

# Report

## Planning Site Sub-Committee

Part 1

Item No.

**Subject**     **Planning Application Schedule – Site Visit**

**Purpose**        To make decisions on items presented on the attached Schedule.

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

**Ward**            As indicated on the schedule

**Summary**     Attached is a Planning Application Schedule, detailing an application requiring a site visit, as recommended by Planning Committee on 3<sup>rd</sup> July 2019. The Planning Site Sub-Committee will visit the sites, listed in the attached schedule, on 11<sup>th</sup> July 2019 in order to gain a better understanding of the proposal/case so that a decision can be made.

**Proposal**     1.     **To visit the application site detailed in the attached Schedule.**  
                      2.     **To make decisions in respect of the Planning Application attached.**

**Action by**     Planning Committee

**Timetable**    Immediate

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

## Protocol

1. A Planning Protocol for Planning Sub-Committee site visits was approved by Council on 08 April 2008 and amended in February 2013.
2. A Sub-Committee of the Planning Committee will be constituted for the purposes of undertaking site visits on behalf of the Planning Committee. It will be known as the Planning Site Sub-Committee.
3. The Planning Site Sub-Committee shall comprise of six named Councillors of the Planning Committee. Rules of political balance as set down in the Local Government and Housing Act 1989 will apply.
4. A site visit by the full Planning Committee may be undertaken in lieu of the Planning Site Sub-Committee if the scale or sensitivity of the development merits such consideration. The decision to undertake a full Planning Committee visit lies with that Committee.

## Purpose of Site Inspections

5. Site inspections by the Planning Site Sub-Committee or full Planning Committee will be undertaken for the following purposes:
  - fact find;
  - investigate specific issues raised in any request for a site inspection;
  - investigate issues arising from the Planning Committee presentation or discussion;
  - enable the Planning Site Sub-Committee to make decisions.

## Requests for Site Inspections

6. Any member of the Council may request that a planning application site be visited by the Planning Site Sub-Committee prior to the determination of that application. Such requests must be made in writing [e-mail is sufficient] to the named case officer dealing with the application or the Development Services Manager. Any such request must include specific reasons for the visit.
7. Applications subject to a request for a visit will be reported to the Planning Committee. The report will include details of the request and the reasons given. Planning Committee will decide, following a full presentation of the application, whether or not a site visits is necessary to inform the decision making process.
8. Where no request for a site visit has been made members of the Planning Committee may decide during consideration of an application that a site inspection would be beneficial. The reasons for the visit should be agreed and recorded as part of the minute of the meeting.
9. Occasionally there will be circumstances when timescales for determination will not allow site visits to be programmed in the normal way e.g. those related to telecommunications development. In such **exceptional circumstances**, at the discretion of the Chairman and Vice-Chairman of the Planning Committee, a site visit may be undertaken prior to the presentation of the matter to the Planning Committee. **As Members of the Sub-Committee will not have received a formal presentation on the application a recommendation cannot be given.** They will be able to report their findings of fact to the Planning Committee. Members should make their written request, with reasons, in the normal way. All other aspects of the protocol will apply.

## Attendance at Planning Site Sub-Committee Visits

10. Attendance at Planning Site Sub-Committee visits is to be restricted as follows:
  - Members of the Planning Site Sub-Committee;
  - Relevant Officers;

- Ward Councillors;
- Single representative of the Community Council [if relevant];
- Applicant/Agent to allow access to the site;
- Neighbour/other Landowner [where access is required to make any assessment].

## **Representations at Planning Site Sub-Committee Visits**

11. A site visit is not an opportunity to lobby on an application. Accordingly, no representations may be made to the Planning Site Sub-Committee by any party. Members of the Sub-Committee may ask questions of those present to establish matters of fact and inform their consideration of the application.

## **Background**

The reports contained in this schedule assess the proposed development or the unauthorised 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.

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Site Sub 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. There is no third party right of appeal against a decision.

Where formal enforcement action is taken, the recipient of the Notice has a statutory right of appeal in most cases. There is no third party right of appeal against a decision with the exception of High Hedge Remedial Notices. Appeals are normally lodged with the Planning Inspectorate at the Welsh Assembly Government. Non-compliance with a statutory Notice is a criminal offence against which prosecution proceedings may be sought. The maximum level of fine and/or sentence that can be imposed by the Courts depends upon the type of Notice issued.

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 or Planning Site Sub Committee

refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

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

### **Financial Summary:**

The cost of determining planning applications, taking enforcement action, carrying out Committee site visits 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.

In the case of Section 215 Unlawful Land Notices, an appeal is lodged with Planning Inspectorate at the Welsh Assembly Government and the Council will seek to recover all its costs in relation to all such appeals.

In the case of Stop Notices, compensation can be awarded against the Council if it is demonstrated that the breach of planning control alleged has not occurred as a matter of fact, the breach is immune from enforcement action due to the passage of time, or the activities/development have already been granted planning permission.

### **Risks:**

Four risks are identified in relating to the determination of planning applications by Planning Committee or Planning Site Sub 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.

An appeal can be lodged by any recipient of a formal Notice, with the exception of a Breach of Condition Notice. 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.

If a Stop Notice is issued, compensation can be awarded against the Council if it is demonstrated that the breach of planning control alleged has not occurred as a matter of fact, the breach is immune from enforcement action due to the passage of time, or the activities/development has already been granted planning permission. Legal advice is sought before taking such action, and a cost-benefit analysis is undertaken to fully assess the proposed course of action.

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 or reasons for taking enforcement action can be defended at appeal.  Ensure planning conditions imposed meet the tests set out in Circular 016/2014.  Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Planning Committee  Planning Committee  Development Services Manager and Senior Legal Officer
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the Council	H	L	Ensure sound and rational decisions are made.	Planning Committee  Development Services Manager
Compensation awarded in relation to a Stop Notice	M	L	Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development Services Manager and Senior Legal Officer

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

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

promoting environmental sustainability; ensuring people live in safe and inclusive communities; and making Newport a vibrant and welcoming place to visit and enjoy.

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

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

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

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

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

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

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Local Development Plan 2011-2026 (Adopted January 2015 unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

### **Options available**

- 1) To determine applications in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To determine that applications be granted or refused against the Officer recommendation (in which case the Site Inspection Sub-Committee's recommendation and reasoning should be clearly minuted);

With regards to enforcement cases:

- 1) To determine that enforcement action is taken (or no further action is taken) in accordance with the Officer recommendation (with amendments to or additional requirements or reasons for taking formal action if appropriate);
- 2) To determine that a different course of action be taken to that recommended by Officers (in which case the Site Inspection Sub-Committee's recommendation and reasoning should be clearly minuted).

### **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.

### **Local issues**

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

### **Equalities Impact Assessment and the Equalities Act 2010**

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

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

### **Children and Families (Wales) Measure**

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

### **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.

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

### Planning (Wales) Act 2015 (Welsh Language)

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

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

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Objectives 1 (Sustainable Use of Land) and 9 (Health and Well-being) of the adopted Newport Local Development Plan (2011-2026) link to this requirement to ensure that development makes a positive contribution to local communities and to provide an environment that is safe and encourages healthy lifestyle choices and promotes well-being.

## **Consultation**

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

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 9 (November 2016)

Development Management Manual 2016

Minerals Planning Policy Wales (December 2000)

### *PPW Technical Advice Notes (TAN):*

- TAN 1: Joint Housing Land Availability Studies (2006)
- TAN 2: Planning and Affordable Housing (2006)
- TAN 3: Simplified Planning Zones (1996)
- TAN 4: Retailing and Town Centres (1996)
- TAN 5: Nature Conservation and Planning (2009)
- TAN 6: Planning for Sustainable Rural Communities (2010)
- TAN 7: Outdoor Advertisement Control (1996)
- TAN 8: Renewable Energy (2005)
- TAN 10: Tree Preservation Orders (1997)
- TAN 11: Noise (1997)
- TAN 12: Design (2014)
- TAN 13: Tourism (1997)
- TAN 14: Coastal Planning (1998)
- TAN 15: Development and Flood Risk (2004)
- TAN 16: Sport, Recreation and Open Space (2009)
- TAN 18: Transport (2007)
- TAN 19: Telecommunications (2002)
- TAN 20: Planning and the Welsh Language (2017)
- TAN 21: Waste (2014)
- TAN 23: Economic Development (2014)

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

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

Welsh Government Circular 016/2014 on planning conditions

## **LOCAL POLICY**



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

Supplementary Planning Guidance (SPGs):

Affordable Housing (adopted August 2015)

Archaeology & Archaeologically Sensitive Areas (adopted August 2015)

Flat Conversions (adopted August 2015)

House Extensions and Domestic Outbuildings (adopted August 2015)

Houses in Multiple Occupation (HMOs) (adopted August 2015) (updated January 2017)

New dwellings (adopted August 2015)

Parking Standards (adopted August 2015)

Planning Obligations (adopted August 2015)

Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)

Wildlife and Development (adopted August 2015)

Mineral Safeguarding (adopted January 2017)

Outdoor Play Space (adopted January 2017)

Trees, Woodland, Hedgerows and Development Sites (adopted January 2017)

Air Quality (adopted February 2018)

## **OTHER**

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

The Economic Development Strategy is a material planning consideration.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are relevant to the recommendations made.

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

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## **APPLICATION DETAILS**

**No:** 19/0040      **Ward:** CAERLEON

**Type:** FULL (MAJOR)

**Expiry Date:** 24-MAR-2019

**Applicant:** JAMES NORVILL

**Site:** FORMER PENRHOS QUARRY, USK ROAD, CAERLEON, NEWPORT

**Proposal:** CHANGE OF USE OF PART OF DISUSED QUARRY TO HOLIDAY PARK, INCLUDING THE SITING OF HOLIDAY LODGES AND PODS WITH IMPROVED ACCESS, PARKING FACILITIES AND MAINTENANCE BUILDING

**Recommendation:** GRANTED WITH CONDITIONS SUBJECT TO A S106 LEGAL AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF ANY DECISION TO GRANT PERMISSION.

### **1. INTRODUCTION**

- 1.1 The proposal is to develop tourist accommodation on the site of the Penrhos Quarry on the eastern fringes of Caerleon. The development will consist of:
- Four timber lodges
  - Twenty-four pods (2 person accommodation)
  - A storage building for maintenance equipment
  - A reception building and car parking for 30 vehicles
  - Footpaths, drainage infrastructure and lighting
  - Works to the access road within the site to provide further hard surfacing and passing bays
  - Works to widen Penrhos lane between the entrance to the quarry and the Usk Road
  - Works to improve the junction between Penrhos lane and the Usk Road.
- 1.2 The part of the site to be developed is a dormant quarry meaning that works to extract minerals could recommence subject to the Council agreeing a modern conditional regime to control operations. As it stands no clay extraction has taken place since the early 1970s.
- 1.3 Parts of the application site are:
- A Site of Importance for Nature Conservation (SINC) – the Afon Llwyd Grasslands
  - A Site of Importance for Nature Conservation (SINC) – Coed y Gatlas (Ancient woodland)
  - Woodland TPOs (78/Mon & 04/2005), which includes Coed y Gatlas and areas of self-seeded trees within the quarry.
  - Undefended floodplain (Zone C2) – the lower parts of Penrhos Lane.
- 1.4 Most of the proposed development is outside the SINC's other than a drainage run to the river and works to widen the lower part of Penrhos lane. Much of the development is within the area of TPO 04/2005 but careful siting will minimise harm to the woodland with there being some loss of smaller 'scrubby' trees.

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

Ref. No.	Description	Decision & Date
15/1401	RETENTION OF REPLACEMENT GATE AND FENCE AND NEW CONCRETE ACCESS TRACK	R 10 March 2016
16/0881	RETENTION OF REPLACEMENT GATE AND FENCE AND	R

	RETENTION OF RESURFACING OF ACCESS TRACK AND PROPOSED ASSOCIATED DRAINAGE SCHEME	15 December 2016  Appeal Dismissed 29 January 2018
E98/0633	STOCK CAR RACING	Not Expedient 10 June 2009
E05/0401	MOTOR BIKE RACING	Notice Issued 23 June 2006  Appeal Dismissed 08 January 2007
E05/0595	TREE FELLING	No breach found 05 August 2005
E10/0794	USE OF LAND FOR MOTORSPORT	No Breach Found  29 November 2010
E15/0400	CREATION OF TRACK AND IMPORTATION OF MATERIAL	Notice Issued  Appeal Dismissed 29 January 2018

### 3. POLICY CONTEXT

#### 3.1 Adopted Local Development Plan – 2011-2026

The following policies are considered to be of particular relevance to the consideration of this application:

- SP1 – Sustainability
- SP3 - Flood risk
- SP5 – Countryside
- SP9 – Conservation of the Natural, Historic and Built Environment
- SP19 – Assessment of Retail Need
- SP21 – Minerals
- 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
- CE8 – Locally Designated Nature Conservation and Geological Sites
- T4 – Parking
- R8 – Small Scale Retail Proposals
- CF8 – Tourism
- M1 – Safeguarding of Mineral Resource
- W3 – Provision for Waste Management Facilities in Development

### 3.2 **Supplementary Planning Guidance**

- Parking Standards
- Mineral Safeguarding
- Air Quality
- Wildlife and Development
- Trees, Woodland, Hedgerows & Development Sites

### 3.3 **Planning Policy Wales; Edition 10 (PPW10)**

Development in the Countryside:

3.56 Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation.

Page 75 - capitalising on our distinctive tourism offer to promote Wales to the world, creating high quality jobs in this sector which enhance skills and provide employment year-round;

Productive & Enterprising Places:

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.

5.5.3 In rural areas, tourism-related development is an essential element in providing for a healthy and diverse economy. Here development should be sympathetic in nature and scale to the local environment.

5.5.7 Planning authorities should adopt positive approaches to proposals which utilise previously developed or disused land and water bodies for tourism uses, particularly in relation to urban regeneration.

5.14.2 The role of the planning authority in relation to mineral extraction is to balance the fundamental requirement to ensure the adequate supply of minerals with the protection of amenity and the environment. The key principles are to:

provide positively for the safeguarding and working of mineral resources to meet society's needs now and in the future, encouraging the efficient and appropriate use of high quality materials;

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.

The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement.

Development Proposing Non-mains Foul Drainage:

6.6.21 Any development discharging domestic sewage should connect to the foul sewer where it is reasonable to do so. Development proposing the use of non-mains drainage

schemes will only be considered acceptable where connection to the main sewer is not feasible<sup>141</sup>. The installation of private sewage treatment facilities within publicly sewered areas is not considered acceptable because of the greater risk of failures leading to pollution when compared to public sewers. Where non-mains sewage proposals, such as septic tanks and or independent sewage treatment systems, are included in development applications they should be subject to an assessment of their effects on the environment, amenity and public health in the locality, in accordance with the criteria set out in Circular 10/99, prior to the determination of the planning application.

6.4.26 Ancient woodland and semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees and woodlands should be afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits; this protection should prevent potentially damaging operations and their unnecessary loss.

#### 6.7 Air Quality and Soundscape:

6.7.1 Clean air and an appropriate soundscape, contribute to a positive experience of place as well as being necessary for public health, amenity and well-being. They are indicators of local environmental quality and integral qualities of place which should be protected through preventative or proactive action through the planning system. Conversely, air, noise and light pollution can have negative effects on people, biodiversity and the resilience of ecosystems and should be reduced as far as possible.

6.7.2 National air quality objectives are not 'safe' levels of air pollution. Rather they represent a pragmatic threshold above which government considers the health risks associated with air pollution are unacceptable. Air just barely compliant with these objectives is not 'clean' and still carries long-term population health risks.

### 3.4 Technical Advice Notes

Further detailed guidance is contained within Technical Advice Notes (TANs). A number of TANs are relevant to the consideration of this scheme:

- 3.4.1 Tan 4: Retail & Commercial Development – this sets out advice on how to assess the need for a retail development and undertake a sequential assessment.
- 3.4.2 Tan 5: Nature Conservation & Planning – provides guidance on how the planning system should contribute to protecting and enhancing biodiversity and geological conservation.
- 3.4.3 Tan 6: Planning for Sustainable Rural Communities
- 3.4.5 Tan 13: Tourism - 12. In preparing development plans, local planning authorities should investigate the adequacy of facilities for both the static and touring caravanner and reconcile these needs with the protection of the environment. Holiday and touring caravan parks are an important part of the self-catering holiday accommodation, while using less land for the purpose. Holiday caravan sites can be intrusive in the landscape, particularly on the coast. Special consideration needs to be given to proposals for new sites, especially in National Parks, Areas of Outstanding Natural Beauty, Heritage Coast and sites of national and international importance designated for their natural features.
- 3.4.6 Tan 15: Development & Flood Risk - 6.2 New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted. All other new development 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 settlement<sup>1</sup>; 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 found to be acceptable.

Paragraph 11.22 Caravan, camping and other temporary occupancy sites give rise to special problems in relation to flooding. They have often been located on coastal or riverside sites which are susceptible to flooding. The instability of caravans places their occupants, and others, at special risk and it may be difficult to operate an effective flood warning system. Such development should be refused in zone C2, as should proposed changes of use to residential mobile homes or permanent housing and only be considered in zone C1 following application of the tests in section 6, 7 and appendix 1.

- 3.4.7 Tan 23: Economic Development - Paragraph 1.2.7 identifies sites by preference with in settlement locations being preferred to edge of settlement locations which are preferable to rural locations. However non-settlement locations should not be discounted if significant benefits will accrue if the development proceeds.

Section 2 requires the following tests to be applied to assess economic benefit if harm to other interests is anticipated:

Alternatives: are other more preferable sites realistically available, could other providers meet the anticipated market for the development.

Jobs Accommodated: what will the development's contribution to the wider economy be?

Special Merit: will the development make a special contribution to Policy objectives such as the low carbon economy, innovative businesses, technology clusters or social enterprises.

Section 3 notes that economic development can strengthen rural communities by reducing the need to commute to work or by allowing established businesses in rural areas to expand in situ or by allowing new businesses to locate close to an existing business cluster.

## 4. CONSULTATIONS

- 4.1 GLAMORGAN & GWENT ARCHAEOLOGICAL TRUST (GGAT): it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members.

We envisage that this programme of work would take the form of an archaeological watching brief during the groundworks required for the development, with detailed contingency arrangements, including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results.

To ensure adherence to the recommendations we recommend that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014:

*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.*

#### 4.2 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW)

CNC/NRW has significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirement and you attach the conditions listed below. Otherwise, we would object to this planning application.

**Requirement:** Modification to the plans to clearly identify an undisturbed and vegetated 7 metre buffer zone between all watercourses and the development.

**Condition 1:** Submission of a Construction Environmental Management Plan prior to commencement of development – to address concerns in relation to otters. There is a lack of detail in the application regarding the proposal to bury an outfall pipe which leads to the water course (as illustrated on the Site Plan and the Development Masterplan). This will likely need small-scale vegetation clearance within the requested 7 metre buffer, as detailed above.

We note from the otter survey report that dense vegetation prevented access to some stretches of the river corridor, and therefore no certainty that the development site does not contain otter holts or lying-up sites. To prevent potential impacts on otters, we advise that this work be undertaken by hand tools and under close ecological supervision. The works should be immediately preceded by a survey of the surrounding habitat for any signs of otter holts or resting places. If EPS are found on site, works must stop until NRW have been consulted for further information.

**Condition 2:** Unforeseen contamination to prevent pollution of controlled waters.

There is no indication that the quarry has been infilled with contaminated material. As such, based on the information submitted, we would request the following condition be attached to any grant of consent at planning application stage.

Condition 2

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

Reason: Given the history of the site it is considered possible that there may be unidentified areas

of contamination at the site that could pose a risk to controlled waters if they are not remediated.

#### Flood risk

The planning application proposes highly vulnerable development (residential). Our Flood Risk Map, which is updated on a quarterly basis, confirms the site to be partially within

Zone C2 (undefended floodplain) of the Development Advice Map (DAM) contained in TAN15 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines.

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15).

Notwithstanding this policy position, we have reviewed the FCA submitted in support of the application to provide you with technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.

We are satisfied that the risks and consequences of flooding are manageable to an acceptable level. The proposed holiday lodges and pods are outside of the predicted flood outlines. Therefore, we have no objection to the application on flood risk grounds and provide you with technical advice on the consequences of flooding to the site access.

The FCA states that the onset of flooding to the access route occurs during a 1 in 10 year event (10% AEP), but no predicted depths for this event are given.

However, during the more extreme events flood depths and velocities significantly exceed the guidance criteria (0.6m and 0.3m/s for a 0.1% event) in Section A1.15 of TAN15 (1.5m and 2.03m/s as shown in the table above).

As noted in the FCA, the flood risk is located at the site entrance on the Penrhos Drive/Usk Road junction and the majority of the access track remains flood free. The rate of rise and speed of inundation are not given in the FCA for comparison with A1.15.

Whilst a section of the access road is not compliant with the depth and velocity guidance in Section A1.15 of TAN15, the FCA suggests the risk to site occupants could be reasonably managed through the implementation of an emergency plan and the site owners signing up to the flood warning service. It is recommended that appropriate signage is installed on the site access in accordance with the guidance in Section A6.4 of TAN15.

Summary of Flood Risk: Part of the redline boundary including some of the access road is not predicted to be flood free in the 1% plus climate change and 0.1% flood event. During the 0.1% event, this section of access road does not meet the guidance in A1.15.

Therefore, if you are satisfied the development is acceptable in terms of flood risk, particularly with regard to access / egress arrangements considerations in consultations with other advisors, we have no objection on flood risk grounds.

### **Foul Drainage**

We have considered the additional information made available at planning application stage with regard to the package treatment plant proposed. From a planning perspective we are satisfied with this.

We note the applicant has acknowledged a permit will be required. As previously advised the applicant should contact our permitting team on 030000653000 at the earliest opportunity to try to ensure that there is no conflict between any planning permission granted and the permit requirements.

### **Surface Water Drainage**

We note it is proposed to discharge surface and foul water into the Afon Llwyd, a designated main river. If development works in this area are within 8 metres of the river, you may need to apply for a Flood Risk Activity Permit. We refer you to our website for further advice.



- 4.3 WALES & WEST UTILITIES: Advise of equipment in the area and safe working practices.
- 4.4 GWENT BAT GROUP: We have considered the implications of the proposed development in the context of bat welfare and conservation.

In our opinion, given that the environment is essentially rural - wooded and with the Afon Llwyd making up the western boundary - the area is one which is most likely to be used by bats for foraging. The impression we have gathered from a reading of the detail of the application is that no wholesale clearance of the wooded area is intended. This being the case, we think it unlikely the proposed development would have any significant adverse impact on the value of the area as used by bats for this purpose.

4.5 GWENT ORNITHOLOGICAL SOCIETY:

Thank you for giving Gwent Ornithological Society the opportunity to comment on the above development application.

A close study of the Ecological Assessment carried out by the consultants for the applicant shows that the quarry is an important site for plants, insects, amphibians and birds, and that the SINC statuses are justified.

From an ornithological perspective it would have been useful if a winter survey had taken place, in order that the quarry's avian importance might be better judged. Also a brief visit from two colleagues on 4<sup>th</sup> February 2019 turned up calling Green Woodpecker and Lesser Redpolls which were not noted in the Ecological Assessment, as well as several other species listed in table 2 below.

If all of the mitigations suggested by the consultants were carried out and the habitat improvements listed in the application can be **legally guaranteed into the future** then the damage to avifauna should be low. The Consultant's do however advise that an increase in dogs running loose would be likely to disturb birds.

The main damage to the wildlife is likely to be at the Afon Llwyd Grasslands SINC, which will be directly affected. The consultant has identified some floral species on the SINC but a brief visit by two colleagues identified many more- see table 2 below. It would be good to know whether an awareness of the breadth of species present would alter the consultant's assessment of the level of damage. The mitigations suggested by the Consultant's would reduce environmental damage but some would seem to be inevitable. With regard to the suggested mitigations, if the development does go ahead it would probably be better if any bare soil is allowed to colonise naturally, rather than bringing in seed from outside sources. Otter have been seen here and the Consultant's conclude a moderate level of disturbance for this iconic species, which must be a concern.

If all of the mitigations suggested by the consultants were carried out across all areas and the habitat improvements listed in the application can be **legally guaranteed into the future the damage level would be reduced.**

If the development does proceed we would ask for as much as possible of the grassland and wetland areas to be retained unaltered.

**Table 1. Birds seen at Penrhos Quarry on 4<sup>th</sup> February 2019**

Green Woodpecker	Heard several times
Great Spotted Woodpecker	Heard drumming
Wood Pigeon	
Blackbird	
Robin	
Great Tit	
Blue Tit	

Long-tailed Tit	
Chaffinch	
Goldfinch	
Lesser Redpoll	At least four feeding on birches
Bullfinch	
Jackdaw	
Carrion Crow	

**Table 2. Plants seen at Penrhos Quarry on 4<sup>th</sup> February 2019 (no full survey)**

<b>Trees and shrubs</b>		
Silver Birch	<i>Betula pendula</i>	Frequent coloniser
Pedunculate Oak	<i>Quercus robur</i>	On top edges
Ash	<i>Fraxinus excelsior</i>	Frequent saplings
Alder	<i>Alnus glutinosa</i>	An area near entrance track
Field Maple	<i>Acer campestre</i>	Occasional
Hawthorn	<i>Crataegus monogyna</i>	Occasional
Grey Willow	<i>Salix ciberea</i>	Around wet areas
Eared Willow	<i>Salix aurita</i>	Rare in wet areas
Blackthorn	<i>Prunus spinose</i>	Occasional
Butterfly Bush	<i>Buddleja davidii</i>	Locally frequent by track
Dog Rose	<i>Rosa canina</i>	Occasional
Bramble	<i>Rubus fruticosus</i>	Frequent
<b>Other flowering plants</b>		
Creeping Buttercup	<i>Ranunculus repens</i>	Abundant
Broad-leaved Dock	<i>Rumex obtusifolius</i>	Scattered
Sorrel	<i>Rumex acetosa</i>	Occasional
Japanese Knotweed	<i>Fallopia japonica</i>	At least 2 large patches
Perforate St John's Wort	<i>Hypericum perforatum</i>	Occasional/Frequent
Cinquefoil	<i>Potentilla reptans</i>	Locally frequent
Barren Strawberry	<i>Potentilla sterilis</i>	Locally frequent
Agrimony	<i>Agrimonia eupatoria</i>	Rare – one plant seen
White Clover	<i>Trifolium repens</i>	Frequent
Red Clover	<i>Trifolium pratense</i>	Occasional
Bird's-foot Trefoil	<i>Lotus corniculatus</i>	Occasional
Hairy Vetch	<i>Vicia hirsuta</i>	Rare
An Evening Primrose	<i>Oenothera sp.</i>	Old fruiting heads of 2 plants
Cut-leaved Cranesbill	<i>Geranium dissectum</i>	Occasional
Hogweed	<i>Heracleum sphondylium</i>	Occasional
Centauray	<i>Centaurium erythrea</i>	Locally frequent in grassland
Ground Ivy	<i>Glechoma hederacea</i>	Locally frequent in shady edges
Self-heal	<i>Prunella vulgaris</i>	Frequent
Ribwort Plantain	<i>Plantago lanceolate</i>	Frequent
Teasel	<i>Dipsacus fullonum</i>	Frequent
Knapweed	<i>Centaurea nigra</i>	Frequent
Lesser Burdock	<i>Arctium minus</i>	Occasional
Yarrow	<i>Achillea millefolium</i>	Occasional in grassland
Spear Thistle	<i>Cirsium vulgare</i>	Occasional
Fleabane	<i>Pulicaria dysenterica</i>	Patch near pool
Mouse-ear Hawkweed	<i>Pilosella officinarum</i>	Occasional
Cat's Ear	<i>Hypochaeris radicata</i>	Frequent
Dandelion	<i>Taraxacum agg.</i>	Frequent
Hard Rush	<i>Juncus inflexus</i>	Locally frequent in wet areas
Pendulous Sedge	<i>Carex pendula</i>	One clump in pool
Hairy Sedge	<i>Carex hirta</i>	Frequent in damp grassland

Glaucous Sedge <sup>1</sup>	<i>Carex flacca</i>	Frequent in grassland
Wood False Brome	<i>Brachypodium sylvaticum</i>	Frequent at shady edges
Red Fescue	<i>Festuc rubra</i>	Frequent in grassland
Hart'stongue Fern	<i>Asplenium scolopendrium</i>	Frequent in wooded areas
Male Fern	<i>Dryopteris felix-mas</i>	Occasional in wooded areas

- 4.6 GWASANAETH TAN AC ACHUB DE CYMRU / SOUTH WALES FIRE & RESCUE SERVICE: the applicant should ensure there is suitable access for firefighting purposes and adequate water supplies for firefighting purposes.
- 4.7 DWR CYMRU / WELSH WATER (DCWW): commented in the applicant's pre-application consultation as follows:

### **SEWERAGE**

The foul flows only from the proposed development can be accommodated within the public sewerage system. We advise that the nearest connection point to the public sewer is at manhole chamber ST33914901 located in Ponthir Road, South-West of the development site. However, please note that a number of watercourses and a railway track is located between the proposed development site and public sewerage system. This may cause difficulties in connecting the development site to the public sewerage system and we recommend you liaise with NRW and Network Rail on these matters. Should a planning application be submitted for this development we will seek to control these points of communication via appropriate planning conditions and therefore recommend that any drainage layout or strategy submitted as part of your application takes this into account.

However, should you wish for an alternative connection point to be considered please provide further information to us in the form of a drainage strategy, preferably in advance of a planning application being submitted. With reference to the surface water flows from the proposed development, surface water should be discharged by sustainable means. We refer you to the Welsh Government 'Recommended non-statutory standards for sustainable drainage (SuDS)' of which there are four levels of sustainable surface water disposal methods outlined in a hierarchal approach (including rain water harvesting, infiltration, watercourses etc). Any future drainage scheme for the development site should include the implementation, where possible, of these sustainable drainage methods for surface water disposal. Please also refer to further detailed advice relating to surface water management included in our attached Advice & Guidance note. In addition, please note that no highway or land drainage run-off will be permitted to discharge directly or indirectly into the public sewerage system. You may need to apply to Dwr Cymru Welsh Water for any connection to the public sewer under Section 106 of the Water industry Act 1991. However, if the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) You are also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist you may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus in and around your site. Please be mindful that under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

### **SEWAGE TREATMENT**

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

## **WATER SUPPLY**

A water supply can be made available to service this proposed development. Initial indications are that a connection can be made from the 160mm diameter HPPE watermain in 333270,192164 location. The cost of providing new on-site watermains can be calculated upon the receipt of detailed site layout plans which should be sent to the above address.

## **5. INTERNAL COUNCIL ADVICE**

### **5.1 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS):**

The development proposal is for the siting of 28 units of holiday accommodation (24 log cabins / pods and 4 lodges) at Penrhos Quarry. Vehicular access would be via Penrhos Drive from Usk Road. Penrhos Drive is not highway maintainable at public expense, but nevertheless is a highway, and the application shows it to be in the ownership of the applicant. The development would result in an increase in traffic using Penrhos Drive and its junction with Usk Road which, in their current forms are unsuitable to cater for an increase in traffic due to the inadequate width and junction alignment of the former and inadequate visibility from and of emerging vehicles at the latter. The applicant has submitted a Transport Statement (TS) and is proposing to mitigate the traffic impacts of the development proposal by improvements to the above.

In order to examine the traffic impact of the development the applicant has submitted data extracted from the TRICS database. This shows the greatest impact to be between 16:00 and 17:00 hours on a Friday, being the likely change over day. During this hour an additional 4.3 inbound and 3.0 outbound vehicle trips would result. This equates to an average of 1 additional inbound vehicle every 14 minutes and 1 additional outbound vehicle every 20 minutes. In terms of the local highway network it is not considered that the resulting impact would be unacceptable.

Penrhos Drive is for the most part of single vehicle width and this does raise a safety concern in that any congestion caused by vehicles travelling in the opposite direction meeting would result in over long reversing manoeuvres. This concern is exacerbated at the junction of Penrhos Drive and Usk Road the current alignment of which does not allow two vehicles to pass and would be likely to result in vehicles having to reverse onto Usk Road. In terms of highway safety these are unacceptable. In mitigation the applicant proposes to widen Penrhos Drive to 4.8 metres and reconfigure its junction with Usk Road to enable vehicles to pass and for a commercial vehicle to track acceptably through the junction. At a width of 4.8 metres Penrhos Drive would allow a car to pass a medium sized commercial vehicle and this is acceptable. Approaching the junction Penrhos Drive would widen to 5.5 metres and then enter a widened bellmouth junction. The TS contains HGV swept path analysis of the reconfigured junction which raises a cause for concern. The outbound HGV left turn manoeuvre clearly shows a vehicle having to enter the offside carriageway of Usk Road, being a classified road. Examination of the junction improvement drawing shows that the eastern bellmouth radius does not meet Penrhos Drive tangentially which appears to be a contributory factor. The applicant must address this potential vehicle conflict.

The junction of Penrhos Drive with Usk Road currently has limited visibility from and of emerging vehicles. The application proposes improvements to visibility. To the right an improvement to 2.4 x 100 metres is proposed which is achievable over land within the control of the applicant and the highway verge. To the left a splay of 2.4 x 70 metres is proposed but this is shown drawn to an offset of 1.0 metres into the carriageway. The splay

should extend to the edge of the nearside carriageway and not to such an offset. Given the speed limit of 30mph a splay of 43 metres would be acceptable but again this must extend along the nearside carriageway edge. This point must be addressed by the applicant. Should it prove that the above desired visibility cannot be achieved then the applicant should demonstrate clearly on a plan both the existing visibility and that which can be achieved by improvement to enable further consideration to be made.

Whilst the proposed widening of Penrhos Drive to 4.8 metres is acceptable in terms of capacity for vehicular traffic it will likely result in an increase in vehicle speeds to the detriment of pedestrian safety. No footway is proposed resulting in pedestrians having to walk within the live carriageway. It is for the applicant to account for pedestrian safety concerns and demonstrate adequate mitigation. The applicant is advised that for part of its length Penrhos Drive incorporates a public right of way. This right of way extends to Usk Road via an off-road section which is not suitable for all pedestrians. There is a footway on the south side of Usk Road, between Penrhos Drive and Caerleon. The proposed reconfigured junction of Penrhos Drive and Usk Road must include a safe pedestrian crossing point.

The applicant should be requested to address the above highway safety concerns and submit additional information in response.

- 5.2 HEAD OF REGENERATION, INVESTMENT & HOUSING (TOURISM): I am in support of this application. It would create a new type of accommodation that Newport does not currently have much of.

Recent work done looking at local accommodation development in areas done through rural development funding has highlighted this particular type of product as popular with current and futures markets .

There is more sensitivity to environmental aspects, with options for family and disabled clients.

24 units seems a sustainable business model, and would support the local economy as well. There are nearby shops and eating-places which would really benefit from this development. Especially given the recent closure of the university campus. Any opportunity to add to the cycle route connectivity is to be encouraged.

There is an issue about encouraging more traffic through the old village, so that all traffic would need to be clearly directed from the A4042 direction, including their marketing and on line instructions.

- 5.3 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING):

There is insufficient information available to properly assess the proposed development's possible landscape impacts.

**The following information is required:**

- Topographical survey of the site to confirm existing and proposed levels.
- The visual appraisal submitted at pre-app stage does not consider the impact of the maintenance building. Due to the scale of the proposed building, an updated LVA is required to establish the visual impact of this additional structure.
- The Arboricultural report does not contain a tree constraints plan. A tree protection drawing is referenced in the report but does not form part of it and does not seem to have been submitted. A tree protection drawing based on the topographical survey is required. The drawing should include accurate tree canopies, root protection areas, locations of protective fencing, construction exclusion zones, site compound areas and an order of arboricultural works.

- Detailed layout proposals based on the topographical survey drawing.
- Arboricultural Impact Assessment drawing indicating trees and vegetation for retention and removal based on the detailed layout proposals,
- Detailed landscape proposals including existing and proposed levels, details of hard surfacing, all soft landscaping, detailed plant schedules and a landscape specification & management plan. Management plan to include existing and proposed trees & vegetation. This drawing should be informed by the wildlife protection plan, ecological management plan and NRW comments.

#### 5.4 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY):

The following issues should be changed or addressed where relevant in the Construction Environment Management Plan (CEMP), Ecological Design Strategy (EDS) or Landscape & Ecological Management Plan (LEMP).

- It should be possible to avoid the need to remove any trees that have bat roost features. The siting of the pods/lodges and infrastructure must be amended where necessary to avoid impacting mature trees which have features suitable for bats to maintain the woodland character of the site. Therefore, remove any caveats that permit removing bat tree roosts from any report text. Allowance will need to be made in planning terms for the micro-siting of pods/lodges on this basis.
- The use of “American-style” bat boxes is not considered to be suitable in this case (a) because of the aesthetic impact of these large boxes on poles in a semi-natural woodland setting, and (b) because of the impact of installing large poles on the root protection zones of the surrounding trees. It is recommended that more, smaller, bat boxes are installed on suitable trees along the length of the river corridor.
- A more diverse range of bird box types should be used to provide a range of options for birds (e.g. different size holes, open fronted boxes). More information on the suitable siting locations of bird boxes should be included.
- There must be a minimum of 7m buffer maintained between water courses and development. This should be shown on the plans to ensure it is achievable. Therefore all caveats permitting works within 7m should be removed. If there are specific activities that require works within 7m these should be identified separately.
- Himalayan balsam **is** a Schedule 9 invasive species (a later addition to the schedule) and needs to be identified as such.
- Both sections 7 and 9 refer to controls of moving contaminated soil – It was understood that no soil movements were required? If this is not the case, more information will be needed.
- Please could it be confirmed that cattle grazing of MU1 is feasible? (Fencing issues, size of parcel, etc.) Please consider potential undesirable impacts on the river from this (poaching of banks).

Further correspondence confirmed the following:

- There is no objection to bramble clearance if completed under ecological supervision.
- The Landscape & Ecological Management Plan (LEMP) can be conditioned, however the Construction Environment Management Plan (CEMP) should be submitted prior to determination in order to ensure there will not be an adverse impact on protected and priority habitats and species. Given the high conservation value of the site I believe it is reasonable to request that this information is provided upfront.

#### 5.5 PUBLIC PROTECTION MANAGER (SCIENTIFIC OFFICER):

Having reviewed the above application I have the following comments to make:

### **Contaminated Land**

Given the historical land use of the site as a former quarry and the recent earthworks activity that have been highlighted in the public response (by Robert & Debora Obern) I recommend the standard contaminated land conditions are implemented. Introducing a new sensitive receptor (users of the camping pods) into a former industrial land use will require a contaminated risk assessment:

*( ) No development, (other than 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 (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.*

*c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, 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/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.*

*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.*

### **Air Quality**

With respect to Newport's Air Quality Supplementary Planning Guidance the potential air quality impact of the proposed end use (pod camp site) is far less than an industrial land use - As such, a detailed air quality assessment is not required.

The application includes electric vehicle charging spaces for 2 spaces out of 30– which is less than Planning Policy Wales guidance of 10% EV charging points for commercial developments. A condition should be placed on the permission ensuring that EV charging points are installed.

The initial journey to the site by visitors is most likely to be by car, however during the stay of the visitors there is the opportunity to promote cycling and walking into Caerleon as the preferential method of transport. Unfortunately there appears to be an issue regarding pedestrian access / rights of way. It would have been preferential to have an off road route directly into Caerleon for walkers / cyclists. I would also suggest that providing a rentable electric vehicle on site would be of benefit in promoting low emission travel to the guests.

Overall, the proposed development offers a good opportunity to support, encourage and expand upon low/zero pollution forms of travel.

5.6 PUBLIC PROTECTION MANAGER (NOISE): No objection but recommends control over construction hours via a Construction Environment Management Plan.

5.7 HEAD OF STREETSCENE & CITY SERVICES (LANDSCAPING):

Insufficient information is submitted to enable the development landscape impacts and mitigation measures to be assessed.

A Landscape and Visual Appraisal has not been submitted, although this was submitted at the pre-application stage this did not include the proposed maintenance building which is significant at 30.48x9.14x6.4m (to ridge height).

There is no mitigation planting plan.

The use of former disturbed areas is welcome but the detail of siting and subsequent impact particularly on levels and vegetation (potentially including areas of more mature tree cover) needs to be clarified. There is no topographic survey to confirm the existing and proposed levels. The impact on existing vegetation is a concern particularly at the following locations:

- Widening the main access track and provision of passing bays as the adjacent land either side is steeply sloping
- Four lodges which have a minimum footprint of 9.2x6.1m and for which concrete raft or strip footings are required
- Maintenance building 30.48x9.14m
- Car park with 30 spaces – no detail on levels, mounding or surfacing
- Refuse area to rear of reception building
- Potential impact of pond is unclear

The following is required:

1. An updated LVA should be submitted to include appraisal of the maintenance building.
2. Detailed design for the areas of concern highlighted above or other agreed approach.
3. A detailed planting plan is required.
4. A maintenance and management plan is required for new and existing vegetation.

- 5.8 HEAD OF STREETSCENE & CITY SERVICES (PUBLIC RIGHTS OF WAY OFFICER): This section is unable to support this proposal due to concerns over the Public Right of Way that in part shares the access lane to the property and fact that this has not been properly considered and addressed in the design and access statement.

The design and access statement states that;

*“There are no public footpaths within the site although there is a footpath outside the gates of the Quarry which accesses Usk Road, avoiding Penrhos Drive”*

This statement is incorrect as the definitive line of the footpath (389/33) shows it as sharing Penrhos Drive for roughly 60 metres (GR ref ST3419891288 to ST3418291344) before it crosses and leaves the lane, heading in a north-easterly direction to the rear of Penrhos Cottage. I have attached a plan showing the line of the footpath.

The design and access statement also states that works will be undertaken on Penrhos Drive and that the improvements will be undertaken section by section and the road will not be closed at any point; further clarification on how this work will be carried out allowing for the safe passage of users of this path at all times is required. Particularly, at the point the footpath crosses the lane. If the safe and open passage of public cannot be guaranteed at all times during these works then a Temporary Closure order will have to be applied for and implemented before works begin.

Additionally, due to the fact that the surface of this public right of way will be disturbed by the works (albeit with the expectation of an improvement to the surface) Newport City Council must be notified of any works taking place on the public footpath (Highways Act 1989 s131).

- 5.9 HEAD OF STREETSCENE & CITY SERVICES (TREES): Following submission of further information and clarifications; no objection in relation to tree matters.



5.10 HEAD OF STREETSCENE & CITY SERVICES (WASTE): We note that the development will be of a commercial nature, requiring the developer and site management to procure commercial trade waste and recycling services.

## **6. REPRESENTATIONS**

### **6.1 NEIGHBOURS:**

All properties within 100m of the application site (24 addresses) were consulted and a site notice was displayed.

6.1.1 Four letters of support raising the following points:

- Increased trade for local businesses such as pubs and restaurants.
- There is a lack of tourist accommodation in Caerleon leading to missed / lost trade.

6.1.2 Ten letters of objection raising the following points:

- The Penrhos lane / Usk Road junction is dangerous for those that know it and increased use by people who are unfamiliar with the junction would increase that risk still further.
- Penrhos Lane is narrow and can only just support the traffic generated by the houses currently accessed along the lane. The proposal would increase traffic unacceptably and lead to conflict.
- Adverse impact on rural character and appearance.
- The existing concrete track should have been removed – its continued presence flouts planning regulations.
- The proposed storage shed is overly large and out of scale with the proposal as is the over-engineered concrete track.
- Increased run-off from the site will increase the risk of flooding.
- Adverse impact on bio-diversity
- The holiday village will lead to increased noise in a quiet rural area.
- The Listed Penrhos Farmhouse and the Scheduled Ancient Monument (Civil War Camp) will be adversely affected by the development.
- There is no fallback position since the quarry cannot be re-opened.
- There is no Landscape & Visual Impact Assessment with the scheme so these impacts cannot be assessed.
- Highway improvements will have an adverse impact on rural character and appearance.
- The proposed widening of Penrhos lane will have an adverse impact on the Afon Llwyd Grasslands SINC.
- The concrete road surface is noisy and will adversely impact on the residents of Penrhos Farm and barns.
- The application is ruse to retain the track which has been found to be unacceptable by the Planning Inspectorate.
- Commercial uses that do not benefit from planning permission are being undertaken on the site.
- There will be more traffic on Usk Road leading to congestion and the risk of speeding.
- There is sufficient local tourist accommodation.
- The storage building will be visible from Caerleon
- Industrial and road noise will have an adverse impact on the holiday village.
- The site is isolated from the facilities of Caerleon and is not sustainable, local roads are not safe for cycling.
- The site is at risk of flooding.
- The proposed storage building will be of low visual quality.
- Tourists will be noisy and there will not be any on-site control.
- The road widening will cause habitat loss.
- Increased traffic on Penrhos lane will be a threat to pedestrian safety since there is no footway.

- Construction will have a detrimental impact on local amenity due to vehicle movements and noise.
- The fallback use as a quarry is weak and should be given little weight.
- The access road will flood.
- The wildlife reports are inaccurate.
- The concrete track has been found to be harmful and should be removed.
- Penrhos lane is too narrow to serve the proposed development.

## 6.2 COUNCILLORS:

### 6.2.1 Councillor Jason Hughes:

I would like to object to the Penrhos Quarry development Application in relation to several points.

The Quarry site lies on the outskirts of Caerleon, a town with an already recognised traffic and pollution history. The application suggests a tourist facility where guests would predominantly travel to the area using their vehicles. A development of this size and nature would have at least 30 plus vehicles not to mention the ones accessing and servicing the site. Sites of this style tend to be occupied throughout the year and are characteristic of small developments-only with changing residents who come and go throughout the day and night. The site would require development from scratch necessitating new water, electricity and sewerage facilities.

The site access path is already been subject to an enforcement notice (EN) Ref E15/0400/1320 (03/05/17) confirming at appeal its unsuitability and the issues identified remain relevant but would only be added to by the addition of what is essentially a tourist village.

To facilitate such a site the existing unlawful path would need to be widened at the Usk Road Junction making the area more dangerous for existing residents and their children who make their way along the path to school daily. Being set off the main Usk Road there is a lack of a public footpath leading from the site to Caerleon town and the road is already acknowledged as a significant route to Usk and the surrounding area for cars, HGVs and agricultural vehicles. Cars often pick up speed along this straight route and the addition of a significant junction would increase the danger; not limit it.

Importantly the site is within an area designated as open countryside which as well as being part of the green wedge also includes an area identified as an important nature conservation site (Sinc). The appeal recognised that the concrete track was an inappropriate development for the site affecting the rural character and appearance of the area and surely it stands to reason that not only maintaining the track this but substantially adding to the development would only add to the concerns raised initially.

I am also concerned about the impact the development would have on the environmental and ecological importance of the site and it's wildlife, trees noise and drainage noting the area has been undisturbed for many years before the unauthorised development of the site access. Penrhos farm is also an important archaeological and historical site and adjoins the site of a scheduled ancient monument 011 (Npt)- civil war fort. The farmhouse itself is grade two listed

Whilst accepting in the past this quarry was once used as an industrial site we must accept I feel that times have changed dramatically in Caerleon and that this generation's problems are different. I believe strongly that while in many areas such a development may well be welcomed, in Caerleon however it is the wrong site at the wrong time due to the

significance of the issues we face as a town and the significant impact development could have on the ecology, environment and historical issues identified,

I would therefore wish my objection to be noted.

#### 6.2.2 Councillor Gail Giles:

I consider it to be an inappropriate development due to:

#### **The impact of additional traffic on Penrhos Drive and visibility onto Usk Road**

The quarry site is set back off Usk Road. There is a lack of designated public footpaths and is situated approximately one mile from the centre of Caerleon town. To walk into Caerleon would require walking to the main Usk Road, which includes a junction acknowledged to be inadequate visibility, high density and speed of traffic, including heavy lorries. It would be unsuitable for young families in particular and cyclists would also find it hazardous.

In addition, there is considerable concern that widening of the road from Usk Road to the entrance of Penrhos Quarry will make the road more dangerous, particularly for pedestrians, particularly the children from the five other residential properties on their way to school.

There was no traffic to the site prior to the unauthorised development and it is, therefore, most likely that there would be regular use of cars by users of the pods. That could certainly be well in excess of 30.

As previously stated, the track has been the subject of both a planning application and an appeal which confirmed that it is unjustified and unacceptable (Enforcement Notice (EN) (Ref: E15/0400(1320, issued on 3 May 2017).

It is sited within an area designated as open countryside, partially within a C2 Flood Zone, and also includes the Afon Llwyd Site of Importance for Nature Conservation (SINC).

Given the size, location, construction and materials used the concrete track represents inappropriate development in the countryside to the detriment of the rural character and appearance.

#### **Air Quality Management**

Traffic issues in Caerleon's ancient one-way system are very well documented including high levels of pollution in High Street, and increasing levels in Castle Street. All traffic, including HGVs, has to use the one-way system thus increasing congestion, pollution and parking issues.

The adverse effect of air pollution on health is well known and, while a significant amount of work continues to be taken to find a solution, any additional traffic from the quarry site can only add to the problems.

It is unnecessary and unacceptable and would negatively impact on the present AQMA.

#### **Site development and Ecological impact:**

The Site has no water, electricity or sewerage and development would require:

- the use of numerous HGVs and other industrial vehicles-

- cabins craned onto site
- Considerable risk of damage any trees during the process and in the vicinity of the cabins/ pods
- amenities, such as water, electricity and sewerage to be provided
- organisation of waste management and collection e.g.: bins and recycling materials
- availability of supplies such as food, drink and other necessities required on an isolated site
- 24/7 Site management and presence to ensure the health, safety and security of visitors

In addition:

- It is believed the dumping of waste has been occurring.
- The design is unacceptable – including a huge metal shed and wire mesh fence
- Storage of heavy industrial equipment is entirely inappropriate
- Flooding and widening of the track is totally unacceptable

There is no antisocial behaviour at the site

### **Ecological issues:**

- Many of the ecological issues regarding this site were raised in the previous, refused, application and further development can only increase the damaging ecological impact on trees, wildlife, drainage of the land and noise.
- The management of the quarry has been neglected, leading to the spread of invasive species.
- Nearby Penrhos Farm is an important archaeological site
- The site is not agricultural land, it is wooded and disused for many years. It is recognised by the Local Authority as 'green wedge' and must not, therefore, risk a potential precedent for any development, such as housing or industrial. This is particularly important given the previous history of disregard for the environment and planning requirements which failed an Appeal by the Welsh Government Planning Inspector.

#### 6.2.3 Councillor Joan Watkins:

I am writing with regard to the current application. I am aware there may be some support for local businesses should this application be granted, but have grave concerns as to the increase in traffic which it would engender, traffic levels in Caerleon are already a cause for concern given the resulting pollution and very poor air quality. Additionally I feel there may be disadvantages to wildlife in the area if permission is granted. I am therefore not able to support this application.

## **7. ASSESSMENT**

### 7.1 The site

- 7.1.1 The site area is 4.45 Hectares in area and lies immediately east of the Afon Llwyd on Caerleon's eastern boundary. It primarily consists of a disused quarry formerly used to extract clay for the StarBrick Works which is currently accessed by a concrete track that enters the site from Penrhos Lane. The track is subject to an enforcement notice that requires its removal. The quarry has been dormant since the 1970s and has begun to revegetate, much of the revegetated area is protected by TPO 04/2005. The lower reaches of Penrhos Lane are also within the application site including its junction with the Usk Road.

7.1.2 The applicant also owns adjacent areas of land which contain areas of semi-natural ancient woodland including Coed y Gatlas which is protected by TPO 78/Mon. Part of the application site is within the Afon Llwyd Grasslands Site of Importance for Nature Conservation and it is proposed to widen Penrhos lane within this SINC.

7.1.3 Part of the site; the lower parts of Penrhos lane and the concrete access track lie within Flood Zone C2 – undefended floodplain.

## 7.2 The Proposal

7.2.1 The proposal is as described in Paragraph 1.1.

## 7.3 Key Issues

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

- Appropriateness of the Use in the Countryside
- Impact on Landscape
- Impact on the Scheduled Ancient Monument
- Impact on Trees
- Impact on bio-diversity
- Highway Safety – Road Widening and Works to Road Junction & the Public Right of Way
- Drainage of Surface and Foul Water
- Flooding
- Control over phasing / delivery of the scheme (track & storage shed)
- Mineral Resources
- Caerleon Air Quality Management Area
- Residential Amenity

## 7.4 Appropriateness of the Use in the Countryside

7.4.1 The site is within the countryside for planning purposes. Policy SP5 allows development in the countryside when:

*‘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’*

Also relevant is Policy CF8 (Tourism) which states:

*New and improved tourism related developments, including hotel and other visitor accommodation, conference and exhibition facilities, heritage interpretation facilities, rural tourism and activity tourism in the countryside will be permitted, particularly where regeneration objectives will be complemented.*

7.4.2 The proposal is for the following development:

- Four timber lodges
- Twenty-four pods (2 person accommodation)
- A storage building for maintenance equipment
- A reception building and car parking for 30 vehicles
- Footpaths, drainage infrastructure and lighting
- Works to the access road within the site to provide further hard surfacing and passing bays
- Works to widen Penrhos lane between the entrance to the quarry and the Usk Road

- Works to improve the junction between Penrhos lane and the Usk Road.

7.4.3 The key elements of the proposal are the road widening, the provision of the accommodation units and the storage building. The units of proposed accommodation are:

	Dimensions	Description
Lodge	<p>3 bedroom / 2 bathroom footprint - 12.3m by 6.112m ridge height – 3.64m eaves height – 2.7m</p> <p>2 bedroom / 2 bath footprint – 10.46m by 6.112m ridge height – 3.64m eaves height – 2.7m</p> <p>2 bedroom / 1 bath footprint – 9.24m by 6.112m ridge height – 3.64m eaves height – 2.7m</p>	<p>Timber chalet construction, two double doors opening onto a wrap around deck to front and side. Other appropriate fenestration and openings.</p> <p>Combined kitchen / dining area and lounge.</p> <p>Bedroom(s), ablutions and built in storage</p>
POD (3 types)	<p>Footprint – 5.2m by up to 6m Height - 2.75m</p>	<p>Tunnel structures with semi-circular cross section, integral porch area with double door &amp; floor to ceiling windows in front elevation and two small, windows in the rear elevation.</p> <p>Space for double bed and kitchenette &amp; ablutions</p>
Reception Building	<p>Floorplan not scaled</p> <p>No elevations</p>	
Storage Building	<p>Footprint – 30.48m by 9.14m Height 4.57m to eaves Height – 5.9m to ridge</p>	<p>Walls – concrete panels and steel cladding Roof – fibre cement / plastic rooflights</p>

7.4.3 Policy CF8 is supportive of tourism development in broad terms with the supporting text of the Policy drawing attention to the need for the developments to complement the character of the area they are located within and not to have unacceptable impacts on amenity and the environment. Policy SP5 seeks to ensure that proposals in rural areas are appropriate, respect landscape character and bio-diversity and are of appropriate scale and design.

7.4.4 As a tourist development the proposal is in accordance with CF8. The proposal is a limited number of units of accommodation of small scale constructed from natural materials. In themselves they would sit within the proposed site in an unobtrusive manner. The site is naturalistic and contains areas of woodland and grassed areas and as a former quarry the site is enclosed and has very limited inter-visibility with the public realm. The accommodation and reception block would not be readily seen and would integrate with their surroundings in an acceptable way.

7.4.5 Ancillary development such as the car park, roadways, footways and lighting could also be acceptably integrated into the site subject to conditional controls over finishes and the

extent of lighting allowed. However this can be achieved under any conditional regime that might be applied.

- 7.4.6 The storage building is of a significantly larger scale but would appear as an agricultural style building and again due to its siting within the quarry it would not be readily visible from the surrounding area. Although large the applicant has explained what equipment would be stored within the building and this does not seem unreasonable since although the number of units is limited, the overall site is larger and a maintenance burden will arise. It is not clear that the applicant has anywhere else that this equipment might be stored in or might rely on contractors who would bring their own equipment onto the site. However the building is clearly capable of supporting the proposed use, has very limited impact on rural character and appearance and its use can be controlled to ensure it is only used in association with the permitted scheme. As such it is judged to be appropriate within the context of the application.
- 7.4.7 Due to the very limited impact on rural character, appropriate scale and design and conformity with Policy CF8 the proposal is considered to be acceptable within this rural context. Policies CF8 and SP5 are complied with.

## 7.5 Impact on Landscape

- 7.5.1 The site lies within a dormant quarry, that is set at a lower level on the former quarry floor which is partly reforested and has recovered a naturalistic feel. However due to the on-going permission to extract minerals and no conditions being in place to require restoration the site is considered to be previously developed land despite the revegetation that has taken place.
- 7.5.2 Views into the site from the public realm are very limited with there being no public rights of way in or near the site. The quarry has a high degree of visual enclosure and the wooded nature of the Afon Llwyd valley and associated woodland areas (including Gatlas Wood) add to the degree of visual enclosure.
- 7.5.3 Consequently the development will have a very limited landscape and visual impact with the site not being widely or easily seen. The Landscape Officer has questioned the quality of the landscape information provided but a site visit confirms the site is not readily visible and is very well screened by vegetation. At the appeal to retain the concrete access track the Inspector noted that the track was visible from the wider environment (Paragraph 15) including the road leading to Penrhos Farm and the associated barn conversions. However the accommodation and other buildings would be sited beyond the Farm and any additional harm to the visual amenity of the occupiers of those houses would be negligible – they would continue to see the track but not other parts of the development. The Inspector concluded that the track did urbanise the rural character of the area due to its extensive scale, form and overall design but at the time of the appeal the track had no justifying end use which could offset the identified harm. Under this proposal that omission is addressed. The track would serve a tourism development that is acceptable in broad policy terms.
- 7.5.4 Therefore in landscape and visual terms the harm identified by the appeal Inspector is acknowledged and agreed but very little to no further harm will accrue from the tourism structures and associated works should the proposal go ahead and in any event Penrhos Drive is not adopted and is in private ownership. In effect only the residents who regularly use the drive would have views of it and there is scope for mitigatory planting to further break up views of the concrete track and reduce the overall visual harm. In terms of a balanced judgement the harm caused by the track's retention is agreed but it can be balanced out against the scheme's merits now that the track is associated with a new use for the disused quarry. No significant adverse impact can be anticipated from the other elements of the scheme given their location within the 'bowl' of the quarry.

7.5.5 In Policy terms the retention of the track would cause harm to landscape quality and result in a breach of Policy GP5v (landscape quality). Policy GP2ii (Visual amenity and Character & Appearance) is also contravened by the retention of the concrete track. The other elements of the scheme are held to have minimal landscape and visual impact and are acceptable in Policy terms. As such the track retention weighs against the scheme in landscape impact terms.

## 7.6 Impact on the Scheduled Ancient Monument & Archaeology

7.6.1 The Glamorgan & Gwent Archaeological Trust (GGAT) have advised that they do not object to the proposal subject to the application of an archaeological watching brief condition. Archaeology is not a constraint for the development subject to the application of the condition.

7.6.2 GGAT also advised that Cadw are consulted in relation to the potential impact of the scheme of the setting of the site of the Civil War fort (MM011) to the immediate north east of Penrhos Farm. The fort survives as a series of earthworks (bastions and embanking) and has very limited inter-visibility with the development site. The accommodation and other buildings would not interpose itself into any key views of the fort and has a negligible impact on its setting and upon the interpretation of the fort as a historic asset. Views towards the fort from the concrete track would be broken up by vegetation and the complex of farm buildings and once again any effect would be very slight to none.

7.6.3 Technical Advice Note 24 (The Historic Environment) advises at Paragraph 1.29 *'The local planning authority will need to make its own assessment of the impact within the setting of a historic asset, having considered the responses received from consultees as part of this process. A judgement has to be made by the consenting authority, on a case-by-case basis, over whether a proposed development may be damaging to the setting of the historic asset, or may enhance or have a neutral impact on the setting by the removal of existing inappropriate development or land use'*.

7.6.4 TAN 24 also advises that mitigation such as landscaping can overcome adverse impacts in relation to developments and the setting of historic assets. In the light of this national policy and the very limited impact that can be anticipated it is considered that the proposal would have a very limited impact on the setting of the Civil War fort (MM011) and harm would be very slight or none and would not amount to a reason to refuse planning permission for the proposal. Harm to Policy SP9 (conservation of the historic environment) is very slight and would not be determinative in any planning decision.

## 7.7 Impact on Trees

7.7.1 The development will require the removal of some trees to provide the accommodation and ancillary buildings as well as the parking area and the connecting footways. However the overall masterplan has been guided by the tree cover on the site and areas that are not wooded or that contain minimal tree cover of smaller younger trees have been identified as the locations for development.

7.7.2 The Tree Officer is satisfied that the development can be delivered with minimal impact upon the mature tree cover within the site and the proposal does not contradict the aims of the 2005 Tree Protection Order. The protected woodland will remain in place and the protection provided by the order will continue if the future. The permission would allow the removal of any trees that need to be felled to allow the development to proceed but would not negate the TPO and allow for generalised felling in the future.

7.7.3 As already noted the site is visually self-contained so the landscape impacts of the modest tree removal that is proposed will be negligible. In bio-diversity terms the proposed siting of the accommodation and other development elements has been chosen so as not to remove



larger trees of significance for bio-diversity (potential bat roosts or habitat for other protected species / nesting birds). The vegetation to be removed is scrubby and subject to conditional controls over how the removal is to be achieved then the ecological interest of the site can be preserved. The Ecology Officer has already agreed to the removal of bramble on the site subject to ecological oversight.

7.7.4 In landscape and ecological terms the proposed tree removal is acceptable due to its limitation in areas of removal and careful site selection protecting the trees of higher value. Policy GP5vii (Trees) is met since there would be no unacceptable loss of or harm to individual trees or woodland caused by the proposal.

## 7.8 Highway Safety – Road Widening and Works to Road Junction & the Public Right of Way

7.8.1 The lower part of Penrhos Drive is in the applicant's ownership. The Drive is narrow with a limited bellmouth to secure visibility along the Usk Road. Under the proposal the lower part of the Drive between the Usk Road and the concrete access track to the site would be widened to accommodate two-way traffic. The Drive is currently about 3.8m wide and would be widened to 4.8m. The bellmouth would also be widened to secure appropriate visibility along the Usk Road (2.4 by 43m).

7.8.2 The Highways Officer has raised concerns in relation to the tracking of HGVs out of the site with the submitted drawings showing a rigid bodied HGV would cross the centre line when turning left out of Penrhos Drive. The applicant points out that after the construction phase very few if any HGVs will be entering or leaving the site and that to re-engineer the junction would result in an excessively wide access point that would damage rural character. The applicant suggests that suitable traffic management within a Construction Environment Management Plan (CEMP) would be sufficient to offset the concerns raised. Officers agree with this approach. The revisions to the junction will bring clear betterment for all users including the existing ones and the few occasions when larger vehicles will be leaving the junction (post construction) mean that any harm to highways safety would be slight and not significantly harmful. Additionally visibility has been shown to be to the expected standards, exiting drivers will have a clear view of the Usk Road and will not need to make hurried turns. Policy GP4v and vii are met since the proposed access arrangements are suitable and safe and there would be no detriment to highway and pedestrian safety.

7.8.3 The works of widening would require the removal of an existing hedgerow and the relocation of a gate pillar that forms part of a matching set. The widening of the road would also impinge on the Afon Llwyd Grasslands Site of Importance for Nature Conservation (SINC) for a stretch of approximately 215m. The hedgerow can be transplanted and so its loss is not seen as unacceptably damaging in landscape terms. The 'Wildlife' Supplementary Planning Guidance seeks compensatory habitat at a ratio of 1:1.5 for any lost habitat in order to offset any qualitative loss in habitat. Given the extensive nature of the site there is no reason to think that additional planting opportunities cannot be found within the overall site. The gate pillar is also shown as being relocated and so can be retained under any conditional regime. The widening will allow two way traffic in the currently narrow Drive and will prevent traffic conflict and extensive reversing manoeuvres.

7.8.4 The widening would directly impact on the Afon Llwyd Grassland SINC by reducing its area. However this section of the grassland is subject to a significant invasion by knotweed and Himalayan balsam which given the SINC's characterisation as '*large areas of semi-improved marshy and dry neutral grassland, used by otter*' reduces its overall bio-diversity potential. Policy CF8 allows development in locally designated sites so long as there is no overall loss of the nature conservation resource and appropriate mitigation or compensatory measures can be achieved. In this case the development will lead to a direct loss since built development will appear within the SINC, although not a large area of it. However the quantity of lost habitat will be small and management improvements in relation to the removal of the invasive plant species and overall improved management will lead to

clear ecological benefits and an overall improvement in the characteristics of the SINC. Consequently the loss of a small area of SINC habitat is not seen as an unacceptable harm since appropriate mitigation can be achieved with an appropriate management plan for the SINC which can be secured under condition.

7.8.5 The Public Rights of Way (PRoW) Officer has raised concerns in relation to PRoW 389/33/1 which runs roughly northwards from just east of Pont Sadwrn, where the Usk Road crossed the Afon Llwyd. This footpath runs within Penrhos Drive for a short stretch of approximately 50m. In reality the dense vegetation adjacent to the river probably means that any walkers are likely to be using the Drive rather than the footpath. However it is clear that the proposed road widening will impact on this PRoW. The widening will potentially increase traffic speeds but the Drive will remain a no through road serving the proposal and a small number of dwellings. Vehicle numbers will still be limited and the road will not lend itself to high speeds. It will remain a quiet rural road and so the risk to walkers within the Drive is considered low and acceptable. In any event the applicant has suggested extending the footpath further to the north outside of the carriageway on land within his ownership. The intention is that this will not be a formalised arrangement and will be very much a rural footpath. It will however facilitate foot movements outside of the formalised surface of the Drive. The Drive itself will remain available to foot traffic who prefer not to use the footpath. As noted the risk to pedestrians within the Drive is considered low and acceptable due to the low speeds expected. The PRoW can be retained and potentially enhanced under the development proposal. Policy T7 (public rights of way & new development) and T6 (public rights of way improvement) can be met.

7.8.6 Overall the widening of the drive is seen as acceptable with the concerns raised being addressable under the conditional regime.

#### 7.9 Drainage of Surface and Foul Water

7.9.1 The proposal is to drain surface water to the Afon Llwyd. The applicant has commissioned a paper that looks at the surface drainage options for the site, presumably with a view to submitting an application to the SAB (Sustainable Drainage Approving Body) for adoption of the drainage system. The paper considers various options but concludes that a system to slow run-off via swales, contain it in attenuation ponds and then discharge water to the Afon Llwyd at low rates. The paper concludes that much of the site has low permeability and infiltration of waters to the ground is unfeasible. This squares with the quarry having been a clay pit historically. The attenuated waters would then flow through a pipe beneath the concrete access track and would then flow to the river via a ditch following the line of a former track that went down to the river. The drainage report also looks at lower parts of the catchment near Usk Road and concludes that roadside ditches and drainage to existing water courses will provide the necessary storage capacity for run-off. Overall there should be no increased risk of flooding due to storage and attenuation features that can be incorporated into the drainage scheme that is proposed for then site. Final details of the proposed site drainage can be conditioned. There is no reason to think the site cannot be adequately drained or that the development would harmfully increase run-off. Policies SP4 (water resources) and GP3 (Infrastructure) are met since sustainable drainage methods that reduce run-off on the site can be provided.

7.9.2 The site is outside a sewered area and the applicant proposes to install a package treatment plant to deal with foul water flows. Given the isolation of the site this is an appropriate response. Local policy seeks connection to mains sewerage as the most sustainable form of foul drainage but where this is not possible or highly impractical other methods are acceptable. Welsh Government Circular 008/2018 advises that where mains sewerage cannot be achieved that the next most sustainable and desirable method is use of a package sewage treatment plant. The package treatment plant will discharge to the Afon Llwyd with the quality of the outflow being controlled under other powers (CNC/NRW).

As such the developer's foul drainage proposals are policy compliant and acceptable. Policy GP3 (Infrastructure) is complied with in relation to foul drainage.

7.9.3 Construction of the proposed drainage system will require works down to the river bank and may necessitate a certain amount of scrub clearance. There is otter interest on the Afon Llwyd but subject to a condition controlling how the vegetation is cleared and the works are finalised there is no reason to think that there would be any unacceptable harm to the otter interest.

#### 7.10 Impact on bio-diversity

7.10.1 The site has a bio-diversity interest with parts of it being in the Afon Llwyd Grasslands SINC, other parts being subject to a Tree Protection Order and the Afon Llwyd itself is also a SINC although the development will not directly affect the river other than the proposed drainage ditch to the river.

7.10.2 The applicant has provided a report entitled 'Wildlife & Habitat Protection Plan' (January 2019). This considers the various habitats and species that are or are likely to be on the site and how any adverse impacts can be avoided or mitigated for during the development process and during future site maintenance. Risks identified are:

- Pollution of the Afon Llwyd via poor water quality / sediment – avoided by a suitable CEMP, a minimally 7m buffer strip from the river and use of sustainable drainage mechanisms to remove sediment and improve the water quality of site discharge.
- Avoidance of works in the most sensitive parts of the site – mature woodlands and within 7m of the river (other than the proposed drainage run to the river). Provision of exclusionary fencing as necessary.
- Bats – no removal of trees suitable as bat roosts, control over lighting to remain foraging and commuting routes. Provision of bat boxes. Subject to these controls impacts would be minimal.
- Otters – no works within 7m of the river, other than the drainage ditch.
- Reptiles – careful clearance of scrub, provision of a hibernaculum post development to compensate for lost habitat.
- Birds – no or supervised clearance during the breeding season, provision of nest boxes to replace lost nesting opportunities.
- Invasive Species - Himalayan Balsam will be prevented from further spread as will Japanese Knotweed.

7.10.3 The mitigation / compensation strategies listed above are further discussed in the applicant's 'Ecological Mitigation Strategy' (January 2019) which confirms the overall approach to protecting the site's ecological interest. The applicant has also identified various habitats in the site and identified an on-going management regime for those habitats in an Ecological Management Plan (January 2019). The provision of the mitigation / compensation and the future management can be secured under condition. In the light of this ecological impacts can be minimised, suitable mitigation and compensation assured as well as suitable environmental management going forward. Policy GP5 (natural environment) is complied with since the proposal has been designed and will be managed to minimise ecological impacts and to protect / promote bio-diversity in the future.

7.10.4 The Gwent Ornithological Society have identified the site's significant ecological value which is confirmed through the applicant's own survey effort. However the scheme has been designed to minimise impacts on the ecological valuable elements and where this cannot be avoided officers are satisfied that mitigation can be achieved through improved management practices within the SINC or by the provision of compensatory measures via a secured Ecological management Plan.

#### 7.11 Flooding

- 7.11.1 The majority of the site including all of the accommodation lies in Zone A (no risk of flooding) as defined in the Welsh Government's Development Advice Maps. However parts of the concrete access track within the site and the lower part of Penrhos Drive lie within Zone C2 (undefended flood plain). The submitted Flood Consequences Assessment (FCA) confirms that the lower part of Penrhos Drive and some sections of the concrete access track would flood with the Afon Llwyd inundating these areas. The modelling considers various flooding scenarios but primarily the 1 in 100 year river flood, the same flood allowing for climate change (+25%) and the 1 in 1000 year flood (extreme event). The modelling showed that in the 1 in 100 year flood parts of Penrhos Drive would flood to 0.54m deep with a maximum velocity of 1.25 metres per second. Some sections would flood to the extent that danger for all could be anticipated. In terms of the concrete access track flooding would be less with danger for some in places. The proposed buildings would not flood.
- 7.11.2 Climate change will worsen the flood event with maximum depths increasing to 1.4m and a maximum velocity of 1.55 metres per second constituting danger for all within Penrhos Drive. Flooding within the concrete access track would remain limited with the risk being danger for some. In the extreme 1 in 1000 year event depths and velocities increase within Penrhos Drive to a maximum of 1.5m with a maximum velocity of 2.03 metres per second, again this would constitute danger for all over a significant length of Penrhos Drive. The concrete access track would still see only limited flooding but that would constitute danger for most. Even in the extreme event no accommodation would flood.
- 7.11.3 As for access and egress this would be significantly affected by a flood event. Although foot access out to the north of the site would remain available, vehicular access would be prevented by the depth and speed of floodwaters in Penrhos Drive. The Flood Consequences Assessment advises that it would take 15 hours for Penrhos Drive to become flood free in the 1 in 100 year flood event. In essence anyone within the development would be contained for that period and would be unable to leave the site other than by foot and even in that case they would remain east of the Llwyd and cut-off from Caerleon and Ponthir. However the risk is mitigated because the accommodation is dry even in the extreme event, the containment is for a limited period, occupation may not be at 100% and CNC/NRW flood warnings are likely to allow early evacuation for those who are not prepared to endure the containment period or exit northwards on foot. CNC/NRW have not objected to the proposal and officers consider that the Policy harm in terms of flooding is very slight and should not be afforded much weight in the planning balance. The risk to property is none and the risk to life is negligible by reason of the accommodation and its environs being flood free, the containment period being limited and safe egress by foot being available beyond the flood outline.

## 7.12 Mineral Resources

- 7.12.1 The site is a dormant quarry which was previously used for clay extraction. Although there has been no clay extraction since the 1970s. The applicant's ownership also includes a contiguous area of land that has been subject to the 'Review of Mineral Planning Permissions' (ROMP) process. In ROMP areas mineral extraction can recommence subject to the application of a modern conditional regime. However the application site for the holiday accommodation lies outside of this ROMP area. Nevertheless Officers conclude the application site remains a quarry for planning purposes. It is clear that clay extraction was in place on the application site in 1948 when the planning regime was implemented and so even though outside of the ROMP area there can be little doubt that the site remains a quarry for planning purposes. In any event the ROMP areas which have seen some clay extraction historically (although other parts of the ROMP area remain undeveloped for minerals and are currently in agricultural use) would form a single planning unit alongside the older areas of quarrying that lie outside the ROMP.

7.12.2 Officers conclude the quarrying use has not been abandoned and could be resumed. The applicant has concluded that the demand for clay is low and the remaining resource is not economic which can be safely accepted given the long period under which there has been no extraction. The applicant has also considered the demand for shale as a low grade fill but does not see this as commercially viable either. As such the demand for the minerals that the site could produce are low and the likelihood of extraction recommencing is also low. However there is a mineral resource which can be lawfully extracted and it cannot be discounted that the mineral resources may become commercially viable in the future even if that currently looks improbable.

7.12.3 The site lies within areas identified within the adopted Newport Local Development Plan for the safeguarding of sand and gravel resources (the valley of the Afon Llwyd) and also areas of hard rock safeguarding. Policy M1 requires that such resources are protected for future extraction since they are spatially limited non-renewable resources. However the Policy does allow development in such areas where the development is temporary in nature and the future extraction of minerals would not be inhibited by the proposal. In this case the applicant is seeking permanent permission but the development proposal is light touch being for a small number of pre-fabricated structures that will not be permanently occupied. This gives scope in the future for the development to be removed and the mineral to be extracted at modest economic cost, this suggests that the development as proposed would not lead to permanent loss of the mineral resource in practical terms. Additionally the ROMP area which contains the bulk of the remaining mineral resource would be unaffected by the proposal which is located within the older parts of the quarry outside the ROMP area. Consequently the 'workable' mineral remains unaffected by this proposal.

7.12.4 Additionally Policy M1 allows development to proceed in mineral safeguarding areas in the event the resource cannot be economically extracted which appears to be the case here. In any case officers conclude the nature of the development would not lead to permanent and irredeemable sterilisation of the resource even should permission be granted. Policy M1 (mineral safeguarding) is complied with since the resource is not economic and because the development is not likely to lead to permanent sterilisation, particularly given that the ROMP area is unaffected by this proposal and it is this area that contains the bulk of the workable resource.

### 7.13 Caerleon Air Quality Management Area

7.13.1 An Air Quality Management Area (AQMA) has been established along parts of the one way system in Caerleon and across the bridge into Bulmore; essentially where queuing traffic can be anticipated. The AQMA means that environmental standards have been exceeded. Planning Policy Wales Edition 10 (PPW10) is clear that statutory limits should not be seen as an acceptable maximum. It is therefore clear that no existing exceedance of statutory limits should be worsened and no development shall prejudice the aim of meeting target levels in the shortest possible time.

7.13.2 The applicant's Transport Statement (January 2019) considers the likely trip generation from the site. The TRICS database for holiday chalets / caravans confirms the main leave period is 10:00 and 11:00 on a Friday and the main arrival period is between 16:00 and 17:00 on a Friday. This would be outside the main AM peak which is 08:00 & 09:00. However it would be within the main PM peak which has been identified as 16:15 to 17:15 in Caerleon.

7.13.3 In terms of actual vehicle numbers the expected movements assuming all units are occupied are:

Generated Trips (vehicles) Friday		
Time Period	in	out
1000-1100	2.5	3.8
1600-1700	4.3	3.0

Fig 10 Hourly Vehicular Trips

In effect the vehicle loadings in the highway would be 6.3 additional vehicles in the morning and 7.3 in the afternoon. There are no issues in regard to the capacity of the local highway in terms of accommodating this number of vehicles.

- 7.13.4 However the issue that does arise is the potential impact on the AQMA. The application site lies within the 'buffer' area around the Caerleon AQMA. The 'Air Quality' Supplementary Planning Guidance advises that major developments within a buffer area should produce a detailed Air Quality Assessment to accompany their application. The applicant has not done this but the Transport Statement makes it clear that operational traffic from the site will be very low and peak vehicle numbers will be generated outside the AM peak but partially within the PM peak. As such there is a potential for vehicles associated with the use to add to the congestion during the PM peak and to add to the air quality issues that would arise from this. However the key will be to control the booking-in process and routing and timings during the construction process so as to reduce the impact on this sensitive PM peak when the worsening could occur at a time when the issues relating to air quality are at their worst. It is also possible that some of this traffic will not transit through the AQMA but in all likelihood most users of the site will pass through the AQMA on their way to or from the site or they will visit Caerleon and its attractions during their stay and will again transit through the AQMA. However if this is outside the sensitive peak periods then harm to air quality will be minimised.
- 7.13.5 Some negligible impact can be anticipated in an area already subject to exceedance of environmental standards. The applicant notes that visitors will not be entirely reliant on private motor vehicles. There is a bus service along Usk Road, the site is walkable from the centre of Caerleon via a continuous footway on a street lit road (950m from Pont Sadwrn to the Legionary Museum) and certainly within reach via bicycle. The applicant also points to scope to provide electrical charging points or access to electric vehicles as well as making sure that guests have access to the relevant information on walking routes into Caerleon and other more active or sustainable means of travel within the area. Clearly encouragement to use low emission vehicles or alternatives to the private car are possible and may well steer guests to use these transport forms. A scheme to encourage sustainable forms of travel during visits and the provision of electric charging points can be secured via condition. There can be no certainty that general air pollution levels will fall via increased uptake in low emission vehicles and no traffic control measures are in place or planned which might lead to lower emissions within the AQMA. As such there is no evidence that the proposal will worsen air quality in the AQMA by anything other than a slight impact at worst. However officers conclude that the site and parts of the wider area could still be used to extract minerals and this presents a potential fallback use for the site. However it is acknowledged that the probability of this fallback being implemented is very low and it cannot be given much weight. However this consideration would somewhat mitigate the anticipated harm to air quality from the operational phase of the development.
- 7.13.6 The construction phase would require the site to be accessed by a variety of HGVs which can be especially problematical in the AQMA due to their large diesel engines, however the

applicant notes that a CEMP can control routing and it is possible for vehicles to reach the site without passing through the AQMA. This is considered an appropriate control and would protect air quality in the AQMA from further degradation during the construction phase.

7.13.7 The Public Protection Manger does not object to the development and notes the opportunities to provide electrical charging points and to encourage the use of transport forms other than private motor vehicles powered by fossil fuels. Conditions can require the delivery of infrastructure and a 'Green Travel Plan'. However it cannot guarantee uptake and certain mitigation of air pollution and a Travel Plan cannot in itself make an unacceptable development acceptable. However the provision of these alternatives supports overall sustainability objectives and can be secured under condition. PPW10 advises that opportunities for people to make sustainable and healthy travel choices should be maximised and provision should be made to enable the uptake of low emission vehicles (electric cars). These opportunities can be secured by the application of suitable conditions.

7.14.7 Overall the proposal is expected to have a negligible or slight adverse impact on the Caerleon AQMA. Officers consider this weighs moderately against the development proposal.

#### 7.14 Control over phasing / delivery of the scheme (track & storage shed)

7.14.1 There is currently a concrete access track in place within the quarry site. This was built without planning permission and is subject to an enforcement notice requiring its removal. Under this application the track would be retained. As such there is a risk that if permission were granted then the applicant would simply retain the track and do nothing further thereby circumventing the enforcement notice and causing on-going and unjustified harm to the rural character of the area.

7.14.2 The applicant has agreed to enter a S106 agreement that will require the delivery of the scheme on a phased basis which is to be agreed as part of the S106 process. It is also considered necessary and reasonable to secure a 'restoration' scheme that would require the removal of the existing track via the same agreement in the event that the business fails. This would reduce the risk of the application merely being an attempt to retain the track by partial implementation of the permission.

7.14.3 Officers consider that a S106 agreement and conditions can protect the public interest in this instance. It is appropriate to require that the scheme is implemented on a phased basis in order to prevent potential abuse of the planning system and to justify the retention of the track with the safeguard that should the scheme not be implemented then the track shall be removed. Likewise the delivery of the storage shed can be tied to the provision of the accommodation and also controlled so that it may only be used in association with the approved scheme and for no other separate unrelated purposes.

7.14.4 It is also considered appropriate to require the removal of the scheme from the land in the event the business fails within a specified and meaningful period in order to protect the rural character of the site. Normally the requirement to remove permanent development would not be reasonable but in this case the 'light touch' nature of the development would allow site restoration to be completed since it would require the removal of modular structures, a steel frame portal building and the concrete track. None of this is considered unduly onerous for any landowner since it would not entail works beyond that required to remove a solar farm for example.

#### 7.15 Residential Amenity

7.15.1 The key issues relating to residential amenity are the retention of the track (visual amenity) and the increased use of the track by the people visiting the development. Matters relating

to the track and visual amenity have already been addressed earlier in this report. However there would be increased usage of the track and possible disturbance by the noise of passing vehicles and headlights at night-time. However the traffic generation from the site will be low and there is no reason to think the levels of disturbance would reach unacceptable levels.

7.15.2 Potential disturbance could arise from the main part of the accommodation in terms of lighting, noise and general comings and goings. However this part of the site is remote from the neighbouring houses and there is no direct line of sight. Controls will exist over lighting to protect bio-diversity interests and the numbers of guests will be small so the scope for disturbance would be very low and acceptable in the view of officers. Policy GP2 (amenity is complied with.

## 7.16 Planning Balance & conclusion

7.16.1 The proposal has significant merit in providing tourist accommodation of a sort not currently available within Newport and economic benefits to the wider economy. It has Policy support and will reuse a vacant quarry site with a project compatible with LDP policies related to the countryside. The proposal will have very limited impact on landscape character and visual amenity being located within a dormant quarry and having very limited inter-visibility with the wider area and with the public realm in particular. Impact on trees will also be limited with the retained woodland continuing to be protected by a Tree Protection Order. Drainage arrangements can be satisfactorily achieved. Satisfactory access can be achieved and the SINC interest (Afon Llwyd Grasslands) can be protected although the road widening will result in some physical loss from the meadow. However removal of invasive plants and appropriate management will mitigate for this loss and in all probability enhance the characteristics of the site.

7.16.2 Very limited loss of habitat in combination with controls over vegetation removal and lighting will protect bio-diversity interests and there is scope for enhancement within the site by provision of bird and bat boxes and hibernacula for reptiles / amphibians. The development will prevent future mineral extraction within part of the former quarry site (but not the approved extension area where the resource remains untapped) but there has been no mineral extraction from the rest of the site for almost 50 years and there is clearly limited or no demand for the resource. In the event this were to change the development is light touch and could be reversed relatively easily at low cost similar to a solar farm and so it is considered there would not be any irreversible sterilisation of what mineral resource remains on the site should the resource become economic to extract at some future point.

7.16.3 The development will generate minimal traffic in the operational phase and alternatives to the private motor car either exist or can be provided. However there can be no certainty these will be used so some very slight harm to the Caerleon AQMA can be expected, this is likely to be minimal given the expected traffic generation and controls over the construction process and the times available for booking-in but given the current exceedance of statutory limits any worsening is harmful and attracts moderate weight.

7.15.4 The benefits of the scheme are considered significant, boosting local tourism and filling a currently unoccupied niche in the accommodation market, economic development and the reuse of the site with a policy compliant scheme. These benefits are considered substantial and overall officers judge that the benefits of the scheme outweigh the identified harms and permission should be granted subject to conditions.

## 7.16 Section 106 Planning Obligation matters

7.16.1 Notwithstanding any highways infrastructure requirements, as long as there is a condition restricting the amount of time anyone can live there, there would be no S106 contribution requests.



## 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 Conditional planning permission should be granted subject to a S106 agreement.

## 10. RECOMMENDATION

**GRANTED WITH CONDITIONS SUBJECT TO A S106 LEGAL AGREEMENT WITH DELEGATED AUTHORITY TO REFUSE PERMISSION IF THE AGREEMENT IS NOT SIGNED WITHIN 3 MONTHS OF ANY DECISION TO GRANT PERMISSION.**

Plans

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

- Drawing C2414-GA01 – Proposed Access Arrangements (07.01.2019)
- Un-numbered Drawing – Floor Plan of the Reception Building
- Drawing RAC/7988/2 B – Site Plan
- Drawing RAC/7988/3 – Track Cross-section
- Drawing 429/04 A – Development Masterplan
- Drawing RAC/7988/6 – Elevations Woodsman 2 bedroom, 1 bathroom lodge
- Drawing RAC/7988/7 – Elevations Woodsman 2 bedroom 2 bathroom Elite lodge
- Drawing RAC/7988/8 – Elevations Woodsman 3 bedroom 2 bathroom lodge
- Drawing RAC/7988/9 – Maintenance building
- Drawing C2414-SK02 – Proposed Widening to Access Road (Sheet 2 of 5)
- Drawing C2414-SK03 – Proposed Widening to Access Road (Sheet 3 of 5)
- Drawing C2414-SK04 – Proposed Widening to Access Road (Sheet 4 of 5)
- Drawing C2414-SK06 – Proposed Widening to Access Road (Sheet 5 of 5)
- Un-numbered drawing – Floorplans of The Ludlow, The Ithon & The Wellington Modulog Pod.
- Drawing RAC/7988/5 – Pod Elevations (The Ithon)
- Drawing showing footpath extension (09 May 2019)

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***

#### CEMP

02 No development, to include demolition, shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following during development:

- dust suppression measures, having regard to BRE guide 'control of dust from construction and demolition activities;
- noise mitigation measures;
- details of temporary lighting;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including controls to surface water runoff, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.
- pollution prevention and contingency measures.
- Provision of contractor parking
- Location of site offices, welfare facilities or any semi-permanent plant / building over 3m high such as cement silos
- Location of storage areas for plant, materials, stripped soils and waste
- Routing for construction vehicles and delivery times

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

**Reason:** to protect bio-diversity interests on the site and within the Afon Llwyd.

#### LEMP

03 Prior to the commencement of works on the site a scheme providing for the future management of the site and the provision of ecological mitigation to offset harm to ecological interests shall be provided in writing to the Council. The scheme shall set out objectives and timescales and a monitoring regime. Proposed measures shall consider mitigation relating to birds, bats, reptiles and amphibians and a management programme that maximises the ecological potential of the site in general terms. Set objectives shall be:

- Short-term (1-5 years)
- Mid-term (6-10 years)

- Long term (11 years plus)

Monitoring reports shall assess progress against stated objectives and shall be submitted to the Council to an agreed timesale. In the event the monitoring regime shows set objectives are not being achieved the scheme shall be revised with the revisions being submitted to and agreed in writing by the Council. Thereafter the revised scheme shall be implemented as agreed. The scheme shall be maintained for a period of 15 years following the implementation of the scheme.

Reason: to mitigate for loss of woodland, scrub clearance and increased levels of disturbance caused by the scheme.

#### Contamination

04 No development, (other than 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 (BS10175/2011), containing the results of any intrusive investigation, shall be submitted and approved in writing by the Local Planning Authority.

c) Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, 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/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.

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.

#### Archaeology

05 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.

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

##### Details of Bike Store & Reception Building

06 Prior to the installation of the bike store and the reception building details shall be provided of its external appearance. Following the Council's written approval of the details the store and reception building shall be installed as agreed.

Reason: to ensure the bicycle store and reception building are of an acceptable design and appearance.

##### SINC Mitigation / Compensation

07 Prior to the widening of Penrhos Drive a scheme providing for the removal of invasive plant species, pasture restoration and future management to enhance the nature conservation value of the area of the Afon Llwyd Grasslands identified as marshy grassland in the Ecological Mitigation Strategy (January 2019) shall be provided in writing to the

Council. The scheme shall set out objectives and timescales and a monitoring regime. Set objectives shall be:

- Short-term (1-5 years)
- Mid-term (6-10 years)
- Long term (11 years plus)

Monitoring reports shall assess progress against stated objectives and shall be submitted to the Council to an agreed timesale. In the event the monitoring regime shows set objectives are not being achieved the scheme shall be revised with the revisions being submitted to and agreed in writing by the Council. Thereafter the revised scheme shall be implemented as agreed. The scheme shall be maintained for a period of 15 years following the implementation of the road widening in Penrhos Drive.

Reason: to mitigate for loss of part of the Afon Llwyd Grasslands SINC caused by the proposed road widening.

#### Tree Protection

08 No trees shall be removed until the applicant has submitted a tree protection plan, which shall show the precise location and specification of protective tree fencing and the areas of trees / scrub that are to be removed. The plan shall be submitted to and agreed in writing by the Council. Prior to works commencing on the site the fencing shall be installed as approved and shall be retained until works are completed within that phase of the development. No areas of trees or scrub shall be removed other than as identified in the plan. No vehicles shall be driven or parked, materials and waste stored, fires lit, fluids tipped other than in areas or corridors identified in the tree protection plan. These measures shall be retained for the duration of construction works on the site or any phase as appropriate.

Reason: to protect retained trees on the site in the interests of bio-diversity and the character and appearance of the area.

#### Lighting scheme

09 Prior to the installation of any external lighting on the site a scheme showing all external lighting to be installed shall be submitted to and approved in writing by the Council. The scheme shall show the specification of the lighting and its location and shall include a drawing showing the lighting levels that will be achieved. Following the Council's written approval the scheme shall be installed as agreed. No other external lighting shall be installed on the site.

Reason: to protect the bio-diversity interest of the site and rural character and appearance.

#### Details of paths and surfacing

10 No footpath, cycle path, parking area or other hardstanding (including gravelled surfaces) shall be installed until precise details of the location, materials and construction of those features have been submitted to and agreed in writing by the Council. Thereafter the works shall proceed as agreed.

Reason: to protect rural character and appearance.

#### Road widening & junction improvements:

11 The works to improve the junction between Penrhos Drive & the Usk Road and then the proposed widening of Penrhos Drive shall be carried out before any other works on the site. The visibility splays shown in Drawing C2414-GA01 – Proposed Access Arrangements shall be kept clear of any obstruction over 900mm high. The relocated gate pillars shall be installed before the first beneficial use of the widened junction. The scheme shall include details of how the existing Public Right of Way will be accommodated within the highway where relevant.

Reason: to ensure the site can be safely accessed from the earliest stage of the development and to maintain visibility at the junction.

#### Drainage

12 Prior to the commencement of development full details of the foul and surface water drainage systems shall be provided to the Council in writing including details of the package sewage treatment plant. Following the Council's written agreement the drainage shall be installed as agreed. No beneficial use of the site shall be made until the drainage arrangements are in place.

Reason: to ensure the site is adequately drained, to prevent flooding and to prevent pollution of the water environment.

Drainage ditch to river – method statement

13 Prior to the provision of the proposed drainage ditch from the site to the Afon Llwyd within 7m of the river; a detailed method statement addressing vegetation clearance and working methods to provide the ditch shall be provided in writing to the Council. The method statement shall clarify how disturbance to otters will be minimised. Following the Council's written agreement the works shall proceed in accordance with the method statement. No other works shall take place within 7m of the river.

Reason: to protect otters, a European Protected Species.

Provision of lodge and pod details

14 Prior to the installation of the Ludlow and Wellington Pods their heights shall be confirmed. Prior to the installation of any pod or lodge the developer shall confirm the precise mix of Pods and lodges to be installed and their locations. Following the Council's written agreement the Pods and lodges shall be installed as agreed.

Reason: so there is a complete record of what is approved.

### ***Other conditions requiring information to be submitted***

Provision of hedgerow

15 Details of the location of, a planting specification for, and a management / maintenance regime for a replacement hedgerow along Penrhos Drive shall be provided in writing to the Council prior to the removal of the existing hedge. The details shall include a timescale for the planting and a maintenance regime for a period of 10 years which shall include contingency for replacement planting as necessary.

Reason: to reinstate a valuable landscape feature.

### ***Pre –occupation conditions***

Provision of access track upgrades including passing bays.

16 Prior to the first beneficial use of the site for the approved use the proposed passing bays shall be provided along the concrete access track.

Reason: to provide improved access and reduce traffic conflict.

Provision of car parking

17 There shall be no beneficial use of the site until the approved car park area has been provided. No guest vehicles shall be allowed to access the site north of the proposed northerly extension to the concrete access track shown in Drawing RAC/7988/2 B. Vehicles shall only park in the identified parking area.

Reason: to discourage indiscriminate parking that could damage retained vegetation and harm bio-diversity.

Provide and retain footpath extension

18 Prior to the first beneficial use of the site the proposed footpath extension along the side of Penrhos Drive shall be provided and retained thereafter. The footpath shall be kept available for use by the public at all times

Reason: to provide a traffic free route for pedestrians from the site to the Usk Road.

Active Travel (Travel Plan)

19 Prior to the first beneficial use of the site, a Green Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall set out how sustainable and active travel will be encouraged at the site. The measures shall include measures to minimise users of the site transiting through the Caerleon Air Quality Management Area at peak times for traffic by controlling the times when guests can book-in. Thereafter the measures described shall be implemented as agreed .

Reason: In the interests of reducing the need to travel by car and encouraging use of alternative modes of transport.

### **General conditions**

#### Use of the Storage Building

20 The approved storage building shall not be used other than in association with the use granted under this permission and shall not be provided until at least 15 units of accommodation are in place.

Reason: the building is justified as part of this scheme and a standalone use in this location would be detrimental to rural character and appearance.

#### No permanent occupation

21 No lodge or pod hereby approved shall be let to any individual or group for a continuous period exceeding 28 days in any calendar year. A complete record shall be kept of all persons or groups renting the holiday accommodation which shall include their name(s), length of rental period, accommodation rented and their primary addresses. The record shall be made available to the Council within 5 working days of any request to view the record. At no time shall the accommodation be used as a sole or primary residence by any individual or group.

Reason: the accommodation has been approved as holiday accommodation. Permanent residences in this location would be contrary to local and national policy and the relevant Section 106 obligations have not been met.

#### Works of vegetation clearance

22 During the construction phase works of vegetation clearance shall only be undertaken in the areas identified as cleared (red) or to be cleared (yellow hatching) in Drawing 429/07 – Scrub Clearance, or any additional areas identified in the Tree Protection Plan required under this conditional regime. Clearance shall be undertaken in accordance with the methodologies described at Appendix B of the Wildlife and Habitat Protection and Mitigation Plan (January 2019) and Paragraph 4.4 of the Breeding Bird Survey (September 2018).

Reason: to prevent unnecessary clearance of vegetation and to protect bio-diversity interests on the site (birds / reptiles / amphibians).

#### Charging Points

23 10% or more of the provided parking spaces shall be provided with electrical charging points suitable for charging electrically powered cars.

Reason: to reduce reliance on fossil fuel powered vehicles in the interests of sustainability and reduced air pollution and to comply with the advice of Planning Policy Wales Edition 10.

### **NOTE TO APPLICANT**

01 The following non-conditioned plans were considered as part of this submission:

- Design & Access Statement
- Drawing C2414-SK01 – Overview Plan (1 of 5)
- Drawing RAC/PDC/005 – X Sections off Long Section 2, Penrhos Drive, Caerleon
- Drawing RAC/PDC/006 – X Sections off Long Section 2, Penrhos Drive, Caerleon
- Drawing RAC/PDC/007 – X Sections off Long Section 2, Penrhos Drive, Caerleon
- Drawing RAC/7988/1 B – Location Plan

- Extract from Modulog Brochure – Pod Details
- Letter from applicant dated 09 May 2019
- Visibility of the proposed maintenance building (10 April 2019)
- Maintenance Building floorspace justification
- Email from Ieuan Williams (24 April 2019, 21:14)
- Drawing 429/06 – SINC's
- Drawing 429/05 – Development Exclusion Zone
- Email from James Norvill (20 February 2019, 13:26)
- Otter Survey (January 2019)
- Land Registry; Title WA902234
- Dormouse Survey (January 2019)
- Ecological Assessment (January 2019)
- Sustainable Drainage Assessment (August 2016)
- Landscape Design Summary (January 2019)
- Breeding Bird Survey (September 2018)
- Penrhos Quarry FCA (January 2019)
- Otter Survey (January 2019)
- Penrhos Quarry Holiday Lodges Business plan
- Ecological Mitigation Strategy (January 2019)
- Great Crested Newt Survey (January 2019)
- Invertebrate Survey (January 2019)
- Phase 1 Habitat Survey (January 2019)
- Outline Arboricultural Impact Assessment & Method Statement (June 2018)
- Transport Statement (January 2019)
- Ecological Management Plan (January 2019)
- Trees & Bat Survey (January 2019)
- PAC Report (January 2019)
- DCWW Letter PPA0003573 (19 November 2018) & accompanying notes
- Ecological Technical note (11 January 2019)
- Foul Drainage Analysis (11 January 2019)
- Wildlife & Habitat Protection & Mitigation Plan (January 2019)

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP5, SP9, SP19, SP21, GP1, GP2, GP3, GP4, GP5, GP6, GP7, CE8, T4, R8, CF8, M1 & W3 were relevant to the determination of this application.

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.

**11. REASON FOR THE SITE INSPECTION**

To asses highway safety and access matters.

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