the Adopted LDP2011-2026
- 18) The development shall not be occupied until facilities for the secure storage of 21 bicycles have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and they shall be retained in perpetuity.
Reason:
To ensure that satisfactory parking for cycles is provided on site to serve the development, and to ensure compliance with the terms of Policy GP4 of the Adopted LDP2011-2026
- 19) Prior to the first beneficial use of the site, a parking management/controls scheme for the site and the adjacent Mill Parade car park shall be submitted to and approved in writing by the Local Planning Authority. The site shall at all times thereafter be managed in accordance with the approved management scheme.
Reason:
In the interests of residential amenity and in the interests of highway safety and complying with the requirements of policy GP4 and GP6 of the Adopted LDP2011-2026
- 20) Prior to the first beneficial use of the unit hereby approved, a Servicing Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Servicing Management Plan shall include information such as: -
- The typical times of servicing, number and size of delivery vehicles and how they will be managed,
 - How the operator intends to instruct coach visitors to not enter the site and the staggering of coach arrival times.
 - How vehicles using the Gondola will be managed
- The Servicing Management Plan shall be implemented in full as per the agreed details when the visitor centre is in operation.
Reason:
In the interests of highway safety and to safeguard the amenities of the area, in accordance with policies GP4 of the Local Development Plan 2011-2026.
- 21) Prior to the visitor centre hereby approved being brought into beneficial use, a traffic signage scheme shall be implemented in accordance with a scheme to direct visitors to the proposed Mill Street parking area and discourage vehicles accessing the site directly off the SDR (Usk Way), which has previously been submitted to and approved in writing by the Local Planning Authority. The traffic signage scheme as approved shall be retained at all times thereafter.
Reason:
To ensure the provision of safe on site traffic management to serve the development in the interests of highway safety and compliance with policies GP4 of the Adopted LDP 2011-2026.

- 22) Prior to the commencement of the development hereby approved, a Travel Plan shall be prepared to include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. The visitor centre shall be operated at all times in accordance with the approved Travel Plan.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Policy GP4 of the Adopted LDP2011-2026

- 23) No development shall commence, including any works of demolition, until a Construction Environment Management Plan (CEMP-GENERAL) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include the following details:

- i) The parking of vehicles of site operatives and visitors;
 - ii) Loading and unloading of plant and materials;
 - iii) Storage of plant and materials used in constructing the development;
 - iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) Wheel washing facilities;
 - vi) Measures to control and mitigate the emission of dust, smoke, other airborne pollutants and dirt during construction;
 - vii) A scheme for recycling/disposing of waste resulting from demolition and construction works.
 - viii) Hours of construction;
 - ix) Lighting;
 - x) Management, control and mitigation of noise and vibration;
 - xi) Odour management and mitigation;
 - xii) Diesel and oil tank storage areas and bunds;
 - xiii) How the developer proposes to accord with the Considerate Constructors Scheme (www.considerateconstructorscheme.org.uk) during the course of the construction of the development; and
 - xiv) A system for the management of complaints from local residents which will incorporate a reporting system.
 - xv) Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling
- The construction of the development shall be undertaken in accordance with the approved CEMP.

Reason: In the interests of residential amenity and in the interests of highway safety and complying with the requirements of policy GP4 and GP6 of the Adopted LDP2011-2026

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

Reason:

To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource and to ensure compliance with policy CE6 Archaeology of the Adopted LDP 2011-2026

- 25) Prior to the occupation of the Visitor Centre, a contaminated land completion/verification report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed, with Policies GP2, GP6 and GP7 of the Adopted LDP

- 26) Any unforeseen contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed

in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Validation Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed, with Policies GP2, GP6 and GP7 of the Adopted LDP

- 27) Prior to their installation on site, and prior to the commencement of the use, full details of all external plant, machinery and extraction equipment for the unit, shall be submitted to and approved in writing by the Local Planning Authority. The information shall include scaled schematics, location plans, odour & noise attenuation measures and future maintenance. Only the external plant, machinery and extraction equipment forming part of the agreed scheme shall be installed on site and it shall be installed prior to the first beneficial use of the unit.

Reason: To ensure that the amenities of nearby residential occupiers are safeguarded and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP

- 28) A hard landscaping scheme, including existing and proposed levels of the site, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved landscaping scheme and before the occupation of any part of the development.

Reason: To ensure that the protection of visual amenities of the area are safeguarded and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP

- 29) Notwithstanding the submitted soft landscaping strategy and plan, written approval of the Local Planning Authority is required to a scheme of detailed landscaping and tree planting for the site (indicating the number, densities, species, heights on planting and positions of all trees and shrubs as well as tree pit details). The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years from the date of planting in accordance with an agreed management schedule. Any trees or shrubs which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.

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

- 30) All means of enclosure/boundary treatments associated with the development hereby approved shall be completed in accordance with a scheme that shall first be submitted to and agreed in writing by the Local Planning Authority. The means of enclosure shall be completed in accordance with the approved details prior to the first beneficial use of the development.

Reason:

To safeguard local visual amenities, and to ensure the development accords with Policies GP2, GP6 and GP7 of the Adopted LDP

NOTES TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1 Sustainability, SP2 Health, SP3 Flood Risk, SP8 Special Landscape Areas, SP9 Conservation of the Natural, Historic and Built Environment, SP18 Urban Regeneration, GP1– Climate Change, GP2– General Amenity, GP3– Service Infrastructure, GP4– Highways and Accessibility, GP5– Natural Environment, GP6– Quality of Design, GP7– Environmental Protection and Public Health, CE1 Routeways, Corridors and Gateways, CE2 Waterfront Development, CE3 Environmental Spaces and Corridors,

CE6 Archaeology, CE7 Conservation Areas CE9 Coastal Zone, T4 Parking, T7 Public Rights of Way and New Development_T8 All Wales Coast Path, CF4- Riverfront Access and CF8- Tourism and W3- Provision for Waste Facilities were relevant to the determination of this 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) It is considered that the decision has been made in conformity with the Marine Policy Statement (2011) and in accordance with marine national planning policy contained within the Welsh National Marine Plan (2019) as demonstrated in the assessment of this proposal.

05) The applicant must also note that any works which will take place within the adopted highway will require the applicant to contact City Services to facilitate any necessary highways agreement. No works are to take place within the adopted highway until such a time that any agreement is in place and final approval has been granted by the highways authority.

06) Traffic Orders will need to be implemented in order to prevent indiscriminate parking adjacent to proposed visitor centre which will cause conflict and obstruction in close proximity to the SDR junction. The applicant must therefore contact City Services in regard to applying for a scheme and must cover the full cost of the process.

07) Any waterborne activities will require the publication of a Notice to Mariners (N2M). Details of the work scope should be sent to the NHC Harbour Master at least 14 days before the work commences

08) We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to National Resource Wales (NRW) for further details.

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 24.01.2020

We continue to have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met and you attach the following condition to the permission. Otherwise, we would object to this planning application.

Requirement: Flood Risk: Further information to be submitted for review, to demonstrate the risks and consequences of flooding can be managed to an acceptable level

Requirement 2: Protected Sites: A Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 will need to be undertaken prior to the determination of the planning application.

Condition 1: Protected Sites: Construction Environmental Management Plan

Condition 2: Protected Species: Lighting

Condition 3: Land Contamination and Protection of Groundwater: Unsuspected Contamination

Condition 4: Secure implementation of Ecological Impact Assessment, dated 17th January 2020, Version 2.0

Flood Risk

Requirement: Flood Risk: Further information to be submitted for review, to demonstrate the risks and consequences of flooding can be managed to an acceptable level.

We received a hydraulic model for this site on the 15th January 2020. The review of this model is still in progress and is likely to take another 2 – 3 weeks. This review may find anomalies/discrepancies in the model which will need to be addressed to ensure that it is representative of the risk of flooding and fit to inform the FCA.

If the model is found to be unacceptable, it will need updating to address any issues we identify. When the modelling has been verified and found to be fit for purpose, the FCA will need to be updated accordingly.

Therefore, until we confirm that the model is representative of the flood risk, we are unable to advise whether the consequences of flooding outlined in the latest FCA produced by Cambria, Flood Consequence Assessment (FCA), Newport Transporter Bridge Visitor Centre, dated January 2020) can be managed to an acceptable level.

Section 6 of TAN15 requires the Local Planning Authority (LPA) to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an FCA that the potential consequences of flooding can be managed to an acceptable level.

In summary, we have significant concerns with the proposal as submitted and do not recommend planning permission is granted until these concerns are addressed. Please inform us, in accordance with paragraph 11.7 of TAN15, if you are minded to grant permission for the above application contrary to our advice.

Protected Sites

The proposed development site lies partially within the River Usk Special Area of Conservation (SAC) and the River Usk (Lower Usk) Site of Special Scientific Interest (SSSI).

SAC

We have concerns that a significant effect from the proposed development on the River Usk SAC features is likely. We therefore advise your authority to prepare a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations (2017) prior to the determination of the planning application. You will need to be certain that there will be no adverse effects on the site's integrity. We would object to the planning application if this requirement is not completed.

Requirement 2: Protected Sites: A Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 will need to be undertaken prior to the determination of the planning application.

We note that an Appropriate Assessment has been submitted to us for consultation on the 4th February 2020, the consultation is still in progress and we will provide comments on this as soon as we are able.

Pollution Prevention

We note the submitted EIA and PEA refer to the production of a Construction Environmental Management Plan (CEMP). We concur that due to the development's location in close proximity to watercourses and the above aforementioned protected sites, a CEMP will be required. We therefore advise that the below Condition is imposed on any planning permission afforded to the development.

Condition 1: Protected Sites: Construction Environmental Management Plan

No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

Protected Species

We acknowledge and welcome the submitted updated information for the above application, which includes the following documents:

- Preliminary Ecological Assessment, dated 17th January 2019 (we note that the report was prepared in January 2020, however is dated 2019), Version 2.0
- Ecological Impact Assessment, dated 17th January 2020, Version 2.0
- Doc 16-16523-20200114-SMK-Newport Transporter Bridge – IIP-02 Illumination Impact Profile – Newport Transporter Bridge – 27 September 2019

We note that the additional bat surveys carried out on 13th January 2020 showed no evidence of bats in the Motor house or the Anchorage houses although both buildings have limited potential for hibernation roosts and occasional summer roosting. We note that the submitted report recommends a precautionary approach in this regard and we agree with this approach.

We also note that additional surveys to assess potential impacts on otter were carried out on the 13th January 2020, and whilst no otter holt or lying-up habitat was identified, a series of precautionary measures are advised within the submitted report to protect migrating otters from light spill on to the river.

Legislation and Policy

Otters and all species of British bats are European Protected Species, legally protected under The Conservation of Habitats and Species Regulations 2017 (as amended). Legal protection relates to the animals themselves and the places they use to rest and breed.

Where a European Protected Species is present and development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. One of these requires that the development authorised will 'not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range'.

These requirements are translated into planning policy through Planning Policy Wales (PPW) December 2018, section 6.4.22 and 6.4.23, and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). The planning authority should take them into account when considering development proposals where a European Protected Species is present.

Advice on Impacts to Protected Species

In this instance, we consider that there should not be a detriment to the maintenance of the favourable conservation status of the otter's present, nor of any potential bats present, providing that the mitigation measures set out in sections of the Ecological Impact Assessment are implemented.

Therefore, our concerns can be addressed providing the mitigation measures as set out in the Ecological Impact Assessment submitted with the application are implemented, and the document is included within the condition identifying approved plans and documents on the decision notice:

- Ecological Impact Assessment, dated 17th January 2020, Version 2.0

We further advise that the following condition is attached to any consent in respect of lighting.

Condition 2: Protected Species: Lighting

Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan should include:

- Details of the siting and type of external lighting to be used
- Details of lighting to be used both during construction and operation, including: details of timing and duration of operation

The lighting shall be installed and retained as approved during construction and operation.

Justification: A lighting plan should be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species.

Land Contamination and Groundwater Protection

We have reviewed the following report:

Newport Norse: Newport Transporter Bridge Visitor Centre – Site Investigation Report. Intégral Géotechnique (Wales) Limited, Document Reference: 12496/JJ/19/SI, October 2019.

We note that low levels of soil contamination have been observed and that no groundwater was sampled. The low level of soil contamination has been assessed to be low risk to controlled waters (i.e. River Usk and groundwater). We agree with this conclusion but note that structures on site will not be demolished until works commence. We therefore request the following condition and informative be imposed on any planning permission granted.

Condition 3: Groundwater Contamination: 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 a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

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

Other Matters

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

If you have any queries on the above, please do not hesitate to contact us.

APPENDIX B-CONSERVATION OBJECTIVES OF THE RIVER USK SAC

Background to Conservation Objectives:

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

(b) Format of the conservation objectives

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

Each conservation objective consists of the following two elements:

1 Vision for the feature

2 Performance indicators

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

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

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

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

4.1 Conservation Objective for the water course

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

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

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

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

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

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

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

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

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

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)

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:

FCS component	Supporting information/current knowledge
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 disease.
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	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

FCS component	Supporting information/current knowledge
<p>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</p> <p>There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.</p>	<p>used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in Section 3.2. Further details of feature habitat suitability are given in Section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in Section 4.1 are secured.</p> <p>The characteristic channel morphology provides the diversity of water depths, 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.</p> <p>Hydrological processes in the Usk are currently affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present.</p> <p>Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.</p> <p>Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.</p>

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> :			
Performance indicators for feature condition			
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10	1 - 5

Attribute	Specified Limits	Comments	Relevant Unit[s]
	should contain <i>Petromyzon ammocoetes</i> .	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.	
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites each not less than 5km apart. Overall catchment mean >0.1m ⁻² (Harvey & Cowx 2003) ¹	This standard CSM attribute establishes a minimum occupied spawning range, within any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute. Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes m ⁻² in suitable habitat ² , therefore 0.1 m ⁻² is a conservative threshold value for unfavourable condition.	2 - 5

Brook lamprey *Lampetra planeri* and River lamprey *Lampetra fluviatilis* :

Performance indicators for feature condition

(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: >10m ⁻² Overall catchment mean: >5m ⁻²	Optimal habitat comprises beds of stable fine sediment or sand ≥15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2 - 10

Twaite shad *Alosa fallax* and Allis shad *Alosa alosa* :

Performance indicators for feature condition

Attribute	Specified Limits	Comments	Relevant Unit[s]
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1 - 5

Performance indicators for factors affecting the feature

(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
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Atlantic salmon *Salmo salar*:

Performance indicators for feature condition

(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-sea-winter component. As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality. Assessed using electro fishing data.	6 – 10

Performance indicators for factors affecting the feature

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
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Attribute	Specified Limits	Comments	Relevant Unit[s]
Bullhead <i>Cottus gobio</i> :			
Performance indicators for feature condition			
(a) Adult densities	No less than 0.2 m ⁻² in sampled reaches	CSM guidance states that densities should be no less than 0.2 m ⁻² in upland rivers (source altitude >100m) and 0.5 m ⁻² in lowland rivers (source altitude <100m). A significant reduction in densities may also lead to an unfavourable condition assessment.	2 – 10
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by 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 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	Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to be limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance. The decline in eel populations may be having an adverse effect on the population of otters in the Usk.

FCS component	Supporting information/current knowledge
<p>artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.</p>	
<p>The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and 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.

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

APPLICATION DETAILS

No: 20/0022 **Ward:** MALPAS

Type: FULL

Expiry Date: 15-MAR-2020

Applicant: D GUY, MALPAS COURT PRIMARY SCHOOL

Site: MALPAS COURT JUNIOR AND INFANT SCHOOL, WHITTLE DRIVE,
NEWPORT, NP20 6NS

Proposal: ERECTION OF EXTERNAL CANOPY

Recommendation: GRANTED WITH CONDITIONS

1. INTRODUCTION

- 1.1 This application seeks planning permission for the erection of an external timber canopy at Malpas Court Junior and Infant School, Whittle Drive located in the Malpas ward. The proposed canopy would be sited on the south east elevation of the school, facing Whittle Drive.
- 1.2 This application is brought before Planning Committee as it relates to a Council owned property.

2. RELEVANT SITE HISTORY

09/1169	ERECTION OF EXTERNAL CANOPY FOR OUTDOOR PLAY	GRANTED
10/0218	ERECTION OF 2NO. FLAGS	GRANTED
11/1297	EXTERNAL CANOPY FOR OUTDOOR PLAY	GRANTED
17/0909	ERECTION OF EXTERNAL CANOPY	GRANTED WITH CONDITIONS

3. POLICY CONTEXT

- 3.1 Policies GP2 (General Amenity) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this planning application.
- 3.2 Policy GP2 (General Amenity) states: 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 antisocial behaviour;
 - iv. The proposal promotes inclusive design both for the built development and access within and around the development;
 - v. Adequate amenity for future occupiers.

- 3.3 Policy GP6 (Quality of Design) states: 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.

4. CONSULTATIONS

- 4.1 None.

5. INTERNAL COUNCIL ADVICE

- 5.1 CHIEF EDUCATION OFFICER: No response.

6. REPRESENTATIONS

- 6.1 NEIGHBOURS: Properties opposite at nos. 9, 11, 13, 15, and 17 Whittle Drive were consulted, and a site notice was displayed. No representations were received.

7. ASSESSMENT

- 7.1 This application seeks planning permission for the erection of an external canopy at Malpas Court Junior and Infant School located in the Malpas ward.
- 7.2 The school that is the subject of this application has been granted various other canopies that are located on the same elevation as the canopy proposed in this application.
- 7.3 The proposed canopy would be of lean to design, and would be constructed of a timber frame with polycarbonate roof. It would measure 10.5 metres in width, and would protrude 5.5 metres from the side elevation of the existing building. It would have an eaves height of 2.4 metres and a maximum ridge height of 3.4 metres. It would be located between two existing canopies.
- 7.4 In terms of design it is considered that the proposed canopy would be in keeping with the existing building, and canopies. Its scale, design and location would relate sympathetically to its surroundings, and would not be a prominent or incongruous addition to the host building. Given the limited scale of the canopy, and its distance away from neighbouring properties, it is not considered that the proposal would have a detrimental impact on neighbouring amenity by way of overbearing impact, loss of light or loss of privacy. Therefore the proposal is in accordance with policies GP2 and GP6.

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

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

9. **CONCLUSION**

9.1 The proposed canopy by reason of its location scale and design preserves visual amenities, access to daylight and privacy to neighbouring properties and would not result in demonstrable harm to the character and appearance of the building or wider area. The proposal is therefore in accordance with policies GP2 and GP6 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

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

10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents: Site Plan & Site Location Plan – Drawing Number NPS-DR-A-(**)-001 Rev Code P1 and Proposed & Existing Plan and Elevations – Drawing Number NPS-00-00-DR-A-(**)-020 Rev Code P1

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: Site Plan & Site Location Plan – Drawing Number NPS-DR-A-(**)-001 Rev Code P1 and Proposed & Existing Plan and Elevations – Drawing Number NPS-00-00-DR-A-(**)-020 Rev Code P1

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

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 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

Report

Planning Committee

Part 1

Date: 4th March 2020

Item No: Insert item number here

Subject **Appeal Decisions**

Purpose To inform Members of the outcome of recent appeals

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

Wards Langstone

Summary The following planning appeal decisions are reported to help inform future decisions of Planning Committee

Proposal **To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.**

Action by Planning Committee

Timetable Not applicable

This report was prepared without consultation because it is to inform Planning Committee of appeal decisions already taken.

Background

The reports contained in this schedule provide information on recent appeal decisions.

The purpose of the attached reports is to inform future decision-making. This will help ensure that future decisions 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.

The applicant has a statutory right of appeal against the refusal of permission in most cases. 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 defending decisions at appeal is met by existing budgets. 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

The key risk relating to appeal decisions relates to awards of costs against the Council.

An appeal can be lodged by the applicant if planning permission is refused, or if planning permission is granted but conditions are imposed, or against the Council's decision to take formal enforcement action. 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.

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 can be very significant. These are infrequent, so the impact is considered to be medium.

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

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Options Available

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

Preferred Option and Why

To accept the appeal decisions as a basis for informing future decisions of the Planning Committee.

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 or enforcement action.

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

There are no legal implications other than those referred to in the report or detailed above.

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

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

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

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Consultation

Not applicable. This report is to inform Planning Committee of decisions made by the Planning Inspectorate and/or Welsh Ministers.

Background Papers

Not applicable

Dated: 4th March 2020

Planning Application Appeal

Reference	19/0239
Address	Ty Berllan Farm, Chapel Lane, Llandevaud, Newport, NP18 2AF
Development	Erection of two storey extension to remodel property
Appellant	Mr & Mrs Phelps
Officer Decision	Refuse
Committee Decision	N/A
Appeal Decision	Dismissed

Mae'r dudalen hon yn wag yn